

Practical Aspects of Rape Investigation

A Multidisciplinary Approach

Fourth Edition

Edited by

Robert R. Hazelwood
Ann Wolbert Burgess



Practical Aspects of Criminal and Forensic Investigations Series

Practical Aspects of Rape Investigation

A Multidisciplinary Approach

Fourth Edition



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Series Editor's Note

This book is part of a series entitled *Practical Aspects of Criminal and Forensic Investigation*. This series was created by Vernon J. Geberth, a retired New York City Police Department lieutenant commander, who is an author, educator, and consultant on homicide and forensic investigations. Written by authors who are nationally recognized experts in their respective fields, this series has been designed to provide contemporary, comprehensive, and pragmatic information to the practitioner involved in criminal and forensic investigations.

Preface

One of the most startling aspects of sex crimes is how many go unreported. The most common reasons given by women for not reporting these crimes are the beliefs that they are private or personal matters and fears of reprisal from the assailant. The FBI estimates that only 37% of all rapes are reported to the police. U.S. Justice Department statistics are even lower, indicating that only 26% of all rapes or attempted rapes are reported to law enforcement officials.

These figures become even more critical when we realize that, despite the increased focus on criminal investigation of rape and sexual assault crimes, only slightly more than half of the reported cases result in the arrest of a suspect—a figure that has not changed over the past four decades. An overwhelming majority of rape victim service agencies believes that public education about rape, as well as expanded counseling and advocacy services for rape victims, would be effective in increasing the willingness of victims to report rapes to the police.

Concurrent with the numbers of victims and suspects arrested, there has been a burgeoning of research into myriad factors interwoven with sexual violence and its aftermath. Substantial contributions have been made to advancing the state of knowledge for law enforcement agents, health professionals, rape crisis staffs, and criminal justice professionals.

Although most people working with sexual crimes see either the victim or offender, the investigator and prosecutor frequently encounter both the victims and offenders of sexual assault. Thus, it becomes crucial that these two groups have the benefit of research results in the fields of victimology, criminology, behavioral sciences, forensic sciences, and criminal justice. Such information can substantially impact the effectiveness of the investigative interview, the collection of forensic evidence, and the prosecution of cases.

The aim of this fourth edition of *Practical Aspects of Rape Investigation* is to present current research findings and new forensic techniques and to acquaint the reader with current information about special populations of victims and offenders.

The book is divided into four sections. Section I includes three chapters specific to the victims of rape and sexual assault. In the first chapter, Burgess and Marchetti review contemporary issues in the field of sexual violence. In the second chapter, Amar and Burgess outline the short- and long-term consequences of rape and sexual assault. Victim care services, including history and the SANE and SART programs, comprise the third chapter by Burgess, Lewis-O'Connor, Nugent-Borakove, and Fanflick.

Section II includes 10 chapters on the investigation of rape and sexual assault cases. Chapter 4, by Hazelwood and Warren, addresses the relevance of fantasy in serial sexual crime investigations, proposing that fantasy is the link between the underlying motivation for sexual assaults and the behavior exhibited during the crime. In chapter 5, Hazelwood and Warren contrast impulsive and ritualistic behavior in the sexually violent offender and illustrate with case examples. Chapter 6 deals with the behavioral-oriented interview of rape victims, and Hazelwood and Burgess describe interviewing the victim to determine the verbal, physical, and sexual behavior exhibited by the offender during the commission

of the crime. In chapter 7, Hazelwood describes his process for analyzing rape and presents such an analysis via an extensive case history.

There are several new chapters in this edition, one of which is Napier's chapter 8 on interviewing the rapist. He presents basic steps and techniques of the interview process, taking into account the type of rapist being interviewed. Chapter 9 by Rossmo describes geographic profiling as an investigative method that uses the locations of a series of crimes to determine the most probable area of offender residence. In chapter 10, Hazelwood and Warren demonstrate how analyzing and comparing behavior in a series of crimes can be used to determine the likelihood that the same offender is responsible for the crimes in question.

One of the thorniest problems in rape investigation is a false allegation. An inherent conflict arises between the investigator's obligation to accept the victim's complaint as legitimate and his duty to develop the facts of the case. Chapter 11, by Hazelwood and Burgess, reviews the literature on rape allegations and proposes a model to understand the concept. This chapter includes a discussion on motivation and red flags for false allegations. In chapter 12, Hazelwood and Lanning define the concept of collateral material in sexual crimes and identify the various types of such material. Chapter 13 is written by criminologist attorney Richard Leo, who has studied how and why innocent people confess to crimes that carry potentially lengthy sentences; he describes how law enforcement may avoid such situations.

Section III deals with forensics and the court. In chapters 14 and 15 on physical evidence in sexual assault investigations and evidence recovery consideration, Spalding and Bigbee provide a solid background and framework for recovering and processing physical evidence in rape and sexual assault cases. The forensic scientists discuss the collection and observation of physical and trace evidence of the victim, the offender, and the scene of the crime, and the presentation of evidence in court. Chapter 16 by Taroli is new and presents the methodology of complicated medical examinations of sexually abused children. Brown and Sommers, in chapter 17, present the injury research and forensic examination of the adult victim. Medical treatment for the victim is also outlined. Chapter 18, by Burgess and Hazelwood, presents rapist categories derived from decades of research. Chapter 19 by Scalzo is a new chapter on the prosecution of rape and sexual assault cases.

Section IV deals with special populations. In chapter 20, Lanning describes a typology of offenders who assault children. The relatively new area of cyberstalking by pedophiles is included in the typology as well as incest offenders and offenders with psychopathic disorders. In chapter 21, forensic psychologist John Hunter writes on the sexual crimes of juveniles and provides insights on juvenile sex offenders and their classifications. Chapter 22, by Warren and Hislop, concerns female sex offenders and presents relevant information on a little understood population of women who sexually offend. Chapter 23, written by forensic psychiatrist Michael Welner and forensic nurse Barbara Welner, is new and presents current findings and insights on the serious problem of drug-facilitated rape. Chapter 24, by Hazelwood, Dietz, and Warren, deals with the criminal sexual sadist and contains findings from their study of 30 men who sadistically raped and/or murdered their victims. In chapter 25, Hazelwood discusses findings from his interviews of the female partners of sexual sadists. In chapter 26, Burgess and Morgenbesser provide insightful information on the sexual abuse of elderly victims. Chapter 27, by Burgess, Prentky, and Safarik, follows up on the topic of elder sexual abuse by discussing a study and classification system of those who offend against the elderly. Chapter 28, written by forensic psychiatrist James Knoll

is about educator sexual misconduct and discusses the patterns of female educators who “groom” their students for sexual abuse.

This book represents a major commitment by its authors to present the most current knowledge for the investigation and prosecution of rape and other sexual assault cases.

Acknowledgments

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Section I: The Victim

Contemporary Issues

1

ANN WOLBERT BURGESS
CAROL HARVEY MARCHETTI

Introduction

As we are now in the twenty-first century, we acknowledge that significant progress has been made in the investigation of rape cases. However, there are current problems that continue and new problems that develop. In this chapter we review some of the contemporary issues involved in the understanding of rape and its victims. Issues covered include incidence and prevalence of rape, evidentiary examination of the rape victim, date rape, drug-assisted sexual assault, sexual crimes against the elderly, the psychobiology of rape, history of psychological trauma, memory, substance abuse, stalking, cyberstalking, and Internet child pornography. Several of these issues are included as separate chapters.

The Size of the Problem

Incidence

The National Institute of Justice (NIJ) Special Report on the Extent, Nature, and Consequences of Rape Victimization: Findings from the National Violence against Women Survey (NVAWS; Tjaden and Thoennes 2006) reported that 17.6% of surveyed women and 3% of surveyed men had been raped at some time in their lives. Rape was defined as an act that includes attempted or completed vaginal, oral, or anal penetration. In the United States, the prevalence of rape is equivalent to one of every six women being raped and 1 of every 33 men. Because some victims were raped more than once, the NVAWS estimated that 17.7 million women and 2.8 million men were forcibly raped at some time in their lives with over three hundred thousand women and over ninety-two thousand men forcibly raped in the year prior to the survey (Tjaden and Thoennes 2006). The Federal Bureau of Investigation (FBI, 2004) reports in its "Crime in the United States" or Uniform Crime Report (UCR) publication that 94,635 forcible rapes were reported to the police at a rate of 32.2 crimes per 100,000 residents (2004). These statistics only reflect sexual assault cases that were reported to the police and are believed to represent significantly fewer than the actual sexual assaults that occur in this country.

It is helpful to compare reported statistics with past years' statistics. There were 93,103 forcible rapes reported in the FBI Uniform Crime Report in 1998, which represented decreased reporting for the sixth consecutive year. There were 97,464 forcible rapes reported to law enforcement agencies in 1995 and 96,122 in 1997. The 2004 report indicates a slight increase in reporting.

In 2007 another federal study by the Centers for Disease Control (CDC) published the following statistics regarding the occurrence of sexual violence among children, adolescents, and adults in the United States:

- Approximately 2 out of 1,000 children were confirmed by child protective services as having experienced sexual assault in 2003 (Department of Health and Human Services 2005).
- Approximately 9% of high school students reported that they experienced forced sexual intercourse (CDC 2004).
- Female high school students are more likely to report sexual assault than male students (11.9 vs. 6.1%) (CDC 2004).
- Among high school youth, 12.3% of black students, 10.4% of Hispanic students, and 7.3% of white students have reported a history of forced sexual intercourse (CDC 2004).
- Among college students in the United States, between 20 and 25% of women reported experiencing completed or attempted rape (Fisher, Cullen, and Turner, 1999).
- More than three hundred thousand women (0.3%) and over ninety thousand men (0.1%) reported being raped in the previous 12 months (Tjaden and Thoennes 1999).
- One in six women (17%) and 1 in 33 men (3%) reported experiencing an attempted or completed rape at some time in their lives.
- People usually are raped more than once. Among adults who reported being raped, women experienced 2.9 rapes and men experienced 1.2 rapes in the previous year.

There are problems in determining the statistics in rape. First, the manner in which rape is defined affects incidence and prevalence rates. Incidence, which refers to the number of behaviors of a particular type, may, at the present time, be more reliable than prevalence, which refers to the proportion of people who engage in a particular behavior.

To count rape and sexual assault (incidence) depends on victim and the police perceptions and interpretations of what occurred. Victims must (1) perceive that a rape has occurred, (2) decide that it was an illegal act, and (3) decide whether to disclose it; the police (or researcher) (4) must decide whether the act meets the definition of an illegal act. For that act to come before a court of law, the prosecutor must decide if the evidence meets the charge. Only if the authorities' classification concurs with that of the victim does the incident become recorded and thus counted.

A second problem in determining the number of sexual assaults is under-reporting. Findings from the NVAWS indicate that only one in five women reported their rape to law enforcement officials (Tjaden and Thoennes 2006). Guilt, fear of retribution, humiliation, lack of knowledge of and trust in the legal and medical system, and impaired cognitive processing that occurs following intense trauma are some reasons why persons may not report (Burgess, Fehder, and Hartman 1995). According to the original Burgess and Holmstrom study (1983), in more than half of the cases someone other than the victim was involved in reporting the sexual assault to police. Those statistics have not varied in 20 years. A study of nonincarcerated sex offenders found that 126 men admitted they had committed a total of 907 rapes involving 882 different women; the average number of different victims per rapist was seven (Abel et al. 1987).

Contrary to popular belief, rape is not a rare event, but rather affects hundreds of thousands of people (females and males) each year. When compared to other types of serious crimes, rape has a number of unique characteristics. First, as already noted, it is difficult to know how many rapes occur because of the low reporting rate. Second, in contrast to other crimes, there is a subjective element in determination as to whether or not the sexual act occurred against the victim's will. If the victim is of unquestioned chastity and if considerable force was employed by the assailant, then the act is usually considered to be

a “real rape.” However, if the woman was dating the man or met the man in a bar or over the Internet and said she was forced to have sex with him, some may not perceive the act as rape. Third, rape is the only serious crime in which victims may be held responsible for their own assaults. The belief is still held that women like to be overpowered sexually and that they say “no” when they mean “yes.” Rules of evidence accepted in the courtroom may be stringent; for example, signs of resistance or an immediate report is required as proof of nonconsent.

Of the rape cases reported to law enforcement, the clearance rate over the years hovers in the 50% range. Clearly, law enforcement needs help to improve its clearance rates. It is understandable that stranger rapes may be difficult to solve but there is also the problem of classification of rape cases in contrast to “unfounded” cases. Philadelphia is a case in point. When DNA from two previously unfounded rape cases in Philadelphia matched the DNA of the rape–murderer of a University of Pennsylvania graduate student, a reporter for the *Philadelphia Inquirer* began re-interviewing victims who had been tossed in the “unfounded” category. The series of articles pressured the Philadelphia police department to set up a special committee of victim advocates and women attorneys to help review its unfounded cases (called “inactive” by that time).

Prevalence

Prevalence rates reflect the number of individuals who have been raped at any time in their lives. There are no available federal estimates, but individual researchers have estimated prevalence based on the basis of victimization surveys. Koss (1993) estimated rape/sexual assault prevalence among adult women generally ranges between 14 and 25%. The National Women’s Study (NWS) found that approximately 13% of adult women had been victims of completed rape during their lifetimes (Kilpatrick, Edmunds, and Seymour 1992; Resnick et al. 1993). During the year between interviews, 0.6% of adult women, or an estimated 683,000 women, were victims of rape (Kilpatrick et al. 1992). In the 2 years between the first and third interviews, 1.2% of the adult participants in the NWS were raped. The results: An estimated 1.1 million women were raped in the United States during this 2-year period (Kilpatrick et al. 1997). It is of note, as in the federal databases, that methodological differences between studies will affect the estimates.

The National Survey of Adolescents (NSA), an NIH-funded study of a national household probability sample of 4,023 adolescents ages 12–17, found that 8.1% of U.S. adolescents had been victims of at least one sexual assault (Kilpatrick and Saunders 1997; Kilpatrick et al. 2000). This indicates that an estimated 1.8 million 12- to 17-year-olds have been sexually assaulted. This figure suggests more than 52% of all rape/sexual assault victims were females younger than 25. Women who suffered physical injury in addition to the injury suffered from the rape or sexual assault reported 37% of those crimes, while only 22% of rapes and sexual assaults without an additional physical injury were reported (Kilpatrick 2000).

Although sexual assault occurs in all age, race, ethnic, and cultural groups, rape is highest among 20- to 24-year-old black females (Bureau of Justice statistics 1995). Females ages 16–19 are the age group next at risk. The national incidence of rape in females 65 years of age and over was 10 per 100,000 in 1990 (FBI 1993). In the only study found on rape in an institutional setting, Nibert, Cooper, and Crossmaker (1989) reported that of 190 invited to participate in a survey, 58 patients agreed and 22 reported having been sexually

assaulted either by another resident or a staff member while in an institution. Twenty-five percent were over age 50.

Under-Reported Crime

Sexual abuse is an under-reported crime and victims of all ages do not readily identify themselves. The extent of nondisclosure ranges from over 50% (Burgess and Holmstrom 1986) to as high as 68% (Bureau of Justice statistics 1996). Koss (1993), Resnick and colleagues (1996), and Acierno, Resnick, and Kilpatrick (1997) have identified several reasons for nondisclosure, including (1) fear of retribution by an offender, especially if the assailant is proximate or known to the victim; (2) fear of stigma attached to being a victim of rape; (3) fear of being blamed; (4) history of negative outcomes following previous disclosure (e.g., court involvement leading to acquittal); (5) lack of encouragement to discuss abuse; and (6) fear of psychological consequences of disclosure (e.g., anxiety or depression upon revisiting the event).

In a community survey of rates of sexual assault in 3,132 adults from two Los Angeles communities, Burnam et al. (1988) reported approximately half of the respondents were Caucasian, and half were Hispanic. More women (16.7%) than men (9.4%) and more Caucasians (19.9%) than Hispanics (8.1%) reported histories of sexual assault. Most initial assaults (80%) happened when the victim was between 18 and 25 years old, while almost 7% of the respondents reported that they experienced their first sexual assault after the age of 65.

Victims of sexual abuse suffer in silence, actively avoid recalling their trauma, seek help reluctantly, and do not volunteer information about their traumatic experience (Kolb 1989; McFarlane 1989; Scurfield 1993). Because most rape cases go unreported (Kilpatrick et al. 1992; Crowell and Burgess 1996), surveys indicate that only a minority of victims who sustain rape-related mental or physical problems obtain effective treatment (Kilpatrick 2000; Tjaden and Thoennes 1998). Of those sexually assaulted in 1995, only 32% reported the incident (Bureau of Justice statistics 1996). In the Burgess and Holmstrom study (1986), in more than half of the 146 cases, someone other than the victim was involved in reporting the rape to police.

Relationship of Victim and Offender

The national surveys indicate that most women are raped by persons they know. The NWS found only 22% of rape victims were assaulted by someone they had never seen before or did not know well. The NVAWS used different categories for victims and perpetrators but reported similar findings. A minority, 23.2% of the victims, reported that a stranger assaulted them, while 76% of perpetrators were intimate partners (i.e., current or former spouses, cohabitating partners, dates, or boyfriends).

In cases where it appears the offender was a stranger, from the offender's perspective, there are often cases where offenders were neither acquaintances of nor complete strangers to their victims, but instead fell somewhere in between. This does not imply that a prior relationship existed between the offender and victim, but rather that the offender was aware

of where the victim lived (prior to the crime) or of the victim's schedule and perceived her to be vulnerable. More inquiry as to relationship would help in investigating the crime.

The national surveys obtain data through telephone contact and may include victims who did not report. That the FBI UCR reports only a 51% clearance rate of forcible rapes suggests women report stranger assault to police.

Evidentiary Examination of the Victim

Physical injury, including genital injury, is not an inevitable consequence of rape and does not provide proof of consent (Cartwright 1987; Slaughter and Brown 1992). The absence of genital injury in the sexually assaulted patient may be explained by several possibilities: lack of vaginal contact by the perpetrator, delayed reporting, lack of magnification, capability of equipment, lack of training or experience by the examiner, known sex partner rape, and a nonaggressive perpetrator with a nonresistive victim. False allegation may also be a consideration (Girardin et al. 1997). The 2006 allegations made by an exotic dancer of being raped by three Duke lacrosse players is a case in point of a false rape charge. A special prosecutor reviewed evidence in the case and publicly acknowledged that the three young men were innocent of the charges.

The victim's body is the primary crime scene in sexual assault cases (Kilpatrick 2000). Two critical parts of an investigation are the interview of the victim and the evidentiary examination. Based on the interview, the forensic exam collects evidence that can establish that (1) sexual activity occurred, (2) the sexual act produced injuries consistent with a history of forced sex, and (3) a given person committed the acts (by DNA analysis). With an identified suspect, the only legal defense can be consensual sex.

However, most sexual assault evidentiary examinations do not include magnification or state-of-the-art procedures and equipment for detecting physical injuries to the victim's vulva, vagina, or anus. The colposcope, used by nurse practitioners and gynecologists, magnifies an area over 30 times the actual size, permitting detection of bruises, tears, or abrasions not visible to the naked eye. Conventional sexual assault exams without colposcopes have typically reported evidence of genital injuries in only 19–28% of cases, but examiners using colposcopes find evidence of genital trauma in up to 87% of cases (Slaughter and Brown 1992). A major correction to this problem has been the advent of the sexual assault nurse examiner programs that have served to set protocol and guidelines for the collection of forensic evidence using colposcopes (Burgess, Dowdell, and Brown 2000; Ledray 1997).

A final advantage of the colposcope is that technology exists to take color photographs or make videotapes of the injuries detected. This documentation is useful in court as visual evidence for jurors and for defendants, who often enter guilty pleas when confronted with this evidence (Kilpatrick 2000).

Crimes against the Elderly

Crimes against the elderly are of concern to law enforcement (Safarik, Jarvis, and Nussbaum 2000) as well as health practitioners. Although official statistics are elusive, population data show that an increasing number of the baby boom generation will be aging into

the elderly population in the first part of the twenty-first century. Coupled with the fact that people are living longer, it stands to reason that the risk of violent victimization to the elderly is likely to increase. In addition, nearly 75% of people older than 65 are women (U.S. Bureau of the Census 1999). Thus, this information suggests that examination of any factors related to crimes against the elderly that may assist health practitioners for case identification (Burgess, Dowdell, and Prentky 2000) and law enforcement in rapidly identifying and apprehending responsible offenders and protecting potential elderly victims has merit (Safarik et al. 2000).

A review of the literature shows that the general problem of crime against the elderly has long been addressed in the literature (Lent and Harpold 1988), specifically addressing robbery (Faggiani and Owens 1999) and homicide (Fox and Levin 1991; Nelson and Huff-Corzine 1998).

Homicide

Out of the 16,914 homicides reported to police in 1998 (FBI 1999), approximately 855 were determined to be 60 years of age or older and less than half of this total (414) were identified as female. Therefore, elderly female homicides constituted about 2–3% of all homicides in 1998. It is difficult to determine how many of the homicides were sexual in motivation. Some of the difficulties involve lack of proper identification, lack of noting the subordinate offense of sexual assault (Brownmiller 1975), poor communication between investigators and other personnel relative to the sexual nature of the offense, and classification errors in official data entries (Burgess et al. 1986).

Although the criminal investigative analysis process as applied to elderly female sexual homicides has relied heavily on experiential data as reported by the FBI and FBI-trained profilers (Ressler, Burgess, and Douglas 1988), in particular, two axioms are evident. First, the age of the victim and offender appear to be negatively correlated. That is, younger offenders most often kill elderly victims. The second axiom is that the intraracial nature of violent crime seems to be conditional. That is, the general intraracial character of violent criminal offending appears, to profilers, to be dependent on specific case factors rather than on the general expectation that the offender is of similar race (Safarik et al. 2000).

Elder Sexual Abuse in Nursing Homes

Indeed, the decade of the nineties catapulted sexual assault from relative obscurity to high profile in the legal and public health arenas (Goodman et al. 1993; Koss 1993; Prentky and Burgess 2000; Burgess, Ramsey-Klawnsnik, and Gregorian 2008). Despite the considerable attention given to the diversity and ubiquity of sexual assault, it is all the more noteworthy that one of the most vulnerable groups of victims, the residents of nursing homes (estimated by Gabrel [2000] to be 1.5 million persons in 1997), remains in obscurity. Although the reasons for our failure to tackle forthrightly the problem of elder and nursing home resident sexual abuse are unclear, we can certainly posit two explanations: (1) the incomprehensibility and hence rejection of claims of sexual assault of nursing home residents, and, perhaps most importantly, (2) ageism—generalized, negative attitudes, if not outright hostility, toward older and cognitively impaired people (Butler and Lewis 1973).

All other vulnerable target populations for sexual assault—children, adolescents, the developmentally delayed, and patients with physical and/or mental impairments—have

been the subjects of varying degrees of clinical and empirical scrutiny. As with the elderly, when any member of these populations resides in an institutional setting, the risk for abuse increases simply as a function of the dependence on staff for safety, protection, and care. Although there are no estimates of the incidence or prevalence of elder sexual abuse in residential care (Lachs and Pillemer 1995), the National Citizens' Coalition for Nursing Home Reform (Holder, personal communication) has confirmed that it has received an increasing number of reports of sexual abuse in nursing homes. In the reporting statistics from state ombudsmen offices (who have just recently been documenting sexual abuse as separate from physical abuse), the numbers of sexual abuse cases increased from 548 in 1996 to 666 in 1998.

While no data are available on institutional elder abuse, there are a few descriptive studies of rape in the elderly (Tyra 1993). Ramsey-Klawnsnik (1991) surveyed social workers as to suspected elder sexual abuse cases and identified 28 cases of women assaulted in the home primarily by family members (predominantly sons and husbands). In a study of 760 inner-city hospital victims, 2.7% of the sexually assaulted victims were 60 years or older (Cartwright and Moore 1989). In a Texas study, 2.2% ($n = 109$) of the reported sexual assault victims over a 5-year period involved women over age 50 (Ramin et al. 1992).

The few studies on elderly rape victims are equivocal regarding injury. Genital trauma, evident even without colposcopy, is more evident in the postmenopausal sexually assaulted woman than it is in her younger counterpart (Cartwright 1987). However, as with those 65 or younger, rape may occur without obvious injury (Cartwright and Moore 1989; Tyra 1993). Medical and forensic records between 1986 and 1991 from 129 women aged 50 years or older and 129 women from a comparison group aged 14–49 were reviewed. Trauma, in general, occurred in 67% of the older group and 71% of the younger group. Genital trauma was more common in the older than the younger group (43 vs. 18%). In contrast, extra-genital trauma was more common in younger victims (66 vs. 49%). Forensic findings were similar in both groups; however, in the older group motile spermatozoa were seen only in those examined within 6 hours of the assault (Ramin et al. 1992).

While considerable research has been conducted on memory and trauma in adults and children, only a few case reports have dealt with the elderly victim (McCartney and Severson 1997). In elder sexual abuse cases, the question is raised as to whether the person can truly remember a sexual assault. McCartney and Severson (1997) remind us that the emotional meaning of an experience may be retained when the cognitive meaning is not present. Their case report indicates that an elder, despite cognitive impairments, can develop neurochemical and physiological symptoms of hyperarousal and post-traumatic stress disorder (PTSD). More importantly, they stress that without proper diagnosis there cannot be proper treatment. Sexual trauma and dementia comprise an area of ongoing research (Burgess and Phillips 2006).

A pilot study of 20 sexually abused nursing home residents identified barriers to effective health care interventions (Burgess et al. 2000). First, delayed reporting of the sexual abuse resulted in failure to obtain a timely medical evidentiary examination, delayed treatment for injuries and infection, and an absence of medical or psychological follow-up care. Second, there was difficulty in performing an evidentiary rape examination due to leg contractures and cognition/memory problems. Indeed, in a number of the victims, fetal position and muscular rigidity made examination impossible. Third, there was evidence of wide variation in sexual assault evidentiary examination, such as lack of colposcope photographs for evidence. Fourth, the offenders who were arrested were either employees of

the nursing homes or residents and, without prompt victim identification, were suspected to have abused more than one victim (Burgess et al. 2000).

The 20 predominantly elderly victims (18 women and two men) presented with rape-related trauma symptoms (urinary tract infections, nightmares, repeated reference to the event), general symptoms of traumatic stress (e.g., fear, confusion, hypersomnia, lack of appetite, withdrawal), and an exacerbation of symptoms related to their primary diagnoses. Preliminary findings suggested that the presence of a preexisting cognitive deficit such as dementia markedly delayed information processing, impaired communication, and compounded the trauma of the sexual assault. These victims simply were not equipped—physically, constitutionally, or psychologically—to defend against and cope with the proximal effects of assault. Perhaps the single most profound result of the sexual assaults against these victims was that 11 of the 20 victims died within 12 months of the assault.

Over the past decades our awareness of the magnitude and the impact of sexual victimization has increased considerably. Sexual abuse has become an acute problem, manifested in ever increasing costs to society as well as to its victims. The costs incurred by society include medical and psychological services to aid victim recovery, the apprehension and disposition of offenders, and the invisible climate of fear that makes safety of paramount consideration in scheduling normal daily activities. In addition to the monetary costs associated with sexual abuse (Prentky and Burgess 1990), the impact of such abuse on the victim has been well documented (Crowell and Burgess 1996).

History of Psychological Trauma

The concept that a person may develop symptoms following an accident has a long tradition; psychological trauma has been noted in literature as far back as the writings of Homer (van der Kolk, McFarlane, and Weisaeth 1996). In Shakespeare's *King Henry IV*, Lady Percy describes the nightmares that Hotspur was suffering, particularly dreams of war. Samuel Pepys's *Diary* chronicles the effects of the September 2, 1666, Great Fire of London (Daly 1983). Pepys outlines the gradual progression of the fire toward his home and the terror he sees in other people fleeing their homes; he subsequently develops "dreams of the fire and falling down of houses." Six months later he was still unable to sleep "without great terrors of fire." Charles Dickens was involved in a railway accident on June 9, 1865, and in a letter described the horrifying scene of the dead. Some time after the accident he wrote of not feeling quite right, developed a phobia of railway travel, and described feeling weak as if recovering from a long illness (Forster 1969).

The Psychobiology of Trauma

The mental health field has long been interested in the aftermath of trauma; the debate has been over whether trauma was biophysiologicaly based or psychologically based. As early as 1859, French psychiatrist Briquet described symptoms of hysteria that he linked to childhood histories of trauma in 381 out of 501 patients. However, his belief was that the symptoms reflected a personal weakness in the person's ability to deal with the traumatic event. This notion continued and came to characterize soldiers suffering from post-trauma stress during World Wars I and II (van der Kolk et al. 1996). In fact, the term *shell shock*,

as coined by British military psychiatrist Meyers, could be explained as part of the soldier's makeup. Even Freud supported the notion and argued that trauma symptoms were a "flight into illness by subconscious intentions ... [and] that at the end of the war the war neurosis would disappear" (cited in van der Kolk et al. 1996, p. 55). Freud believed the symptoms were consciously incited and motivated by the individual's unconscious desire to get out of the war and that, once the war was over, the symptoms would disappear. This amelioration of symptoms, of course, did not occur (van der Kolk et al. 1996).

In 1889, Pierre Janet noted the psychobiological link to trauma response. He suggested that the psychological effects of trauma are stored in somatic memory and expressed as changes in the biological stress response. To quote psychiatrist van der Kolk (1994), "The body keeps score." Janet emphasized that intense emotional reactions make events traumatic by blocking the usual information processing into existing memory paths (Janet 1889). He also observed that traumatized patients reacted to environmental cues reminiscent of the trauma, were unable to put the trauma behind them, had trouble learning from their experiences, became fixated on the past or obsessed with the trauma, and behaved and felt as if they were traumatized all over again without being able to determine the origins of the feelings (van der Kolk and van der Hart 1991).

Psychiatrist Kardiner (1941) examined returning soldiers and noted that they were extremely sensitive toward environmental factors that had the capacity to provoke a fear response. He gave the example of riding a subway train through a tunnel that would provoke a flashback to the patient of being in the trenches in wartime. Kardiner's analysis was that the patient acted as if the original trauma were recurring, and he suggested that the patient's view of the world and of himself had been permanently altered. In *Men under Stress*, Grinker and Spiegel (1945) described the physical symptoms of soldiers as flexor changes in posture, hypermovements, a violent propulsive gait, tremor at rest, masklike faces, rigidity, stomach distress, urinary incontinence, mutism, and a hyperstartle reflex. More currently, research is ongoing for war trauma in men who have returned from the Gulf War and the Iraq War.

Another group of researchers looking at stress and its physiological effects has contributed to the knowledge base of trauma. Hans Selye (1956) suggested that some stress experiences were growth enhancing. In contrast, repetitive, continuous, escalating, and uncontrollable stressful experiences may put the person at risk for illness. Stress has been shown to be mediated by the hypothalamic-pituitary-adrenocortical (HPAC) biologic stress systems. Stress that challenges homeostasis stimulates secretion of glucocorticoids, which are catabolic hormones that help mobilize stored energy to support the body's physiologic response to stress for use in the "flight or fight" response (Cannon 1932; Selye 1956; van der Kolk 1994).

With the focus on rape in the late 1960s and early 1970s, a new group of trauma patients emerged. Some of the early work on trauma involving rape victims began with a study that coined the clinical term *rape trauma syndrome* (Burgess and Holmstrom 1974), which includes both acute and long-term symptom responses to traumatic sexual assault. Rape trauma syndrome has two distinct variations: compounded rape trauma and silent rape trauma (Burgess and Holmstrom 1974). Rape trauma syndrome is a clustering of varying degrees of biopsychosocial and behavioral responses to the extreme stress and fear of death that victims experience during an assault. The ability to cope with the incident depends on the type of assault, the person's preexisting functioning, coping skills, and an available support system. In compounded rape trauma, victims have a past and/or current history

of psychiatric, psychosocial, or physical problems that compound the effects of the sexual assault. In silent rape trauma, expression of assault-related symptomology is muted, undetected, or absent (Burgess and Holmstrom 1974). Rape and sexual assault are more likely to lead to PTSD, a *Diagnostic and Statistical Manual of Mental Disorders-IV* diagnosis, than other traumatic events affecting civilians.

In conclusion, too few victims who sustain rape-related mental or physical problems obtain effective treatment (Kilpatrick 2000). In many persons who have experienced extreme stress, the post-traumatic response fades over time, whereas in others it persists. Van der Kolk (1994) emphasizes that much work needs to be done to examine the issues of resilience and vulnerability, but magnitude of exposure, previous trauma, and social support appear to be important predictors for development of chronic PTSD (McFarlane 1989).

Memory

The investigation of rape cases puts a great deal of focus on an individual's memory of what happened. Thus, an understanding of how information is processed and remembered is important for an investigator. Memory formation involves encoding, storage (or consolidation), and retrieval. Encoding is the initial laying down of the memory trace. Storage involves the keeping of the memory trace over time. A related concept is consolidation, which refers to the process that can occur over several weeks or more of establishing the permanence of a memory trace, during which time the memory trace is theoretically susceptible to modification. Retrieval is the process of bringing out a memory from storage into consciousness (Bremner et al. 1995).

Memory can also be categorized by memory type. Squire and Zola-Morgan (1991) have divided the different types of memory functions into declarative, or explicit, and procedural, or implicit. Further, the role of hormones in the modulation of memory has been linked to memory alterations (Squire 1994).

The importance of trauma is not only the way it affects memory structure and presentation, but also the method by which it affects the brain—in particular the key regulatory processes that control memory, aggression, sexuality, attachment, emotion, sleep, and appetite. The particular location of the brain we are interested in is the limbic system. It is also the seat of the alarm system that protects the individual in the face of danger. It is the location where all sensory information enters the human system and is encoded.

Declarative memory functioning has been demonstrated to be affected by lesions of the frontal lobe and of the hippocampus, which also have been implicated in the neurobiology of PTSD (van der Kolk 1994, 1995). Implicit memory refers to memories of skills and habits, emotional responses, reflexive actions, and classically conditioned responses. Each of these implicit memory systems is associated with particular areas in the central nervous system (Squire 1994). According to van der Kolk and Fisler (1995), an individual's memory depends on his or her existing memory structure. Once the event is processed (i.e., integrated into one's mental schemes), it is no longer available as a separate entity but is liable to be altered by associated experiences, demand characteristics, and one's emotional state at the time of recall. To paraphrase Schachtel (1947): "Memory ... is the capacity for the organization and reconstruction of past experiences and impressions in the service of present needs, fears, and interests."

Developmental Traumatology: A Neurobiological Perspective

The growing field of developmental traumatology is providing us with insights as to how the mechanisms of abuse and neglect can influence behavior. Early sustained abuse can produce physiological changes in the developing brain, resulting in difficulty modulating emotional responses (including anger and depression), difficulty interpreting social situations, and difficulty in thinking that contributes to impulsivity, antisocial behavior, and sexual misconduct. Essentially, early life attachments (also called bonding) translate into a blueprint of how the child will perceive situations outside the family. Positive attachment based on warmth, affection, caring, protective behaviors, and accountability leads to basic trust. It is at the core of building a social human being. Through attachment, the person gets feedback for the emerging of self. Around 18 months of age, there is consolidation of a sense of self. Early development of the ability to self-soothe provides an inner core of calmness and the ability to avoid being overwhelmed by stimuli that results in an integrated sense of self.

Social bonding can fail or become narrow and selective. Caretakers can ignore, rationalize, or normalize various behaviors in the developing child or, through their own problems (such as violent behavior), support the child's developing distortions and projections. An ineffective social environment can occur through aggressive or sexual behavior being ignored or by failing to intervene to correct behavior.

The child who lacks protection by a caretaker experiences tremendous anxiety, is overwhelmed, and may survive through dissociating from the trauma. This dissociation also inhibits a sense of feeling connected to the outside world. In the earliest manifestations of this numbing, we see children being cruel to animals, siblings, friends, and even parents or grandparents. There is a lack of sensitivity to the pain of others, and there can be a distorted association of pain with various events. Children become isolated and disconnected from others. In a Massachusetts case, a 14-year-old youth took a 7-year-old retarded boy into the woods and beat him to death. He had told people he was going to do this and no one intervened.

This cruel and detached behavior can be noted in date abuse occurring in junior and senior high schools. One example from the 1990s was a gang rape of a developmentally disabled girl that happened in Glen Ridge, New Jersey. In that case, several high school male students inserted objects into the girl's vagina while other high school male students watched. They had no sense of their impact on the victim.

While attachment theory was intended as a revision of psychoanalytic theory, it has been infused by biological principles, control-systems theory, and cognitive psychology. Although it began with an attempt to understand the disturbed functioning of individuals who had suffered early separations or traumatic losses, it is a theory of normal development that suggests explanations for some types of atypical development (Bowlby 1969, 1973). Since Bowlby's preliminary formulations (1958), attachment theory has stimulated research into socio-emotional development and the growth of interpersonal relationships. For example, it suggests a causal relationship between the anomalies of attachment in the parent and abuse of the child.

Substance Abuse

Alcohol has been cited as one of the major risk factors for both experiencing and perpetrating sexual victimization (Abbey et al. 2001). It is important to note that while alcohol has been strongly linked to sexual assault and other violent crimes, its relationship with victimization is one of correlation and not causation. Alcohol acts as a central nervous system depressant that decreases inhibition and impairs the judgment of users (Abbey et al. 2001).

For females, intoxication—especially binge drinking, which is defined as four or more drinks in a row for women and five or more drinks in a row for men—may decrease awareness of a partner's actions and advances as well as make it more difficult to stop sexual advances that have gone too far (Abbey 2002). In their study of sexual victimization on college campuses, Fisher et al. (2000) noted that drinking enough alcohol to get drunk was significantly related to experiencing sexual violence.

Alcohol use and intoxication are also significantly related to the perpetration of sexual violence (The Higher Education Center for Alcohol and Other Drug Prevention 2002). Among male users, intoxication has been linked with misinterpretation of sexual cues as well as overestimation of a woman's sexual interest, which may ultimately result in increased aggression and forced or coerced sex (Abbey and Harnish 1995). Belief in the myth that alcohol use increases sexual arousal among both parties may also serve to legitimize and excuse sexually aggressive and coercive behaviors that would not otherwise be acceptable (Abbey et al. 2001). Furthermore, despite advances in neutralizing gender-based roles and stereotypes, preservation of outdated beliefs that dichotomize women into categories of "good" and "bad" may lead would-be perpetrators to view women who drink alcohol as sexually available and appropriate targets compared to their nondrinking counterparts.

Date-Rape Drugs

While victims may be sexually assaulted after knowingly ingesting illegal drugs such as marijuana, heroin, and cocaine, they may also be unknowingly drugged by so called date-rape drugs (Drug Enforcement Agency 2001). Two of the more common date-rape drugs, gamma-hydroxybutyrate (GHB) and Rohypnol, are central nervous system depressants that, when dissolved in alcoholic or nonalcoholic beverages, become odorless and tasteless. Once the drug is ingested, a person becomes disoriented, confused, and may be rendered unconscious for several hours (Drug Enforcement Agency 2001). In an effort to reduce the incidence of drug-facilitated rape, pharmaceutical companies have included a color additive in the drug Rohypnol. In addition to similar preventative measures, criminalization of drug-facilitated rape is also enforced under the Drug-Induced Rape Prevention and Punishment Act of 1996 and the Hillary J. Farias and Samantha Reid Date-Rape Prohibition Act of 2000. However, despite these efforts, sources of date-rape drugs remain plentiful in the United States, internationally, and online. Memory impairment (a common side effect of the medication) may make it difficult to remember and identify perpetrators of the crime.

Stalking

The NVAWS emphasized that stalking is a significant social problem. Using a definition that requires victims to feel a high level of fear, the survey found that stalking is much more prevalent than previously thought: 8% of surveyed women and 2% of surveyed men said they had been stalked at some point in their lives; 1% of surveyed women and 0.4% of surveyed men said they had been stalked in the previous 12 months. Based on U.S. Census estimates of the number of women and men in the country, these findings equate to approximately one million women and 371,000 men who are stalked annually in the United States (Tjaden and Thoennes 1998). The definition used in the survey was defined as a course of conduct directed at a specific person that involves repeated visual or physical proximity; nonconsensual communication; verbal, written, or implied threats; or a combination thereof that would cause fear in a reasonable person (with *repeated* meaning on two or more occasions).

Cyberstalking

In the last two decades of the twentieth century, the terms *stalking* and *cyberstalking* have become part of the American vocabulary as well as new classifications of crime. Stalking, in contrast to a direct physical attack, involves pursuit of a victim and is the act of following, viewing, communicating with, or moving threateningly or menacingly toward another person. Stalking behavior has many dimensions that include written and verbal communications, unsolicited and unrecognized claims of romantic involvement with victims, surveillance, harassment, loitering, and following that produce intense fear and psychological distress to the victim. In addition, these behaviors can take the form of telephone calls, vandalism, and unwanted appearances at a person's home or workplace. When it occurs through the Internet (i.e., electronic stalking or cyberstalking), the acts include unsolicited e-mail, negative messages in live chat rooms, hostile Internet postings, spreading of vicious rumors, leaving abusive messages on site guestbooks, impersonating a person online and saying negative things, and electronic sabotage (sending viruses, scamming, etc.).

While the Internet is viewed as an information superhighway and an invaluable communication tool, it also provides a new environment for harassers and criminals to target victims. As former U.S. Attorney General Janet Reno noted in a report (1999) prepared by the Department of Justice, many of the attributes of this technology—low cost, ease of use, and anonymous nature—make it an attractive medium for fraudulent scams, child sexual exploitation, and cyberstalking. She also noted that while some conduct involving annoying or menacing behavior might fall short of illegal stalking, such behavior may be a prelude to stalking and violence and should be treated seriously.

Cyberstalking, also called online stalking or online victimization, shares important characteristics with offline stalking. The similarities are that (1) the majority of cases involve stalking by former intimates, although stranger stalking certainly occurs in the real world and in cyberspace; (2) most victims are women and most stalkers are men; and (3) stalkers are believed to be motivated by the desire to control the victim. Major differences include (1) offline stalking requires the stalker and victim to be located in the same geographic area, whereas cyberstalkers may be located in the same city or across the

country; (2) technologies make it easier for a cyberstalker to encourage third parties to harass and/or threaten a victim; and (3) technologies lower the barriers to harassment and threats and a cyberstalker does not need to physically confront the victim (Reno 1999).

Understanding cyberstalking is to understand stalking in general. Cyberstalking may be viewed as simply another phase in an overall stalking pattern or it may be viewed as a regular stalking behavior using new, high-technology tools. In some reported studies, both offline and online behaviors are surveyed, making it difficult to separate the behaviors.

Youth Online Victimization

The U.S. Congress became aware of the misuse of the Internet to prey upon children and quickly took action through implementation of the Child Online Privacy Protection Act to help safeguard children from unsavory advertising practices and the registration of personal information without parental consent. Congress also enhanced federal law-enforcement resources such as the FBI's Innocent Images Task Force and the U.S. Customs Service's Cybersmuggling Unit, both of which have successful records of investigating and arresting online predators. One of the most important tools for law enforcement staff and families has been the development of the National Center for Missing and Exploited Children's (NCMEC) CyberTipline, a resource that has initiated numerous investigations and arrests of child predators. However, Congress's strong message of intolerance for online predators was not enough without information regarding the number of children victimized on the Internet and the various ways in which they were approached. Thus, Congress commissioned a study to identify the threats, incidence rates, and victim responses to online predators and illegal content. This initial report, "Online Victimization: A Report on the Nation's Youth," provided a starting point in better understanding what children face online (Gregg 2000).

Nearly 24 million youth ages 10–17 were online regularly in 1999, and millions more have joined them. But not every online adventure is stress free. The Internet has a seamier side that young people can encounter. A telephone survey (the Youth Internet Safety Survey) yielded a representative national sample of 1,501 youth, ages 10–17, who reported using the Internet at least once a month for a 6-month period on a computer at home, at school, someone else's home, or some other place. This definition was chosen to exclude occasional users, while including both heavy and light users. The survey asked about three different types of online victimization: sexual solicitations and approaches, unwanted exposure to sexual materials, and harassment. The key conclusions of the Youth Internet Safety Survey findings are cited as follows (Finkelhor, Mitchell, and Wolak 2000):

- A specific fraction of youths is encountering offensive experiences on the Internet.
- The offenses and offenders are diverse and include male and female offenders.
- Most sexual solicitations fail, but their quantity is potentially alarming.
- The primary vulnerable population is teenagers.
- Sexual material is very intrusive on the Internet.
- Most youths brush off these offenses, but some are quite distressed.
- Many youths do not tell anyone.
- Youths and parents do not report these experiences and do not know where to report them.

Internet friendships between teens and adults were not uncommon and appeared to be mostly benign. Still, little is known about the incidence of traveler cases (where adults or youths travel to meet and have sex with someone they first came to know on the Internet) or any completed Internet seduction and Internet sexual exploitation cases, including trafficking in child pornography.

Collegiate Stalking and Cyberstalking

Critical to the study of any behavior is definition. Meloy (1996) made one of the first attempts to define stalking as "obsessive following." Using a similar concept, Cupach and Spitzberg (1997) define *obsessive relational intrusion* (ORI) as "repeated and unwanted pursuit and invasion of one's sense of physical or symbolic privacy by another person, either stranger or acquaintance, who desires and/or presumes an intimate relationship."

Definition aside, what is the impact on the victim of being stalked, whether online or offline? In the limited studies on stalking, Mullen and Pathe (1994) noted that victims feel compelled to alter their lifestyles by moving, changing addresses, or giving up social activities. Hall (1996) found that 83% of victims surveyed reported their personalities changed as a result of being stalked. Indeed, being stalked over a period of time has been described as "psychological terrorism" (Spitzberg, Nicastro, and Cousins 1998) and has been suggested to be a cause of PTSD (Wallace and Silverman 1996).

Adult Cyberstalking

The earliest publication found concerning the area of cyberstalking was a brief note by Christina Carmody in the *ABA Journal* in 1994. She noted that women were complaining of relentless e-mails and jammed fax machines from obsessive admirers. Writing in the *Washington Law Review*, Gene Barton (1995) concluded that computer abuse was advancing as quickly as computer technology, but that the laws addressing the problems of harassment by computer were lagging. At that point, he noted that the federally subsidized Internet connected more than 5,000 networks and 1.7 million computers throughout the United States and abroad and was frequented by more than 20 million users. Growth on the Internet was estimated to be as high as 15% a month. However, e-mails were being sent for improper purposes and Barton described *flaming*, a general term describing vitriolic e-mail. Flaming was a massive mailing of vituperative, sexually suggestive, or meaningless messages by a group (acting either in concert or not) that was designed to intimidate one or more other users. Another form of e-mail abuse was the mail bomb or letter bomb, a long e-mail message that tied up a recipient's system by consuming its computer memory.

It became apparent that the use of the Internet to engage in these behaviors presented unique legal questions, and the first cyberstalking provisions were enacted in a Michigan law in 1992; the first successful prosecution in that state occurred in 1995 (Ross 1995). Andrew Archambeau pleaded no contest to having sent 20 e-mails over a 2-month period to a woman after he had been asked by the victim and the police to stop. He claimed that he was pursuing the woman for romantic reasons and that the communication was non-threatening since the victim could have ignored it. Archambeau was sentenced to a year's probation and a psychiatric evaluation was ordered.

An early compilation of information concerning the phenomenon of cyberstalking can be found in "Cyberstalking: A New Challenge for Law Enforcement and Industry," a

report from the attorney general to the vice president of the United States published on the Web in August 1999. The report explored the nature and extent of cyberstalking; surveyed the steps law enforcement, industry, victims' groups, and others were taking to address the problem; analyzed the adequacy of current federal and state laws; and provided recommendations on how to improve efforts to combat this growing problem. One large study cited by former Attorney General Reno was done on a random sample of 4,446 college women. Fisher et al. (1999) reported that 25% of stalking incidents among college women could be classified as involving cyberstalking. The report also noted that the majority of police agencies had not investigated or prosecuted any cyberstalking cases. However, some agencies, particularly those with units dedicated to stalking or computer crime offenses, had large cyberstalking caseloads (e.g., New York City and Los Angeles). On the matter of jurisdiction and statutory limitations, Reno urged the need for state, local, and federal officials to work closely together in addressing these questions.

Cyber Child Pornography

Internet usage has grown leaps and bounds over the last decade. People from all walks of life and of all ages use the Internet. Some use it for its original intent—to easily gather or transmit data or information—while others have learned to use it as a way to feed a deviant lifestyle.

In 2005, there were more than 420 million individual pornographic Websites, up from 14 million in 1998. Pornography is the most commonly searched topic on the Internet (Cooper 1997). When the word *pornography* is searched on Google, 20,400,000 references are made in 0.10 seconds. Although, adult pornography is legal and less stigmatized than child pornography, there is increasing clinical support that the offender of children initially learns to navigate through the Internet with exclusive exposure to adult sites. Once familiarized with adult Websites, offenders begin exploring other, less normative sexual preoccupations, such as fetishes, S&M, and, eventually, child and adolescent pornography. This is fundamentally an exploratory crossover process in which natural curiosity, combined with a compulsive interest in sexual images, promotes migration to a wide range of more atypical or deviant forms of sexual expression, including adult-child sexual contact.

The Internet conveys a sense of anonymity, imparts a measure of acceptability and normality among offenders, provides instant gratification, and feeds deviant thoughts and fantasies (Durkin 1997; Quayle and Taylor 2003). There are four ways in which Internet sexual offenders misuse the Internet: (1) to communicate with other offenders, (2) to traffic child pornography, (3) to engage in inappropriate sexual communication with children, and (4) to locate children to victimize (Quayle and Taylor 2002).

It is theorized that after becoming desensitized to the vast number of sexual images available on the Internet, the potential offender essentially concludes that there is no stigma attached and that viewing is anonymous and risk free. The offender then begins to access, view, and download Websites depicting other interests, including child pornography. This action alone makes him or her an offender in that the possession, distribution, or downloading of child pornography is illegal in all 50 states. Under federal law, *child pornography* is defined as

visual depictions of any kind, including drawing, cartoon, sculpture, painting, photography, film, video, or computer-generated image or picture, whether made or produced electronically,

mechanically, or by other means of sexually explicit conduct, where it depicts a minor engaging in sexually explicit conduct and is obscene, or depicts an image that is, or appears to be, of a minor engaging in graphic, bestiality, sadistic, or masochistic abuse, or sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex, and such depiction lacks serious literary artistic, political, or scientific value. (Wolak, Mitchell, and Finkelhor 2003)

Commercial child pornography on the Internet is a \$ *billion* business. Supply follows demand, even in the criminal world of manufacturing and distributing child pornography. The size of the business reflects not only the magnitude of the demand but also the magnitude of the profit motive from the supply side. To protect their investment, as well as their “product,” child pornography producers and possessors are becoming more elusive and more creative, trying to stay one step ahead of law enforcement. Both federal and state governments, however, have enacted new statutes and modified outdated laws to respond to the Internet’s growing danger. Since the mid-1990s, several laws addressing sexually explicit material and online sexual predators have been passed, repealed, revised, re-enacted, and re-appealed. Prosecution of online sexual offenders, which include producers, distributors, and possessors of child pornography; soliciting a minor over the Internet; contact offenses; and a wide variety of other offenses, is becoming easier thanks to the media, technological advancements, watch dog groups, and training of law enforcement officials.

Child pornography possessors are a diverse group and use child pornography for a variety of reasons. Some have a sexual preference for prepubescent children, while others prefer young adolescents and use child pornography for fantasy and sexual gratification. Some are sexually indiscriminant and are constantly looking for new and different stimuli, while others are sexually curious, downloading images to satisfy that curiosity. Then there are, of course, those who have a primary entrepreneurial motive, profiting by selling these images or setting up Websites that require payment to gain access in order to view and download pornographic images. Although there is ample speculation about the links among child pornography collectors, pedophilia, and hands-on victimization, little of a substantive nature is known about the offenders themselves.

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Rape and Its Impact on the Victim

2

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Introduction

Rape, forced sexual intercourse, is an act of aggression where sexual activity is used to degrade or humiliate the victim. Uniform crime reports for 2005 indicate that law enforcement agencies received reports of an estimated 93,934 forcible rapes nationwide in 2005, which does represent decreased reporting when compared to the 2004 estimate. The highest percentage of rape offenses were those committed by force, 92%, while the remaining 8% were attempts or assaults to commit rape (Federal Bureau of Investigation 2005).

Rape affects the lives of victims and their significant others with various physical and emotional consequences. While some women are able to successfully manage the experience of rape in a timely manner, the majority of women report psychological symptoms that were not present prior to the rape. This chapter discusses the mental health, physical health, and cultural components of rape and its effect on the victim.

Rape Trauma Syndrome

Prior to the work of Burgess and Holmstrom (1974), research on rape focused on the perpetrator as opposed to the victim. Through work with numerous rape survivors at a Boston hospital, the short- and long-term symptoms of rape trauma syndrome (RTS) were identified. RTS consists of an acute and long-term reorganization process that occurs at an actual or attempted sexual assault. During the assault victims experience fear of being raped and of being killed or hurt. The emotions of fear and anxiety may continue to be experienced by women for years after the attack. The acute phase is marked by major life disruption and disorganization. The individual goes through an emotional reaction that includes symptoms such as fear, anger, self-blame, shock, guilt, embarrassment, anxiety, and shame. Physical reactions include trauma from injuries, headaches, sleep disturbances, stomach pains, nausea, and vaginal pain or discomfort.

Women often demonstrate the impact of the assault in either an expressed or controlled way. The expressed style includes overt behaviors that are commonly associated with trauma victims. Expressed behaviors include crying, hysteria, tenseness, confusion, and volatility. A controlled style involves more ambiguous behaviors that are not frequently associated with trauma survivors. Controlled behaviors include calmness, shock, and subdued appearance. Long-term reorganization occurs for a longer time and includes many symptoms. Common manifestations of this stage include fears and phobias, increased emotional lability, increased motor activity, and intrusive thoughts.

The major emotional symptoms include fear and anxiety. Immediately after the rape, physical symptoms—for example, generalized physical soreness or pain and gastrointestinal

and genitourinary disturbance—are reported. Sleep and eating disturbances may also be present. Feelings of humiliation, degradation, guilt, anger, self-blame, and revenge are common. Fear of injury, mutilation, and death also predominate. Long-term reactions include dreams, nightmares, and phobias. Many women make lifestyle changes with the intention of avoiding the possibility of rape. Women may move or change their phone numbers or jobs. There is difficulty carrying out the normal routines of life. Preoccupations with recollections or flashbacks of the rape and a global fear of sex, men, and being alone in crowds are common. Recovery from rape trauma takes longer than recovery from other types of crimes and crises.

Anxiety-Based Disorders

The emotional picture depicted with RTS is consistent with the symptom pattern of post-traumatic stress disorder (PTSD). This may be an immediate or chronic response to physical or sexual violence. PTSD is diagnosed in individuals who have experienced, have witnessed, or were confronted with a traumatic event and have characteristic resulting symptoms. Resulting symptoms include persistent re-experiencing of the event, persistent avoidance of stimuli associated with the trauma, and symptoms of increased arousal (American Psychiatric Association [APA] 2004). Rape victims may experience flashbacks, nightmares, or some experience in which the traumatic event is reenacted. They may also feel the need for safety rituals, such as extensive checking of locks. Sexual violence is associated with behavior categorized as that of avoidance or of increased arousal (Flack et al. 2007). Avoidance behaviors are efforts to avoid anything associated with the rape. This can include efforts to avoid feelings, thoughts, activities, places, and people. Other victims may have symptoms of increased arousal. Arousal symptoms include being extremely watchful of the environment, insomnia, anger, and rage. These behaviors may persist for as long as 2 years after the attack and usually cause some disruption in the individual's interpersonal, social, or occupational functioning.

Individuals who have a history of depression or alcohol abuse or who experienced injury during the rape are at greater risk for experiencing PTSD. Past experiences of violence predict future experiences of violence. This is important because each additional traumatic event increases the risk of an individual's developing PTSD (Breslau 2002b). A delay in disclosing the assault is associated with the development of PTSD (Ullman and Filipas 2001).

Limited research specific to PTSD in older victims of rape could not be found. While older women were often included in the study populations, most of the time the data were not reported for different age groups. However, one study reported that women who reported sexual assault an average of 50 years ago were more likely to present with PTSD symptoms than those with no sexual assault history (Acierno et al. 2007).

Depression

After the experience of sexual trauma, depression is a common consequence. Symptoms of depression include significant weight loss or gain, sleep disturbances, increased or decreased motor activity, loss of energy, loss of pleasure in activities of life, decreased

concentration, feelings of worthlessness, depressed mood most of the day, and recurrent thoughts of death or suicidal ideation (APA 2000). Symptoms of current depression were three times higher among those who reported experiencing sexual assault than those who did not experience sexual assault. Sexual violence is associated with severe depression in young women (Csoboth, Birkas, and Purebl 2005). Adult victims of sexual assault also reported current hopelessness and suicidal ideation (Masho, Odor, and Adera 2005).

Substance Abuse

A number of research articles have documented an association between rape and sexual assault and substance abuse. A high incidence of substance abuse was reported among female veterans who presented requesting help for sexual trauma. Current alcohol abuse was two times higher among those who reported sexual assault than among those who did not report experiencing sexual assault. Data from a 2-year longitudinal study suggest that after women were sexually assaulted, the odds of both alcohol abuse and drug use were significantly increased (Kilpatrick, Whalley, and Edmunds 2002). Similarly, women who reported a history of forced sex, compared with those who never experienced forced sex, were more likely to drink alcohol four or more times a week and use illicit drugs (Masho et al. 2005). It was also suggested that PTSD seems to serve as a mediator between childhood rape and subsequent alcohol use.

Psychosocial Adaptation

Sexual assault report is associated with emotional trauma and psychological distress. Women who were sexually assaulted report fears and phobias of being alone and associated with the site or other characteristics of the assault. For example, a woman who was raped outdoors may fear being outdoors. Many women experience disruptions to their sexual functioning, feeling an inability to feel intimacy in their sexual relationships. Lowered self-esteem is often associated with victimization. After experiencing sexual assault it is common for women to report self-blame in the form of feeling embarrassed, ashamed, or guilty (Ruch and Wang 2006). Self-blame after rape has also been associated with psychological distress (Burgess and Holmstrom 1974). Past victimization also seems to put one at risk for subsequent victimization (Field and Caetano 2005). While much research has identified patterns of repeated victimization of individuals, the cause is likely to be a complex interplay of multiple factors.

Childhood Sexual Abuse

Women who were sexually abused as children are vulnerable to many of the same consequences as women who were raped as adults. Women who were raped as minors were twice as likely to report rape as an adult than women without abuse histories (Tjaden and Thoennes 2006). Adult survivors of child sexual abuse have been known to experience PTSD in addition to difficulty in relationships, guilt, low self-esteem, inability

ity to trust others, and flashbacks (Breslau 2002a). Depression, suicidal thoughts and behaviors, extreme anger, and mood swings are also present. Childhood sexual abuse has also been associated with depression, self-destructive behaviors, alcohol use, and substance abuse.

Physical Health Effects of Rape

Sexual assault of a woman produces many undesired physical and psychological effects. In the immediate aftermath of rape, a woman may be injured on the genitals and on other parts of her body. Initial medical care is essential. Other direct concerns are the prevention of sexually transmitted disease and pregnancy. Some groups, such as elderly or homeless women, are at greater risk of physical injury following sexual assault.

Pregnancy

Researchers have estimated the incidence of pregnancy among rape victims of reproductive age to be significant, about 3–5% (Holmes et al. 1996; Masho et al. 2005). Holmes et al. used a national probability sample of 4,008 adult American women surveyed longitudinally over a 3-year period. Among the 34 cases of pregnancy that resulted from rape, most of the women were adolescents and assaulted by a known assailant. However, Lathrop (1998) noted that pregnancy resulting from rape was more prevalent than generally recognized due to underreporting of sexual assaults leading to underestimated crime statistics. Limited research has addressed the impact of rape on a pregnant woman.

Sexually Transmitted Diseases (STDs)

Generally, researchers have studied the relationship between rape and transmission of gonorrhea, chlamydia, trichomonias, bacterial vaginosis, syphilis, and HIV. However, one case has been reported where acute hepatitis A occurred 4 months after multiple rape (Crowell et al. 1996). Forced sex is associated with increased incidence of developing pelvic inflammatory disease and reoccurrence of STDs (Champion et al. 2001; Upchurch and Kusunoki 2004). Contracting a sexually transmitted disease is one factor that prompts women to seek healthcare after rape. Limited research documents occurrence of STDs; however, as many as 2% of women report contracting an STD as a consequences of sexual violence (Masho et al. 2005). Exact numbers that document the presence of HIV infection after rape do not exist.

Perception of Health

Women who have been sexually assaulted are more likely than women who have not been assaulted to report poorer health perception (Masho et al. 2005). Health fears, such as worry of disease or injuries from the assailant, are commonly reported by women after sexual violence (Ruch and Wang 2006). Survivors of trauma often report lower health-related quality of life (Schnurr and Green 2004). Determination of one's perception of health is important as it can serve as a predictor of the use of health care services.

Utilization of Health Services

Survivors of sexual assault have been found to be disproportionately frequent users of health care services due to the acute and chronic physical, somatic, and psychological consequences of assault (Schnurr and Green 2004). Survivors have been found to have increased medical service usage even when perceptions of health and somatic symptoms are no longer elevated, reflecting the insidious and long-term effects of sexual violence. The number of medical visits increased significantly during the year of the crime and was most pronounced in the second year after the crime (Koss 1993).

General Health Effects

Women suffer from acute and chronic physical symptoms and health effects after sexual violence. These health symptoms may persist for years after the initial trauma. A third of sexual assault victims in the National Violence against Women Survey reported physical injury, most often scratches, bruises, and welts (Tjaden and Thoennes 2006). In the acute phase, genital and nongenital injuries, sexually transmitted diseases, and pregnancy are immediate health concerns. Sexual assault is a major assault on the body and the body reacts by bringing on a range of physical symptoms. Physical force and bodily injury are present in most sexual assault cases (Riggs et al. 2000).

Women who have been sexually assaulted may also have gynecological symptoms such as chronic pelvic pain, painful urination, bladder infection, and painful intercourse (Campbell et al. 2006). Sexual violence has also been associated with headaches, back pain, gastrointestinal symptoms, and premenstrual symptoms as well as a host of other physical health consequences (Campbell 2002).

In a study of 298 African American women recruited through the VA hospital women's clinic, sexual victimization was associated with more frequent gynecological health symptoms (Campbell et al. 2006). Women with histories of physical and sexual abuse were much more likely to report more somatic symptoms and functional disability (Eby et al. 1995). In women who returned for follow-up, Holmes, Resnick, and Frampton (1998) reported that the common concerns were disturbances in sleep, sexual function, and appetite.

Genital Injury

While general body trauma is common, many women experience genital injury. In a study of rape victims seen in an emergency department, genital trauma occurred in 57% of cases (Riggs et al. 2000). Genital trauma was more common in women younger than 20 and older than 49 (Sugar, Fine, and Eckert 2004). Although genital injury does not occur in all sexual assault cases, conviction rates are higher when genital injury is sustained (Palmer et al. 2004). Forensic evidence of genital injury strengthens the legal claim of force.

Specific Populations

Some specific populations have been determined to be more at risk for physical injury with sexual assault. Rape of elderly women is underreported and the needs of these victims are often neglected (Burgess, Dowdell, and Brown, 2000). As previously stated, women over the

age of 49 are more likely to sustain genital injury (Sugar et al. 2004). Genital trauma, abrasions, or edema were more common in postmenopausal women than in younger women. Authors have written about the necessity of age-related assessment techniques (Burgess et al. 2000).

Decades of research on violence have indicated that violence against women is most often partner violence (Tjaden and Thoennes 2000). Sexual assault often occurs from a known perpetrator, most often a current or former partner. Limited research includes multiple forms of violence. Sexual assault by a date was associated with physical assaults, sexual assaults, and stalking by an intimate partner (Slashinski, Coker, and Davis 2003). Battered women who were both physically and sexually abused had higher levels of PTSD than women who experienced only physical abuse (Bennice et al. 2003). Sexual violence is associated with an increase risk of femicide, or homicide of a woman by her abusive intimate partner (McFarlane, Campbell, and Watson 2002).

Findings from the National Violence against Women survey suggest that younger women are at greater risk of sexual victimization than older women (Tjaden and Thoennes 1998). In addition, experts have asserted that women on college campuses are at greater risk for sexual victimization than other women of the same age group and women in the general population. Fisher and colleagues (2000) report that 2.8% of college women surveyed in a large nationally representative sample had experienced a completed or attempted rape during the past 6.91 months and those women were more likely to have been raped or sexually assaulted by someone who is known to them than by a stranger (Fisher, Cullen, and Turner 2000). Johnson and Sigler (2000) reported that 19% of college women surveyed said that they were forced to have sex at some point during their lives, most commonly in dating situations. Data from the 2004 crime victimization survey suggest that women are more likely to be raped by a friend or acquaintance and that sexual victimization is reported by 36% of women (Catalano 2005). As in adult women, college women also may experience sexual violence within the context of a known perpetrator, most commonly an acquaintance or a current, former, or potential partner. Following nonstranger sexual assault, victims feel blame, guilt, and emotional distress (Fisher, Cullen, and Daigle 2005; Fisher et al. 2000; Flack et al. 2007).

Alcohol is often associated with sexual violence in college students (Abbey et al. 2006). Alcohol use may be seen as both a risk factor for sexual victimization and an outcome of sexual victimization. Other outcomes are mental health symptoms and physical injury (Amar 2007). Other health risk behaviors associated with sexual violence include unhealthy weight control, arrest for sex crimes and prostitution, teen pregnancy, multiple partners, and HIV-related risk behaviors (Silverman et al. 2001; Wordes and Nunez 2002). As past experiences of violence predict future occurrences, it is important to identify adolescent and young adult victims. Youths, women who are homeless, and survivors of gang rape are other at-risk populations. Runaway youths frequently report sexual abuse within the family as a reason for leaving home.

Rape of men is an underdiscussed area. Justice Department statistics indicate that while both males and females experience sexual violence, females comprise an overwhelming number of the victims and the numbers of males are too small for meaningful analysis. Despite this, on average annually, 9,040 males experience completed rapes and 10,270 males experience attempted rape (Rennison 2002). Society conceptualizes rape as an event that happens only to females. Societal perceptions can influence males' responses to sexual violence. Males may not report sexual violence to the police or seek health care

due to fear of a negative reaction or of not being believed or taken seriously. Men who experienced rape reported psychological disturbance in response to being raped—specifically, anxiety, depression, increased feelings of anger and vulnerability, loss of self-image, emotional distancing, self-blame, and self-harming behaviors (Walker, Archer, and Davies 2005).

Individuals with disabilities also compose a high-risk and neglected group of sexual violence victims. Developmental disabilities represent a cluster of disorders that are usually present in early childhood and represent some impairment in the acquisition of developmental milestones. For example, not walking or speaking at the appropriate time in childhood would be failure to meet a developmental milestone. Mental retardation represents deficits in the general intellectual function and adaptive functioning of an individual. The disorder is characterized by deficits in communication, self-care, home living, and social and interpersonal skills, and an IQ of 70 or below. Communication skills range from limitations in speech in the moderate mental retardation population to little, if any speech development in the profoundly mentally retarded population. It is estimated that mental retardation exists in about 1% of the general population (APA 2000).

The pervasive developmental disorders are a group of conditions in which expected social skills, language skills, and behavioral repertoire do not develop appropriately or are lost in early childhood. Autistic disorder, the best known of the disorders, is characterized by markedly abnormal or impaired communication and a markedly restricted repertoire of activity and social interest (APA 2000). Language may be totally absent or characterized by immature structure or idiosyncratic utterances. Nonverbal communication is either absent or socially inappropriate.

Autistic disorder occurs at a rate of 2 to 5 cases per 10,000 (0.02–0.05%) under age 12. About 40% of autistic children are moderately, severely, or profoundly mentally retarded, and retarded children may have behavior symptoms that include autistic symptoms.

Individuals who have developmental disabilities are vulnerable to sexual assault and abuse. As compared with women without disabilities, women with disabilities were four times more likely to be sexually assaulted (Martin et al. 2006). Women with health or emotional impairments may be less able to recognize impending danger and successfully fight off or evade an attack. In the aftermath, individuals with learning disabilities may not have the language to express and explain what has happened to them. Individuals with disabilities may be dependent upon others for their care, which could increase their vulnerability for abuse. Behavioral changes, such as acting out, may be the only clues that something is wrong with the individual.

Global Perspectives

Research conducted in industrialized countries has shown that the likelihood of a woman being raped or having to fight off an attempted rape is high. In developing countries, research suggests that rape is an ever present threat and reality for millions of women. In different parts of the world, at least one in five women suffers rape or attempted rape in her lifetime. It is also well known that rape and sexual torture are systematically used as weapons of war. Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity, and age. Even though most societies denounce violence against women, the reality is that violations against women's human

rights are often sanctioned under the garb of cultural practices and norms, or through misinterpretation of religious tenets (World Health Organization 2001). Child sexual violence is reported in many countries across the globe, including Kenya, Madagascar, and Congo (Salah 2005). The history and continuing tradition of the United States as a melting pot society, wherein many individuals of various cultural, racial, religious, and ethnic backgrounds coexist, make knowledge of cultural considerations of rape and sexual assault essential.

Overview of Culture and Its Relevance to Sexual Assault

Culture provides a strong influence on one's perceptions, behaviors, and attitudes. Cultural perceptions affect the way people are viewed and expected to act in certain situations. Cultural values are unique to a group and guide actions and decisions. The importance of culture to rape and sexual assault is affected then by the cultural values and norms related to sexual behavior and the social organization determining roles and responsibilities of men and women. These two factors are closely intertwined. In a culture that values patriarchy and diminished social status and rights of women, the forcible rape of women may not be a crime of major importance. While in a matriarchal society or even one that is matrilineal or matrilineal, abuse of a woman would result in public humiliation, ostracism, and loss of honor (Bohn and Holz 1996). In the Muslim community, families' honor lies in the virtue of women. Modesty is emphasized by the use of the veil, and chastity is seen as protecting the virtue of women (Amar 2007). Norms for sexual behavior may include the double standard of prized virginity of women and an emphasis on male experience with sex. While researchers have articulated the importance of the relationship between the concepts of sexuality and culture, limited research exists in this area. It must be acknowledged that not all members of a particular group are alike and this is not intended to provide an "all Latina women will do this" kind of approach. Not only do cultural and ethnic factors operate in varying degrees in the lives of people, but also the diversity within a culture may be greater than between cultural groups.

Cultural Values and Sexual Assault

The way a cultural or ethnic group defines gender roles and the woman's place in society impacts how rape will be perceived. In the United States, multiple examples of male superiority and female subjugation exist in popular literature, media, fashion, art, and language. These cultural symbols help to form our attitudes and beliefs that are then further translated into laws, court proceedings, police behavior, educational curricula, and social service programs. Society sends a strong message that a woman's value is related to her sexuality and that rape decreases that value. This is highlighted in the message that the rape of a virgin is worse than that of a nonvirgin. Myths that blame victims for rape and broad conceptualizations of sexual assault are influenced by ethnic-specific cultural values and norms (Neville and Heppner 1999). Cultural values are the underpinnings of our beliefs and attitudes and assist the victim, friends, family, police, and any helper in deriving meaning of the experience.

While the overarching beliefs of a patriarchal society affect all women within the society, special concerns exist for women of color or of other ethnic backgrounds. Stereotypes such as the following prevail.

- African-American culture is a culture of violence.
- Latin cultures are based on brutal machismo.
- Asian cultures train women to pleasure their men.
- Historically, African-American women have been stereotyped as sexually uninhibited women who could not be raped because they welcomed sexual advances.

Within the various ethnic groups, issues related to gender and power further affect women. For example, in the traditional Hispanic family, the authority figure is the husband and the woman holds the subjugated roles of wife and mother (Torres and Han 2000). In many Latino families, adolescents recognize a double standard in that the dating rules are more restrictive for boys than for girls. In South Asian countries, the family structure, in which the man is the undisputed ruler of the household and activities within the family are seen as private, allows physical and sexual violence to occur at home (Niaz 2003). Similarly, in research with women in South Africa, it was observed that abuse and sexual assault of women are rampant because of the endemic culture of violence and the customs, culture, and tradition that tend to objectify women and make them feel like male property (Dangor, Hoff, and Scott 1998).

Research Related to Rape and Culture

Much of the available research attempts to provide for cultural diversity by using samples from ethnically, culturally, and racially diverse populations. However, limited research attempts to provide results that have been evaluated using a culturally sensitive approach. Much of the research reflects a middle-class European–American perspective that may not be applicable to women of various cultural backgrounds.

Researchers have attempted to increase our understanding of the cultural definition of rape. An interesting study by Lira, Koss, and Russo (1999) described the differences in meaning of words that are regarded as similar by Americans. Focus groups with seven Mexican immigrant women revealed that a distinction was made between rape and violation. Violation was regarded with strong disapproval and disgust. It was viewed as a human violation of rights and freedom. Rape, however, was viewed as distinctly different. The woman involved was perceived as “loose” and was seen as having complicity in and blame for the rape. However, if rape was defined according to the traditional Mexican definition of kidnapping or holding a woman by force, then the participants viewed the act as undesired by the victim. These findings illustrate the importance of clarifying culture-specific meanings and of thorough review of instruments and data collection tools for culture biases and ambiguities.

Sexual abuse and rape by an intimate partner are not considered crimes in many countries around the globe, and women in many societies do not consider forced sex to be rape (World Health Organization 2001). Culturally sanctioned beliefs about the rights and privileges of husbands have historically legitimized a man’s domination over his wife and warranted his use of violence to control her (Crowell and Burgess 1996). However, women who have been forced into sex by an intimate partner are at risk for the same risks and consequences—for

example, sexually transmitted diseases, physical trauma, and emotional consequences—as women who are sexually assaulted by a stranger (Campbell and Soeken 1999).

Global Reports of Rape and Sexual Assault

According to a report on violence against women issued by the World Health Organization (2001), women who are the victims of sexual violence are often reluctant to report the crime to police, family, or others. In countries where a woman's virginity is associated with family honor, unmarried women who report a rape may be forced to marry their attacker. As a way of restoring family honor, shamed fathers or brothers may murder some women. In some countries, a woman who has been raped may be prosecuted and imprisoned for committing the "crime" of sex outside marriage, if she cannot prove that the incident was in fact rape. To offer proof would mean to present witnesses to the act. In some Middle Eastern cultures, witnesses must be males. In reporting sexual violence, a victim is admitting an offense. If the victim cannot provide witnesses that she was raped, she will be punished.

The military practice of rape for the purpose of genocide practiced in Bosnia-Herzegovina and Croatia involved rape leading to forced pregnancy. Women were held in rape camps until they passed the time frame for a safe abortion. The genocidal aspects of the pregnancy lie in the view of the rapist that the child is viewed as Serbian with no ethnicity being derived from the mother. Sexual violence is used as a tool of war to demoralize entire communities. News reports tell of sexual crime in wars in Darfur, Sudan, Sierra Leone, Burundi, and Congo. The demoralization results from a vicious attack on women that attacks the dignity of the individual and her entire community (Goldstein 2001). Victims are stigmatized by the attack and male members of the community are made to feel helpless in protecting their women.

What is important about knowledge of the rape and sexual assault of women from around the world is that, when immigrants present in the United States, they still carry with them the beliefs, attitudes, and perceptions of their native land. Their family members also view them from within the same lens. Rape is often an unforgivable offense within a culture. When the cultural values and norms are different for two individuals, much discussion and reflection are needed by the helper to provide help that is congruent with the background of the victim.

Investigative Implications

Clearly, victims will be best helped when the investigator is able to provide culturally sensitive care. Cultural sensitivity would include behaviors that are open to diversity among individuals. It is important for one to recognize that there is no standard cookbook approach. There can be much diversity among members of the same ethnic or racial background. Assessment or intake tools can incorporate questions that uncover the cultural significance of events for clients. By asking victims about the meaning this event may hold for their family, church, or social group, the investigator gains insight into the perspective of the survivor and will be able to implement a culturally sensitive plan of action.

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Victim Services and SANE/SART Programs

3

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Introduction

The past 25 years have witnessed significant reform in sexual assault law and the protection of women. Many of these reforms come from the implementation of SANE (sexual assault nurse examiner) programs and SART (sexual assault response team; referred to hereafter as SANE and SART). The SANE is a specially trained, certified, registered nurse who has forensic training and clinical education to help victims of sexual assault. These nurses offer victims compassionate care and are responsible for collecting evidence that could potentially lead to the arrest, prosecution, and conviction of the assailant. SANEs often work as part of a SART—a coordinated, multidisciplinary community effort that includes law enforcement, detectives, victim advocates, and the SANE (U.S. Department of Justice 2004). SANE/SART programs provide victims with emotional and mental support but also make the task of evaluating the victim and collecting important evidence as private and sensitive as possible.

There is no doubt among victim advocates, forensic nurses, and prosecutors that these programs have been instrumental in assisting victims through the traumatizing experience of rape. This chapter reviews the history of the rape crisis centers and describes SANE/SART services for rape victims.

Rape Crisis Centers

Rape crisis centers have been providing services for victims for more than 30 years (Koss and Harvey 1991). This systematized response evolved when rape victims could not expect that family, friends, or medical and legal systems would either understand the nature of their trauma or respond supportively. The grassroots movement took on the tasks of ensuring that victims had access to informed and sympathetic advocate-counselors to assist with the emotional consequences of rape and to deal with the appropriate systems. These centers also considered community education, system reform, and empowerment of women and victims to be central to their mission.

The history of victim care services in general and the anti-rape movement in particular began just 30 years ago. Largen (1985) credits two forces for finally bringing the problem of rape to the attention of the citizens of the United States in the late 1960s. First, primary credit is given to the women's movement for initiating consciousness-raising groups and then "speak-outs," where women began saying publicly what they had not dared say previously about rape. Second, in response to a rising crime rate and the growing community

concern over the problem of rape, Senator Charles Mathias of Maryland introduced a bill in September 1973 to establish the National Center for the Prevention and Control of Rape. The purpose of this bill was to provide a focal point within the National Institute of Mental Health from which a comprehensive national effort would be undertaken to conduct research, develop programs, and provide information leading to aid for the victims and their families, to rehabilitation of the offenders, and ultimately, to the curtailment of rape crimes. The bill was passed by overwhelming majority in the 93rd Congress, vetoed by President Ford, and successfully reintroduced. The National Center was established through Public Law 94-63 in July 1975.

Parallel with these political forces were major efforts to organize services for rape victims, including community-based and hospital-based programs during the early 1970s. Although most of the pioneer services were in the form of grassroots self-help programs, now widely known as rape crisis centers, nurses practicing in hospital emergency departments began to develop programs to provide rape counseling services. Boston City Hospital, Boston's Beth Israel Hospital, and Santa Monica Hospital were among the first hospital-based programs; they represent the roots of forensic nursing programs (Lynch 1993).

Hospital-Based Victim Care Service: Early Services

In 1972, a victim counseling program was developed as a nurse-managed service at the Boston City Hospital by Burgess and Holmstrom (1974). The counseling approach developed in the early years of this program expanded in the mid-1980s into a five-phase victim care service (VCS) coordinated by advanced practice psychiatric nurses (Minden 1989). These six phases include various health care providers and networks in communities throughout a state and are suggested for hospital-based programs:

- Phase 1: Standards are set and providers are trained in victim care and coordinated with other programs in the city and state.
- Phase 2: Acute intervention takes place, with the victim entering the emergency department as well as any other patient unit in the hospital system.
- Phase 3: Masters-level-prepared psychiatric nurses or social workers provide crisis intervention follow-up of the victim.
- Phase 4: Education regarding sexually transmitted disease, including HIV, is provided according to the age and verbal requests of the victim.
- Phase 5: Ongoing therapy is provided through referral to psychiatric clinicians.
- Phase 6: Evaluation and research relevant to sexual victimization are undertaken.

The victim care service was organized around seven fundamental assumptions:

1. There is a continuum of sexual victimization. Although states and jurisdictions legally define rape differently, three criteria are generally present: (a) sexual penetration of the victim's vagina, mouth, or rectum (b) that occurs without the individual's consent and (c) that involves the use of force or threat of force.

Sexual assault refers to a wider range of forced or pressured sexual contact, specifically, child sexual assault, incest, acquaintance rape, and marital rape. Furthermore, there are situations involving relationships of unequal power in which the person

in authority violates the normal bounds of the relationship and abuses and sexually pressures or forces the subordinate. Such abusive relationships include husband/wife, therapist/patient, parent/child, teacher/student, and employer/employee.

A basic premise of the VCS is that a patient does not need to meet any stringent legal criteria for rape in order to be considered sexually victimized. The legal system bears the burden of determining the validity of a given charge of rape, whereas the primary responsibility of the VCS is to care for the patient reporting sexual victimization.

2. Sexual victimization is not a rare event. Rape is a serious public health problem. In 1997, there were 96,122 reported forcible rapes. An estimated 70 of every 100,000 females in the country were reported rape victims in 1997, a decrease of 1% from 1996 and 13% from 1993. A 1997 National Crime Victimization Survey, which includes both reported and unreported crimes, found that despite a decline of 7% in the nation's crime rate in 1997, rates of rape and sexual assault did not decline (Kilpatrick 2000)
3. Responses to sexual assault victims have frequently been based on myths and stereotypes. The stereotype that rape victims are somehow responsible for their victimization is grounded in the belief that women have rape fantasies and that it is acceptable for men to fulfill such fantasies. This belief is also noted in the attitudes that women who dress provocatively, stay out late, or frequent unsafe areas get what they deserve. Although engaging in certain behaviors may increase one's risk of victimization, the VCS maintains that it is the offender who is responsible for the victimization.

Other myths include that rape is a crime that is prone to false complaints, rape only happens to other people, and rape occurs in dark alleys at the hands of strangers. To the contrary, studies suggest that victims of rape are disinclined to make complaints under current laws and that those who do frequently refuse to continue their testimony because of the manner in which they are treated. Also, contrary to popular belief, acquaintance rape or assault by someone known to the victim is a more frequent occurrence than stranger rape and often happens in the victim's home or another familiar place.

Furthermore, sexual assault and abuse cross all boundaries of class and culture. The fact that victims can be of either sex helps to negate the myth that women are naturally better equipped than men to care for sexual assault victims. The clinician, whether male or female, must be accepting of the patient. A female clinician caring for a female victim might defend against her own feelings of vulnerability by rejecting the patient. In contrast, that same patient might benefit from interaction with a male clinician who acts in a caring manner. Attitude rather than gender determines a clinician's ability to provide victim care (Minden 1989).

4. Rape or sexual assault represents a trauma or crisis that results in a disruption of the victim's physical, emotional, and social lifestyle. Individuals who have been raped usually describe it as an extremely traumatic event in their lives. Whether an individual is able to cope with the trauma depends on a number of factors, including the nature of the assault, the presence of other stressors, the patient's pre-crisis functioning and coping skills, and the available support system. The clinician who can communicate a sense of optimism for recovery may help nullify the chronic negative effects of sexual assault.

Rape trauma, a clinical term, describes a clustering of biopsychosocial and behavioral symptoms exhibited in varying degrees by a victim following a rape. Most victims of forcible rape develop a pattern of moderate to severe symptoms described as

rape trauma syndrome (see chapter 2); a minority of victims report no or minimal symptoms. Rape trauma is an acute reaction to an externally imposed situational crisis. The trauma of the victim results from the person's being confronted with a life-threatening and highly stressful situation. The crisis that results when a person is raped is in the service of self-preservation. The victim's reactions to the impending threat to his or her life are the nucleus around which such an adaptive pattern may be noted. For many rape victims, responses during the rape and after the rape correspond to the critical symptoms of post-traumatic stress disorder (PTSD).

5. Rape trauma is a traumatic stressor. Crisis intervention encourages a positive resolution of the victimization experience. Patterns of coping after the assault can be adaptive or maladaptive. The purpose of crisis intervention is to direct the victim into therapeutic coping patterns rather than defensive positions.

The forte of the VCS is crisis intervention; the emphasis is on moving the patient from being a victim to being a survivor. A salient feature of victimization for the patient is a loss of control. Emergency department clinicians can easily mirror the patient's crisis and may also experience feelings of being overwhelmed by the trauma. Consequently, the VCS implements a very structured process for providing victim care, which has helped to reestablish a sense of control for the clinician who can then put energies into stabilizing the patient.

Two phases of care are provided the rape victim (Minden 1989). The first phase includes implementation of the sexual assault protocol described in chapter 14. The second phase is victim follow-up by telephone over a 3- to 4-day period when a counseling referral to facilitate the recovery of the victim from the acute phase is discussed.

6. An interdisciplinary approach to victim care is required. Rape is a complex, multifaceted problem that no one individual or group can resolve alone. Indeed, dealing with sexual victimization requires the collaborative and cooperative efforts of a network of services. Thus, a multidisciplinary team approach helps to meet the diverse needs of the victim and also provides the caregivers with a support system for dealing with the stress of victimization. The VCS provides continuous victim care training for various community agencies and joins with other programs in offering workshops to enhance community awareness of sexual victimization (Minden 1989).
7. Victim care providers experience "compassion fatigue"—a term coined by trauma expert Charles Figley that describes how working with victims can take a psychological toll on the providers of care. Clinicians working in emergency departments of large city hospitals have very direct and frequent exposure to trauma. Ever escalating economic constraints and patient acuity present care providers with increasing challenges that are physically, intellectually, and emotionally stressful.

Rape Crisis Services

Rape crisis services have come to be standard fare in many communities in the United States. Most such services consist of 24-hour crisis lines offering information and support, advocacy in the form of information about the medical and legal systems, accompaniment to medical and legal appointments or court appearances, and supportive post-rape counseling. The counseling has often been offered as a group treatment. In many cases, trained

volunteers have delivered the services, but increasingly mental health professionals supervise or carry out the counseling.

The National Sexual Violence Resource Center (NSVRC)

The NSVRC, developed by the Pennsylvania Coalition against Rape and funded by the Centers for Disease Control and Prevention in 1999, is the nucleus of a national movement to prevent sexual violence and to sustain a national momentum that influences practice, research, policy, and ultimately, public attitudes and beliefs. The broad goals of the NSVRC are to (1) strengthen the support system serving sexual assault survivors by providing competent leadership, resources, and information to develop capacities of national sexual assault organizations, state sexual assault coalitions, community-based programs, and allied professionals; (2) provide accurate and comprehensive information and technical assistance in supporting effective intervention in the prevention of sexual violence; (3) identify emerging policy issues and research needs to support the development of policy and practice leading to the prevention of sexual violence; and (4) develop the organizational structure and technological capacity supporting the development and implementation of NSVRC activities.

The NSVRC is housed in Enola, Pennsylvania, and provides information and resources, technical assistance, and access to research through its toll-free number and e-mail address. Organizational partners who collaborate with the NSVRC include (1) the University of Pennsylvania as the research partner, (2) the Violence against Women Prevention Resource Center, (3) the VAWnet/National Resources Center, (4) the National Alliance of Sexual Assault Coalitions, and (5) the National Coalition against Sexual Assault.

The Evolution of SANE and SART

The Anti-Rape Movement and the Development of Rape Crisis Centers

In the early 1970s, when police departments and rape crisis centers first began to address the crime of rape, little was known about rape victims or sex offenders. Feminist groups had just begun to raise the issue of rape, and in 1971 the New York Speak-Out on Rape had been held, drawing widespread attention to rape. Contemporary feminists who raised the issue early were Susan Griffin (1971) in her now classic article on rape as the “all-American” crime and Germaine Greer (1973) in her essay on “grand rapes” (legalistically defined) and “petty rapes” (everyday sexual rip-offs). Susan Brownmiller (1975) wrote the history of rape and urged people to deny its future. The general public was not particularly concerned about rape victims; very few academic publications or special services existed, funding agencies did not see the topic as important, and health policy was almost nonexistent.

By 1972, the anti-rape movement began to attract women from all walks of life and political persuasions. Various strategies began to emerge, particularly the self-help program now widely known as the rape crisis center. One of the first such centers was founded in Berkeley in early 1972, known as Bay Area Women against Rape. Within months of the opening of the Berkeley center, similar centers were established in Ann Arbor, Michigan; Washington, D.C.; and Philadelphia, Pennsylvania. Concurrently, hospital-based rape counseling services began in Boston and in Minneapolis. Soon, centers replicated and

services flourished. Although volunteer ranks tended to include a large number of university students and instructors, they also included homemakers and working women. The volunteer makeup usually reflected every age, race, socioeconomic class, sexual preference, and level of political consciousness. Volunteers were, however, exclusively women. Among the women, the most common denominators were commitments to aiding victims and to bringing about social change (Largen 1985).

The “Second Assault”: Early Treatment of Rape Victims by the System

The rape crisis centers provided victims with the support and counseling that enabled them to move through the traumatizing experience of rape both mentally and emotionally. However, rape survivors would often experience “victim-blaming treatment from system personnel” that would often worsen the victim’s physical and mental distress (Campbell et al. 2001). Additionally, the physical ordeal of the medical exam and subsequent investigation could often be a humiliating and de-humanizing experience for the victim. These post-assault experiences became known as the “second assault” of the victim.

Rape victims would often go through a series of uncomfortable experiences after their victimization that would constitute a second assault. First, rape victims were traditionally seen in the emergency room by male physicians and generalist nurses, who often lacked the time and experience to do a thorough examination of the victim that would assist law enforcement and prosecutors (Girardin 2005). Rape victims were not a high priority for emergency care, and even when medical needs were satisfied, their emotional needs were not. Prior to the SANE programs, medical staffs had an image of the “real” rape victim and much energy went into determining the “legitimacy” of the rape case (i.e., if the victim was really raped). Rape victims often felt depersonalized, lost, and neglected.

Second, the environment of the emergency department and needs of the victim were often at odds. Many victims complained about the long wait, having to wait alone, a lack of privacy, and not being informed of exam results. Rape victims were not a priority with emergency department physicians. Physicians were reluctant to do the rape examination because they lacked experience and training in forensic evidence collection and because they would be vulnerable to being subpoenaed and required to testify (Bahm 2001). Physicians were able to examine the victim’s body for bruises and prepare slides to look for sperm. However, they were often unaware of the need to collect evidence from clothing, carefully folding clothes to prevent dried stains from brushing off, giving the victim a comb to gather pubic hairs that may have been left by an assailant, or clipping the victim’s fingernails to provide skin scrapings of the assailant. There was also a lack of continuity of care. Medical departments did not communicate with each other, so victims returning for follow-up care found it difficult to be asked again by new people why they needed medical attention.

Finally, documentation collected on the victim would often include damning information such as prior sexual experience or phrases that included judgmental statements about the victim. Ultimately, victims were left on their own to cope financially, legally, and emotionally with the aftermath of the crime (Holmstrom and Burgess 1983).

SANE/SART: Past and Present

It was against this backdrop of problems that communities throughout the United States were prompted to involve nurses in the care of the sexual assault victim (Lang 1999; Ledray 1999). Nurses, medical professionals, counselors, and advocates working with rape victims agreed that services provided to sexual assault victims in the emergency room were inadequate when compared with the standard of care given to other patients (Ledray 2001). Thus, SANE programs and SARTs emerged in the 1970s with the first SANE in Tennessee. SANE programs were created whereby specially trained forensic nurses provided 24-hour coverage as first-response care to sexual assault victims in emergency rooms and nonhospital settings (Campbell 2004).

Nurses have always cared for patients who were victims of violence. However, forensic nursing has only recently been recognized as an emerging specialty area of contemporary nursing practice (Doyle 2001; Winfrey and Smith 1999; Taylor 1998). Forensic nursing history has been traced to the eighteenth century, when midwives were called into court to testify on issues pertaining to virginity, pregnancy, and rape (Lynch 2006). Clinical forensic nursing practice focuses on the collection of evidence from living patients who have been victims of crimes or traumatic injuries. The forensic and clinical training SANEs receive allow them to “relieve emergency departments of a group of patients who typically have non-urgent physical needs but extremely urgent needs for evidence collection, crisis intervention, and emotional care” (Girardin 2005).

Today, SANE programs have grown in number and many are still reaching maturity. Ciancone and colleagues (2000) conducted a survey of SANE programs in the United States. Of the 58 programs that responded, 55% had been in existence for less than 5 years and 16% had been in existence for more than 10 years. Campbell and colleagues (2005) surveyed SANE programs and reported on the rapid growth of programs; 58% had emerged within the past 5 years. Trends noted included newer programs created through a joint task force or through collaboration with other community groups; more diverse funding available, as opposed to using hospital funds; and significantly larger programs with more staff and serving more patients, which reflected organizational growth.

The SANE soon became an integral part of a team of primary and secondary responders known as a SART (sexual assault response team). As previously mentioned, the SART includes law enforcement, detectives, victim advocates, and health care providers. The main goal of a SART is to assist the sexual assault victim through the criminal justice process. The second goal is to increase the odds of successful prosecution by enhancing evidence collection and facilitating communication between all parties in the process. The third goal is to help victims recover from and cope with their experience through counseling and support (Wilson and Klein 2005; Girardin 2005).

Nationally, the SANE/SART model has grown exponentially. Although virtually all these programs were developed to facilitate standard comprehensive and expert care of sexual assault survivors, the literature clearly shows that policies and procedures do vary from program to program.

Structure and Operation of SANE/SART Programs

SANE programs operate out of a variety of locations including hospitals and community-based facilities. They also vary in terms of their community relationships, structure, services offered, and development. Ciancone et al. (2000) found that the median number of patients seen annually by SANE programs was 95. Approximately 75% of the programs were affiliated with hospitals, police departments, or rape crisis centers. More than half of the exams were conducted in a medical clinic, office, or hospital setting. Ninety percent offered prophylaxis and treatment for sexually transmitted infections (STIs); however, STI cultures, HIV testing, and screening for illegal drugs and alcohol were selectively performed based on whether patients had evidence of active disease, requested the test, or had high-risk exposures. The authors suggested that best-practice protocols be designed to eliminate the inconsistencies among programs and that further research be conducted, particularly the collection of outcome measures in order to define the impact of the programs (Ciancone et al. 2000).

Campbell and colleagues (2005) conducted a national study of the organizational components of SANE programs that examined four areas: (1) history of the program; (2) current structure, function, and operations; (3) program goals and desired outcomes; and (4) community relationships. A summary of the history and development included how the program began (by a planning committee or task force); why the program was created (need for better care for victims, better evidence collection, reduce waiting time); and funding of program (hospital funds, state grant, private donations, local government grant). A summary of the SANE programs' structures included staffing, location for conducting exams, program setting, and payment for services. A summary of SANE programs' goals and outcomes included primary program goals (provide quality care, improve evidence collection, meet patient's emotional needs, empower survivors; prompt reporting to police). Good outcomes in a case were described as "patient is not blamed or made to feel it was her fault," "patient educated about resources," "good quality medical care," "evidence collected correctly/professionally," and "case is prosecuted and victim ready to talk with a counselor" (Campbell et al. 2005). The last organizational category was community relationships. The quality of community relationships included rape crisis centers, police/law enforcement, prosecutor's office, hospitals, and (for nonhospital-based programs) quality of relationships with other staff in the hospital emergency department and hospital administrators (Campbell et al. 2005).

The SANE programs promote a philosophy of care that is evidence based and consists of the following tasks:

1. Initial medical evaluation: This is not a routine physical exam. The emergency physician will typically take vital signs of the victim; however, the physician is asked not to treat injuries until the SANE documents injuries with pictures and collects evidence. The victim is advised of this procedure and must sign a consent form (Ledray 2001).
2. Evidentiary exam: The SANE is responsible for conducting the evidentiary exam and ensures that the victim's dignity is protected and that the victim is not retraumatized by the exam. Victims are a part of the decision process throughout the evidence collection phase. Most protocols suggest the exam be completed within 72 hours of the sexual assault. However, some research indicates that evidence may be available beyond

the 72-hour time period. There is significant variation in how evidence is collected. However, all evidentiary exams include the following (Ledray 2001):

- a. written consent from the victim, documentation of assault history
 - b. forms of violence used and where
 - c. medical information of the victim including pregnancy status
 - d. a physical exam for trauma, genital and nongenital
 - e. collecting the victim's clothing and packaging according to state policy
 - f. specimen collections from the body surfaces including skin, hair, and nails
 - g. collection of biological evidence from the body and orifices
 - h. blood drawn and urine specimen for drug testing
 - i. DNA screen
 - j. prophylactic treatment of STIs or culturing
3. Maintaining chain of evidence and evidence integrity: The SANE is responsible for ensuring complete documentation, with signatures and the disposition of evidence. Additionally, the SANE is also responsible for identifying, collecting, and preserving evidence and for securing evidence in a designated area free of contaminants (Evans 2003).
 4. Crisis intervention and counseling: This includes a mental health assessment and referral for follow-up counseling. This is usually the primary role of the rape crisis center advocate. However, the SANE also provides crisis intervention and ensures that follow-up counseling services are available (Ledray 2001).

In addition, SANE programs utilize specialized forensic equipment such as a colposcope, which is a noninvasive, lighted, and magnifying instrument for examining the perineum and anogenital area for the detection of small lacerations and bruises (Voelker 1996). Other equipment may include a camera attached to the colposcope, and some use toluidine blue dye for the detection of microlacerations and abrasions. SANEs also document bruises and injuries using photography. Today, many are using digital cameras. SANEs are also trained in identifying and documenting patterned injuries, treatment of injuries, maintaining chain of evidence, and providing expert witness testimony (Ledray 1999).

Building on the success of the SANE model, many communities have established a SART, which is a coordinated community approach to deal with the multiple needs of rape survivors and to prosecute offenders. Under this approach, SANEs work in a team with police and sheriffs, prosecutors, rape crisis advocates or counselors, and emergency department medical personnel to better collect evidence and provide services to victims. Some variations exist with the structure of SART programs. For instance, some programs are hospital based and others consist of medical teams that contract with police or sheriffs' departments (Lewis et al. 2003). In addition, some states have SART programs that do not have a formal SANE component. For example, Rhode Island relies on medical personnel who are not SANEs to collect forensic evidence as part of their SART (Wilson and Klein 2005).

Research on SANE/SART Programs

The U.S. Department of Justice, Office for Victims of Crimes (2001), reported that SANE programs have made a profound difference in the quality of care provided to sexual assault victims by offering prompt, compassionate, and comprehensive forensic evidence collection. This report traced the establishment of the first SANE programs in the mid-1970s in Minneapolis, Minnesota; Memphis, Tennessee; and Amarillo, Texas. By 1991, approximately

20 SANE programs existed in the United States; in 1996 there were 86 known programs. By 1997 that number had risen to 116, and by 1999 it was estimated that there were more than 300 programs in existence.

More recently, Campbell, Patterson, and Lichty (2005) examined the effectiveness of SANE programs across five areas: (1) promoting the psychological recovery of survivors, (2) providing comprehensive and consistent post-rape medical care (e.g., emergency contraception, STD prophylaxis), (3) documenting the forensic evidence of the crime completely and accurately, (4) improving the prosecution of sexual assault cases by providing better forensics and expert testimony, and (5) creating community change by bringing multiple service providers together to provide comprehensive care to rape survivors. Campbell, Patterson, and colleagues found that SANE programs are effective across these areas; however, the authors note that most research on SANE/SART programs has not included "adequate methodological controls" to establish empirical evidence attesting to the effectiveness of such programs (2005).

Early studies of SANE/SART programs were descriptive case studies that did not use control samples of non-SANE/SART cases. For example, Solola and colleagues (1983) studied the management of rape cases by the SANE program in Memphis and reported that more than 90% of the victims elected to file a police report of the sexual assault. However, in 38% of the cases, prosecution was not possible because the assailant was unknown. Arrest and successful prosecution was possible in 61.4% of the cases with identified suspects or in only about a quarter of all rape cases. Solola observed increases in the number of guilty pleas in cases with SANE intervention.

Several researchers have explored the possible reasons for the increase in conviction rates that may be associated with SANE/SART model. The World Health Organization (2002) reported that a study in Canada found that documentation by trained forensic or other medical providers can increase the likelihood that a perpetrator will be arrested, charged, and convicted. In addition, Ledray (1999), Lenehan (1991), and Little (2001) reported that relevant consistent documentation and evidence collection contributed to an increase in convictions. There is also evidence indicating that when a SANE intervenes there is a higher rate of victim participation in the criminal justice system (Ledray 2001; Ledray and Summelink 1996). Researchers have further demonstrated that evidence collection is more accurate when collected by a SANE (Sievers, Murphey, and Miller 2003; Crandall and Helitzer 2003; Ledray 2001). Amey and Bishai (2002) studied the quality of medical care of rape victims, and Crandall and Helitzer (2003) reported on the impact of SANE programs in New Jersey. The latter also found that in Albuquerque, New Mexico, the SANE program established in 1996 improved patient care, improved the job quality of care providers, and increased the number of charges brought against rapists and the number of entered guilty pleas. However, the impact of SANE programs on judicial processes is not always immediate. Wilson and Klein (2005) found in Rhode Island that the impact of the SART program on judicial processes as applied to sexual assault cases was negligible. They attribute the findings to the fact that the Rhode Island program is still maturing. However, the program was found to have immediate and positive results for victims.

The research on SANE/SART programs and forensic research in the area of rape and sexual assault have also focused on forensic markers of injury to rape victims (Burgess, Hanrahan, and Baker 2005). The early research (outside of descriptive reporting of injuries) has been on the use of the colposcope. Slaughter and Brown (1992) reported finding via colposcope that 87% of rape victims they examined ($n = 131$) had identifiable injury.

Slaughter et al. (1997) reported findings on 311 women and children and compared them with 75 controls. They found positive anogenital findings in 68% as compared with 11% in the control group having consensual sex ($n = 75$). However, the study included several methodological issues, including the fact that the time from rape to examination varied with the rape victims (up to 72 hours after assault), while the controls were examined within 24 hours following intercourse.

Sommers, Fisher, and Karjane (2005) analyzed the role of colposcopy in the forensic examination of adolescent and adult women and noted that identifying an injury pattern to predict rape remains problematic. Patel, Courtney, and Forster (1992) warned that if colposcopy was required to support a claim of rape, there was the risk that courts would doubt a woman's history if injury was absent. Injury has been noted to play a role in the reporting of rapes. Bachman (1993) found that the level of injury sustained in a rape increased the likelihood of the rape's being reported to police. Finally, the issue of injury has been studied following consensual sex or tampon use. Fraser and colleagues (1999) reported on an international sample of 107 women, aged 18–35, followed over a 6-month period to look for changes in vaginal and cervical appearance. Colposcopy noted 56 alterations during 314 inspections with the most common lesions being petechiae (30 of 134), erythema (9 of 314), abrasions (5 of 134), and edema (4 of 314). The incidence of these conditions was highest when the inspections followed intercourse in the previous 24 hours or after tampon use. Two primary issues are critical in rape cases: (1) identification of the assailant and (2) establishment of consent (or lack thereof). The issue of identification is being addressed by rape kit DNA evidence. The issue of nonconsent is being addressed by research on differentiating injuries based on visual inspection, contrast media, or colposcopy. One such study is underway by Sommers, Schafer, et al. (2005).

The literature clearly shows how SANE/SART programs have been instrumental in helping rape survivors. These programs provide the emotional and mental support to empower victims while also helping victims navigate the criminal justice process. The next level of evaluation is to review empirical evidence that attests to the efficacy of SANE/SART programs and their impact on judicial processes.

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Section II: Investigation

The Relevance of Fantasy in Serial Sexual Crimes Investigation

4

ROBERT R. HAZELWOOD
JANET I. WARREN

Case No. 1

A 24-year-old housewife was kidnapped from her home and murdered. At the time of her death, she was four months pregnant. A search of her residence revealed that all of her panties and the bottom half of her bathing suit had been taken. Her badly decomposed body was discovered two days later and an autopsy revealed that she had died from paper towels being lodged in her throat. There were no other signs of physical trauma.

Four months later, a woman was abducted and raped. During the assault, the offender forced her to model several sets of teddies. He forced her to ask him to make love to her and, prior to releasing her, he requested a date and obtained her phone number. Two days later, he was observed leaving a Christmas tree on her porch. He was arrested and convicted for the abduction–murder as well as the abduction–rape.

A search of his home uncovered several hundred pieces of lingerie, over two thousand 3×5 cards containing information on women whose photographs and personal information appeared in soft pornographic magazines, a spiral notebook with cross-indexed information from the 3×5 cards, newspaper articles about women, lingerie catalogs, and the bottom half of the murder victim's bathing suit. His wife advised that the man utilized the materials for masturbatory acts. The subject manifested several paraphilias during this and other crimes. They included fetishism, voyeurism, exhibitionism, and telephone scatology.

Introduction

Sexuality represents one of the more complex aspects of human experience. It integrates the cognitive, emotional, sensual, and behavioral elements of the individual into a uniquely personal pattern of experience that derives from both internal fantasy and external behavior. While usually a private aspect of a person's life, it becomes relevant to law enforcement once the element of coercion or exploitation is introduced into it.

Theorists (Prentky, Knight, and Rosenberg 1988) classify the underlying motivation for sexual assault into three main categories: aggression, sex, and power. These primary motivations are frequently expressed in complex sexual fantasies that often begin to develop shortly after puberty. Through a gradual process of enactment, they also become the template for many offenders' patterns of serial sexual offending. They serve a complex organizing function in the behavior of the offender and frequently determine the choice of

his verbal interactions with his victim, his preferred sexual acts, and his overall ritualistic (see chapter 5) patterns of behavior.

The criminal investigator and others involved in the identification, prosecution, and treatment of the offender can learn to make use of these fantasy-driven behaviors within a sexual offense. Through a detailed review of the verbal, sexual, and physical behavior of the offender, the underlying fantasy behavior can be deduced and the motivational themes formulated (see chapter 6). This information can subsequently be used to identify sexual assaults perpetrated by the same offender (see chapter 10), determine future patterns of victim selection, and help to predict the scenario of future crimes.

The Human Sex Drive

There are three principal components of the human sexual drive: (1) the biological, (2) the physiological, and (3) the psychosexual. Humans share the biological component with other forms of mammalian life. It constitutes the natural or instinctual urge to engage in sexual activities with others. This instinctual component influences the basic orientation of the sexual impulse but has little influence on the individual form through which it is expressed. As such, it has limited relevance to sexual crimes investigation. The physiological component is activated when the body begins to respond to stimuli in a sexual manner. This response pattern may vary in intensity and be interrupted by a variety of sexual dysfunctions that are physiological in nature. Such information may provide rudimentary information about an offender in unique cases. The psychosexual element constitutes the most variable and individualistic aspect of the human sexual experience. It integrates the highly specific cognitive, sensory, and behavioral stimuli that are arousing to an individual and reflects his or her unique pattern of experience and development. This psychosexual aspect of the sexual experience, in its almost unending variability, provides the criminal investigator and others with the richest source of information about an offender and with the “flavor” of the specific individual he is seeking.

Sex Is a Sensory Act

All human beings employ their available senses to enhance their sexual arousal. A thorough review of the ways that the various senses are manipulated in a sexual assault will ensure that a comprehensive assessment of the psychosexual component of the offender's sexual arousal pattern has been captured from the victim.

Sight has been identified as the primary component of the male's sexual response. As indicated in Case No. 1, the offender had his victim model lingerie that he had purchased as props for his fantasy. Without these visual stimuli, he tended to have difficulty becoming sexually aroused. Touch, another important sense related to sexual arousal, similarly manifested itself in the offender's fondling of his victim and in his autoerotic, masturbatory activities with several hundred pieces of lingerie. The offender's request that the victim verbalize a desire to make love to him reflects a use of auditory stimuli to enhance arousal while his post-offense delivery of a Christmas tree behaviorally demonstrates the reciprocity that lay at the core of his sexual fantasy. These fantasy-derived behaviors were

consistent across the sexual assaults and murder perpetrated by this particular offender and, as indicated, were instrumental in linking the two offenses to him.

The Paraphilias

Paraphilia is a term used by the mental health profession to describe what is more commonly called sexual deviation. The essential features of a paraphilia are recurrent, intense, sexually arousing fantasies, sexual urges, or behaviors generally involving (1) nonhuman objects, (2) the suffering or humiliation of oneself or one's partner, or (3) children or other nonconsenting partners that occur over a period of at least 6 months (American Psychiatric Association 2000).

Paraphilic behavior is fantasy driven and is commonly exhibited during sexual crimes. The sexual deviations recognized by the *Diagnostic and Statistical Manual*, 4th edition (DSM IV-TR) include exhibitionism, fetishism, frotteurism, pedophilia, sexual masochism, sexual sadism, transvestic fetishism, and voyeurism. Abel and colleagues (1988) have documented that individuals tend to suffer from multiple paraphilias and that individuals identified as having one paraphilia generally suffered from one or more additional forms of sexual deviation. As indicated in Case No. 1, the offender demonstrated multiple paraphilias, including exhibitionism, fetishism, and voyeurism. It is important for investigators to remain aware of this clustering of paraphilic behavior as it argues against one-dimensional descriptions of particular offenders (e.g., "he's just an exhibitionist") and helps to avoid the premature exclusion of offenders from other types of unsolved sexual crimes.

Paraphilic patterns of behavior have been found to remain highly consistent over time. Research suggests that some types of paraphilic behavior can be altered through comprehensive treatment (exhibitionism, for example), while the more aggressive forms of sexual offending (sexual sadism) are unlikely to be changed regardless of the types and length of treatments offered. This stability is demonstrated repeatedly in cases involving the release of a sexual offender from prison who, within months of his release, perpetrates another paraphilic-motivated crime. In such cases, it is assumed that the deviant sexual fantasy has been maintained through masturbatory reinforcement and motivates behavior as soon as external constraints are removed.

The dynamics of these sexual fantasies, their possible paraphilic underpinnings, and their behavioral enactments provide the criminal investigator and others with information that can be used to direct the investigation, prosecution, and treatment of a sexual offender. Contrary to popular belief, there are no obvious demographic characteristics that identify an individual as a sexual criminal. Indeed, the serial sexual criminal is most often found to be like the guy next door (Hazelwood and Warren 1989a). Understanding the role of motivationally driven fantasy and its interaction with the human sexual drive will provide the investigator better insight into the criminal sexual behavior with which he is confronted.

Fantasy in Sexual Crimes

It is important to note that, for most individuals, fantasy is sufficient to satisfy psychosexual desires and, regardless of its nature, there is no impulse to enact it in reality. For others, fantasy is not satisfactory and there appears to be a progressive desire to transform the fan-

tasy into actual behavior. MacCullough and colleagues (1983) studied 16 sexually sadistic offenders and found that their core sexual fantasy made its appearance around the age of 16 years but took a number of years to be encapsulated into the criminal behavior that led to their arrest. They found that, in the interval between the appearance and enactment of the fantasy, the offender engaged in gradual and partial reenactments of the fantasy (e.g., buying rope, following a woman home) and used these behavioral tryouts as stimuli to enhance his masturbatory activity.

Case No. 2

A twenty-two-year-old man abducted a co-worker, tortured and raped her. He killed her by taping her nose and mouth and then watched her as she slowly asphyxiated. Twenty-three months later, he abducted, tortured, and raped a second woman, strangling her with his hands as he looked into her eyes. This man had modified his vehicle and constructed a torture platform for use in his crimes. His criminal behavior demonstrated much more criminal sophistication than would be expected in such a young offender. Investigation determined that he had begun discussing his fantasy of capture, torture, rape, and murder with others when he was only fourteen! From 14 until 22, he developed materials for the crimes, followed women, became familiar with the roads in his county, and modified his vehicles for criminal use.

Inanimate Objects

The use of nonliving objects for sexual fantasy play-acting is not uncommon. Such items are passive and nonthreatening, and pose the least likelihood of criminal actions against the individual. In the experience of the authors, dolls, photographs, and clothing are the most common inanimate materials utilized by sexual criminals in lending a sense of reality to their fantasies.

Dolls

The authors have seen numerous crimes in which female dolls are, in some way, involved. While such cases are frequently the subject of ridicule, it is to be remembered that such behavior is a reflection of the offender's motivationally driven fantasies. In cases observed by the authors, dolls have been subjected to burning, slashing, stabbing, binding, amputation, piercing, and a variety of other, equally bizarre acts.

Case No. 3

A doll was found suspended outside a hospital operating room. Its arms had been removed and an opening had been cut between the doll's legs and hair was glued around the orifice. A pencil protruded from the opening between the legs and burn marks were evident over the entire surface of the doll. Sutures closed the eyes and mouth. It was determined that a medical intern was responsible for this aberrant behavior.

Photographs/Magazine Pictures

Another common means of acting out such fantasies is to alter photographs or pictures taken from pornographic and nonpornographic magazines. Such alterations include drawings (sexual bondage, mutilation, knives, guns, wounds, blood), cut and paste (replacement of faces or sexual parts), or the placement of favorite pictures in photo albums.

Case No. 4

A professionally employed individual died during dangerous autoerotic activities. A search of his office filing cabinets revealed over 100 bondage magazines. Without exception, each page had been altered by drawings or cutting and pasting. He had taken such care that the alterations were all but imperceptible to the naked eye. The modification of such a large amount of material required an inordinate amount of time and effort and was significant in determining the importance he attached to such activity.

Clothing

Female clothing, particularly lingerie, is a favorite object for acting out a variety of fantasies. One of the most common activities is the slashing or removal of those portions of clothing that normally cover the sexual parts of the body. Such activities are typically classified as nuisance sexual offenses and officers have repeatedly advised the authors that teenagers are most frequently responsible for such acts. Age does not excuse such behavior and recognizing that sexual behavior is predicated on fantasy should alert authorities to the need for expeditious identification and mental health intervention.

Consenting Partners

Prostitutes

Any experienced sexual crimes investigator can testify to the value of speaking with prostitutes when investigating a series of ritualistically violent crimes. Prostitutes earn money by being available to anyone for a variety of sexual behaviors. With prostitutes, men can act out their sexual fantasies without fear of rejection or ridicule.

Case No. 5

A professionally employed white male was convicted for the murder of a prostitute. He had bound her wrists behind her back and placed her in a bathtub of water where he had intercourse with her. At the moment of ejaculation, he held her head under the water and she drowned. Investigation revealed that he had previously hired several other women for the same activity.

Girlfriends or Spouses as Partners

Stereotypically, it had been assumed that perpetrators of sexual crimes either did not have consensual sexual relationships or, if they did, that the more destructive aspects of their

sexuality were kept divorced from them. Recent research (Warren and Hazelwood 2002), however, has determined that many sexual offenders are, in fact, involved in ongoing sexual relationships and that they often act out their fantasies within this context.

Self-Composition

Some individuals choreograph their fantasies using themselves as both the subject and object of the behavior. One offender, who tortured and murdered a number of women, audiotaped in detail his descriptions of what he would do to his victims and what he would have them say and do to him. At the end of the tape, he verbalized in a falsetto voice the script he was planning to have his victims repeat to him. His remarks involved statements such as “bite my titties...” and “fuck me in the ass”—verbal behavior he subsequently forced each of his victims to repeat. Other, more dangerous autoerotic activities also often contain a ritualized enactment of fantasy.

Case No. 6

A white male was found dead, hanging from a beam in the basement of his house. He was wearing his wife's sweater turned inside out, his wife's shorts turned inside out, and he had placed her panties over his head and face. The belt from her bathrobe was wrapped tightly around his testicles. A video camera had been positioned in such a way as to record his activities. The videotape showed him accidentally dying from asphyxiation. A search of the area around the body turned up a number of sketches that portrayed sadomasochistic scenes—the hangings of a male and female—and the written script of a woman undergoing a military execution by hanging.

Investigation of autoerotic fatalities has frequently revealed transvestic behavior associated with ritualized hanging (Hazelwood, Dietz, and Burgess, 1983). The process of the man presenting himself dressed as a woman so as to elicit arousal from himself (he undoubtedly planned on later watching the video) seems to represent the inversion that lies at the core of this complex form of enactment.

Investigative Significance of Fantasy

Over the years, the authors have consulted and conducted research on violent sexual crimes. They have also testified as expert witnesses in such crimes. This experience has led to a great appreciation for the value of understanding the significant role that fantasy plays in sexual crimes. The remainder of this chapter will focus on the practical investigative value such an understanding can provide.

Fantasy and Intelligence

Fantasy is essentially a play that is acted out in the mind of a person. This play requires a set, script, actors, a director, and in some cases, a recording device. Occasionally, costumes and/or other props may be involved (see Case No. 5). This ability to fantasize is dependent

upon the intelligence of the individual. Continuity of thought is needed when developing a fantasy involving multiple partners or a complex scenario, and continuity of thought requires a degree of intelligence. A person having less than average intelligence has a less complicated internal world and less ability to carry out complex criminal scenarios (see chapter 5). Based upon this association, the investigator can assume that the more complex the crime is, the more intelligent is the offender.

Case No. 7

A female realtor was found hanging by her neck in the attic of a newly built and very expensive home. She had been stabbed twice in the chest. Investigation determined that she had received a call from a man claiming to be a physician who was interested in purchasing an existing home which was located on 5–10 acres of land. He advised that he was relocating his family and practice to the area and was on a house-hunting trip. The realtor, thinking of a substantial fee, advised him that she would be happy to show the home. He told her that he had just arrived in town and was staying at an expensive hotel. He requested that she pick him up in front of the hotel. Investigation revealed that he had not checked into the hotel.

This offender was later arrested and found to have committed a series of violent sexual crimes throughout the eastern United States. An examination of the crime revealed a complex scenario designed to entice a selected victim to a remote location for torture and murder. Although the man's formal education was halted after one year of college, it became obvious that he was well above average in intelligence.

Fantasy Is Always Perfect

A person's sexual fantasies are always perfect. Every actor in the mental image plays his or her role to perfection. Reality, however, is never perfect, and for that reason, it never lives up to the sexual offender's expectations.

Case No. 8

Police recovered an audio-tape belonging to a professionally employed male who had died while on a business trip. On the tape, the man described the murder of a teenage couple. He recorded that he had killed the female and then dwelt, at some length, on the rape and murder of the male. He expressed disappointment over the fact that the young man's blood had saturated the bed clothes and mentioned that he should have placed a plastic sheet beneath the victim's body. He also expressed regret at having cut the male's throat and opined that he should have stabbed him in the kidney as he would have lived longer.

The case investigator requested one of the authors (Hazelwood) to listen to the tape and provide an opinion as to whether it was fact or fantasy. The opinion was that the tape was depicting an actual crime. As previously mentioned, fantasy is always perfect and, in this instance, the man was expressing disappointment and regret over things he had done or failed to do in reality.

It has long been recognized that certain sexual offenders record their sexual fantasies and/or their crimes. This is particularly true of the sexual sadist (Dietz, Hazelwood, and Warren 1990) and the pedophile (Lanning 1991). There are two widely accepted reasons for the offender doing so: (1) to enable him to relive the crime for masturbatory acts and (2) to allow him to retain souvenirs or trophies of his crimes. The authors concur in both of these reasons, but suggest a third motivation: to use the recordings of past crimes to more perfectly transform fantasy into reality. By recording the crime, the individual can critique his performance and that of his victim, thereby allowing him to correct those imperfections that are invariably present in reality.

Case No. 9

A sexually sadistic killer kidnapped a series of young women, and after photographing them during sexual acts, he murdered them. In one series of photographs recovered by the police, a young woman is kneeling on a bed while performing fellatio on the man. At his feet are several photographs of another victim seemingly performing the same act on the same bed while in the same position.

It was the impression of the authors that the offender was using the photographs to more carefully model and inform his preferred fantasy material.

Fantasy Enactment with Wives and/or Girlfriends

Research by Warren and Hazelwood (2002) has focused on the wives and girlfriends of 20 sexual sadists. Through analysis of the sadist's recordings and exhaustive interviews with the former wives and/or girlfriends of these men, it was found that, without exception, they had acted out their cruel and sadistic fantasies on the women.

Case No. 10

A sexually sadistic male, responsible for the rape, torture, and murders of ten women and young girls, would ritualistically abuse his wife in a physical, verbal, and sexual manner. He would beat her almost to unconsciousness; refer to her as a slut, whore, cunt, and bitch; force her to verbally degrade herself; and force her to perform analingus, use oversize foreign objects to assault her anally, and force her to engage in sexual acts with others.

Investigators should ensure that efforts are made to locate women who were intimate partners of the men and interview them to determine whether there is a consistent pattern between the offender's criminal and consensual sexual behavior.

Fantasy and the Linking of Cases

In chapter 10, the authors describe the difference between the *modus operandi* (M.O.), ritual, and signature aspects of a sexual crime. Historically, law enforcement has utilized the *modus operandi* to link a series of crimes. The authors consider the *modus operandi* but attempt to identify the signature behaviors to link a series of cases.

Case No. 11

An 18-year-old male was tried and convicted of the rape–murder of a 17-year-old female. She had been stabbed more than 30 times, her abdomen was slashed and her throat had been cut. She was left in a ditch after having been vaginally, anally, and orally raped. The man had previously been found guilty of exposing himself to college coeds and was known to have made over 100 obscene and threatening phone calls to two women when he was 15 years of age. During that series of calls, he threatened to cut the women’s throats, slash and stab them, rape and anally assault them.

The link between the verbalization of the offender’s violent sexual fantasies, via the phone calls, three years prior to the murder was obvious and one of the authors (Hazelwood) testified to that effect. Unfortunately, the responsible social agency took no action on the phone calls when the then 15-year-old was referred to them. One of the women who had received the phone calls stated that she had personally advised the mother of the young boy that he was “going to rape and kill someone if something isn’t done.”

Fantasy and Search Warrants

In criminally acting out sexual fantasies, offenders often utilize materials, or props, to create more psychosexually stimulating scenarios for themselves. By observing the physical, verbal, and sexual behavior acted out during a sexual crime, the investigator can determine the type of sexual fantasy being carried out. It is then a simple step to determining what types of materials, if any, the person would have accumulated to complement his fantasies. Upon identification of a person suspected or known to have committed the crime(s), the affidavit supporting any search warrant should list the materials that this type of assessment suggests. For example, in Case No. 1, the offender obviously had a fetish for teddies. It is quite reasonable, therefore, to suspect that he will have a collection of similar materials (lingerie) for his masturbatory fantasies.

Case No. 12

A young woman was kidnapped and kept in captivity for an extended period of time. She was physically, emotionally, and sexually tortured during her captivity. Her statement led the police to believe that they were dealing with a sexual sadist and, based upon research conducted by Dietz, Hazelwood, and Warren (1990), a search warrant was prepared. It listed bondage materials, recording devices, burning and pinching devices, violent pornography, and numerous other materials as items to be prioritized in the search. Items in each of these categories were recovered during the search.

A person’s accumulation of materials and involvement with activities designed to enhance his sexual fantasies can contribute to a better understanding, by judge and jury, of the importance of such activities to the offender. Again, in Case No. 1, the police investigation determined that the man had invested over \$3,000 and inestimable time in collecting, cataloging, and preserving lingerie. In Case No. 4, the offender had literally recreated thousands of pictures in over 100 magazines to enhance his deviant fantasies.

Fantasy and Prosecutive Strategy

As noted previously, the authors have testified as expert witnesses in trials of sexual offenders. One of the principal functions of such testimony is to educate the jury, not only about the offense, but also about the role that fantasy and fantasy materials play in violent sexual crimes. It should be noted that it is often necessary to educate the prosecutive team in matters involving criminal sexuality. They, like many investigators and the lay public, are often naive about the complexity of such crimes and the seeming normality of the offenders.

Case No. 13

A 36-year-old woman disappeared after a date with her fiancée. Two years later, an ex-girlfriend of the fiancée advised that she helped him bury the victim's body. The body was recovered and the man was tried and acquitted in state court. During the trial, the former girlfriend testified that he had brought the victim to the girlfriend's home, forced her to disrobe and then raped her vaginally, anally and orally. He also used a dildo on the victim anally and bound her in a variety of positions using pre-cut lengths of rope. The former girlfriend testified that he had taken over 100 photographs during the crime. Over one year later, the federal government indicted him for three counts of perjury (lying about his role in the crime). Interviews of the former girlfriend and a former wife of the subject (15 years divorced) revealed that they had been subjected to similar activities by the man. Five days prior to the trial, the aforementioned photographs were located and he pleaded guilty and was sentenced to 8 years in prison.

The obvious problem, had the federal case gone to trial, was having to prove that the man killed the victim. This would have been necessary to do in order to prove that he lied about his involvement in the crime. A prosecutive strategy, suggested by Hazelwood and FBI Agent Steve Mardigian, was to call the former wife and girlfriend to testify about the consistency in the pattern of the man's sexual behavior over a fifteen year period of time. In legal terms, this would be described as a pattern of continuing behavior. Had it been necessary, the testimony of Hazelwood, the former girlfriend, and former wife would have educated the jury about the man's long-standing fantasy involving degradation and punishment which was motivated by a deep-seated hatred of women. Similar education and testimony were necessary in other cases set forth in this chapter.

Summary

Individuals involved in the investigation of sexual crimes should learn the importance of the role of fantasy. Fantasy is the link between the underlying motivations for sexual assaults and the behavior exhibited during the crime. Such an understanding can help to determine linkages between offenses perpetrated by a serial offender, identify materials to be sought through search warrants, and provide informed prosecutorial strategies.

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The Sexually Violent Offender: Impulsive or Ritualistic*

5

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Introduction

Sexual violence is a complex area of human behavior and experience. It incorporates human sexuality, an already complicated and largely misunderstood area; mental disorders; and criminality. To further complicate the issue, the world of sexual violence has an ever evolving continuum of both offenses and offenders.

When one begins to investigate criminal sexuality from a legal, academic, or simply curiosity-motivated perspective, the diversity and variation intrinsic to the phenomenon rapidly becomes apparent. One only has to consider a few of the dimensions of behavior intrinsic to sexual crimes to appreciate the complexity and fluidity of the topic:

- There are sexual crimes that are physically violent and sexual crimes that are non-physically violent.
- Sexual crimes may be committed against persons, inanimate objects, or animals.
- There are sexual offenders who primarily commit sexual crimes and offenders who commit sexual crimes as part of a much broader repertoire of crime.
- There are sexual offenders who preferentially act out against children, and others who prefer the elderly; others prefer age mates, and there are still others for which age is no boundary.
- There are offenders who commit exclusively homosexual crimes, others who commit exclusively heterosexual crimes, and still others for which gender presents no apparent determinative effect on their victim selection.
- There are offenders for whom paraphilic behavior is mandatory for their psychosexual pleasure and hence an integral part of their criminal behavior, others for whom it is intermittently central to their sexual arousal pattern, and still others for whom the paraphilic disorders apparently play little or no role.
- There are offenders who experience remorse and guilt from the commission of their crimes, and others for whom such an experience is impossible.
- There are ritualistic offenders who develop complex fantasies and act them out, and there are offenders who act out impulsively with little or no thought beyond immediate gratification.

In an effort to help organize some of this complexity, the authors will postulate a fairly simple and straightforward typology, which, it is hoped, will assist in identifying and organizing observations regarding many parameters of an offender's criminal behavior including his victim selection patterns, pre-offense behavior, most likely pattern of

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criminal behavior, crime scene behavior, and motivation underlying his particular sexual offense. This typological formulation may assist law enforcement in their investigation of sexual crimes while also alerting the forensic evaluator or treatment provider to the type of offender or criminal behavior they are encountering. It is anticipated that this type of distinction might also prove useful in the conceptualization of factors relevant to risk assessment as well as to the predication of different types and degrees of recidivism.

Similar types of paradigms have been developed by federal law enforcement in the context of their consultation on violent crime, a process currently referred to as criminal investigative analysis (CIA) and more traditionally as criminal profiling. Hazelwood and Douglas (1980) published a paradigm that differentiates between the disorganized asocial lust murderer and the organized nonsocial lust murderer. While both types of offenders were intent upon the perpetration of a sexually motivated type of murder, the former was described as an introverted, isolated individual who did not possess the social qualities necessary to negotiate most types of interpersonal relationships and tended to offend in a “frenzied,” disorganized fashion often in an area that was proximate to his home. In contrast, the more organized lust murderer was capable of manipulating and “conning” others and tended to travel further and “cruise” in search of a victim. The authors observed that these two types of sexual murderers could be distinguished based upon various aspects of their crime scene behavior, including the location of the body, the evidence of torture and mutilation prior to death, smearing of blood at the crime scene, sexual penetration of the body, and the availability and extent of physical evidence at the crime scene. This paradigm, while simple in its dichotomous distinction, has been used extensively in the criminal investigative analysis of many sexually motivated murders and has, for the past 20 years, been recognized by law enforcement nationally and internationally as pertinent to both the investigation and analysis of the majority of unsolved sexual murders.

Highlighting a different type of sexual violence, Lanning (1992) identified two main types of offenders against children: the situational and the preferential child molester. Building upon a distinction identified earlier by Dietz (1983), Lanning outlined in some detail the motivational impulses, victim selection criteria, method of operation, and related sexual activities that characterize the situational offender who offends against children devoid of any “true” sexual preference for them. Using these criteria, he delineated four subtypes within this broader category: the regressed, the morally indiscriminate, the sexually indiscriminate, and the inadequate child molester. Lanning subsequently distinguished this type of child molester from the preferential child molester, who is characterized by a pervasive erotic interest in children and who engages in highly predictable behavior designed to ensure continued sexual access to the desired age cohort of victims. Using the same dimensional criteria, Lanning differentiated between the seductive, introverted, and sadistic types of preferential child molester and ascribed to each distinct but motivationally consistent behavioral patterns that characterize procurement and erotic preferences and activities. This paradigm, which was initially developed for law enforcement in their investigation of sexual crimes against children, has now gained general acceptance among mental health professionals and is frequently used in their evaluation of sex offenders for pretrial, presentencing, and prerelease decision-making.

Complementing the development of these law enforcement paradigms has been the development of rapist and child molester typologies by clinical researchers. Two of the most widely recognized paradigms—the rape typology developed by Prentky, Knight, and Rosenberg (1988) and the child molester typology developed by Knight, Carter, and

Prentky (1989)—are multidimensional constructs that derive from the empirical analysis of the development and criminal antecedents of different types of offenders as defined by general life (e.g., social competence) and crime-specific (e.g., type of aggression) behavior. Recent attempts to assess the likelihood of recidivistic behavior for rapists and child molesters have begun to encompass these dimensional distinctions, with the emerging research suggesting that these paradigmatic distinctions are relevant not only to the typing of offender and offense behavior but also to estimates of future criminal behavior.

Recently, the gulf between law enforcement taxonomies and clinical/treatment paradigms has begun to narrow by collaborative effort across the two disciplines. In a collaborative undertaking by researchers associated with the Behavioral Science Unit of the FBI and the Massachusetts Treatment Center, efforts were made to determine whether the crime scene indices used by law enforcement could be used to make the paradigmatic distinctions contained within the empirically derived MTC: R3 typology (Knight et al. 1987). The encouraging outcomes of this preliminary research have subsequently given rise to a growing academic interest in empirically exploring the crime scene behavior of these paradigmatically determined categories of offenders. It is anticipated that this type of cross-discipline work will serve to embellish the empirical underpinning of the work that is conducted in the context of criminal investigative analysis while simultaneously contributing to the applied and investigative significance of these empirically derived paradigms.

The Impulsive Sex Offender

The impulsive offender is a common type of sexual offender who is generally the least successful at evading identification and apprehension. As implied by the title, he invests little or no planning in his crimes. Instead, he acts impulsively, takes little or no measures to protect his identity, and is seemingly oblivious to the risk involved in committing the crime. Both informal and systematic assessment of his *modus operandi* (i.e., behavior used to obtain a victim, perpetrate the crime, and avoid identification and apprehension) suggests a criminally unsophisticated, reactive offender.

Case No. 1

At approximately 3 p.m. on a Saturday afternoon, a 37-year-old woman was loading groceries in her car from a shopping cart. Several other cars were in the lot. A 24-year-old male was passing through the lot on the way to his home when he observed the woman. He walked to her location, pushed the cart away from the car, struck the victim in the face with his fist, and threw her into the rear seat. He then ripped her clothes from the lower part of her body and vaginally raped her. Knocking her unconscious, he left the victim in the rear seat of her car and casually walked from the scene. He fled to Canada, but was extradited and sent to prison for 18 rapes.

Motivation

Empirically derived motivation schemes of rapists highlight four primary types of rape behavior: opportunistic, pervasively angry, sexual (sadistic and nonsadistic), and vindictive (Knight and Prentky 1987). Both the opportunistic and pervasively angry offenders

tend to demonstrate or report little sexual fantasy but rather an unplanned and situationally determined context for their offending or offense behavior that is predominantly motivated by a diffuse pattern of anger. Laboratory research by Barbaree and Marshall (1991) delineates six etiological models of rape; three of these—the response compatibility, disinhibition, and augmentation models—appear relevant to this kind of offending. The response compatibility model suggests that the rapist is able to experience hostile aggression and sexual arousal simultaneously in a manner that does not occur in nonaggressive men. The disinhibition and augmentation models suggest that various factors such as anger toward women or blame toward the victim can further serve as disinhibiting or augmenting forces to the sexual arousal that can be experienced during sexually assaultive acts.

Fantasy

The authors (Hazelwood and Warren 1995) have identified the investigative significance of exploring the sexual fantasy underlying various types of sexual assaults. The impulsive offender, however, seems to be largely unmotivated or at least unaware of a sexual fantasy underlying his desire to rape. From the authors' experience in speaking with such men and consulting on crimes committed by this type of sexual offender, it has become clear that their fantasies are simplistic and concrete. They include only two defining dimensions: victim characteristics/demographics and self-perception.

The demographic dimension contains little specificity and, as summarized by such offenders themselves, involves quite simply—"woman." It does not appear that any particular type of woman is being sought by this type of offender. While some of the concreteness or nonspecificity of this type of preference can be attributed to either the intelligence level or youth of some impulsive offenders, the more fundamental factor seems to lie in the undifferentiated anger toward women that apparently underlies a significant proportion of this type of assaultive behavior.

Personality Style

This type of offender tends to be motivated by a sense of entitlement and the perception that anything in his environment is there for the taking. He is restrained only by circumstances in the environment that are related to his own safety. Recent research by Brown and Forth (1997) indicates that this type of opportunistic offender is often characterized by a psychopathic character style as measured by *Hare's Psychopathy Checklist—Revised* (1991).

Collections/Pornography

This type of offender may possess pornography, but it will lack a theme (e.g., bondage) and typically he will not have a "collection." This type of offender uses pornography reflectively. He does not have preexisting fantasies into which he incorporates pornography, but rather he builds fantasies around what he sees and the stimuli that are commercially presented to him.

Pre-Offense Acting Out

This type of offender will act out most often against a spouse and occasionally prostitutes as these women are most easily accessible to them. However, because his crimes are

primarily motivationally driven and not fantasy based, physical cruelty (not to be confused with sexual sadism) and the abuse of alcohol are frequently involved. Consequently, the man's "consenting" victims are often treated as battered spouses and little or no consideration is given to the sexual aspects of his cruelty. When stranger victims are targeted, they are often encountered in the context of other crimes, such as burglary, or in generic environments likely to encompass a number of potential victims (for example, a university campus or hospital parking lot). There is no indication that a particular victim has been preselected through stalking or peeping activities and the approach behavior of the rapist involves no complex ruses or attempts at deceptive disguises.

Criminal Behavior

The core behavior of a sexual crime includes verbal (what the rapist says to the victim or demands the victim to verbalize to/for him), physical (injurious force), and sexual (type and sequence of sexual acts) types of behaviors (Hazelwood 1995).

Because fantasy plays such a minimal role in the impulsive offender's crimes, one can expect to find that his crime behavior is designed to accomplish two things: to obtain and to control his victim. This is because he lacks the criminal skills to control a person without resorting to violence. Consequently, this man will engage in little (but profane) verbalization with his victim. His verbal activity will be limited to phrases such as "shut up," "take off your clothes," and "get over here."

He frequently resorts to physical violence to control and also to act out the underlying motivation of anger. Consequently, the level of force he uses will often be excessive or brutal (Hazelwood 1983).

His sexual behavior will be violent and degrading and will result in medically documented injuries to the sexual areas. It should be noted that the authors have found little evidence to suggest the involvement of paraphilic behaviors (e.g., bondage, voyeurism, sadism) with this type of offender. Such behaviors are classically found to play great roles in the crimes of men who commit fantasy-driven crimes.

Past Criminal Behavior

This offender's arrest history will be truly diverse and generally antisocial. To him, sexual assault is simply another crime deserving of no special attention. Therefore, depending on his age, his history will likely reflect a multiplicity of offenses with no specific theme to the crimes (e.g., auto theft, DIM, armed robbery, assault and battery, rape, possession of illicit drugs, drunk and disorderly).

Travel and Search Patterns

Research on the travel patterns manifest by serial rapists in locating their victims and perpetrating their offenses (Warren et al. 1998) has shown that offenders who demonstrate no ritualistic behavior as a component of their crime scene behavior tend to travel shorter distances to offend (2.30 miles vs. 3.64 miles) and to generally rape over a smaller area (4.57 miles vs. 20.39 miles). These types of search patterns possibly reflect less specific victim selection criteria and/or less sophisticated attempts to ensure that they are not recognized and identified.

The Ritualistic Offender

The ritualistic offender is less common than the impulsive offender, but he is more successful and more difficult to identify and apprehend. He is the offender who invests great amounts of time and effort into the planning and rehearsal of his offenses. He is typically a criminally sophisticated offender.

Motivation

As with the impulsive offender, the underlying motivation or drive for the commission of a sexual assault is power, anger, or a combination of the two. However, it appears that, using the models delineated by Barbaree and Marshall (1991), the ritualistic offender, in contrast to the opportunistic offender, experiences a cue response to the control and aggression contained within the rape and that these kinds of perceptions actually contribute to his level of sexual arousal. This type of response style reflects more of a paraphilic interest in coercive sexuality.

Personality Style

The personality style of this type of offender is more varied and is less generically exploitive. Some ritualistic offenders are withdrawn and awkward in their social interactions; others are charming and gregarious, while still others maintain lifestyles that appear in many respects conventional and rather ordinary. In some of the most extreme cases of sadistic violence, the individuals were found to be respected members of the community, with their varied, largely perverse sexuality remaining mainly hidden from those around them.

Fantasy

Unlike the impulsive sexual criminal, the ritualistic offender invests a great amount of time in the pursuit of his fantasies. In a separate study, the authors interviewed 20 women who were mated to sexual sadists or dated them exclusively. Such men were overwhelmingly ritualistic in their offending behavior and, without exception, the former wives and girlfriends reported that these men invested a large proportion of their relationship in the pursuit of fantasy. One woman, mated to such a man for 8 years, advised that the majority of her mated life was devoted to intricate “games” in which there were five distinct and repetitive phases: pursuit, capture, torture, the “kill,” and finally rape.

The fantasies of such men are multidimensional and complex. The authors have identified five common components or dimensions in the ritualistic offender’s fantasy life that can be identified from his behavior: relational, paraphilic, demographic, situational, and self-perceptual.

Relational

Perhaps the most important dimension in the ritualistic offender’s fantasy is the relationship he perceives between his partner (victim) and himself. It is this component that evidences the underlying motivation or drive in a most telling manner. In this regard, it is important to emphasize that there is a continuum of ritualistic sexual criminals and that

the form of their overt offense behavior can vary extensively. The analogy of a major league baseball team may be used in articulating these distinctions. A baseball team has nine positions, each requiring different skills and having different objectives. However, each of the individuals playing the various positions is nonetheless a major league baseball player. So too are there many different categories of ritualistic offenders (pedophile, sexual sadist, power rapist, fetish thief) who are nonetheless all ritualistic offenders. In no other dimension of the fantasy does this distinction become more apparent than the relational component.

Case No. 2

The operator of an 18-wheel truck, a 42-year-old male, offered a ride to two teenage runaways, an 18-year-old male and his 14-year-old female companion. Shortly thereafter, he murdered the male. For the next six days, the young girl was tortured, raped, costumed, and photographed by the truck driver. Her pubic region was shaved, her hair was cropped short, a steel ring perforated her clitoris, and various areas of her body were pierced with pins. At least three rolls of film were used to take pictures of the victim bound, helpless, and in various stages of dress. Almost without exception, the photographs depicted the victim bound in a variety of positions with silver-colored chain. She was also photographed while costumed in hose, high heels, an evening-style dress, red lipstick, and red fingernail polish. The victim was eventually strangled with bailing wire and left in the loft of a barn. Following the murder, the perpetrator called the victim's grandmother and said "Wendy's in a barn with her hair cut off." He was later arrested with another victim in his truck. A search of his apartment revealed the victim's clothing, her spiral notebook containing her grandmother's phone number, three rolls of film, detective magazines, and several lengths of silver-colored chain.

Case No. 3

A 26-year-old woman was sleeping in her apartment when she was awakened by a 28-year-old male wearing a ski-mask. He held a knife to her throat and told her that he didn't want to hurt her and that if she cooperated, he believed that she would enjoy the time spent together. He had her disrobe and spent time visually examining her entire body. He then advised her that he felt she was tense, indicating that he would try to help her relax. From a bag he brought with him, he took a bottle of lotion and applied it to her body, massaging her as he did so. He then performed cunnilingus on the victim, kissed and fondled her, and told her that she was beautiful. The victim twice kicked him in the testicles, in response to which he asked, "Why did you do that? I haven't hurt you." He vaginally raped the victim and left, taking the victim's driver's license with him. The perpetrator is known to have raped six women in a strikingly similar manner. A search of his residence revealed a small video camera containing film which he had taken while peeping on women; his "rape kit" containing condoms, body lotion, several knives, gloves, and ski masks; several "soft" pornographic magazines and videotapes, and a collection of lingerie.

In both of these cases, it is clear that the assailants are ritualistic and have incorporated a “relational” aspect of their fantasy into the crime. In Case No. 2 the offender is angry and contemptuous of the victim and has no empathy for her plight. She has been objectified by the man and he views her as his slave and himself as the victim’s master. Consequently, the “relationship” between the victim and her captor, as he perceives it, is master–slave.

In Case No. 3, the offender is also ritualistic and his crimes are fantasy driven. However, the assailant demonstrates no anger and his relational fantasy is one of boyfriend–girlfriend or husband–wife—a consensual relationship.

Paraphilic

Almost without exception, when a ritualistic offender is involved in a sexual crime, paraphilic behavior will be evidenced. Abel et al. (1988) demonstrated that a person who suffers from one paraphilic disorder generally suffers from additional paraphilic disorders that characterize various aspects of his sexual repertoire. The authors have found this to be especially true when observing crimes committed by the ritualistic offender. In Case No. 2, the offender evidenced sexual sadism, voyeurism (photographs), sexual bondage, and fetishism (chains). In Case No. 3, the offender demonstrated voyeuristic and fetishistic interests and activities.

This type of behavior is of significance in that the presence of demonstrated paraphilic behavior will provide the investigator with insight into what types of behaviors the offender will engage in with consenting partners and also what types of collections he will likely possess to complement the paraphilias (Hazelwood and Warren 1995).

Demographic

The ritualistic offender invests a great deal of time in fantasy, and consequently, there will be a great deal of demographic specificity in his choice of victims. Leonard Lake, a ritualistic serial killer, made a pre-offense videotape in which he elaborated his plans and rationalizations for the extensive patterns of abductions and murders that he subsequently perpetrated. In one segment of that videotape, he set forth the preferred characteristics of potential victims as being “18 to 22, petite, small breasted, shoulder-length hair.” One of the women interviewed by the authors who had been married to a sexual sadist for 8 years reported that her husband told her that the perfect victim had shoulder-length blond hair, was thin, 18–22 years old, and a hitchhiker, runaway, or prostitute.

Situational

This type of offender attempts to recreate a situation from his fantasies. Again, the situation is largely dependent upon the motivation for the crime. In Case No. 2, it becomes clear that the offense was anger motivated, the relational component was master–slave, and the victim was kept in captivity for 6 days—hence, captivity defined the situational aspect of the fantasized encounter. This is not an uncommon fantasy for sexual sadists and indeed books have been written about the captivity and enslavement of women, including *The Collector* by John Fowles in 1963 and *Kiss the Girls* by James Patterson in 1995. Both books were made into movies and the latter was the number one box office hit within 2 weeks of release. Cameron Hooker (McGuire and Norton 1989) and Leonard Lake constructed holding facilities to keep their “sex slaves” contained in the way that they preferred.

In stark contrast to the situational dimension of Case No. 2, the offender in Case No. 3 had a “nonviolent” fantasy situation that he was attempting to bring to reality—that of a consensual, romantic encounter.

Self-Perceptual

Intrinsic to these fantasy structures is the self-perceptual dimension of the offender’s experience of himself as experienced within this particular erotic context. It can be hypothesized that it is this experience of himself that contributes to the immense intrapsychic sway that these repetitious sexual fantasies and eventual reenactments exert upon his behavior. In this regard, it is important to emphasize that what is being sought in analyzing this material is the offender’s self-perception as it is being acted out in the crime, not as he might describe or experience himself in everyday life.

James Mitchell DeBardeleben, an extremely well-documented and highly ritualistic criminal sexual sadist (Michaud 1994), illustrated one extreme of fantasized self-perception when he wrote a definition of sexual sadism that the authors reported in an earlier paper (Dietz, Hazelwood, and Warren 1990):

Sadism: The wish to inflict pain on others is not the essence of sadism. One essential impulse: *to have complete mastery over another person*, to make him or her a helpless object of our will, to become her God, to do with her as one pleases. To humiliate her, to enslave her *are means to this end*, and the most important radical aim is *to make her suffer since there is no greater power over another person than that of inflicting pain on her* to force her to undergo suffering without her being able to defend herself. The pleasure in the complete domination over another person is the very essence of the sadistic drive.

When DeBardeleben wrote “to have complete mastery over another person ... to become her God,” he provided the reader with a concrete expression of the narcissistically embellished self-perception that lay at the core of his erotic pleasure as well as his destructive and sadistic criminal behavior.

Case No. 4

A man who had raped in excess of 20 women was interviewed by one of the authors. In each of his crimes, he would take his victim to a waterside environment and would script her as to what she was to say over the period of time that she was with him. She was instructed to periodically ask a question from a list of questions which included “Are we going to the cabin this summer?” “Do we have enough money to get the kids’ teeth fixed?” “What is your bowling average this year?” “When are you going to call the repairman to fix the washing machine?”

Clearly, the fantasized self-perception of the offender in Case No. 4 is one of husband, provider, and lover and certainly contrasts with the self-perception of DeBardeleben in a dramatic fashion.

Pre-Offense Acting Out

Prior to attacking strangers, the ritualistic offender invariably acts out his sexual fantasies with inanimate objects, paid partners, and/or consensual partners. Inanimate objects have

no risk associated with them, while paid and consensual partners are viewed as convenient and available adjuncts to the fantasized behavior. The three inanimate objects most commonly used for acting out fantasies are dolls, clothing, and photographs/pictures.

Case No. 5

A mental health institute notified the police that a doll had been left in the front of their administration building. The police discovered that the doll's wrists and ankles were bound with wire and a gag had been placed in the mouth. There was plastic tubing inserted into the doll. During the next few weeks, several more dolls were left at the institution and each depicted more severe disfigurement, for example, area between the legs burned, in excess of 50 cuts symmetrically located on the doll, abdominal incisions with surgical sutures in place and fingernail polish to depict blood, and more than 100 tooth picks inserted into the entire circumference of the doll's body.

Case No. 6

A 36-year-old woman notified the police that she had been receiving ripped, cut, and torn brassieres in the mail. These brassieres had seminal fluids and printing on them. The words conveyed threats (e.g., "I will have you bitch!" "Your nipples belong to me.") She had also been sent story pages from detective magazines (Dietz, Harry, and Hazelwood 1986) and a letter the offender had written, explaining how he had prepared a location and equipment to capture, torture, and photograph her.

Case No. 7

A woman who was interviewed as part of another study by the authors (Hazelwood, Dietz, and Warren 1992) advised that her sexually sadistic husband had an extensive pornography collection which depicted captivity, bondage, and torture of women. She reported that he would spend hours with his collection, drawing explicit wounds on the pictures and rearranging the anatomies of the depicted women by cutting out breasts, hands, heads, and legs from pictures and carefully pasting them over the pictures of other women.

Criminal investigators, when confronted with a sexual crime that is unique in verbal, physical, or sexual acts, often conduct interviews of prostitutes to determine if any of their customers have requested these unique sexual behaviors.

Case No. 8

James DeBardeleben tape recorded his sexual acts with consensual partners, with prostitutes, and with his stranger victims. The authors have heard one recording in which one of his paid partners is heard to say "Fuck me in the ass, Daddy." The recordings of activities with his wife and with one of his victims contain the same specific phrases.

Sexual sadist offenders, a highly ritualized group of offenders, act out their sexual fantasies with wives or girlfriends (Warren and Hazelwood 2002). The women serve as props

for the rehearsal of sexual crimes. As seen in Case No. 8, the activities with a prostitute and a victim were strikingly similar. The following case is another example of a wife being abused in a similar manner.

Case No. 9

“Michelle,” a woman married to a sexual sadist for more than five years, advised the authors that the majority of her married life was devoted to her husband’s aberrant fantasies. She advised that he had a “death fantasy” in which he would have her walk in the dirt barefooted so that it would appear she had been running. After she came back into the house, he would “capture” her, by choking her into unconsciousness. She would then be physically tortured, “murdered” by frontal strangulation, and raped “post-mortem.” She advised that he had particular clothes for her to wear during the fantasy re-enactment and he also had a suitcase containing his “crime” materials. When asked how long the subject would spend in preparation for the “game,” she replied, “[S]ome days, we would spend an entire day getting ready. He would tell me what I was supposed to say, how I was supposed to act, what he was going to do. Then he would say “Okay, now you tell me what’s going to happen.”

Within the past decade, it has become apparent to the authors that violent ritualistic offenders sometimes use themselves as props for enactment of their fantasies. For example, it has long been assumed that anyone engaging in dangerous autoeroticism (Hazelwood, Dietz, and Burgess 1983) was masochistically oriented. However, the offender described in Case No. 8 would also audio record himself speaking in a falsetto voice and verbalizing phrases identical to those he forced his stranger-victims to speak. Another serial murderer, who hung his victims, would photograph himself cross-dressed and suspended from a tree.

Criminal Behavior

As with the impulsive offender, the core behavior of the ritualistic offender’s criminal sexual behavior will be verbal, physical (force), and sexual. However, unlike the impulsive offender, fantasy plays a major role in the ritualistic offender’s crimes. In fact, his fantasies provide the conscious, repetitious template for his multiple crimes.

What the offender says to the victim or demands that the victim say to him will be vital to his arousal and gratification. The amount of physical violence he uses will also be determined by the reaction he wishes to elicit from his victim. In Case No. 2, the victim was killed and therefore no record of the killer’s verbal interactions could be obtained. However, one can clearly see a motivation of anger underlying the crime, and from a research interview of that man’s wife, it was determined that when he acted out his anger-motivated fantasies on her, often referring to her as “bitch,” “slut,” “whore,” and “cunt.” It can safely be assumed that he engaged in similar behavior with the murder victim. In Case No. 3, the victim reported that the rapist’s interaction with her was similar to what one would expect with a consenting sexual partner.

The level of injurious force used against the victim may be minimal or may be brutal enough to result in death. It is dependent on the underlying motivation of the offender. In Case No. 2, the offender was motivated by anger and the victim was subjected to horrendous

physical trauma and eventually killed. In Case No. 3, the offender used no injurious force even when physically resisted by the victim. He was not motivated by anger and his fantasy of a consenting sexual relationship would have been corrupted had he resorted to physical violence.

The type and sequence of sexual acts of the ritualistic offender is also dependent upon the motivation of the offender. In Case No. 2, the offender aggressively assaulted the victim and forced her to engage in diverse sexual activities. In Case No. 3, there was behavioral evidence that the offender was attempting to engage the victim in the fantasy of a consenting relationship, which included kissing, fondling, and cunnilingus.

Pornography

Fantasy plays a major defining role in this offender's crimes, and these fantasies are developed to complement the underlying motivation. Consequently, he will possess theme-oriented pornography. The theme of the pornography can be inferred from the manner in which he interacts with his victims. The offender in Case No. 2 possessed bondage and torture pornography. The offender in Case No. 3 possessed soft-core and nonviolent pornography. The ritualistic offender will use pornography inflectively; he will often invest considerable effort in creating his own pornography, which is designed to reflect the proper juxtaposition of themes and images. This might involve cutting and pasting images from commercial pornography, sketching out the desirable scenarios, or having victims or consensual partners act out certain erotic behaviors that are then photographed or videotaped.

Criminal History

Due to the highly specific nature of this type of offender's criminal behavior, he may have no criminal history prior to arrest for a series of very violent crimes. If he does have an arrest history, it will typically reflect sexual or sexually related offenses. It is also not uncommon to find arrests for "nuisance" offenses, sexual assault, and attempted burglary or breaking and entering. The two latter offenses are the most common nonsexual offenses in such offenders' histories in that they were arrested while in a potential victim's apartment prior to the sexual crime's taking place and then charged with the next highest offense.

Summary

All of the men mentioned in the various cases were violent, serial, sexual offenders and all of their victims were adult females. However, it appears that this broad category of serial sexual crime is best understood according to two paradigmatic distinctions: the impulsive and the ritualistic offender. It is the thesis of the current chapter that these two groups of offenders can be distinguished in terms of their style of offending and the motivational themes underlying that style in a way that benefits a deeper understanding of these common crime patterns. As outlined, the impulsive offender seems to be situationally motivated and characterized by a style and erotic predisposition that allow for the opportunistic pairing of sexual and aggressive impulses. The ritualistic offender appears to be far more specific in his intent and criminal behavior and largely motivated by the

complex reenactment of specific sexual fantasies that pair him and the victim in an erotically repetitious and arousing interaction.

It is possible that this paradigm reflects a continuum of sexually violent behavior and not two distinct groups of offenders per se. It is of value, however, in the investigation of sexually violent crime to understand the differences in intent and preparation that precede sexual crimes in order to determine in more detail the type of offender that is being sought. Evaluators can also use these constructs in order to structure the type of information that is optimally elicited from an offender in the context of a forensic examination.

Previous research by the authors (Warren et al. 1999) indicates that the more ritualistic rapist tends to increase in the amount of force he uses over a series of offenses as contrasted with the less ritualistic rapist, who continues to use a similar level of blunt force regardless of his number of crimes. Victim selection and crime location also seem to be influenced by or related to the amount of ritualistic preparation that precedes the crime (Warren et al. 1998). These findings suggest that these types of distinctions might also eventually prove relevant in our attempts to understand more clearly the different patterns of serial criminality that exist between different types of sexually violent offenders.

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The Behavioral-Oriented Interview of Rape Victims: The Key to Profiling*

6

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Introduction

A police department submitted their report of a rape investigation to Hazelwood and requested that the crime be analyzed and that a profile of the unidentified offender be prepared. A synopsis of that report follows.

Alicia B, a 21-year-old white female, who resided alone, was asleep in her apartment when she was awakened at 2:30 AM by a man who placed his hand over her mouth and held a knife to her throat. The intruder warned her not to scream or physically resist and told her if she complied with his demands, she would not be harmed. He forced her to remove her nightgown, kissed and fondled her, and then raped her vaginally. After warning the victim not to call the police, the man left. Ignoring the rapist's warning, she called the police and reported the crime. She told them that nothing had been stolen and, because a pillowcase was over her head during the assault, she could not provide a physical description of her assailant. The police noted that the rapist was with the victim for approximately 1 hour.

Prior to working on the case, Hazelwood requested that the agency re-interview the victim using a set of questions specifically designed to elicit victim-source information of the offender's behavior during the assault. Using the questions, the victim was re-interviewed, and as a result, a nine-page single-spaced typewritten statement was taken from the victim.

Based on the more complete statement, Hazelwood prepared a profile of the characteristics and traits of the unidentified offender. The man was subsequently arrested and confessed to the assault of Alicia and several other women as well.

The terms *investigator*, *interviewer*, and *analyst* will be used interchangeably in this chapter.

Motivation

During the past 30 years, the authors have reviewed thousands of police reports and rape victim statements. These statements have typically contained details of the crime as well as a great deal of information about the offender's physical description, but there was frequently a marked absence of information that provided clues to the motivation under-

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lying the rape. Groth, Burgess, and Holmstrom (1977) long ago pointed out that rape is a behavior that assaults the sexual parts of the body for nonsexual needs.

Over a period of time, Hazelwood developed a set of questions designed to elicit behavioral aspects of the crime from the victim, allow the motivation of the crime to be identified, and provide the analyst with sufficient information to arrive at opinions as to the unidentified offender's characteristics and traits. That set of behavioral questions and instructions moves sequentially through the sexual assault. They are listed next and discussed in much greater detail later in this chapter.

1. Describe the manner in which the offender approached and gained control over you.
2. Describe all actions he took to maintain control over you during the assault.
3. Sequentially describe each act of physical force used by the offender.
4. Did you resist the attacker physically, verbally, or passively? If so, describe in sequence each time you resisted.
5. What was the man's reaction to each instance of your resistance?
6. Did the man experience a sexual dysfunction? If so, describe the sexual difficulty he experienced and what acts, if any, he performed or demanded you perform to overcome the dysfunction.
7. Describe each sexual act the offender engaged in or forced you to participate in and the order in which they occurred. Include kissing and fondling by the criminal.
8. As precisely as possible, describe what he said to you. Include his tone of voice and attitude in your description.
9. If he demanded that you answer questions, repeat phrases, or respond verbally in any manner whatsoever, specifically describe what you were required to say.
10. Did you observe any change in his attitude and, if so, what immediately preceded the change?
11. What, if anything, did he do to protect his identity from you or the police? What actions did he take to preclude being forensically associated with the crime (e.g., condom, forcing you to shower or douche)?
12. Have you carefully inventoried your personal belongings (e.g., jewelry, photographs, undergarments) since the assault? What, if anything, did he take when he left?
13. Prior to or since the assault have you received any calls, e-mails, or notes from unidentified persons and, if so, please describe as precisely as possible the content of those communications. Have you been the victim of prowlers, window peepers, a break-in, or attempted break-in?

In addition to the preceding questions, it is imperative to obtain the offender's physical description, the direction and mode of travel, accent, physical deformities, etc., and attention should be given to these critical details. However, when the *behaviors* of the rapist are not captured, the investigation is incomplete.

Profiling the Unidentified Rapist

There are three essential steps in preparing a criminal investigative profile of an unidentified rapist:

1. A comprehensive interview of the victim to document the rapist's behavior
2. A careful analysis of the victim's statements to identify the motive for the crime, and
3. Forming an opinion as to the characteristics and traits of the person responsible for the crime.

Steps 2 and 3 involve the use of analytical logic accompanied by common sense. They are performed by individuals trained in the process of crime behavior analysis. The first step, however, is the most critical of the three and is one that detectives should accomplish.

Only the victim can provide the information necessary to complete a behavioral analysis of the rape. Therefore, it is essential for the investigator to establish a rapport with the victim through a professional and empathetic approach. Such an approach will not only aid the investigation, but it will also assist the victim in overcoming feelings of fear, anger, and guilt, all of which are typically generated by a sexual assault.

Interviewers should project an attitude of confidence *and* competence and must not allow personal feelings about the crime, the criminal, or the victim to interfere with their objectivity.

To be successful, the analysts must observe the crime not from the victim's perspective, but from the offender's. This better equips them to answer questions such as: What message is being transmitted by the rapist through the assault? Is it that he is angry and wants to punish women for real or perceived wrongs, or that through his control of the victim he has proven that he is powerful? Or is it a combination of power and anger? The following case provides an excellent example of why this type of analytical approach is necessary.

Case No. 1

In a large metropolitan area, a series of rapes plagued the community over a period of months. The rapist controlled his victim without resorting to physical violence, even when confronted by resistance.

One evening, a hospital orderly went off duty at midnight and came upon a male beating a nurse in an attempt to subdue and rape her. The orderly went to her aid and fought the attacker, holding him until the police arrived. Predictably, the orderly received much attention from the media and was given a citation for bravery from the city.

Sometime later, the orderly was arrested for the earlier series of rapes. He was asked why he had rescued the nurse when he was guilty of similar crimes. He became indignant and advised the officers that he would never hurt a woman.

It is obvious that the man who rescued the nurse from the physically violent rapist equated "hurt" with physical trauma. He either failed to consider or completely ignored the emotional trauma experienced by his victims.

As suggested, the motive for rape becomes clear only through a careful study of the behavior exhibited during the crime and, once the motive is identified, the trained analyst should be able to provide the police with an accurate description of the offender's characteristics and traits. The basis for this assumption lies in the axiom that behavior reflects personality.

The manner in which an individual behaves within his various environments portrays the type of person he or she is. One of the criminal's environments (typically the only one to which we have immediate access) is his crime. Through the observation of the criminal's

behavior, the trained analyst can form opinions about self-esteem, educational level, and interpersonal skills of the unidentified criminal. How is this possible? It is common to review two rape cases from different investigative jurisdictions involving different offenders that exhibit strikingly similar crime behaviors. Why? A large part of the answer lies in the statement by Groth et al. (1977) that “rape is in fact serving primarily non-sexual needs.” Assuming the accuracy of this statement, the two individuals having similar needs (i.e., power and/or anger) are both meeting those needs through the sexual crime of rape. Therefore, it becomes logical that the behaviors used by each to achieve the meeting of those mutual needs will be similar.

Questioning for Behavior

The interview should be conducted in a probative yet tactful, professional, and sensitive manner. It should be conveyed by the investigators that they are concerned not only with the arrest and conviction of the offender but also with the victim’s welfare. She has survived an emotionally and physically threatening situation, and the importance of the investigator’s recognition and acknowledgment of this cannot be overemphasized. The victim should be made to understand that obtaining detailed information from her may very well expedite the offender’s identification and arrest.

Case No. 2

An elderly woman was raped by a stranger and the case was submitted for profiling. The victim declined to provide the police with the necessary behavioral information. Consequently, the statement was found to be substantially lacking in detail and was returned to the investigating police agency with an article authored by Hazelwood, which explained the importance of capturing such information. The victim read the article, expressed an understanding of complete disclosure and provided the police with a detailed description of the attack.

The behavioral-oriented interview is conducted sequentially and in keeping with the unfolding of the crime, beginning with determining the method used by the offender to approach the victim.

Method of Approach

When confronted with a task, a person will select a method with which he or she feels most comfortable and most confident. For example, if four people are faced with an examination, one may choose to study alone, one may want to study in a group, a third may choose to study with another person, and one may decide not to study at all. The criminal, when deciding how to approach a victim, will pick a method that he believes is most likely to be successful and is in keeping with his motive. The authors have identified three approaches used by rapists: “con,” “blitz,” and “surprise.”

Con

This method involves approaching the victim openly using a trick, ruse, or subterfuge. The rapist may offer or request assistance or directions or pretend to be a salesman or even a

volunteer church worker. Initially he is pleasant, friendly, and even charming. His goal is to gain the victim's confidence and negate any feelings of danger the victim may have—until he is in a position to overcome any resistance. Frequently, and for different reasons, he may undergo a sudden change of attitude once she is in his control. This attitudinal change may occur because he wants to convince the victim of his seriousness or it may simply be an indication of the anger motivating his attack. Three traits of the rapist suggested by this approach are that the rapist is more likely to be extroverted than introverted, is not intimidated by women, and is confident in his ability to interact with them.

Blitz

The blitz approach is demonstrated when the offender immediately utilizes *injurious* force to subdue his victim. Examples of this approach can involve knocking the victim unconscious or incapacitating her with chloroform. The attack may occur frontally or from the rear, and there is no opportunity for the victim to physically or verbally resist. This approach strongly suggests feelings of hostility and anger toward women and may be indicative of the man's interactions with women in noncriminal situations as well (e.g., selfish, one-sided, abusive).

Surprise

The surprise approach involves the sudden capture of a victim with no injurious force. In such cases, the rapist may wait for the victim in the back seat of her car, step out from behind a wall or from the woods, or capture her while she is sleeping. He typically uses threats and/or the presence of a weapon to subdue his victims. This approach indicates that the victim has been targeted or preselected through surveillance or window-peeping and, while the selection process may occur shortly before the attack, it most often involves long-term surveillance and intelligence gathering.

Offender's Control of the Victim

After the man has gained physical control of his victim, his task is to maintain that control. The method of control utilized by the offender is *primarily* dependent on the motivation (i.e., power or anger) for committing the assault. Less frequently, the control may be a reaction to the resistance of the victim. Four control methods have been observed by the authors: mere presence, use of verbal threats, display of a weapon, and physical force.

Mere Presence

Depending on the fear level and passivity of the victim, it is quite possible that the only control needed is the presence of the offender. For a person removed from the assault situation this may be difficult to comprehend; nevertheless, it is frequently the case. Too often investigators, prosecutors, and judges form opinions on a victim's response based entirely on what they *believe* they would have done in a similar situation. They fail to take into account the victim's personality, the time and location of the assault, and the enormous influence of fear. The interviewer must be careful not to convey a similar judgmental attitude toward the victim as this will no doubt inhibit her willingness to cooperate.

Case No. 3

The victim, a 21-year-old woman with a learning disability, had parked her car in her apartment complex. As she got out of the car, a van pulled behind her car and the driver pointed a gun at her, but said nothing. She put down her purse and a yogurt cup and said "Please don't hurt me, I'll do anything you say." The man, surprised at this reaction, told her to get into the van. She walked behind the van to the passenger side, opened the sliding door, got into the rear of the van and closed the door. The man then bound the victim, stabbed her in the heart with a screwdriver and drove off the complex. He took the body to an isolated location and committed a sexual assault on the corpse. If the investigators had not factored in her learning disability or learned that the victim's mother was not surprised at her daughter's reaction given her passiveness, they may have been at a loss to explain the victim's reaction to her killer's approach. The killer was later arrested and confessed to the crime.

Verbal Threats

It is realistic to expect some victims to be intimidated and controlled by harsh verbiage or by threats of physical violence. In all such cases, it is critically important for the interviewer to document the precise wording used by the rapist. What an offender says during an assault is an important behavior that provides insight as to the motive for the attack.

Presence of a Weapon

If a weapon is used to control the victim, it is important to determine when during the assault he presented or indicated he had a weapon. Additional questions should include: Did the victim see it? Was it a weapon of choice (brought to the scene) or one of opportunity (obtained at the scene)? Did he threaten the victim with the weapon and, if so, in what manner? Did he put the weapon down? Did he *intentionally* inflict any physical injury with the weapon?

Physical Force

See the following section.

Offender's Use of Physical Force

If the offender used physical force, it becomes a key factor in determining his motivation. The amount of physical violence is *primarily* dependent on assault motivation, although victim resistance also may play a role. The specific level of force used (see following discussion); when it was employed; whether the force increased, decreased or stayed the same; and the rapist's attitude prior to, during, or after the force was used must be determined.

Knowing the level of physical force is important to an accurate behavioral analysis of the rape. Consequently, the interviewer should obtain as precise a description of the force as possible. The victim may exaggerate her description of the physical force used by the rapist for several understandable reasons. In those cases in which there is little or no physical force used, she may fear that the authorities will not believe her. The victim may not have physically resisted the attacker and is experiencing guilt and consequently exaggerates the force. If the victim was never struck or spanked as a child and the rapist slapped her, she may truly *believe* that she had been beaten! Still another possible and plausible

explanation for exaggeration is if the victim is unable to differentiate between the sexual assault and the physical assault. For all these reasons, the authors have defined four levels of physical force: minimal, moderate, excessive, and brutal. The use of these descriptive levels is to assist the analyst in arriving at an accurate, reliable, and uniform assessment of the force employed.

Minimal

At this level, there is little or no physical violence. While mild slapping may have occurred, it was clearly employed more to intimidate the victim than to punish her and it is not a repetitive behavior. No medical attention for injuries is required. Most often the rapist is not verbally abusive toward the victim.

Moderate

The second level of force involves the victim being slapped or struck repeatedly and in a painful manner. This occurs even in the absence of resistance. Again, however, the victim requires no medical attention for her injuries. In such cases, the rapist typically uses profanity and otherwise verbally abusive.

Excessive

At this level, the victim is beaten by the rapist and has bruises and lacerations. Medical attention is required and the victim may be hospitalized. The attacker uses profanity and directs degrading and derogatory remarks toward the victim.

Brutal

The victim is subjected to an extreme and severe physical assault that may include intentional torture. The application of this level results in extensive hospitalization and/or death. The verbal behavior of such an attacker reflects a great deal of anger and hostility.

Victim Resistance

When ordered to do something, a person has two options: comply or resist. Victim resistance is defined as any action taken that precludes, reduces, or delays the attack. The authors have identified three methods of victim resistance: passive, verbal, and physical resistance. While alert to physical or verbal resistance, some may overlook or disregard an equally important form of resistance: passive resistance.

Passive Resistance

Passive resistance is evidenced when the victim does not physically or verbally protest, but just simply does not comply with the rapist's demands. An example of passive resistance might involve an offender ordering a victim to remove her clothing with the victim not responding in any fashion whatsoever. While she did not resist physically or verbally resist, she also did not comply with his demand. By not complying, she resisted.

Verbal Resistance

Verbal resistance may include screaming, pleading, refusing (e.g., "No, I won't do that"), or even attempting to reason or negotiate with the attacker. The reader should note that while

crying is a form of verbal behavior, it is not, for the purposes of this chapter, considered to be a form of resistance.

Physical Resistance

Hitting, scratching, kicking, gouging, or even running away by the victim are examples of physical resistance. Investigators should not assume that physical resistance has taken place. Even people who are normally assertive may become passive during a life-threatening situation. When there is a complete lack of resistance, the victim's personality, the type of approach, and other circumstances surrounding the crime should be taken into consideration. Regardless of the reason, the investigator should never project a judgmental attitude toward the victim.

On the other hand, if any form of resistance is evidenced, the offender's reaction to that resistance will be of particular interest to the analyst.

Offender's Reaction to Resistance

People react to stressful situations in a variety of ways and the manner in which an individual reacts can provide useful information about that individual. No reasonably intelligent person would question that victims of rape experience an inordinate amount of stress. Few, however, would consider that committing a rape also creates stress for most attackers. The possibilities of being identified, arrested, injured, ridiculed, or successfully resisted can combine to create a great amount of stress. The question for the analyst then becomes "How does the unidentified rapist cope with stress?" Consequently, it is behaviorally important for the investigator to determine how the rapist reacted to resistance by his victim.

Cases submitted to the authors over the years reveal five reactions exhibited by most rapists when confronted with victim resistance: (1) cease the demand, (2) compromise, (3) flee, (4) use threats, or (5) use physical force.

Cease the Demand

A rapist encountering victim resistance may simply cease his demand for a particular act or behavior and move to another demand or phase of the attack.

Compromise or Negotiate

In other cases, the man will compromise or negotiate by agreeing to a victim's suggestion (e.g., "Let me do this instead") or by giving the victim alternatives to the activity originally demanded (e.g., "All right, do this then").

Flee

Occasionally, a rapist will, upon encountering resistance, simply leave. These first three reactions are particularly interesting from a behavioral perspective. They suggest that the offender was not motivated to physically injure the victim to force compliance.

Threaten

Other rapists may resort to threats if resistance is encountered. If this is the case, the interviewer should try to capture the exact wording used by the rapist in threatening the victim. If, in spite of the threats, the victim continued to resist the attacker, it becomes important to determine what his reaction was to that continued resistance.

Use Force

When physical force is the reaction to victim resistance, the interviewer must determine the specific level of force (i.e., minimal, moderate, excessive, brutal) used by the offender.

Sexual Dysfunctions

The term *sexual dysfunction* may be defined as an “impairment either in the desire for sexual gratification or in the ability to achieve it” (Coleman et al. 1980). Groth and Burgess (1977) conducted a definitive study of 170 rapists and determined that 34% of the offender population suffered a sexual dysfunction during the assault. A study on serial rapists by the authors involved the face-to-face interviews of 41 men responsible for 837 rapes and over 400 attempted rapes. Thirty-eight percent of the rapists reported a sexual dysfunction during their first rape, 39% during a middle rape, and 35% experienced a dysfunction during their last rape. (Hazelwood, Reboussin, and Warren 1989) The occurrence of a sexual dysfunction, coupled with a basic understanding of the causes of the various types of male dysfunctions, can provide potentially valuable information to the analyst.

When interviewing the victim, the investigator should be alert to the possibility that she may not volunteer information about rapist dysfunctions. This may be due to the fact that she does not consider the information to be significant, that she is embarrassed by the acts she was forced to engage in to overcome the dysfunction, or that she is totally ignorant of such matters and did not recognize the impairment as a dysfunction. For these reasons, it may be beneficial for the investigator to explain to the victim the sexual dysfunctions that the rapist may have experienced and their significance to the investigation. The following information will assist in such situations.

Erectile Insufficiency

Previously termed *impotence*, this type of dysfunction affects the male’s ability to obtain or maintain an erection sufficient for sexual intercourse. Masters and Johnson (1970) classify the two types of erectile insufficiency as “primary” and “secondary.” Males experiencing primary insufficiency have *never been able* to maintain an erection sufficient for intra-vaginal ejaculation. While this type is relatively rare and not generally of concern to the investigator, it is discussed in the interest of completeness. In cases of secondary insufficiency, the male is *currently unable* to obtain or maintain an erection. It is this latter form of impotence that is of interest to the interviewer in the context of this chapter.

Groth and Burgess (1977) compared the occurrence of erectile insufficiency among a group of rapists and a group of 448 nonrapist male patients who had been studied by Masters and Johnson. They found that in both groups erectile insufficiency was the dysfunction most commonly experienced. In the 30 years since that comparative study, the authors (through their involvement in thousands of rape cases, interviews of rapists and their victims, and interactions with police, medical, and mental health professionals) have found that erectile insufficiency continues to be the most common sexual dysfunction in stranger-to-stranger rapes.

Premature Ejaculation

Masters and Johnson (1970) defined *premature ejaculation* as “ejaculation which occurs immediately before or immediately after penetration.” Groth and Burgess (1977) found

that this dysfunction affected 3% of the rapists in their study comparing rapists with a nonrapist population of 448 men.

Retarded Ejaculation

This dysfunction is evidenced by the male experiencing difficulty, or even failure, in his attempts to ejaculate. It is important to note that the individual *is not* controlling his ejaculation and thereby intentionally prolonging the sexual encounter, but rather is unable to ejaculate and consequently denied gratification. Groth and Burgess (1977) reported that only 15% of the rapists in their study suffered this dysfunction. Masters and Johnson found it so rare among their patients that they did not rank it. In a study of 30 sexual sadists, Dietz, Hazelwood, and Warren (1990) found that retarded ejaculation was a commonly observed dysfunction in the crimes of the men. During face-to-face interviews of 20 former wives and girlfriends of sexually sadistic men, retarded ejaculation was also found to be a common dysfunction (Hazelwood, Warren, and Dietz 1993; Warren and Hazelwood 2002). As Groth (1979) noted, "When the possibility of retarded ejaculation is not taken into account, the victim's version of such multiple and extended assaults may be greeted with doubts and skepticism."

Conditional Insufficiency

Groth and Burgess (1977) identified a fourth form of sexual dysfunction, which they termed *conditional insufficiency*. In such cases, the rapist is unable to become erect until there is forced oral and manual stimulation by the victim. More recently, the serial rape data collected by the authors and others suggest that rapist-forced methods of resolving the dysfunction may not be limited to forced oral and manual stimulation, but may include *any* act or behavior demanded by the offender to resolve the issue. Such demands may include anal sex, anilingus, or having the victim verbalize particular words or even dress in certain clothing such as lingerie or high heels.

Conditional Ejaculation

The final type of dysfunction observed by the authors is one for which there has been no research and that is not, to the authors' knowledge, reported elsewhere in the literature. The rapist experiencing conditional ejaculation has no difficulty in obtaining or maintaining an erection, but can only ejaculate after certain conditions have been met. Most often, the conditions involve particular sexual acts and/or paraphilic behavior.

Case No. 4

A 33-year-old woman was abducted from her home at approximately 1:30 AM. She was taken to an abandoned farmhouse where she was forced to "model" lingerie which the offender had brought with him. She reported that he was unable to obtain an erection unless she wore a bra, panties, garter belt and hose and he was unable to ejaculate unless she verbalized as though she were consenting and desirous of the sexual activity he was performing. The fact that he had a fetish for lingerie and a fantasy of a consenting sexual partner became obvious.

Case No. 5

Two men abducted a young girl and took turns sexually assaulting her, tape recording the activities. One of the offenders forced the girl to masturbate him, instructing

her that she was not to release his penis and that she was to understand that having him “cum” was the most important thing in the world for her to do. A period of time goes by and he cannot ejaculate. He then says, “Maybe a pair of pliers will help.” He applies the pliers to her body causing her to scream and “beg” him to ejaculate which he does almost immediately.

In Case No. 4, the offender forces the victim to “model” clothing and verbalize in a manner to meet the demands of his fantasy. In Case No. 5, the victim is forced to masturbate the rapist while being tortured before the rapist can ejaculate.

Type and Sequence of Sexual Acts

Holmstrom and Burgess (1980) suggest that “documenting the kinds of sex acts that occur during a rape helps us to more clearly understand rape.” Ascertaining not only the kind of sex act, but also the sequence of the acts is extremely helpful in determining the motivation underlying a rape. Obtaining this type of information may prove to be difficult because of the emotional trauma suffered by the victim and her understandable reluctance to discuss certain aspects of the crime. Fear, shame, and humiliation are commonly experienced emotions with victims and can inhibit the divulging of information. Most often, the well-trained and experienced investigator can overcome such reluctance through a professional, patient, and empathetic approach.

While it is common for interviewers to ask about vaginal, oral, or anal acts, it is less common for them to ask questions pertaining to kissing, fondling, the use of foreign objects, digital manipulation of the vagina or anus, and fetishistic, voyeuristic, or exhibitionistic acts by the offender. In a sample of 115 adult, teenage, and child rape victims, Holmstrom and Burgess (1980) reported vaginal sex as the most frequent act, but they also reported 18 other sexual behaviors. In a study of former wives and girlfriends of sexual sadists involving face-to-face interviews, Warren and Hazelwood (2002) found 26 additional sexual behaviors (e.g., fetishism, transvestism, whipping, bondage, hanging, sex with others).

Case No. 6

During the interview of a serial killer’s wife, Hazelwood asked her to provide the types of sexual activities in which she was compelled to participate. She advised that vaginal, anal, and oral sex was a welcome relief from what was more frequently forced upon her. She reported that she was forced to have sex with male and female strangers, to wear clothes in public which were overly revealing, to engage in degrading autoerotic sexual acts, and to participate in the production of homemade pornographic videos for use by other men. She provided photographs taken by the offender to document what she reported.

Similarly, forced repetition and the sequence of forced acts are not commonly reported. More likely the report will simply state that “the victim was raped” or “vaginally assaulted” or “raped repeatedly.”

Holmstrom and Burgess (1980) wrote that “forced sexual acts may have various and important sociopsychological meanings.” By documenting and analyzing the sequence of the assault, it may be possible to determine what fantasy the offender was acting out,

whether he was committing the sexual acts to punish or degrade the victim, or whether he was simply engaging in sexual experimentation. For example, an anger-driven motive to punish and degrade is suggested if the victim reports being anally assaulted and then forced to perform fellatio. On the other hand, if the rapist is acting out a power-driven fantasy of having a consenting sexual partner, he may engage in kissing, fondling, and/or cunnilingus prior to a vaginal rape.

Verbal Activity

“The stereotype of the male rapist’s attack is that he attains power and control over the victim through strategies based on physical force. Not only does the rapist use physically based strategies, but he also uses a second set of strategies based on language” (Holmstrom and Burgess 1979).

A rapist unintentionally reveals a great deal about himself and the underlying motivation for the assault through his verbal interaction with the victim. The words he speaks to the victim, his manner and tone, and what, if anything, he demands the victim say to him are critically important to understanding the rapist.

Specificity is critical. A rapist who says, “I’m going to kill you if you don’t do what I say,” has unquestionably threatened the victim. However, a rapist who says, “Do what I say and I won’t hurt you,” may be reassuring the victim in an attempt to alleviate her fear of injury and gain her compliance. The offender who says, “I want to make love to you,” has used a passive and expressive phrase that indicates he has no intent or desire to physically injure his victim, while the rapist who states, “I’m going to fuck you,” has chosen a much more aggressive style of verbiage and has forcefully expressed hostility to the victim.

Compliments, verbal politeness, expressions of concern, apologies, and any discussion of the rapist’s personal life (whether fact or fiction) strongly suggest a fantasy of a consensual encounter rather than what it actually is—rape.

On the other hand, derogatory, profane, threatening, and/or abusive verbiage is indicative of an anger-motivated attacker having the intent of using sexual behavior to punish and degrade the victim. Such offenders often have an arrest or social agency history of abusive behavior toward women.

When analyzing a victim’s statement, it is recommended that the investigator write down an adjective that accurately describes each of the offender’s statements. For example, an appropriate adjective for the phrase, “You’re a beautiful woman,” would be “complimentary.” Other examples include

“Shut the fuck up.”	Hostile
“Let me know if I’m hurting you.”	Concerned
“Where do you work?”	Inquisitive
“I’m married and have kids.”	Disclosing
“You didn’t deserve this.”	Apologetic
“Tell me what you are doing right now.”	Descriptive

Utilizing this method will help the analyst to overcome personal feelings about the offender and thus provide better insight into the offender’s motivation and personality. For more information on this technique, see the following chapter.

Forced Victim Verbal Activity

Sexual activity among four-legged animals is basically a biological function. Humans, however, are also dependent upon psychosexual (mental and emotional aspects of the human sex drive) involvement for arousal and gratification. The mind and the senses combined dictate what is or is not arousing to the individual. Hearing is a very important sexual sense. This is evidenced by the fact that what a person says to his or her partner during sex can either enhance or reduce the enjoyment of both of them. In a rape, the attacker may demand that the victim speak certain words or phrases that enhance the act for him. What, if anything, the victim was *forced* to say provides knowledge about the nonsexual needs the offender is attempting to satisfy through the assault. For example, a rapist who demands the victim use phrases such as “I love you,” “I want you to make love to me,” or “You’re better than my husband” suggests a need for affirmation (power), which may exist because of self-esteem issues. The man who demands that the victim plead, cry, or scream strongly indicates the involvement of sexual sadism (a paraphilic condition in which the person is psychosexually aroused by the suffering of another) and a motive of anger.

Sudden Change in Offender’s Attitude

The victim should be specifically asked whether she observed any change in the attitude of the rapist while he was with her. Did he become angry, contrite, physically abusive, or apologetic? If she reports such a change, the analyst should then inquire as to what immediately preceded the change.

Case No. 7

A rapist captured a married couple in their home. After binding the husband, he proceeded to rape the woman in the presence of her husband. During the rape, the husband, who was blindfolded, asked his wife, “Are you okay?” and she replied, “Yes, he is being gentle.” The attacker immediately began to brutally attack her breasts and as a result, she later underwent a mastectomy of both breasts.

During an interview of that rapist, Hazelwood asked why his attitude had changed so dramatically and he answered, “Who the fuck is she to tell me I was a gentleman? I proved to her that I was no gentleman.” When pressed for further explanation, the rapist stated, “She was trying to take control and I showed her who was in control.” This man was motivated by anger (brutality toward the victim’s breasts) *and* power (“I showed her who was in control”).

A sudden and unexpected behavioral change may occur verbally, sexually, or as in Case No. 7, physically and may indicate that an emotional weakness has been exposed or that the offender has experienced a rush of fear or perceived a threat of some sort. Occurrences that may cause an attitudinal change can include sexual dysfunction, external disruptions (e.g., phone, knock on door), victim resistance, a perception of being ridiculed or scorned, or even the completion of the sexual aspects of the assault.

As previously mentioned, rape may be a stressful event for the offender, so having knowledge of what creates stress for the man is a valuable psychological tool to possess

during police interrogations and is equally useful, for different reasons, to the mental health professional.

Criminal Experience

In an attempt to determine the criminal experience of the rapist, the investigator would be well advised to question the victim about what actions the offender took to protect his identity, remove physical or trace evidence, and facilitate his escape. The answers to these questions can be a major factor in determining the experience level of the rapist.

As with any criminal activity, the more rapes an offender has committed, the more proficient he *should* become in committing the crime and eluding detection. While most rapists take some precautionary measures (e.g., wearing gloves, telling the victims not to look at them), some men go to extraordinary lengths to protect their identity. It is the latter group that these questions are primarily designed to address. The investigator needs to know if he is confronted with a novice or an experienced rapist, and such a determination is partially based upon the sophistication, or lack thereof, demonstrated by the offender in protecting his identity.

Novice

The novice rapist is not *generally* familiar with modern medical or forensic technology and takes minimal actions for identity protection. It is expected that such a rapist might wear a ski mask or gloves, change the modulation of his voice, affect an accent, apply a blindfold, bind the victim, or order her not to look at him.

Experienced

When confronted with an intelligent and experienced rapist, the investigator will note that the man's modus operandi suggests a knowledge of scientific and technological advances that is beyond that expected of a lay person. Such an offender may order the victim to shower or douche after an assault, order her to drink grapefruit juice after forced fellatio, take cigarette butts containing his saliva or fingerprints, or even place bed sheets upon which the rape occurred in the victim's washing machine. The experienced rapist may also take steps to delay the victim's reporting his crime or to facilitate his escape (e.g., walking through the victim's residence to disable phones or alarm systems or to preparing escape routes for use after the assault).

As in all subjective analysis of criminal behavior, the experience level of the rapist can only be suggested by his actions. The accuracy of the investigator's interpretation of those actions is dependent upon his training and experience.

Items Taken

It is well documented that rapists often steal during their crimes and it is expected that the police will record any theft that occurred during the rape. All too often, however, investigators fail to note a theft unless it involves items of value and the victim may not miss items having no intrinsic value (e.g., a photograph, a pair of panties, or an inexpensive earring). For this reason, the victim should be asked to inventory such items.

The analyst of criminal behavior is not only interested in *if* something was taken, but also *why* it was taken. Items taken by sexual offenders are categorized as (1) evidentiary, (2) valuables, and (3) personal (see chapter 12).

Evidentiary

These are items that may contain physical or trace evidence of the offender. If such materials are taken by the offender, it suggests experience and/or an arrest history for similar offenses.

Valuables

These items have intrinsic value. If they are taken, the analyst should give attention to the type of item involved as this may indicate age and/or maturity of the rapist. For example, a young offender might steal compact discs (CDs), CD changers, or even speakers, whereas more mature offenders would be expected to take money and jewelry, which are more valuable and much easier to dispose of, conceal, and transport.

Personal

Such items generally have no intrinsic value but instead serve the offender in remembering and/or reliving the crime and/or the victim. Personal items may include driver's license, lingerie, photograph, or even an inexpensive piece of jewelry. Such items, if taken, would be classified as *either* "trophies" or "souvenirs," depending on the offender's motive for committing the crime and taking the item. A trophy represents a victory or conquest, whereas a "souvenir" serves to remind a person of a pleasant experience. It has been the author's experience that the offender who takes a personal item as a trophy may dispose of the item after a period of time and those who take items as souvenirs are more likely to retain them for longer periods of time. Investigators should be alert to the fact that the offender may return the personal items to the victim. Those who have taken the item as a trophy return it because they want to continue feelings of power over the victim through frightening her. One who has taken the item as a souvenir returns it to convince the victim that he meant no harm and with the hope of convincing the victim that he is not truly a bad person.

Indications That Victim Was Targeted

Rapists quite often target or select their victims prior to committing the crime. For example, a series of rapes in which the victims were invariably alone or only with small children who posed no threat, would suggest that the offender knew of the victims' vulnerability because of the gathering of intelligence, most often through window peeping or surveillance. Another indication of having been targeted is if the victim reports that the offender's verbal behavior suggested personal or intimate knowledge (e.g., where she works, identity of a boyfriend, what kind of car she drives). If he seemed comfortable in moving through her residence, it may be that he entered and became familiar with the residence prior to the attack. For these reasons, the investigator should determine whether the victim had experienced any of the following prior to the assault:

1. Hang-up or wrong number phone calls
2. Residential or automobile break-in
3. Prowlers or "peeping toms"
4. Obscene notes
5. Attempted or successful break-ins or
6. A feeling of being watched or followed within the recent past.

If any of these have occurred, the investigator should document when and where she experienced these events.

Summary

Rape is a criminal act involving the sexual parts of the body but serving nonsexual needs (i.e., power, anger, or a combination of the two). Capturing and analyzing the offender's behavior increases the possibility of identifying the motive underlying the assault and consequently describing the characteristics and traits of the unidentified rapist. The victim is the only available source of behavioral information, and it is crucial that the investigator establishes rapport through patience, empathy, and professionalism.

When analyzing the offender's behavior, it is imperative that personal feelings about the crime, the criminal, and the victim are isolated and that the crime is viewed from the perspective of the offender.

The crime behavior provides the investigator with information about the unknown man. Consequently, it becomes obvious that interviewing the rape victim using a set of questions specifically designed to elicit behavioral information is a crucial first step in the behavioral analysis of the rape. The questions set forth in this chapter were developed and refined over a period of years and have been found to be of inestimable value in better understanding rape and the men who commit rape.

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Analyzing the Rape and Profiling the Offender

7

ROBERT R. HAZELWOOD

What is to be expected ... is an understanding not merely of the deeds, but also the doers.

Zilboorg

Discovery consists of seeing what everybody has seen and thinking what nobody has thought.

Szent-Gyorgi

Introduction

Studying violent crime to determine characteristics and traits of unknown offenders is not a new technique (Brussels 1968). However, it is certainly one that has captured the imagination of the public as demonstrated by such television series as *Profiler*, *Criminal Minds*, and *Law and Order: Criminal Intent*. In addition to the public's attraction to the subject, criminal justice professionals have written extensively on the subject (Canter 1994; Palermo and Kocsis 2004; Keppel 2006).

Until the 1970s, such analyses were primarily found in the realm of psychologists and psychiatrists who, while trained in matters of the mind, lacked experience in conducting criminal investigations. As a result, their profiles were couched in terminology largely alien to the intended audience—the criminal investigator and others in the criminal justice system. In the late 1970s, the FBI's Behavioral Science Unit (BSU), made famous by the academy award winning movie, *The Silence of the Lambs*, began studying and applying this technique to a variety of violent crimes with great success. Continuing efforts to improve this investigative tool were an ongoing task of the BSU and later the FBI's National Center for the Analysis of Violent Crime (NCAVC). Current and retired NCAVC members, as well as selected city, county, state, and federal law enforcement officers, have carried this task into the twenty-first century.

Previously termed *psychological profiling* and later *criminal personality profiling*, the term *criminal investigative analysis* was coined to differentiate the procedure from that used by mental health professionals. For the purposes of this chapter, the term *profile* is meant to refer to the characteristics and traits of an *unidentified offender* responsible for a crime or series of crimes. The profile is intended to provide the client agency with significant and investigatively useful information.

Any expertise claimed by an individual is nothing more or less than a combination of one's own experience and what one has learned from the experience of others. The material set forth in this chapter is the result of reading; attendance at seminars, lectures, and courses; exchanging data with others in the field; 34 years in law enforcement; and 13 years as a consultant on violent crime. The author recognizes the impossibility of placing human behavior into specific categories that will be applicable to all rape situations. However, it

is possible to analyze a particular offender's behavior during an attack or series of attacks and behaviorally describe the responsible person. That description can then be provided in such a way as to allow his family, friends, and acquaintances to recognize him.

The first step in profiling the unidentified rapist is to interview the victim and document the behaviors exhibited by the criminal. Once a detailed statement is obtained (see chapter 6), the analyst may then proceed to the next step: carefully analyzing the statement to determine the motive for the assault. Objectivity is a necessity in this process, as is the elimination of any personal feelings about the crime, the criminal, or the victim.

The rapist's behavior is easier to assess when viewed from his perspective. Consequently, the analyst must first determine the *rapist's perspective*, not mental health's, not law enforcement's, not society's, and not even the victim's. The following classifications are presented for the sole purpose of helping the analyst to view the crime from the criminal's point of view.

Selfish versus Pseudo-Unselfish Behavior

When behaviorally analyzing the rape victim's statement, the first objective is to determine whether the rapist *intended* the assault to be selfish or unselfish in nature. To categorize a rapist as unselfish may seem contrary to everything the reader knows or believes about sexual assault. The use of the term is not intended to portray the offender in a favorable light. The terms were selected in an attempt to establish a starting point (using common language) for the analyst to begin the necessary isolation of his or her personal feelings about the offender. It would be simple (and maybe natural) to describe the rapist as a "no-good rotten bastard." Doing so might be emotionally satisfying, but not very analytical or professionally helpful. A profile is meant to describe an individual as those who *know him* would describe him. Of the six classifications of rapists described later in this chapter, only one exhibits "pseudo-unselfish" behavior.

Pseudo-Unselfish Behavior

To the average person, the word *unselfish* implies sharing or caring. In the behavioral context of a rape, however, it has an entirely different meaning, but one that is important to understanding the crime. Pseudo-unselfish behavior by the rapist evidences a belief that his exhibited concern for the victim's welfare will win her over and his hope that she will come to believe he is not a bad person. Of course this is ludicrous, but remember that we are attempting to behaviorally view the crime from the perspective of the rapist. For this rapist, it is important that the victim enjoy (or pretend to enjoy) the activity, as this feeds his need for acceptance and power and fulfills his fantasy of the victim's willing participation.

It is important that the reader understand that most pseudo-unselfish rapists will not exhibit all of the verbal, sexual, or physical behavior set forth next, but the majority will engage in sufficient behavior to allow classification.

Verbal Behavior

The unselfish rapist will verbalize in a manner one would expect to find in a consensual relationship, not a rape. He will try to *reassure* the victim that he does not intend to harm her. For example, he may tell her that if she does as he says, he will not hurt her or that he

does not want to hurt her. He is frequently *complimentary*, telling her that she is beautiful, she has nice breasts, she must have a lot of boyfriends, or she is so attractive he wonders why she is not married. He may speak in a *self-demeaning* manner, telling her that she would never go out with him or she would not like him if he removed her blindfold so that she could see him. On the other hand, he might verbalize in such a way as to engage in *ego-building*, with demands for her to say that she loves him, wants to go out with him, or wants him to make love to her.

Often, the unselfish rapist will voice *concern* for his victim's welfare or comfort by asking if he is hurting her, warning her to lock her doors and windows, or asking if she is cold or thirsty. He may engage in what appears to be revealing conversation of a personal nature (*disclosing*), such as telling her that he is a college graduate or that he is married and has children. While the criminal investigator is obviously interested in whether such information is true, the analyst is more interested in the fact that he is conversing in such an unnecessary manner. An example of this type of verbiage is found in the following case.

Case No. 1

The victim, a 27-year-old white female, reported that her assailant awakened and raped her at approximately 2:00 AM. The sexual attack lasted no more than 10 minutes. Following the assault, the offender lay down beside her and conversed for approximately 45 minutes. While asking her questions about her personal life (job, boyfriend, etc.), he was primarily interested in discussing himself and the events of the evening. He stated that he had parked a short distance away, had left his keys in his car, and was concerned about it being stolen. He told her that a friend (Jack) was outside the residence, but that he wouldn't allow him near the victim because he was drunk. He identified himself as "David" and stated that he had never done anything like this before. Prior to leaving, he apologized and asked her not to call the police. After he left, the victim discovered that \$400 was missing from her purse.

The victim immediately reported the sexual assault and theft to the police. Two days later, she returned home from work and found an envelope in her mail box. It was addressed to her, but had no stamp or postmark. Inside the envelope, she found the stolen money and an accompanying note which read:

Fran:

I'm just writing to try to express my deepest apology to you for what I put you through. I know an apology doesn't help the way you must feel right now, but I am truly sorry. I found Jack when I left, sitting on the sidewalk in front of your apartment complex. He was still pretty drunk. He took some money from a purse in your kitchen. He's really an alright guy and doesn't usually steal money. I hope this is all of it. I found my car later. Luckily, it wasn't stolen because my keys were still in it. Anyway, I just want you to know that I have never done anything like this before. I wish I could blame this on Jack, but I can't. You're really a sweet person, and you didn't deserve any of this.

You can tell your boyfriend that he's a lucky guy.

Good bye,
David

Typically, the pseudo-unselfish rapist is *nonprofane*. This is not to say that he will not use profanity, but when he does, it is mild in nature and spoken without much conviction. As occurred in the preceding case, he may be *inquisitive*, asking questions about the victim's lifestyle, occupation, social life, plans, or residence. Very often the victim will report that the rapist was *apologetic* and/or asked her forgiveness, saying that she did not deserve this and that he hopes she will eventually forgive him.

In summary, the pseudo-unselfish rapist's verbal behavior is most often (1) reassuring, (2) complimentary, (3) self-demeaning, (4) ego-building, (5) concerned, (6) personal, (7) nonprofane, (8) inquisitive, and (9) apologetic.

When studying a victim's statement, the analyst should identify all instances in which the victim reported offender verbiage and offender-forced verbal behavior from the victim and place an adjective that describes the comment in the margin of the statement (e.g., "You are beautiful" = *complimentary*). This provides the analyst with a verbal picture of this offender's fantasy.

Sexual Behavior

As we have seen, the pseudo-unselfish rapist attempts to involve the victim verbally in bringing his fantasy to reality. This is equally true in the sexual aspects of the crime. Interestingly, he does not normally force sexual acts when the victim verbally or physically resists him. While this reluctance to use physical force may emanate from a lack of confidence, it is more likely that he is attempting to bring his fantasy of a willing partner to reality, and the use of force would corrupt that fantasy. Should the victim resist, the pseudo-unselfish rapist may cease the demand, attempt to negotiate or compromise, verbally threaten, or leave. Seldom will he resort to *physical* violence.

He often engages in what the author has termed criminal foreplay in an attempt to sexually stimulate the victim. He may fondle or caress her and demand that she kiss him or insert his fingers vaginally. He may perform cunnilingus prior to penetration and he may demand that she put her arms around him or stroke his neck or back as he rapes her.

If he is confronted with an aggressive or resistant victim, he will spend a relatively brief amount of time with her. He is an intelligent offender and can quickly discern whether his victim is intimidated and passive. If that is the case, he may act out all of his sexual fantasies. In such cases, the sexual acts may include a variety of acts such as fellatio, anal sex, and the insertion of foreign objects as well as vaginal rape. Again, he will not carry out these acts in an intentionally painful manner.

It is important to note that the pseudo-unselfish and selfish rapists may actually engage in, or demand, the same sexual acts—the former when there is a lack of resistance and the latter in spite of resistance. If this occurs, the analyst must carefully compare the verbal and physical (injurious force) behaviors, as they are seldom comparable. The sequence of the sexual acts should also be examined to determine if there was an *intent* to sexually degrade the victim. An intent to degrade would involve a sequence of anal, oral, and vaginal rape, whereas the pseudo-unselfish rapist's sequence of such acts is more commonly oral, vaginal, and anal.

Physical Behavior

The amount of physical force used by the pseudo-unselfish rapist is typically at the minimal level. It was pointed out in chapter 6 that, at this level, force is used more to intimidate than to punish. While mild slapping may occur, the offender does not intend to physically

injure the victim. Instead, he most often relies on threats, the *presence* of a weapon, or the fear and passivity of his victim to obtain compliance.

From a *legal* standpoint, the presence or threat of a weapon is very significant and escalates the seriousness of the offense. From a *behavioral* standpoint, however, the fact that a rapist exhibits a weapon, or claims to have one, does not constitute physical force unless he inflicts bodily injury with the weapon. The author is aware of many instances in which an armed assailant put the weapon away after gaining control of the victim, and he is also aware of a few instances in which the rapist actually turned the weapon over to the victim. Interestingly, two of the victims found themselves incapable of using the weapon and returned it to the offender.* They reported that they were afraid of the weapon, thought it might be a trick (e.g., unloaded gun), or were concerned that they might not be able to incapacitate the assailant and that he would then kill them.

Selfish Behavior

Whereas the pseudo-unselfish rapist seeks to involve the victim as an active participant and behaviorally indicates some concern for her welfare, no such credit can be given to the selfish rapist. He does not want the victim to be involved in any way except as an object for his use. He uses the victim in much the same way as an actor uses a prop in a play. He is verbally and sexually selfish and physically abusive. During the time he is with a victim, it is obvious that, above all else, it is his pleasure that matters and he exhibits no concern for his victim's comfort, welfare, or feelings.

Verbal Behavior

Verbally, this man will be *offensive*, *abusive*, and *threatening*. He is extremely *profane* throughout the attack and may call the victim *derogatory* terms such as "bitch" or "cunt." He will attempt to *demean* the victim by telling her that she is sexually unattractive or that he is not surprised that she is unmarried. Frequently, this offender will demand that the victim *humiliate* herself verbally (e.g., asking for or describing sexual activities). He will be consistently *threatening* and *demanding* and his verbiage will be *nonpersonal* and *sexual*. An example of selfish verbal behavior is set forth in the following case.

Case No. 2

A young female was kidnapped by two serial killers who had soundproofed a van to enable them to torture young women. The victim was tortured, raped, and murdered. Her killers made a tape recording of the young victim's torment. The following is a brief segment of that recording:

RAPIST: What are you doing?
VICTIM: Nothing. I'm doing what you told me to do.
RAPIST: What's that?

* Invariably, when I lecture to police audiences on this subject, the attendees express amazement at the fact that the victim would not take advantage of the opportunity and shoot the rapist. This attitude is quickly changed to one of empathy when I inquire as to how many of them have spouses at home who are afraid of their service weapons and demand that it be kept out of sight.

VICTIM: I'm sucking on it.
RAPIST: On what?
VICTIM: This.
RAPIST: What's this?
VICTIM: Your dick.
RAPIST: You're sucking on my dick?
VICTIM: That's what you told me to do.
RAPIST: Are you doing it?
VICTIM: Yes.
RAPIST: Tell me what you're doing.
VICTIM: I'm sucking on your dick.

In summary, the "selfish rapist" is verbally (1) offensive, (2) abusive, (3) threatening, (4) profane, (5) demeaning, (6) humiliating, (7) demanding, (8) nonpersonal, and (9) sexual.

Sexual Behavior

Sexually, this offender will force whatever acts he desires. Again, the victim's fear, comfort, reluctance, or feelings are of no significance to him. Physical, verbal, or passive resistance will not deter his sexual domination and punishment of his victim. Seldom will he kiss his victim unless he feels it will further humiliate her and he is unlikely to fondle or caress; he is more likely to slap, twist, or bite the sexual parts of his victim's body. The victim of this rapist may be forced to perform fellatio, analingus, or self-masturbation as he watches.

Physical Behavior

The level of physical violence employed by the selfish rapist may be moderate, excessive, or brutal (see chapter 6). The amount of force used depends largely on the motive for the attack and is seldom related to the victim's resistance.* Case No. 3 illustrates this point.

Case No. 3

A 33-year-old woman and her husband returned home from an evening out and were confronted with a burglar/rapist. After binding the husband, the intruder began sex-

* What should a woman do if she is confronted by a rapist? I am of the opinion that law enforcement officers should not provide specific recommendations when answering this question. I am not suggesting this as an "easy out," but rather as a means of dealing realistically with an impossible task. To begin with, the one who is asked this question is immediately confronted with three unknown variables: (1) environment of the attack, (2) type of rapist, and (3) victim personality. My advice to an assertive woman confronted with an unselfish-type rapist in a parking lot would be entirely different from the advice I would give to a passive individual who is confronted with a sexual sadist on a little-used roadway after midnight. Lacking the necessary information, one must proceed cautiously when giving advice. If a person following our advice is brutally beaten and requires long-term hospitalization, we or our organizations could be held liable. Case No. 3 illustrates the inability to determine what may or may not diminish the probability of a victim's being injured. I once heard a speaker advise women in the audience to defecate, vomit, or urinate if confronted with a rapist, as this would surely deter him. I would refer the reader to Case No. 9 of this chapter and simply state that the only person such measures would surely deter is the individual who recommended the tactic. I have no hesitation in providing advice on preventive measures or recommending self-defense courses, firearms training, police whistles, or disabling gases where legal. However, as law enforcement officers, we must remember that when we speak in an official capacity, we speak not for ourselves but for our organizations (Hazelwood and Harpold 1986).

ually assaulting the wife. Up to this point, he had not been physically violent toward her. Her husband asked about her welfare and she stated, "It's OK, he's being gentle." At that point, the rapist began to pummel her breasts and as a result of the beating, the victim underwent a double mastectomy. Later, while interviewing the rapist, the author asked why he had beaten her breasts so severely and he replied, "Who the fuck is she to say I'm being gentle? I wanted her to know who was in charge, and she found out."

Rapist Typologies

Once the rapist has been classified as either selfish or pseudo-unselfish, the offender may be typed and the motive for the assault becomes more apparent. The author has chosen to use the typology of rapists developed by Groth, Burgess, and Holmstrom (1977). Over the years, he has found these types to be accurate in describing the rapists that he has interviewed as well as the style of attacks he has observed in more than 4,000 rape cases on which he has consulted. The four major types are (1) power reassurance, (2) power assertive, (3) anger retaliatory, and (4) anger excitation. The author has taken the liberty of modifying the style of attack in each type and adding some general information as well. Briefly addressed are two less frequently observed types: the opportunistic rapist and the gang rape. The reader will note that the terms *pseudo-unselfish* and *selfish* are used in describing the verbal and sexual styles of attack.

A word of caution is necessary at this point. Seldom does a rapist commit a crime in a manner consistent in every detail set forth. It is more common to find that the offender exhibits some behaviors that are consistent with two or even three types of rapists—in other words, a mixture or blending of behaviors. It is at this point that experience and common sense play a dominant role in the analysis. An excellent example of such an offender may be found in Case No. 10.

Power Reassurance Rapist

General

This is a highly ritualistic offender (see chapter 5). He is driven by the relational component (consensual) of his complex and ritualistic fantasy. He feels the victim is someone *special*—not because he knows her, but because of his relational fantasy. He has no *intent* to punish or degrade and is the least likely to physically injure his victim. One feature that is of particular importance to law enforcement for interrogation purposes and mental health professionals for treatment purposes is that this man dislikes what he is doing and is afraid that he is going to physically hurt a victim.

Purpose of Attack

This type of rapist assaults to reassure himself of his masculinity. He obtains power by taking power away from a woman through forced sexual acts. He literally proves himself to himself. While no one would deny that he degrades and emotionally traumatizes his victims, it is important to understand that he has no conscious intent to do so.

Style of Attack

The power reassurance rapist exhibits pseudo-unselfish verbal and sexual behavior and uses minimal to moderate levels of force. In law enforcement circles, he is frequently referred to as the “gentleman rapist.”

He must be geographically comfortable in the attack environment. Consequently, he most often attacks victims in their residences, selecting them in advance through surveillance or window peeping. He gathers intelligence on the women (e.g., what time they arrive home, if they have overnight guests, what time they go to bed) and the environment (e.g., proximity of neighbors, lighting, cameras, security guards). He may target several victims in advance, which explains why, following an unsuccessful attempted rape, a second attack usually occurs on the same evening in the same general locale.

The victim is either alone or with small children, who pose no threat to him. The offender does not knowingly enter a residence in which an older adult, other than the victim, is present. He commits low-risk crimes (i.e., crimes that pose little or no risk to his well-being) and typically does not force entry, preferring to enter through an unlocked window or door. This is not to say that he will not set up the residence for later entry by breaking glass or prying a patio door while the victim is absent. However, he prefers not to force entry if the victim is home as that escalates the possibility of confrontation and physical violence, which, in turn, corrupts his fantasy of a consenting relationship.

He generally attacks during the early morning hours, using the surprise approach and either exhibiting or claiming that he has a weapon. He selects victims within his own age range and forces them to remove their clothing, thus fueling his fantasy of the victim’s willingness to be with him. If he encounters a particularly passive victim, he will take advantage of that situation and spend an extended period of time with her, acting out all of his fantasies. If the victim resists, this rapist is most likely to compromise or negotiate with her. If he experiences a sexual dysfunction, it will most likely be erectile insufficiency or premature ejaculation. This man will also engage in multiple paraphilic behaviors during the attack.

Following the assault and consistent with pseudo-unselfish behavior, he may apologize or ask the victim for forgiveness. Occasionally, he will take a personal item (e.g., lingerie, driver’s license) as a souvenir. He may later contact (not reassault) the victim either by calling or in writing. For this reason, it is recommended that the victim’s incoming calls be monitored for up to 15 days after the assault.

If this type of rapist is unsuccessful in a rape attempt, he will quickly strike again, possibly the same evening. A successful attack will provide him with the desired feelings of power, but these feelings rapidly dissipate and he attacks again. His pattern of attacks will be fairly consistent and will occur within the same general vicinity or in a similar socioeconomic neighborhood. He will continue to attack until he is arrested, moves, or is otherwise stopped.

This rapist may keep records of his attacks. Such record keeping may be as simple as retaining his souvenirs or as complex as the method chosen by the offender in the following case.

Case No. 4

A black male raped more than 20 black females within a short period of time. The victims were always alone and were age-mates to the rapist. He never struck his victims

but relied instead upon threats or the presence of a weapon. In several instances, upon encountering resistance, he left the scene rather than resort to physical violence to obtain victim compliance. Upon his arrest, the investigators recovered a business ledger containing each of the victims' names, addresses, telephone numbers, and body measurements and a scoring system for the victims' participation in various sexual acts. The ledger also contained similar information on fantasized attacks of movie stars and popular singers.

Power Assertive Rapist

General

This offender is a low to moderately impulsive rapist (see chapter 5). As opposed to the power reassurance rapist, fantasy plays a minor role in his crimes. While involved in the rape of strangers, this type of rapist is frequently responsible for date, spousal, or acquaintance rapes as well.

Purpose of Attack

In contrast to the power reassurance rapist, this man has no conscious doubts about his masculinity. To the contrary, he is outwardly a man's man and, as he sees it, is simply exercising his prerogative as a male, evidencing a sense of entitlement. He uses rape to express his virility and dominance over women and whether or not he physically injures a victim is of no consequence to him; she is merely an object to be used for his gratification.

Style of Attack

The power assertive rapist is sexually and verbally selfish in his attacks. He exhibits no empathy toward his victims and is not concerned about their physical or emotional well-being. This type of rapist most often assaults victims of opportunity, using the con approach, and changes demeanor only after the victim is relaxed and at ease. He uses moderate to excessive levels of force in controlling the victim and generally relies on his fists for weapons. Like the power reassurance rapist, he selects victims who approximate his own age. His rapes are likely to occur at any location that is convenient and safe. Frequently, he will rip or tear the victim's clothing from her, discarding it and subjecting the victim to repeated sexual assaults.

If he experiences a sexual dysfunction, it is most often retarded ejaculation. Paraphilic behavior is absent from his crimes and his pattern of rape is not as consistent as that of the power reassurance rapist because he assaults when he feels like it. The offender presented in Case No. 5 is an excellent example of this type of rapist.

Case No. 5

A female motorist was stranded with her disabled car, when a white male stopped and offered assistance. He raised the hood of her car, examined it for a few minutes, and advised her that it would have to be repaired by a mechanic. Because he was well dressed and very polite, she accepted his offer to take her to a nearby service station. Once in the car, they chatted in a friendly manner until she noticed that he had passed two exits. She inquired as to how far the station was, and he displayed a gun and told her to shut up. She screamed, and he struck her twice on the head, causing

her to lose consciousness. When she awakened, she discovered her clothes had been torn off and he was raping her. When she pleaded for him not to hurt her, he cursed her, struck her again and told her to keep quiet. During the next 2 hours, he raped her three times and forced her to perform fellatio twice. Following the assault, he threw her out of the car, keeping the clothes, and told her, "Show your ass and you may get some help." The victim was treated for severe bruises and lacerations.

Anger Retaliatory Rapist

General

This is also an impulsive offender (see chapter 5), who is less common in frequency than the two previous types but is much more physically violent. Fantasy plays less of a role in this offender's attacks than with any of the three other major types of rapists. He overtly hates women and wants to punish and degrade them.

Purpose of Attack

This rapist is strongly identified with anger and retaliation. As Groth et al. (1977) pointed out, the individuals who fall within this category are getting even with women for real or imagined wrongs. They are angry with women and they use sex as an extremely potent weapon to punish them. They intentionally brutalize their victims and when one interviews the victim of such an attack, it becomes clear that anger is the key motivational component of the sexual assault.

Style of Attack

The anger retaliatory rapist is sexually and verbally selfish and uses excessive to brutal levels of force. The analyst should easily recognize that the use of such unnecessary force is the product of intense rage and fulfills an emotional need to attack and punish, if not destroy.

The crime itself is not premeditated in the sense that time was committed to planning or to the selection of a victim. The attack is an emotional outburst that is predicated on anger and consequently results in an unplanned and hastily carried out offense.

This type of rapist uses the blitz approach, subduing the victim with the immediate application of injurious force and thereby denying her any opportunity to defend herself. The sexual assault and the amount of time spent with the victim are relatively brief. The pent-up anger is vented against the female sexually and physically and, following an attack, the anger begins to build again, and another assault occurs when triggered by rage.

The anger retaliatory rapist attacks women who are age-mates or somewhat older than he is, but not elderly. He assaults women who symbolize other women in his life. The symbolism may be the style of dress, grooming, occupation, height, weight, race, or a host of other possibilities.

As with the power-assertive rapist, this man is likely to tear or rip his victim's clothing off, and because his crimes are anger motivated, they are likely to occur at any time and at any place. His victims are opportunistic in that they cross his path at the wrong time and place. He uses weapons of opportunity—most often his fists and feet. If he experiences a sexual dysfunction, it is most likely to be retarded ejaculation and there is very little likelihood of paraphilic involvement in his crimes. The following case is an excellent example of an anger retaliatory rapist.

Case No. 6

The victim, a woman in her late forties, was walking toward her car in a parking lot when a man spun her around and struck her repeatedly in the face and stomach with his fist. In a semiconscious state, the victim was placed in her automobile and driven to an isolated area, where the rapist ordered her to remove her clothing. As she fumbled with the buttons on her blouse, he cursed her and began tearing her clothes off and throwing them out of the car. As she held her arms up in a defensive posture, he continued to beat her severely and to scream obscenities at her. Forcing her into the rear seat of the car, he attempted to rape her but was unable to obtain an erection. Blaming the victim for a lack of sexuality, he decided that alcohol would “help” her and he forced her to consume a large amount from a bottle, causing her to gag. Under his control for more than 2 hours, she was repeatedly beaten and otherwise abused. He finally pushed her into a ditch and drove away. Upon being taken to a hospital, she was found to have fractures of facial and other bones, as well as multiple lacerations. She required extended hospitalization and long months of physical and mental health therapy.

Anger Excitation Rapist***General***

This offender is more commonly referred to as a sexual sadist—a person who is psychosexually aroused by the *suffering* of his victims. He is a highly ritualistic rapist and fantasy plays a major role in his crimes. Of most importance to him is the paraphilic component (e.g., sadism, sexual bondage, voyeurism) of his rich and complex fantasy life. He is the most violent of rapists.

Purpose of Attack

This type of rapist is sexually excited by the victim's *response* to the infliction of physical and emotional pain. It is not the pain itself, but the victim's suffering, fear, and submission that is most satisfying to this man. This is the least frequently observed type of rapist; however, his rarity is more than compensated for by the viciousness of the attack and the trauma suffered by the victim. Depending on the rapist's maturity, experience, and criminal sophistication, no other sexual crime encountered will be as well planned, rehearsed (either literally or in his dark and complex fantasies), and methodically executed as that committed by the anger excitation rapist. Weapons, transportation, travel routes, recording devices, bindings—virtually every phase is preplanned, with one notable exception: The victim is typically a total stranger. While she may meet the demographic criteria established by the man, there is no known association between them.

Style of Attack

The victims of this rapist are typically females of varying ages, demographics, and race, but the reader should be aware that this offender may also sexually assault men or boys; in other words, he is a polymorphous offender (one who is aroused in a variety of ways and experiments sexually). He is sexually and verbally selfish and most often uses an excessive to brutal level of force, resulting in extensive hospitalization or death. This rapist uses a con approach, but once in a position to do so, he quickly subdues his victims, taking them to a

preselected location that provides him with the requisite privacy. He keeps his victims for hours to days, psychologically battering and even physically torturing with instruments and devices.

Victims frequently report that the offender cut the clothing from their bodies and that they were forced to participate in sexual bondage, fellatio, painful insertion of foreign objects into their anus or vagina, and anal rape. Multiple paraphilic behaviors are to be expected as well.

The anger excitement rapist is the *most likely* offender to record his activities with the victim. The method of recording is dependent upon the offender's desires, maturity, experience, and economic ability to afford available technology. The author has observed cases in which the rapist recorded his acts with photographs, video camera, tape recorder, calendars, maps, notes, manuscripts, computers, codes, and sketches or drawings.

The sexual acts forced on the victim are varied and experimental in nature, but all are intended to create suffering, humiliation, and degradation for the victim. Interestingly, the sexual sadist tends to remain emotionally detached from his victims and is almost clinical in his instructions to them. One victim said, "He was like a boring school teacher...speaking in a monotone voice and telling me what to do and what to say." Almost invariably, this offender will experience retarded ejaculation.

There is no apparent spatial or geographic pattern to his assaults. However, because of the highly ritualistic behaviors and the multiple paraphilias exhibited in such cases, the investigator should have no difficulty in linking the assaults committed by such offenders (see chapter 10). Case No. 7 provides the reader with an example of such a rapist.

Case No. 7

The victim, a 32-year-old housewife, disappeared from a shopping center after having purchased groceries from a store. She was driving a motor home at the time of her disappearance. Her nude body was found in the motor home 5 days later. She was lying on her back on the sofa with her hands bound behind her. An autopsy indicated that her death was due to the continued ingestion of small amounts of arsenic accompanied by bourbon. She had been raped several times and it was the opinion of those involved with the case that she had been forced to drink the arsenic-spiked bourbon to induce convulsions of the body for the pleasure of the rapist.

Opportunistic Rapist

General

This is an impulsive type of sexual offender (see chapter 5) but that is not to say he lacks proficiency as a burglar or robber. He simply had not anticipated committing a sexual assault because he was originally at the assault location to commit a robbery or burglary. Consequently, his arrest record will reflect a history of crimes such as breaking and entering, armed robbery, and burglary.

Purpose of Attack

This may be the only type of rapist whose *primary* motive for the rape is truly sexual. The opportunist offender rapes as an afterthought to the commission of another crime. For example, a man intent on burglarizing a residence finds a female alone in the house and

impulsively rapes her. The analyst must be careful not to confuse this type of offender with a robber who consistently rapes during his crimes; that individual should be categorized as one of the four major rapists set forth earlier in this chapter.

Style of Attack

As stated, the opportunist is in the midst of committing another crime (burglary, robbery, kidnapping, etc.) when he impulsively decides to sexually assault. He uses a minimal level of force and spends a relatively short period of time with the victim, leaving her bound when he departs. He is sexually and verbally selfish and typically has been drinking or using drugs prior to the crime. An example of this type of rapist is set forth in Case No. 8.

Case No. 8

The victim, a 17-year-old, was normally in school at the time that a burglar entered her residence. Surprised to find anyone at home, the criminal bound and blindfolded the young girl, and after advising her that he wouldn't harm her, he began ransacking the home. Finding the father's liquor cabinet, he consumed a large amount of alcohol and began thinking of the attractive female who was in the house. He became intoxicated and attempted to vaginally assault her, but was unable to maintain an erection. He told the crying girl to be quiet, that he hadn't hurt her, and then he left. Upon his arrest, he expressed regret at what happened and said that he had a daughter the same age as the victim. There was no indication that he had ever attempted such an act previously.

The Gang Rape

General

This is one of the most frightening situations in which a victim can find herself. In such a case, the victim is attacked by a group of three or more males who are operating with a pack mentality. The crime is committed in an impulsive manner.

Purpose of Attack

There is no apparent purpose in such assaults other than that the victim has been identified by the males as being weak, vulnerable, and somehow deserving of attack. Most of the males are attempting to prove something to their peers and consequently are physically and/or sexually violent, and the victim is likely to be traumatized for life.

Style of Attack

While the con approach may be used by one gang member to entice the victim to a location where his fellow assailants lie in wait, the more common approach is the blitz approach as described in Case No. 9. In the gang rapes that the author has consulted on, the assault is totally selfish in nature, and while the level of force varies from minimal to brutal, the vast majority of the crimes result in extensive injury and hospitalization of the victim. In almost all gang rapes, one person emerges as the leader and it is this individual upon whom the analyst should focus by eliciting detailed information from the victim. In many instances, there is also a reluctant participant involved in gang rapes. This individual is relatively easy to identify because he physically or verbally indicates to the victim that he is

not in favor of the attack. He may argue with the others or even attempt to help her escape. Obviously, this individual is the weak link in the group and if such a person is described by the victim, the analyst should attempt to profile him as well. The following case illustrates such a rape.

Case No. 9

A 19-year-old female was abducted from a phone booth as she was hysterically explaining to her parents that a group of four young men were following her in a car and threatening to rape her. Four hours later, she was found and immediately transported to a nearby hospital where she was treated for a fractured jaw, a broken arm, and severe lacerations of the vaginal and rectal regions. She later reported that she had been forcibly taken from the phone booth and placed in the back seat of the car being used by the gang. As a result of her extreme fear, she defecated and one of the youths suggested that she be released, whereupon a second male, who was the obvious leader, negated that suggestion and instead stated that she needed to be taught a lesson. He then twisted her arm so severely that it broke and forced her to orally clean her soiled clothing. The youth who had objected to the rape again objected and was threatened by the leader. Following this, the leader directed the others to have sex with the young girl, and two complied; the third (the reluctant participant) was sexually unable to perform. The leader then anally assaulted the girl and then forced the victim to perform fellatio on him. Following these acts, he vaginally assaulted her. She was later tied to the rear bumper of the assailants' car and dragged over the roadway.

A Case Study

Now that the reader has been familiarized with the pseudo-unselfish and selfish physical, verbal, and sexual behaviors and the various types of rapists have been described, the author will present a case that was submitted to him for analysis. The case is presented as it was received with changes made only to protect the identity of the victim. Following the case report, the reader will find the author's analysis of the crime. Finally, the author's opinion of the criminal's characteristics and traits will be provided. The rapist has since been identified, and the profile was found to be more than 90% accurate.

Case No. 10

Victimology: The victim, Mary, is a white female, 24 years of age. She currently lives alone but previously lived with her parents in another part of the state. Mary attended a university and graduated two years prior to the offense. She is an active Catholic, attending church regularly and participating in church events. After graduating, she obtained a teaching job in a junior high school. According to Mary, she is popular with the students at the school and attributes her popularity to the fact that she is young, friendly, outgoing, a nice dresser, and "on their level." Mary is friendly with both black and white students and frequently attends their athletic events. She stated that students would visit her classroom during their free time even though she was not

their teacher. She drives an older-model subcompact car, made noticeable by multi-colored fenders salvaged from other vehicles. Her personal life is fairly routine, but she has a boyfriend who lives a few miles from her residence. She visits the Catholic church almost daily after school. She also attends a Wednesday night “happy hour” at a local bar/restaurant that attracts a respectable clientele. She is active athletically and eats out infrequently. She observes regular sleeping habits and is careful to draw her curtains at night. She knows of no black male fitting the physical description of her assailant.

Attack environment: Mary resides in an apartment complex. The complex is located in a middle-class neighborhood and is in a well-established area of the city. The complex rents to a variety of people, including elderly, singles, and young couples. Mary’s apartment is located at the rear of the complex and is one of 20 apartments. Her residence and the two beside hers are secluded and face a heavily wooded area immediately behind the complex. Her apartment is on the ground floor. A person not familiar with the area would be surprised to find the three apartments in the rear of the complex. The windows of the apartment face the wooded area. The management seems sincere in trying to screen all renters and maintain the quiet environment of the complex. This is evidenced by their success in evicting a recent tenant for creating heavy traffic in and out of the complex because of suspected drug dealing.

Assault: On the evening of Thursday, June 29, 1982, Mary went to bed around midnight. The evening was cool and clear, and she left her windows open to circulate the air. She wore a nightgown and panties to bed. Sometime after 2:00 AM, she became aware of the sensation of something tickling her leg. Thinking it was a bug, she tried to brush it off with her hand. When it continued, she tried to brush it again and felt something she believes was a hand. The room was very dark, but she could see enough to determine that a naked black male was beside her bed. When she sat up, he immediately jumped up and pushed her back down on the bed. He put a hand to her throat and told her to be quiet or he would “blow your head off.” Mary began asking him to leave, and he put something, which she thought was metal, to her head and told her he had a gun. He told her he had gotten out of prison two weeks before and not to make any trouble since he had killed the other girls he had done this with. Mary asked him how he had gotten into the apartment, and he told her he had climbed in the window. He then grabbed the sheet, but Mary kept asking him to leave. He then said he was going to “kill her if she didn’t let go of the sheet, because he wasn’t in the mood for fooling around.” Mary let go of the sheet, and he pulled her panties off. He then told her to spread her legs, but she refused. He again threatened her, and she held her legs up. He began to perform cunnilingus and continued this for approximately three minutes. During this time, Mary tried to talk to him about his statement about just getting out of prison. She told him that she had worked in a prison and that she didn’t think that he had just gotten out. He stated that he was in a prison in another state. She asked him to leave several times, but he told her to be quiet and continued to perform cunnilingus. He then inserted his penis in her vagina. Several times when he hurt her, she cried out, and he quickly put a hand to her throat and warned her not to do it again or he would kill her. Mary told him not to hurt her again, and he responded by telling her to take her top (nightgown) off, which she refused to do. He pushed it up and began licking her nipple. During all

this time, he was careful not to raise himself above her so that, in the poor light, she might be able to get a better look at him. He “slid” up her body to lick the nipple. At one point, he bit her nipple, causing Mary to cry out. Mary told him he had hurt her, and he said, “I’ll show you how I can hurt you,” and inserted his penis again. He told her to “shove your ass” while he was inserting his penis, and she responded by telling him that her working was not part of the deal and that she was not enjoying this. He asked if she was only “half a woman” and she said, “Yes, that’s right.” At one point, he moved his penis to her anus, but she told him he was in the wrong place and he ceased the attempt. Eventually he ejaculated in her vagina and Mary began asking him to leave again.

During the rape, Mary never saw a weapon, but felt a metal object pressed to her head. He continually threatened her with death, but seemed concerned for her during the rape. When he hurt her and she let him know, he would cease the painful activity. He never struck her during the incident and his threats were not made in an angry, but rather in a stern voice. Mary did not think he had trouble in obtaining or maintaining an erection, although he told her that he was having trouble and compared his erection with “the others.” He did not ask her to do anything to help him, apart from saying, “Shove your ass,” and Mary said that she did not touch him during the entire incident. She did not think that a premature ejaculation occurred, but could not be certain due to her lack of sexual experience. She felt that the actual intercourse lasted approximately 15 minutes and that he seemed to be in control of his sexual sensations during that time. He did not demand that she talk to him during the assault or that she speak any particular words to him. He was not abusive or profane at any time and, according to Mary, seemed to care about her. His demeanor changed only when he threatened her and then it was a stern tone, something Mary likened to a father correcting a child.

After the rape, he leaned over the bed, closed the open window, and told her to get out of bed. She asked why, but he just repeated the order. She got out of bed, and he directed her to the living room. He told her not to turn on any lights and placed his hand on her shoulder blade and pushed her ahead. In the living room, he made her lie face down on the rug near her sound system. Mary continually asked him if he was going to leave, but he didn’t say anything and she did not hear him put his clothes on. He asked her what she was going to do after he left, and she told him she would probably call her parents and cry. He asked her if she was going to call the cops, and she said no. He then asked where the phone was, and she directed him to the kitchen. She could hear him feeling against the wall but he couldn’t find the phone. During the time she was on the floor, he continually ordered her to “keep that nose pressed to the floor.” When he couldn’t find the phone, he told her to show him where it was located. He then told her to go back and lie down. She did, and he ripped the phone out, saying he was sorry that she couldn’t call her folks. He had her show him how to unlock the door (deadbolt lock, manually operated) and took her to the bathroom, keeping a hand on her shoulder. In the bathroom, he obtained a towel, telling Mary not to turn on any lights. They returned to the living room, and he made her lie down again. He ripped the towel into strips, possibly using a kitchen knife, and began to tie one strip over her eyes as a blindfold. He tied it too tight and it hurt her, so she asked him to loosen it, and he did. At this point, she noticed that he was wearing gloves similar to those used by doctors, and also work boots. He tied her hands behind her

back and tied one of her ankles. Then, with a wet towel, he began wiping her vagina. He asked her if he had gotten all the “semen”; she answered that she didn’t know and asked when he was going to leave. He kept asking what her name was during this time, but she wouldn’t tell him. He then tied her ankles together and asked her if she had any money. She replied that she only had \$1. He turned on the sound system and the announcer said it was 2:50 AM, and he told her to give him \$20 or he would take her sound system. Mary told him that she didn’t have \$20, but that she would write him a check. He found her purse, took a dollar and change, and asked, “Is your name Mary?” She assumed he had found her driver’s license. He then told her that he was going to take the sound system, and she told him he was going to look funny carrying it around. He replied, “There are ways.” Mary told him that she wanted the cassette tapes. He wanted to know if they were mood music, and she said no, but that they had identification on them that might incriminate him if he took them.

He asked if she had any beer or wine in the refrigerator and she said no, but he went to the refrigerator and found a bottle of wine. She told him it was cooking wine, but he drank it anyway. He then told her that he was going to do it again and that he was going to do an “ass job.” She refused, and he said, “Yes we are.” She refused again and said it would hurt her too much. He then placed a knife to her throat hard enough to prevent her from speaking and told her he was going to kill her. He told her that he had a knife and was going to slit her throat. She asked him why, and he said that since she didn’t want to “make it” with him that there was no point in her living at all. He then asked why he should let her live, and she told him that she needed to love, to love her parents, her husband, her children. He asked if she had a husband or kids and she said no, that she had meant her future husband. He asked if she was afraid, and she said yes. He then told her that they were going to do it again. He directed her onto her back, but it was painful and she kept rolling on her side. He put the knife to her throat and said that he didn’t want any fooling around. He asked her which way she wanted it and she told him she didn’t want it any way. He pressed the knife to her throat again and asked if she wanted to live, and she replied yes. At this point, he told her that he used to be a good Christian boy with a nine-to-five job until one day he came home and found his wife in bed with another guy. From then on, he just went from one girl to another. Mary told him she was sorry. He told her that if she didn’t call the cops, he would be back, and she told him that she would call the police. He then told her that, even in the dark, he could tell that she had “nice features” and a “picturesque ass.” Mary told him she didn’t think he was from prison, and he laughed and said, “No, this is from your own neighborhood.” She said she had some black friends and that she didn’t know if she could treat them fairly after this. He asked what friends, and she replied that they were black students. He said, “I don’t hang around those punks.” Mary felt that he was so strong in his denial that it seemed as if he did hang around them. Mary asked why he had picked her, and he replied that he had heard that she was a “classy chick” and that he had seen her around. She said that didn’t mean he had to do this to her, and he replied that if he had asked her to screw around, she would have said no. Mary heard him rip some paper and asked him to leave. He replied that he was and slid the knife down her back and between her hands. She asked him to leave a light on, and he said he had. She then heard the door open and close. She began trying to get the blindfold off, and she felt him tapping her on top of the head. He placed the knife inside the blindfold and told her how lucky she was.

She heard a big bang, and the music stopped playing. She heard the door slam, waited a few minutes, and then worked the blindfold off. She hopped to the door, locked it, and worked the towel from around her ankles. She opened the door and knocked on a neighbor's apartment door, and help was summoned.

Subsequent examination by a physician revealed a small laceration on her neck and towel burns on her wrists. Police investigation revealed that the rapist had removed a screen covering the point of entry (a window). Mary described the rapist as a medium- to light-skinned black male, 20 to 30 years old, 5'8" to 5'10" in height. He had spoken in soft to normal tones and seemed to be articulate. He had been very concerned about physical evidence being left at the scene. She didn't think he had worn the gloves during the rape. The knife was a kitchen knife from her residence. The paper she heard being ripped was determined to be newspaper he had used to light a bowl candle, which was still burning. He had also smoked a cigarette and had taken the butt with him. The "bang" she had heard was from a blow to the sound system with what is believed to have been a metal pipe.

Criminal Investigative Analysis

The investigators in this case utilized the questions set forth in chapter 6 as a guide during the interview with Mary. As the reader will note, a great deal of interaction occurred between Mary and her assailant. The crime is analyzed next and the significance of the exhibited behavior is described in detail.

Victimology

When a case is analyzed for profiling purposes, victimology is extremely important. An absence of pertinent information concerning the victim may preclude an accurate analysis of the crime. Victims of violent crime are categorized as being either low-, moderate-, or high-risk victims.

Low Risk

Victims classified as low risk have personal, professional, and social lives that do not normally expose them to the threat of crime. Almost without exception, such victims are sought out and targeted by the criminal. Mary would be categorized as a low-risk victim. Her assailant obviously targeted her.

Moderate Risk

Moderate-risk victims are those who would normally be considered low risk, but because of employment (working hours, environment, etc.), lifestyle (meeting dates through advertisement or in singles bars, etc.), circumstances (car breaking down at night), or personal habits (shopping at all-night stores) have an elevated risk of becoming a victim.

High Risk

High-risk victims are those whose lifestyles or employment consistently expose them to danger from the criminal element (drug dealing, residential location, sexual promiscuousness,

prostitution, etc.). If a victim is categorized as high risk, the probability of profiling her offender is greatly diminished because the number of potential offenders is extremely large.

Method of Approach

The rapist in this case utilized the surprise approach. He entered her residence at an hour when he had reason to believe she would be asleep and unprepared for an attack. In the author's opinion, the victim had been targeted in advance, through either surveillance or window peeping. The isolated location of the apartment allowed the rapist to observe the victim undetected over a period of time. The offender felt sufficiently comfortable in the residence to remove his clothing prior to approaching the victim and he did not inquire as to whether anyone else was in the apartment or was expected to visit—an indication that he was familiar with Mary's routine and was aware that she lived alone.

Method of Control

Although the rapist told Mary that he had a gun, and she felt a metal object (probably a pipe) at her head, he relied primarily on threats to control her. Of particular interest is the fact that even though he threatened physical violence if she did not comply with his demands, he did not carry out those threats. This suggests that the intent or desire to physically punish the victim was absent.

Amount of Force

The rapist had numerous opportunities to rationalize the use of physical force against the victim and yet he never struck her. The force used by the assailant consisted of (1) pushing her down on the bed, (2) putting his hand to her throat, (3) biting her nipple, (4) tapping her on the head, and (5) inflicting a slight wound to her neck. Behaviorally, it is of interest that when she told him that he hurt her, he would stop. For example, when she complained of the blindfold being too tight, he loosened it.

It is apparent that a battle of wills was taking place and even though the rapist assaulted Mary sexually, he failed to intimidate her emotionally. He was aware of his failure to psychologically control her and, instead of acting out against her in a physical manner, he chose to destroy something belonging to her (the sound system) in a symbolic attack.

Given the circumstances reported, the level of force exhibited in this attack was minimal. Although the victim's neck was slightly injured, it was such a minor wound that she made no mention of it in her statement. Furthermore, she reported that the rapist seemed to care about her welfare.

Victim Resistance

There was a great deal of resistance in this case. Mary resisted the offender verbally by consistently rejecting him, questioning his demands, and asking him to leave. She resisted passively by not complying with his order to remove her nightgown, and she resisted him physically by changing her position to avoid intercourse.

Reaction to Resistance

There is an interesting pattern of offender reaction to victim resistance. The rapist relied primarily on verbal threats to overcome Mary's opposition. At one point, she refused to remove an article of clothing and he did so himself, thereby ceasing the demand. After refusing to comply with the demand to "shove your ass," the victim was asked if she was "half a woman." Again and again, the potential for physical violence was there, and yet was not applied. As previously mentioned, the offender failed to intimidate Mary, and his lack of a reaction involving physical violence supports the opinion that he had neither the desire nor the intent to physically harm the victim.

Sexual Dysfunction

Mary was unable to state with certainty whether any dysfunction occurred. She did report that the rapist had no difficulty in obtaining or maintaining an erection, and he ejaculated within an average amount of time. So even though the offender verbally indicated some difficulty, Mary was not aware of any such problem. However, her lack of sexual experience may have been a factor in her assessment regarding dysfunction.

Type and Sequence of Sexual Acts

The sexual attack included the following acts in the sequence reported by the victim: (1) cunnilingus, (2) digital manipulation of the vagina, (3) vaginal rape, (4) licking of nipple, (5) vaginal rape, (6) attempted anal rape, (7) vaginal rape with ejaculation, (8) threatened anal rape, and (9) attempted vaginal rape.

The acts of cunnilingus and digital manipulation of the vagina preceded the first rape. The activity and sequencing suggest an attempt to stimulate the victim. This behavior is unnecessary in a rape situation, and its presence indicates an attempt to involve, rather than simply use, the victim. (Behaviorally analyze the crime from the offender's perspective, not your own and certainly not the victim's.) Mary told the offender that she was not enjoying the sex, that her "working" was not part of the deal, and that she did not want sex with him. Following the vaginal rape, he attempted to enter her anally and was told by Mary that he was "in the wrong place." Verbally resisted, he stopped the attempt to anally assault her, entered her vaginally, and ejaculated. Even though he ceased his attempt to anally assault her, the desire for this type of sexual act was strong (i.e., he later told her he was going to do an "ass job"). His expressed desire for anal sex, combined with Mary's description of his having a muscular upper torso and his talk of prison, suggests that Mary's attacker had been institutionalized. This will be more fully discussed in the offender profile presented later.

Sexually, the offender exhibits a mixture of selfish and pseudo-unselfish behavior.

Offender Verbal Activity

The victim in this case was intelligent, articulate, and obviously in control of her emotions. She gave a detailed and comprehensive description of the entire episode and provided an abundance of behavioral information from which to draw conclusions. Nowhere is this more evident than in the victim's recollection of what the rapist said and the manner in

which he spoke. When analyzing the statement, the author wrote adjectives to describe what the rapist said. As a result, an interesting picture of the offender began to emerge. Let us examine what he said and objectively describe it using adjectives:

1. He threatened to “blow your head off” and stated that he was “going to kill you.” The adjective *threatening* is appropriate for these phrases.
2. He told her to “get out of bed,” “spread your legs,” and “hold your legs up.” Either *commanding* or *demanding* describes these phrases.
3. He related that he had just gotten out of prison, that he used to be a good Christian boy, and that he had been a nine-to-five person until he found his wife in bed with another man. The author described this personal information as *disclosing*.
4. He spoke in a *derogatory* manner when he asked if she were “half a woman.”
5. He was *nonprofane*. The victim clearly recalled that he had not used profanity during the course of the crime.
6. He was *apologetic* when he told her he was sorry she could not call her folks.
7. He asked her name, if she had any kids, and if she had a husband. This would accurately be described as *inquisitive*.
8. He was *complimentary* when he told her she had nice features and a “picturesque ass.”
9. He was *angry* when she would not comply with his demands. In one instance, he told her how he could hurt her.
10. Finally, he was *self-demeaning* when he said she would not have “screwed around” with him if he had asked her.

An analysis of the verbal behavior reveals that the rapist exhibited a mixture of selfish and pseudo-unselfish behavior. This blending of behavior allows us to see him as those who know him see him. This will be discussed in the later profile.

Attitudinal Change

Mary stated that the rapist’s attitude changed only when he threatened her. She described the change as being verbal in nature and said he became stern “like a father correcting a child.” We see here that the victim is able to differentiate the sexual assault from the offender’s attitude, something that many investigators, victims’ advocates, and mental health professionals are unable to accomplish. Her description of this change in attitude is helpful and enlightening when one considers that the rapist is in possession of a weapon, is physically larger and stronger than Mary, and has met resistance repeatedly, yet his threatening attitude is described as being “stern.” This is certainly not the stereotypic view of a rapist, yet is very typical behavior for one not desiring to physically harm his victim.

What Preceded the Attitudinal Change

The victim stated that the only time she perceived a change in his attitude was when he threatened her. In each instance, what preceded the change was resistance by Mary. Some rapists will use physical force in such situations, others will compromise or negotiate, and still others will leave; the rapist of Mary chose to threaten. Why? As has been pointed out earlier, the rapist engaged in a battle of wills with Mary and lost. The author believes that this man is used to winning in confrontations with women and this was certainly a

situation that should have yielded a submissive woman—but it did not. His frustrations are evident by his continued threats and finally his physical attack on the sound system.

Precautionary Actions

This case is replete with actions taken by the offender to protect his identity, facilitate his escape, and deny investigators physical or trace evidence. Such behaviors include: (1) removing his clothing prior to the attack, thereby reducing the possibility of fiber evidence and also ensuring that Mary would be unable to provide police with their description; (2) disabling the phone, which delayed her ability to report the crime; (3) readying his escape route by having the victim show him how to unlock the door; (4) blindfolding the victim prior to turning on a light; (5) binding her ankles and wrists prior to departure; (6) wiping her vaginal area to remove semen; (7) wearing surgical gloves, which he believed would preclude the possibility of fingerprints and yet allow the sense of touch; and (8) taking the cigarette butt with him, thereby denying police the possibility of determining blood type from the saliva residue.

While a few precautionary measures are to be expected in such crimes, the steps taken by Mary's attacker indicate a knowledge of forensic capabilities beyond that expected of an average person. This area is further addressed in the arrest history section of the offender's profile.

Items Taken

The rapist told the victim he wanted \$20 or he would take her sound system. When advised that she did not have the money, he took a dollar and some change from her purse. These items would be classified as valuables (see chapter 12), but the amount is ridiculously small. The author is of the opinion that he took this pittance, not out of need, but rather because he *could*! In other words, he was demonstrating power over Mary.

He threatened to take the victim's sound system and she put him down by telling him he would look funny carrying it around. He later destroyed it. The author does not believe that he had any intention of taking the system. His behavior indicates a more sophisticated and experienced criminal, not one who would take such an item. The offender also took his cigarette butt with him. The cigarette would be classified as evidentiary material (see chapter 12). Nothing of a personal nature was taken.

The victim reported that there were no calls, notes, or break-ins prior to the offense. Follow-up investigation determined that there had been no attempt by the offender to contact the victim after the assault.

Purpose of the Assault

Most sexual assaults service nonsexual needs (i.e., power, anger, or a combination of the two). The rapist in this instance was attempting to assert his masculinity. That is to say, he was expressing his male dominance over women—a behavior that he believes to be his right. Such rapists tend to be primarily selfish in their attacks. However, in this case, there was a vacillation between selfish and pseudo-unselfish behavior, but the unselfish behavior exhibited by Mary's rapist was simply another means to further exploit her. If he had been successful in having the victim even feign passion or involvement, he would have believed

it was due to his ability to arouse, and thereby control, women. This is a characteristic that would also be found in his noncriminal associations with women.

Offender Profiling

When training law enforcement officers in the art of profiling, one of the most difficult hurdles for them to overcome is their reluctance to put opinions in writing without *hard* evidence to back them up. This is perfectly understandable inasmuch as they have been trained to *never* put their opinions in writing. Another one of their concerns is that they do not want to be wrong in their assessment and this is also quite natural. It must be remembered, however, that there are no absolutes in human behavior and it is indeed rare that a criminal profile will perfectly match an offender. There may even be instances in which the profile is largely inaccurate and even this is to be expected on occasion. It is, after all, a subjective opinion.

Some critics of profiling have stated that if a profile is incorrect, it will mislead investigators or cause them to overlook or disregard viable suspects. The author is unaware of a single instance in which a profile influenced an investigation in such a manner and finds it very difficult to believe that investigators would disregard a viable suspect simply because the suspect's characteristics and traits did not match those provided in a profile.

The Profile

The following profile was based on the preceding analysis and represented the author's opinion as to the characteristics and traits of the individual responsible for the crime against Mary.

Personality Characteristics

As stated, the purpose of the assault was to express and assert masculinity. The rapist is an overly confident male who is dominant in his relationships with women. His vacillation between selfish and pseudo-unselfish behavior during the assault is indicative of how he is perceived by those who know him. He presents different images to different people in his life. Some would describe him as a respectful and pleasant individual and others would say he is often hostile and angry. His fruitless attempts to dominate Mary suggest that he considers himself to be a macho individual who works at projecting this image to those around him.

He is a self-centered person who dislikes criticism of any type, constructive or not. He is a person who demands instant satisfaction of his needs and desires and would be described as one who lives for the present—tomorrow be damned. Because of this characteristic, his actions are often self-defeating and he seldom achieves long-term goals. He lacks a sense of responsibility and projects the blame for failures onto others or circumstances that he claims are beyond his control. The attitudinal changes exhibited during the attack on Mary strongly suggest that he cannot stand defeat and is known as a poor loser. He dislikes authority of any kind and law enforcement officers with whom he has had contact (see "Arrest History") would describe him as being cocky and arrogant to the extent of antagonizing them.

He exudes confidence and considers himself superior to others, yet he associates with individuals whom he considers beneath him intellectually, economically, or otherwise. His choice of associates is based on whether he can control them. These individuals would describe him as being cool, sophisticated, and somewhat aloof. Recalling his behavior with Mary, it is obvious that he reacts negatively when his authority is challenged; consequently, some would describe him as being easily antagonized and short-tempered.

Because of his self-centeredness, few people are allowed to get close to him. While he knows many people, few really know very much about him. Socially, he frequents those areas he considers appropriate to his station in life, primarily well-known and moderately expensive establishments. He also enjoys singles bars or similar establishments catering to college-age crowds. The reader will recall that he told Mary he had “seen her around” and she is known to frequent locations similar to those described herein.

He is glib and extremely manipulative. He is dominant in his relationships with women; however, if he encounters a woman he cannot dominate, he will relentlessly pursue her. Women who have dated him over a period of time will report that he was initially charming and attentive, but eventually became overly possessive and irrationally jealous, demanding that they account for the time they spent away from him.

Race

As described by the victim, the offender is a black male. While some may think this is an obvious trait, the author has seen numerous rape cases in which the victim was unsure of, or unable to describe, the race of her attacker. For example, a black male, interviewed by the author, was responsible for the rape of 62 Caucasian women, and 31 described him as white and 31 described him as black. In such instances, the analyst takes into consideration the racial makeup of the geographic area, victimology, racial slang, and linked attacks in which one or more victims were able to describe the offender's race.

Age

Age is the most difficult characteristic to provide. Its determination is dependent upon a number of factors, including the type of rapist (e.g., the power reassurance rapist will select victims within his own age range), victim's estimate, type of items taken, and the maturity exhibited during the crime.

The offender in this case is between 26 and 30 years of age. Although the victim is an educated and articulate individual, her opinion of the age of the assailant (20–30) is too broad. Mary's attacker is confident of his abilities with women and is a macho type of person; therefore, he would have selected a woman who approximates his own age range. His ego demands that he attack women he considers to be worthy of his time and attention. In the absence of contradictory information, when dealing with this type of rapist, the offender's age range is generally placed 3 or 4 years on either side of the victim's age (i.e., 20–27); however, in this case, an older individual is indicated.

Arrest History

The precautionary actions taken by the rapist demonstrate a high degree of forensic knowledge and criminal sophistication obtained either through study and experience or previous arrests for similar crimes. It is the author's opinion that the rapist has previously been arrested for rape and/or breaking and entering. His desire to assault Mary anally, coupled

with a muscular upper torso, suggests that he has also been incarcerated and participated in upper-body exercises.

His lifestyle (see “Residence”) and low income (see “Employment”) indicate that he is involved in other criminal ventures. For this reason, it is believed he may be involved in the sale of narcotics and has been arrested for such crimes in the past. He is not believed to be an addict because he did not steal or even search for items of value from Mary’s residence. In fact, he destroyed a valuable and easily fenced sound system.

Marital Status

As stated, the behaviors exhibited by Mary’s rapist reveal that he is a macho male with a dominant attitude toward women. In the author’s experience, such rapists typically marry while in their late teens or early 20s, but their relationships with women are relatively short-lived. For these reasons, it is believed that he is either separated or divorced. While living with his wife, the relationship involved a great deal of conflict and friends would have been aware of the marital problems. Although not physically abusive toward his wife, he would have emotionally battered her. An example of such battering would be his leaving her stranded (and humiliated) at a party following an argument.

Residence

The amount of time the rapist spent with Mary provides two especially significant pieces of information: (1) He was familiar with her routine, and (2) he felt comfortable in the socio-geographic environment in which the assault occurred. The intelligence (see “Education”) of the rapist is such that he would not assault in an area in which he felt uncomfortable or where he might be recognized by those who know him. He resides in similar property (rental and middle class) in another area of town. He resides with a black female who is faithful to him but whom he regards as just a necessity. The residence is an apartment or town house, is nicely furnished, and includes an array of upscale video and audio equipment. It serves as a gathering point for large numbers of people at various times of the day or night, and this may have caused suspicious neighbors to alert the police.

Education

The offender is educated beyond the high-school level. His verbiage during the assault, combined with Mary’s opinions about him and his strong denial of “hanging around those punks” (students) lead to this opinion. It is possible that his education after high school was obtained while he was incarcerated. As a student, he achieved above-average grades and exhibited potential for high academic achievement. Because of his dislike for authority, it is unlikely that he obtained a 4-year degree or utilized his education in long-term employment. Friends and associates consider his intelligence to be well above average and often seek his advice and counsel. He is considered a leader rather than a follower.

Military History

The offender’s strong dislike for authority and regimentation diminishes the possibility of his having served in the military. If he did serve, it would have been as a member of the enlisted ranks and the likelihood of his having been honorably discharged is minimal. His desire to project a macho image would indicate service in the ground forces (i.e., Army or Marines).

Employment

If employed, he will be working in a job for which he is overqualified. His work performance reflects an attitudinal problem, and he complains of being bored. His supervisors report frustration with his performance because of his potential for excellence. He is frequently late or absent and takes offense at being corrected on the job. Again, if employed, his job is more for appearances than income as his primary source of income is from the sale of narcotics or from other illegal activities.

Transportation

In keeping with his lifestyle and image, he will operate a two-door vehicle, 2–4 years old. It is flashy, painted to attract attention, and well maintained. He spends a great deal of time in his car and enjoys driving aimlessly for extended periods of time. He is strongly associated with his car, and friends would describe him and his car as inseparable.

Appearance and Grooming

He is a very neat individual whose normal attire is contemporary, with designer jeans at the lower end of his dress style. He takes a great deal of pride in his personal and physical appearance and is critical of those who do not do the same. He exercises regularly and maintains a high level of physical fitness. He demands that the women with whom he associates be equally conscious of their appearance. He has an expensive wardrobe that is beyond his known financial means. He has regular appointments to have his hair styled and is meticulous about body cleanliness, often bathing or changing clothes two to three times a day.

Note: The reader will observe that the profile is presented using “everyday” language and in such a way that those who know the offender would be able to recognize him.

Summary

The first and most important step in profiling an unidentified rapist is to obtain a detailed statement from the victim. The statement is then analyzed to determine the motive for the crime and whether the offender’s verbal, sexual, and physical behavior exhibits a selfish or pseudo-unselfish *intent*. Having formed an opinion as to the offender’s motive, the author then uses the typology developed by Groth et al. in classifying the rapist involved. Finally, a description of the offender is set forth in a manner that is easily understood by the investigator and enables those who know the responsible criminal to recognize him.

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Interviewing the Rapist

8

MICHAEL R. NAPIER

Case No. 1

I was awakened by a nudging of my shoulder. The first thing I saw was a knife blade directly in front of my eyes. In the darkness of my bedroom, illuminated only by my alarm clock light, I heard a male voice saying, “Don’t make me use this.” That was the last time I saw the knife, but I knew he had it.

I could see the outline of his features when he leaned down to speak. He was a white male about my age. He was clean shaven and smelled of an aftershave I did not recognize.

As he placed a pillow case over my head, he referred to me by my name and said, “Doris, do everything I tell you and I won’t hurt you. This won’t be anything that you haven’t done before, and I know you are alone. I am sure you deserved the manager of the month award from the bank.”

I tried to get up, but he pushed me down and sat on my chest. He said, “I told you I will hurt you if I have to. Now be nice like you are with your boyfriend. We are going to start with me up your backside.” I struggled harder and told him I would not do that because it would be painful. He said, “Okay, okay. But you will go down on me first.” As he removed my panties he remarked, “You’re looking fine.”

He then patted my cheek and rolled over on his back, pushing my face into his crotch. He was semi-limp. He forced me to perform oral sex until he became erect. Then he quickly rolled me back over and briefly penetrated my vagina until he ejaculated. He asked me if I was “satisfied” and said, “That is probably as good as you ever get, right?”

He told me he would know if I called the police, and that he had a secret hiding place from which he would be watching me. He reminded me he knew where I worked, and that I usually came home alone at about 8:30. He said he would come back and get me if I did anything before counting slowly to 100.

Introduction

The dialogue in Case No. 1 is a rendering of several real-life rape victim statements. It also depicts the core behaviors (verbal, physical, sexual) of rapists; these behaviors are more fully discussed in chapter 7 and understanding them is essential to comprehending offender motivation and analyzing the crime. Such behaviors are best identified through a behavioral-oriented interview of the victim (see chapter 6). This type of interview is highly valued by investigators because it provides useful investigative information such as rapist type, his unconsciously disclosed motivation, and the presence or absence of his fantasy acted out via the rape.

A victim’s behavior-oriented statement provides a reliable roadmap on how to approach the rapist in an interview and hopefully obtain admissions and/or a confession.

Once the victim has been interviewed, the officer is encouraged to closely read and dissect the statement, noting each of the core behaviors mentioned earlier. This rapist was clearly a power reassurance rapist (see chapter 7) and this type of rapist is responsible for a large percentage of reported and unreported rapes.

Developing the Interview Plan

The reader is encouraged to again read Case No. 1 and look for the verbal, physical, and sexual behaviors of the rapist. As stated, recognizing and isolating these behaviors will assist in planning an early interview of a rape suspect:

Verbal behavior	Physical (injurious) behavior	Sexual behavior
"Doris...I won't hurt you."	No injurious force	Wanted anal sex
"Be nice like with your boyfriend."	Nudged her shoulder	Negotiated oral sex
Negotiated sex acts	Pushed her back down	Was semi-erect
"You're looking fine."	Patted her on her cheek	Became erect after oral sex
"Are you satisfied?"		Vaginal intercourse to ejaculation
"As good as you ever get, right?"		
He knew where she worked		
"Don't make me use this" (knife).		

Conducting an interview of a victim, witness, or suspect is a difficult and complex matter. Several considerations must be dealt with simultaneously to keep the process on the planned course. The interviewer must keep in mind all case data, the cast of characters, the suspect's role in the crime, all appropriate legal considerations, his interview plan, the question just asked, the answer given, his evaluation of the answer just given in the context of the verbal and nonverbal response, and which question to ask next. The logical and well-constructed interview plan aids in simplifying this difficult process.

Every interview should be a planned event. Interviews are built from a carefully laid foundation designed during its planning and Case No. 1 provides the outline of a basic interview plan. The rapist has unwittingly disclosed his motive, fears, concerns, and interview vulnerabilities. He has also revealed a glimpse into his fantasy. Utilizing the described behavior, the detective will have several valid and reliable clues as to how to conduct the interview.

An analysis of Case No. 1 informs the investigator that he is dealing with a power reassurance rapist and he should keep in mind that the characteristics attributed to such offenders in this chapter will not apply to all such rapists. The information recovered from the victim informs the interviewer of several rapist traits, but there are undoubtedly other characteristics that would also apply.

When planning the interview, this information (as with all unproven information) should be presented to a suspect only by reference, using flexible phrasing such as *probably* or *may be*. By so doing the investigator protects his credibility even if the information is found to be incorrect. If proper terminology is used during the interview, even generalized information (based on perceived rapist type) will not negatively impact the interview process. This technique will be further developed in the section on mind reading.

Traits of Successful Interviewers

Study a truly talented interviewer and you will observe that he has a number of highly specialized personal qualities.* The first essential trait of an accomplished interviewer is that victims, witnesses, and even suspects must sense that the officer *feels* the words he† speaks. The extent to which they are at ease with the officer determines the level of trust they place in him and therefore determines whether they share their secrets. Such trust lays the foundation for obtaining information that the victim, witness, and certainly the suspect may initially be reluctant to provide.

An effective interviewer is an adaptable salesman—one who projects sincerity at every turn of the interview and yet is able to change course many times during the inquiry. It is imperative that victims and witnesses see an empathetic and professional person across the table. With suspects, the interviewer must genuinely project a high degree of neutrality and impartiality prior to any necessary confrontation—all directed toward obtaining an admission and/or confession.

As happens in the professional interview setting, the officer may question the credibility of a victim or witness. He may also have suspicions about the guilt of a suspect. The interviewer must guard against leakage of any bias or skepticism until sufficient evidence is identified to justify that position. To allow one's suspicions to become prematurely known by the interviewee will almost certainly lead to antagonism and distrust. When an officer projects accusatory signals, the interviewee is likely to become defensive. In turn, the officer may interpret the subject's defensiveness as an indicator of withheld information or even outright deception. From that point on, the negativity of both the officer and interviewee may spiral, resulting in lost opportunities to gather valuable data, wasted work hours, and lack of progress in solving the case.

Equally devastating is a poor attitude and demeanor, which will in all likelihood stop the flow of information from the subject that could possibly have been used to the investigator's advantage should the interviewee later become the focus of the investigation. This problem most often surfaces in the interview of witnesses, especially if they have the potential of becoming suspects because of their relationship to the victim (parents of a missing child, the significant other of a missing adult).

Another highly valued trait of a successful interviewer is the ability to identify the reasons a suspect is reluctant to take responsibility for his criminal acts. Most often, this can only be accomplished by initially engaging the suspect in a variety of nonthreatening topics apparently having no connection to the criminal act in question.

* Often the line between personal discovery and stimulation from others blurs. With recognition that an original thought is a rarity, I wish to express thanks and gratitude to several sources that impacted my interview philosophy and practices. From my family tutelage, my education, and experiences in the private sector, a wealth of knowledge was garnered regarding dealing with people. I received interview-specific training from the FBI, Reid and Associates, the CIA, the Department of Defense Polygraph Institute, and Avinoam Sapir's Scientific Content Analysis course. I wish to specifically acknowledge Reid and Associates for adapting known psychological principles and existing police investigative knowledge into a highly useful and ethical interview program. Personal conversations with others having similar interests cannot be given enough credit for stimulating my thought process. My affiliation with the FBI's Behavioral Science Unit and the National Center for the Analysis of Violent Crime led to a deep appreciation of interviewing techniques applicable to violent and evil offenders. This education has continued through association with my learned colleagues at the Academy Group, Inc., in Manassas, Virginia.

† The male pronoun is used throughout for ease in reading.

The interviewer must be able to maintain control over the inquiry and the person being questioned. He must be able to go beyond listening carefully and be adept at evaluating the sentence structure and the words chosen by the other person, as they will assist in revealing the meaning of the provided information. There are many more traits associated with a successful interviewer, but limited space precludes a discussion of each one.

Question Formulation

No constitutional mandate exists regarding the style of questions utilized in interviewing a sexually violent suspect. The courts, however, tend to take a dim view of statements elicited by *close-ended* questions that contain crime-specific information such as, "Tell me more about the white man who left the crime scene in the red Ford Thunderbird." If that information was later "parroted" back to the interviewer, it might appear to corroborate a confession. Such contamination usually occurs when closed-ended questions are used early in the interview process. Once the contamination error has been made, it cannot be undone. *Open-ended* questions are introduced by phrases such as "Describe for me..." "Tell me about..." or "Explain how..." and guard against contaminating the interview.

The overall goal of an interview is to obtain information. Therefore, it logically follows that the initial questions ideally should be short and the answers long. The recommended approach is to begin the criminal interview with open-ended questions, allowing the subject to answer without interruption. The proficient interviewer trains himself to remain quiet even when he recognizes incorrect or deceptive information is being provided. Once the subject is committed to a version of events, the interviewer should clarify incorrect or confusing information, again using open-ended questions.

If it is necessary to utilize a direct or close-ended question, that tactic should be reserved for the end of the questioning phase. As much as possible, the phrasing of a close-ended question should avoid any crime details not previously furnished by the interview suspect.

The skilled use of open-ended questions is one of the primary tools of the professional interviewer and is one of the best practices for protecting the interview product.

Tools of the Profession

As a general rule, the interview should be a straightforward process without fancy footwork. Neither the interviewer nor the interview benefits from complicated ploys, intricate props, or elaborate tricks. There is no need for the questioning to become complicated. Such attempts usually fail because they are transparent to the interviewee.

Reading Minds

How would you be affected if another person could accurately tell you what you were thinking? What if the topics of your thoughts could impact the quality of your life if they were known to others? For example, what would be the effect if the boss could read your mind and knew your true thoughts about his management style? One of the most powerful interview techniques available is called "reading minds." Of course the term is not meant to be interpreted literally; however, when properly done, the interview subject feels as though

the officer *is* reading his mind. Warren Holmes (1995) referred to this tactic as “taking the wind out of their sails.” That metaphor is properly understood to mean the person would be “dead in the water” without any wind.

The destruction of the suspect’s confidence in his ability to defeat police interview efforts is one of the primary goals of an effective interviewer. If the mind-reading tactic is properly presented, the suspect will feel the interviewer is taking a walk through his psyche by telling him what he has thought, is now thinking, how he viewed the victim, and even the cause of his behavior. This technique also creates a bond between the interviewer and the suspect. The suspect comes to believe the interviewer knows him intimately and therefore can be trusted with his deeply held secrets. To accomplish this with a sexually violent suspect, there are five rules to be followed.

1. The interviewer’s terminology must be somewhat vague and qualified. He must avoid concrete statements such as “I believe that you sat around and in your daydreams planned this rape from start to finish.” A more appropriate statement would be “Tom, in all my 20 years of talking with people in your situation, nearly everyone has said that these thoughts just came to them over and over until they formed what appeared to be a good plan.” This allows the suspect to hear and interpret the words as he wants. If any statement is too rigid or even a little off the mark, the suspect will hold on to the discrepancy no matter how small and the interviewer will be discredited. From then on, what he says will lack validity. An example of proper wording for Case No. 1 would be: “Tom, in looking at this case one detective concluded that you had no intent to harm Doris...” or “You put the knife down and this was possibly done because you didn’t want to use it to harm her.” These statements are ambiguous and also illustrate the “good cop–bad cop” technique. They allow the officer to make some points while providing for the possibility of error.
2. Closely aligned to the first rule is the nearly universal principle that criminal interviewers should scrupulously avoid using harsh or highly charged terminology, particularly with “inadequate” personalities such as the power reassurance rapist. This concept generally holds true for other criminals as well. Terms such as *rape*, *strangulation*, *jail time*, and *brutal* serve to remind a suspect of penalties if he cooperates with the investigator. Conversely, when the officer refers to “that thing that happened last Thursday in the park,” the suspect will clearly know the incident for which he is being questioned.
3. The item or thought being dangled in front of the suspect should not be offered in a blunt manner, but instead, it should be made as the culmination of a few lead-in remarks. For example, “Tom, I have an important thought on this case. It is important and affects you because...” This allows the officer to get the suspect’s attention, and it also allows the suspect to track the question’s impact and relationship to himself. It is recommended that the interviewer subtly present his expertise and reputation when beginning his mind-reading statement. Power and status are added to his message when he begins in a manner such as “I have been in this business for 25 years and have been involved in several hundred cases similar to this one. I always try to talk with the men after they make their statements to learn what was really on their mind. One of the things that I have heard time and time again in these situations is that they never had a thought of hurting the woman. In fact, they went out of their way to avoid doing anything that might hurt her. When they tell me that, I always

mention it in my report because I believe they deserve credit for having concern for the lady and being a man about it.”

4. The mind-reading technique is more powerful when the subject recognizes his own traits and characteristics during the interviewer’s recitation. Avoid making statements such as “You are a person who prefers the hours of darkness because you are shy.” It is more powerful when the suspect makes that discovery for himself.
5. The interviewer should not mention the suspect’s name when reciting what he knows about criminal behavior or criminal mentality.

Case No. 2

A known rapist was accused of assaulting a young woman and was the suspect in another case with sexual overtones. The author requested state investigators to interview two prior victims of the suspect using the “behavior-oriented interview” approach. As a result, the similarities in modus operandi and ritual became strikingly clear even though the rapes were more than ten years apart.

During the suspect interview, the author used the technique of building up the questions to assure the suspect’s attention. He then began a recitation of things he had learned from other suspects when in similar situations. The true source of this knowledge was information from the rapist’s previous victims that had not been discussed. The offender’s name was never associated with the list of *things learned* from those years of working countless cases *like this one*.

Expecting a reaction, close attention was paid to the suspect’s demeanor when the lessons learned were being discussed. Like a textbook response, the impact was clear as his face slowly drained of its color. It was obvious the technique had worked to perfection, weakening his confidence to the point that he believed the author truly understood him and knew his secrets. A confession followed a short time later.

Planting Ideas

Using a similar presentation format, the interviewer may provide investigative concepts for the offender to consider, so he may personally determine if they pose a threat to his being identified or linked to a crime. For example, it may become necessary to interview a suspect early in an investigation armed only with circumstantial evidence. This calls for great care because any allegation of guilt, unsupported by evidence, may doom the interview. If the unsupported allegation reduces the subject’s respect for the officer, it may also damage any chance for rapport in future contacts—even those in which there may be evidence supporting the offender’s guilt.

Rather than alleging irrefutable guilt, the interviewer can speak to the suspect in terms of what evidence is *likely to be developed*. It has been the author’s experience that a suspect will visualize how each piece of *possible evidence* would be a threat to his well-being. This technique has been especially effective with suspects having a criminal past.

Case No. 3

A 20-year-old female college student mysteriously disappeared from a birthday party with her co-workers. One co-worker was a paroled rapist and he disappeared as well. This became a high-profile case and was featured on “America’s Most Wanted” television show. When the parolee saw his picture on the television show, he immediately turned himself in and was returned to the location of the abduction. There was no firm evidence linking the missing young woman to the convicted rapist and they were not known to associate with each other.

State authorities requested the author to develop an interview plan for confronting this suspect. The plan had back-up contingencies in the event he refused to participate in an interview. After he was provided his Miranda rights, he was asked if the victim had ever been in his truck. He stated she had never been in his truck and that he would not talk about the victim or the investigation; however, he did not invoke his Miranda rights. The suspect was then, per the interview plan, given the option of returning to his cell or having some time outside where he could smoke and have a soft drink. As anticipated, he chose to remain out of the cell, likely realizing he was going to spend many years behind bars.

Over the course of the next hour or so the investigators remained with the suspect and casually spoke of various ways *this case could unfold, including various types of evidence that might be recovered and could incriminate the suspect*. There was conversation about the amount of blood required for DNA testing, what it would mean if a single strand of the victim’s hair was found in his recovered truck, and how crime scene processing worked. The second phase of the interview plan had two tactics. The first was to introduce the good cop–bad cop scenario, using the local prosecutor as the foil. The second tactic was to discuss the role the victim’s mother played in using the media to demand the recovery of her daughter. Eventually, the convicted rapist said he wanted to return to his cell and the interview ceased.

Upon contact two days later, the offender was pumped up and could not wait to state he wanted to confess. This author’s assessment of why the rapist was willing and almost eager to confess was his recognition of various “threats” he found in the investigator’s description of how evidence would be collected and used against him. Critical to his decision to confess and lead the investigative team to the victim’s body was his self-chosen belief that her mother would be so relieved and thankful for him returning the victim’s body that she would speak in his favor at sentencing.

Theme Development

The absolute heart of effective suspect interviewing is the extensive use of themes that are repeated many times over the course of the same interview, principally in the confrontation and reasoning phases. Themes have a variety of sources and the most effective themes contain examples of human behavior that can be recognized by nearly everyone. The story of the pebble in the shoe is a good example of a highly recognizable story. As the story goes, the longer the person walked, the larger the pebble felt until the pebble was removed from the shoe. Upon examination, the pebble was recognized for what it was, something very small. The interviewer may adapt the tale using the pebble to represent the offender’s fear of his situation while pointing out that when examined, with help from the officer, that fear

is placed into the proper context of being a manageable problem. The officer is then in a position to offer appealing solutions to the problem.

As an interviewing technique, themes are most often combined with other themes containing similar ideas. The themes may appeal to the suspect for any number of reasons, but largely because they treat the suspect as a vulnerable human being with problems that can be resolved with help from the interviewer. Themes also contain the same excuses the suspect used to justify his criminal deeds to himself. These “sales pitches” will often alleviate the suspect’s feelings of guilt. Themes address moral quandaries, not legal guilt and responsibility. Most often themes make use of the psychological processes of rationalization, projection, and minimization (RPM), which are loosely defined next.

When *rationalizing*, the suspect mentally reviews his actions and alters them, usually by leaving out or downplaying his worst acts, and removes himself as the cause of the criminal acts. In rationalizing, the person creates a scenario that excuses his behavior. *Projection* is the act of removing blame from the suspect and shifting the responsibility to others. The suspect decides that he would not have acted as he did except for the behaviors of others.

Sometimes the rape suspect will diminish his culpability using soft words as substitutes for more accurate descriptions of his behavior, thus making his role in the criminal act less repugnant. For example, one rapist used the phrase “when we were together,” rather than “when I raped her.” This is called *minimization*.

RPMs, like themes, are repeated over and over and are used in combination with each other. The aim of RPMs is to make it as easy as possible for a rape suspect to admit to a lessened level of guilt; by doing so, he agrees to some degree of participation in the crime and contact with the victim. His admission has altered the situation morally, but not legally. It is recommended that if an admission is obtained, a brief written statement be taken.

After obtaining the admission, it is the duty of the officer to recommence the interview after taking a short mental break. It is at this time that the interviewer points out all the inconsistencies and errors in the suspect’s statement and how the criminal offense could not have occurred as he described. The interviewer then moves the offender to a more accurate position in keeping with the evidence and victim’s statements.

Test of Commitment

Avinoam Sapir (1999) has developed a test of commitment for suspects who are thought to be lying in their statements. It is an accepted principle in interviewing that liars lack commitment to their statements. To test a suspect’s commitment to his version of events, it is recommended that the interviewer allow the subject to tell his story to the point that he establishes a firm position regarding the allegations.

Once the interviewer has obtained a seemingly firm version of events, he should use the technique of building up a question to obtain the suspect’s attention and ask if he should believe him (i.e., “Should I believe the story you have told me?”). If the question is followed by a long pause before the suspect answers or if he states anything other than a definitive “yes” (or an equivalent statement), he has likely lied, or omitted information, in some part of his statement.

To confirm his belief in the suspect’s deception or omissions, the officer may follow up by asking, “Can you give me one reason why I should believe your story?” As previously,

listen for a longer than necessary pause. A truthful person does not require time to consider this question because he knows he told the truth. Therefore, his answer should be readily forthcoming and closely resemble something like “Because I told you the truth.”

Offender-Specific Tactics

When planning the interview strategy, the traits and vulnerabilities of the suspect must be taken into account. As part of the interview plan, the interviewer should document the use of all *sensitive* techniques (e.g., interview strategies suggesting the victim is at fault or that the offender was entitled to attack), ensuring that their use is placed in perspective. Such tactics should be noted in the investigative file in advance of the interview and explained as a technique to obtain a confession. The officer should clearly state that such techniques do not indicate any responsibility on the victim’s part or that the rape is justified in any way. The offender bears complete responsibility for his criminal acts.

It is much more effective to tailor the interview approach to fit a specific type of sexual offender rather than trying to use one approach for all sex offenders. To assist in that process the traits of four rapist types (see chapter 7) are examined and suggested interview strategies are provided.

The Power Reassurance Rapist

The power reassurance rapist is most likely a serial rapist and in the author’s experience accounts for more victims than any other rapist type. Therefore, it is recommended that the investigator make the sexual assault having the strongest evidence the sole focus of the initial interview. Once the offender has confessed to one rape, the interviewer can turn to the offender’s other cases for resolution.

This type of rapist selects victims through surveillance and is a cautious rapist who must be geographically comfortable within the attack environment. Consequently, it is inadvisable to bluff him about the environment of the rape and its surrounding area. He will likely know the area much better than the investigator does.

The interviewer should keep in mind that the motive driving this rapist is the reassurance of his masculinity. Typically, he is inadequate and has a low opinion of his personal qualities. As a rapist, he seeks power over a female and fulfills a need to *have a sexual relationship with a woman*. His many inadequacies will be evident to the interviewer and it would be counterproductive to remind him (in any way) of his shortfalls as a man, or as a person. Additional specific suggestions are contained in table 8.1.

It must be noted that this type of rapist shares several personality traits with individuals who give false confessions to escape police attention and pressure (see chapter 13). By way of example, both have inadequate personality features such as personally devaluing himself; withdrawing from others, including those who could bolster him by providing a support mechanism; lacking those qualities that allow him to assert himself and reduce the impact of stressful situations such as intense police questioning; and internalizing regret or guilt for all the rapes he has committed (even if they are not the subject of the current questioning). Consequently, unless there is firm evidence linking a particular person with the crime or crimes, the interviewer must exercise greater caution than normal. This is necessary because while the interview subject may possess the characteristics associated with a power reassurance rapist and may even give a confession, he may not be responsible for the crimes.

Table 8.1 Power Reassurance Rapist Interview Techniques

Trait	Technique	Examples
Low self-esteem Unsure of manhood Ashamed of his crime	Build rapport sufficient for suspect to function, given his low self-esteem, by pacing the interview	At outset, refer to him as "Mr. (Surname)." Ask him before using his first name. Use examples of good or decent things he has done, even if exaggeration is required.
No intent to physically harm Does not consider the rape as harm. This is likely the strongest trait benefiting the interviewer.	Mind reading, minimization	Build up his self-esteem. He likely made diligent efforts not to harm the victim. Give him credit for purposefully not hurting the victim. Compliment him on how he had control over the victim and did not do other acts, as some rapists have done. Assure him that sooner or later he will encounter a situation that goes bad and he will hurt or kill a victim. Read his mind by telling him "horror" stories of victims being seriously hurt or murdered.
Brings and considers the weapon as control technique	Minimization, mind reading, projection	Repeat his belief that he would never have used the weapon, would have left before using the weapon; only had it to maintain control and keep her from hurting him.
Security conscious, planner, surveillance Average or better intelligence	Building his confidence	Because he is a loner and maybe socially awkward, do not assume he is mentally challenged or slow.
Poor interpersonal skills	Rapport building; a relaxed, friendly, slow start to the interview Likely suspicious, on guard for insincerity; do not expect lengthy verbal exchanges.	Conduct lengthy discussion of the circumstances of his daily life, how he spends his time, who he knows, etc. When introducing subject of interview, use soft terms such as "the thing that happened last Tuesday" versus "the rape."
Sexual incompetence	Minimization	Do not mention any sexual dysfunctions, need for masturbation, etc.
Rich fantasy life, preselects victims	Rationalization, minimization, mind reading	After denial, describe how most people in his position have intrusive thoughts that cause them to act. They almost always are drawn to a particular woman because of her personal qualities, the type he desires in all his relationships.
Young adult victims Same age range as offender	Rationalization, minimization, mind reading	Deal with the assault by addressing it as grown out of proportion in offender's mind. Remind him he did not assault an elderly grandmother or a small child, and nothing happened that she had not done previously. Combine with other examples of offender behavior that minimize his acts.

Table 8.1 Power Reassurance Rapist Interview Techniques (continued)

Trait	Technique	Examples
“Unselfish or gentlemanly qualities”	Planting seeds, mind reading, minimization, projection, good cop–bad cop	State he treated her gently, as a lady, wife, like her boyfriend or lover would.
Low force level		Went out of his way to do so
Did not verbally abuse her or use vulgar language		Did not even call her names, except as a compliment
Did not physically abuse her		Only pressure applied was because of the way she acted.
Normal sex		He even involved her in the type of sex she likes, just wanted to make her happy.
Desires to please her		Interviewer is aware the prosecutor/supervisor believes he did terrible things, but interviewer has seen all the facts and understands all the efforts suspect made to be nice and treat the victim well.
		Likely, he even stopped some acts when the victim asked him to stop (negotiated with victim).
Minimal force level used	Mind reading, minimization, projection	In interviewer’s vast experience, he has been told of suspect’s real concerns and how he did everything possible not to harm the victim, as long as she did not harm him.
Fantasizes as consenting contact	Minimization, projection, mind reading	This woman is the kind whom suspect would like to have met some other way, in another situation. She really liked him, even took off her own clothes and made no real objections.
	Closers	
	Hard evidence	
	DNA	
	Video from area	If the “hit with evidence” approach is used early, this type of rapist may withdraw from the interview and be unwilling to discuss other crimes. Save these “blunt” tactics as a last resort.

The Power Assertive Rapist

The power assertive rapist is the most likely to enter the police interview room as a suspect. He is verbally, physically, and sexually aggressive with the victim and, as mentioned elsewhere, this rapist is confident of his sexual prowess. Unlike the power reassurance rapist, this man has no doubts about his masculinity. In his assaults, he is asserting his masculinity because he believes that as a man he is entitled to do so. This man views himself as a role model of manhood and virility, and others who know him superficially would agree with that assessment.

He acts impulsively and may have met the victim the same day of the sexual assault. For this reason, some power assertive rapists are also date or acquaintance rapists. However, this type is also frequently observed in stranger-to-stranger offenses. In either case, once he has captured the victim, he employs a moderate or higher level of violence (see chapter 6) and sexually treats the victim as an object to be used.

In date or acquaintance rape situations, the initial goal of the interviewer is to obtain the offender’s agreement that a sexual encounter with the victim occurred. The interview should then proceed by allowing the physical evidence of torn clothing and physical injuries to tell the story of nonconsent and rape.

In table 8.2, a differentiation is made between the date or acquaintance rapist and the stranger rapist. If the information is applicable to the date/acquaintance rape and stranger rape, the term *both* will be utilized.

The Anger Retaliatory Rapist

This offender is angry at women for real and imagined wrongs and wants to punish and degrade them. Those who know him understand he has a violent temper and that he hates women, blaming them for all his troubles and failures. His attacks are impulsive and essentially dependent on when he becomes emotionally overloaded; he may attack at any time and at any place. He selects victims of opportunity who happen to cross his path and the fact that they are women is certainly sufficient criteria for this angry offender.

Circumstantial evidence of his propensity to rage against women generally will be available from associates and coworkers. Because this man typically has a diverse arrest history, he is street wise and therefore the overall strategy of an interview is simply to place him near or with the victim at the time of the assault.

The main tools available to the officer are minimization of his acts and projecting responsibility for the event onto the woman. It is possible that a workable theme would be that with today's attitudes, women have it so easy and get jobs that men need to support their families, just because they are women. If the man is receptive, the officer can explain that the best way for him to handle this is to get his opinion of women on the record.

The Anger Excitation Rapist

This rapist is more commonly referred to as a sexual sadist. Of all the rapists, this man will be best prepared to deal with a police interview. It is probable that he will not consent to an interview but will claim his Fifth Amendment rights and demand an attorney, possibly by name. However, the detective should be prepared for him to agree to an interview—the criminal's purpose being not to provide information, but rather to obtain information. He considers himself superior to the police and will use the interview setting to explore the evidence against him.

Do not allow the focus of the inquiry to become diffused by accusing him of multiple assaults. When the subject is believed to be responsible for multiple crimes, it is recommended that the crime with the best evidence be the focus of the interview. Questions should be phrased in a manner that does not provide information to the offender. Questions of this type are discussed in the section on question formulation.

Such offenders are typically narcissistic and the officer's status must be projected as detective or higher, thus playing to the criminal's perceived superiority. His narcissism also creates an inability to withstand criticism and the officer may subtly criticize an aspect of the crime through questions such as, "The victim said that she fought you in every room of her apartment. Why weren't you able to control her?"

He may be lured into bragging about his cleverness and cunning. However, if this does happen, it will only be after he is convinced that there is substantial evidence against him.

Table 8.2 Power Assertive Rapist Interview Techniques

Trait	Techniques	Examples
Has high opinion of himself	Officer subtly controls the interview. Begin by directing suspect to particular chair. Rapist believes he is smarter than the officer. Interview should be arranged without an ending time constraint.	Both: If he is caught in lies, do not initially challenge him. Collect all lies and misstatements. Confront him with them collectively so that they will take on the “feel of evidence.”
Enjoys deferential treatment he receives from other males	Impress him with competency and authority of interviewing officer.	Both: Upon arrival, acknowledge his presence, but make him wait several minutes before he is taken to interview room. Once the interview has begun, have a planned interruption, causing a delay in the process. Another officer, within the hearing of suspect, praises the interviewing officer.
Sense of entitlement The right of a male	Minimize crime and project blame onto victim.	Both: Indicate officer is dealing with still another female complaint.
Views women as objects, inferior	Projection, minimization, mind reading, build-up questions and officer's experience, plant seeds, good cop–bad cop	Date or acquaintance: Encourage him to adopt minimized version of event. She did not know what she wanted, first she was attracted to him because..., encouraged him, then she cooled down; men cannot change that fast. Was not suspect's fault she drank so much and was out of control Stranger: Likely she is making claim because of need to explain what happened to her boyfriend
Acts impulsively	Minimization	Date or acquaintance: He is smart enough to stay away from this kind in the future. She rushed him and encouraged him, and he did not think about how she would handle the situation.
Rapist has sense of entitlement	Minimization, projection, reading minds	Both: Indicate another team is reviewing victim's statement for errors, lies. Her story is likely not a true reflection of actual events. Date or acquaintance: She came on to him or agreed to sex then changed her mind. A man cannot turn his sex drive on and off at the drop of hat.

Table 8.2 Power Assertive Rapist Interview Techniques (continued)

Trait	Techniques	Examples
Man's man	Rationalization	Date or acquaintance: He acted as any real man would with an aggressive, suggestive woman.
Physical violence	Projection	Both: Blame victim for any injuries. State she likely became aggressive and attacked him, and he only defended himself. Date or acquaintance: Nothing would have happened if she had only been in control of herself. Would likely have been worse if he was not a gentleman and a man able to control her.
	Closers: Request he undergo polygraph examination. If he agrees, quickly ask how he will do when asked questions specific to victim's statement	Indicator of lying: Agrees to do it sometime. If lying, he will make excuses why he cannot be polygraphed or hypnotized.
Useful with any rapist type	Test of commitment	

Case No. 3

The serial killer—self-named BTK for bind, torture, and kill—was an infamous sexually sadistic offender in the Midwest. He escaped detection and apprehension for over three decades. Fortunately for society, his narcissism created an inner need for recognition of his perceived brilliance. It also created a need to engage the police and further demonstrate his criminal mastery, and this led to his downfall.

When BTK, aka Dennis Rader, was arrested, he was confronted by his nemesis, Lt. Kenny Landwehr, commander of the Homicide Unit, Wichita, Kansas, Police Department. Lt. Landwehr and FBI Agent Robert Morton showed Rader a computer disc he had mailed to the police and explained the process that had been used to identify him as BTK.

At one point, he was asked to provide the date of a message he had mailed to the media and the police. Landwehr and Morton knew that if Rader provided the date, it would help confirm that he was BTK. As his hand hovered over a calendar, Rader asked if they had DNA evidence to prove he was BTK and it was explained that he had been linked to the crimes by DNA. Rader then said, "I am BTK." This response by BTK epitomizes the sexual sadist's need to be convinced by evidence that he has been caught and his criminal career is at an end.

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Geographic Profiling in Serial Rape Investigations*

9

D. KIM ROSSMO

Introduction

Stranger rapes present significant challenges for law enforcement investigators. Many sexual assaults are cleared for the simple reason that the parties know each other. But if no relationship exists between the victim and the offender, the case becomes a “whodunit” and is consequently much more difficult to solve.

Balancing the lack of victim/offender nexus is the fact that stranger crimes are often part of a series. Investigating serial crime is easier in some respects than investigating single crimes by strangers because special techniques for analyzing intercrime patterns become available to detectives in such cases (Hazelwood 2001). Each crime in the pattern can be considered a piece in a jigsaw puzzle. The more pieces there are, the more information there is; the more information there is, the more detailed the overall picture is.

The application of scientific studies of criminal behavior has led to the development of such serial crime investigative techniques as linkage analysis systems, behavioral (psychological) profiling, and geographic profiling. Geographic profiling is a criminal investigative methodology that analyzes crime locations to determine the most likely area of offender residence.

In this chapter, we first consider the nature of the criminal investigative process. Next, we discuss linkage analysis, an important step in the investigation of serial crime by strangers. Stranger and serial rape and the geography of rape are then reviewed. Finally, we examine geographic profiling and its associated investigative strategies.

Criminal Investigative Process

A criminal investigation can be divided into two essential tasks: (1) finding the offender, and (2) proving his guilt. Both tasks must be completed for a crime to be solved. These requirements are not chronologically ordered. Detectives may know who the offender is, but still lack sufficient evidence to prove his guilt.† Conversely, they may be able to prove guilt, but not know the offender’s identity. The first situation was the one facing investigators in the 2002 murder of Laci Peterson. Detectives felt strongly that her husband, Scot Peterson, had killed her and her unborn child. Their job was to prove the case in court. The second situation describes the case of the Baton Rouge serial murders that occurred from

* For more information on geographic profiling, see Rossmo, D. K. (2000). *Geographic Profiling*.

† The establishment of guilt is not a police prerogative and can only be done by a judge or jury. The police, therefore, never legally “know” who committed a crime before trial. In some cases, however, investigators become convinced a particular person committed the crime and, consequently, focus their investigative efforts on collecting evidence against that individual rather than on finding other suspects. Theoretically, the evidence collection process should confirm or refute the police theory.

Table 9.1 The Criminal Investigative Process

Find offender			Prove guilt
Collect suspects		Prioritize	Direct/indirect evidence
Public	Databases:	Physical description	Witness
Tips	Criminal records	Behavior	
Witnesses	Police files	General	Confession
Informants	DMV	Specific	
Friends	Other agencies	Geography	Physical evidence
Family		General	
Neighbors		Specific	
		Evaluate	
		Opportunity	
		Motive	
		Means	
		Modus operandi	
		Composite sketch	
		Video	
		Alibi	
		Suspect interview	
		Interviews of family, friends, and neighbors	

2001 to 2003. Police had recovered DNA evidence from the crime scenes so that once the offender was identified, his guilt could be established. Of course, sometimes investigators do not know who committed the crime and cannot prove his guilt even if they do. Such cases have a low chance of being solved.

Establishing guilt can be accomplished in one of only three ways: (1) a confession, (2) a witness, or (3) physical evidence (Klockars and Mastrofski 1991). The task of finding an offender involves collecting, prioritizing, and evaluating suspects. Table 9.1 provides a schematic of the criminal investigative process. It is a simplification of the tasks facing “whodunit” criminal investigations. It does not include every possible investigative approach, and some of the categories overlap. Within these limitations, however, the table provides a framework for strategy development and progress assessment (Rossmo 2004).

The investigative process is based upon information—its proper collection, analysis, and sharing. The Rand study of the criminal investigation process found the information that led to solved crimes most likely came from the public, then from patrol officers, and third, from detectives (Chaiken, Greenwood, and Petersilia 1991). This underlines the importance of effective channels of communication between the police and the community and within the police organization. But not all information has the same value, and investigators must be wary of “static” or “noise”—useless or misleading information. Because investigative efforts can produce hundreds and even thousands of potential suspects, difficulties with information overload often develop. This is the classic needle in the haystack situation.

Linkage Analysis*

When FBI Special Agent Clarice Starling finds a black witch moth (*Erebus odora*) chrysalis lodged in the throat of serial killer Buffalo Bill’s latest victim, a connection is soon made to another murder. But real crimes, unlike those in Thomas Harris’s popular novel, *The Silence*

* See chapter 10.

of the *Lambs* (1988), are often much more difficult to link. "Prostitute strangled, dumped at the side of the road, no physical evidence" is a too familiar crime scene description.

Establishing which offenses belong to a series is an important and essential task in the investigation of serial crime. This process is known as linkage analysis or comparative case analysis (see Davies 1992). Realizing the extent of the crime pattern helps determine the appropriate level of police response, facilitates information sharing between investigators and jurisdictions, outlines case similarities, and identifies common suspects. If and when the case is solved, additional crimes are cleared and the court delivers a more appropriate sentence (including dangerous offender or habitual felon designations). Knowing all the pieces of the puzzle allows a comprehensive picture of the offender to be formed and prevents linkage blindness from occurring.

There are three main methods used by police investigators to link crimes prior to an offender's apprehension: (1) physical evidence, (2) offender description, and (3) crime scene behavior. Each method has its strengths and weaknesses. It is not uncommon for a series of crimes to be connected together through a combination of these means.

Physical Evidence

Physical evidence provides the most certain means of linking crimes, though evidence of a type suitable for doing so may not be present in every case. One of the more powerful forensic methods, DNA profiling, has been heralded as the most revolutionary technology in the field of criminal investigation since the development of the Henry System for fingerprinting (Bigbee, Tanton, and Ferrara 1989; Gaudette 1990; Kelly, Rankin, and Wink 1987). As blood, semen, hair, and skin contain DNA, the potential for ascertaining and verifying links in cases of violent and sexual crimes is significant. The establishment of centralized indices to facilitate computerized searches and comparisons is a necessary step in realizing this potential (Miller 1991).

The FBI's National DNA Index System (NDIS) became operational in 1998 (Weedn and Hicks 1998). Designed for the compatible storage and comparison of DNA records, the Combined DNA Index System (CODIS) consists of two investigative indices: the forensic index for unsolved crimes and the convicted offender index for known felons. As of April 2005, there were 106,050 forensic profiles and 2,337,224 convicted offender profiles in NDIS. CODIS has produced over 21,800 hits and assisted in more than 23,700 investigations.

One of the important functions of such a system is the establishment of crime series (Brown 1994). For example, DNA pattern matching linked 18 unknown suspect serial cases together in Minnesota, eventually helping to solve them by matching specimens of two offenders to the crime scenes. Such results are common in Britain, where a DNA database has been in existence for some time ("DNA Profiling" 1995). The database has been responsible for thousands of hits—defined as a match between crime scenes or between crime scene and offender. Canada has also now established a national DNA data bank.

Automated fingerprint identification systems (AFISs) allow comparisons and matches that sheer volume would have previously precluded (Sparrow 1994). Programs such as the *Integrated Ballistics Identification System (IBIS)*, networked into the joint ATF/FBI National Integrated Ballistic Information Network (NIBIN), link crimes committed with firearms through computerized comparisons of microscopic bullet striation patterns and shell casing marks (Dees 1994; Strandberg 1994; see also Di Maio 1985). The British Shoeprint Image

Capture and Retrieval System is a national database that connects crime scenes through the geometrical shapes associated with stored images of footprint evidence.

Offender Description

Descriptions of offenders have provided a common and long used method of linking crimes. Mug shot books, while still in existence, are being replaced by computerized photographic databases that allow for certain physical description parameters to be used to narrow the search. But this is all predicated upon the assumption that there was a witness to the crime. There may not be one in the case of murder or arson. Even in a sexual assault, the victim must see, remember, and accurately recall (acquisition, retention, and retrieval) the offender's description. The ability for investigators to obtain an accurate physical description depends upon such factors as lighting conditions; whether the offender was masked; if the attack was from the rear; and the level of victim trauma, stress, fright, alcohol use, forgetfulness, and cooperation (see Thomas et al. 2004).

Individual physical appearance is also subject to modification. Weight changes slowly, hair more quickly, and clothing daily. Even relatively stable descriptors such as age, race, height, and build will be viewed subjectively by different victims. The New York East Side Rapist, who preyed on young women in Manhattan, was variously described by his victims as black, Hispanic, Middle Eastern, and Mediterranean.

Crime Scene Behavior

The behavioral analysis of crime scenes provides a third, and rapidly developing, methodology for offense comparison. Linking crimes behaviorally requires comparing similarities versus differences for both related and unrelated crimes (see Robertson and Vignaux 1995). Like crimes should show more similarities than differences and unlike crimes more differences than similarities. These comparisons are usually assessed in terms of proximity in time and space between offenses, comparable *modus operandi* (method of operation), and the presence of signature.

Crimes that take place close together in space and time are obviously more likely to be connected than those separated by significant distance and occurring years apart. This is not to say that some offenders do not travel great distances, change residence, or interrupt their criminal activity for personal, employment, or institutional reasons. It only means that geographic and temporal factors affect the probability of offense linkage, with those more proximate more likely to be connected (Bennell and Canter 2002).

Modus operandi (M.O.) involves the mechanics of the crime and can be broken down into three chronologically ordered stages comprising the methods used by an offender to (1) hunt (find and attack the victim), (2) commit the crime, and (3) escape from the scene. These three stages can be further subdivided into offensive (what is done to accomplish the crime) and defensive (what is done to avoid identification or apprehension) actions (Rossmo 2000). The matrix in Table 9.2 illustrates *modus operandi* behavior.

Modus operandi is not constant, but rather varies and changes for a variety of reasons. As with all human behavior, it is subject to individual deviation and random fluctuations. M.O. is responsive to environmental influences, such as victim reaction, the physical conditions of a crime setting, and ongoing police activities and media attention. Displacement may result from police activities and can take the form of changes in the spatial, temporal,

Table 9.2 Modus Operandi Matrix

Action/stage	Hunt	Crime	Escape
Offensive			
Defensive			

target, tactical, or functional characteristics of the crimes (Gabor 1978; Reppetto 1976). Over time, an offender's method of operation often evolves as the result of education, maturity, and experience; fantasy progression and development can also occur.

Unlike modus operandi, "signature" is constant, though certain aspects of its expression may evolve and improve over time (Keppel 1995). Signature is defined as behavior that goes beyond the actions needed to commit the crime; it is a fantasy-based ritual or combination of rituals that represent a unique and personal expression of the offender (Douglas and Munn 1992). When present, it provides a useful method for establishing links between crimes and can indicate certain underlying needs of the offender.

Staging is another consideration when examining crime scene behavior (Douglas and Munn 1992). Staging occurs when the crime scene is purposely altered. This is usually done by the offender in an attempt to mislead the police and typically involves a criminal who knew the victim and hopes to create a convincing alternative scenario. Crime scenes have also been changed by family members to protect the victim from embarrassment (e.g., in cases of autoerotic fatalities).

The reality, however, is that the ability of the police to link serial crimes is limited. Establishing offense connections is often a difficult exercise, especially so in busy urban environments characterized by high levels of crime. The backdrop of other, similar offenses can interfere with the process, and such "background noise" can make it difficult to know who is responsible for what. Consistency and constancy are not characteristics of many criminal offenders, and when an analysis does indicate that certain crimes are connected, the links are usually referred to in terms of probabilities rather than certainties. This is made all the more difficult when multiple offenders are involved.

A further complication is that the links might be between different incident types. In the case of a serial rapist who breaks into apartments to attack women, for example, police must review not just other rapes and attempts, but also sexual assaults, residential burglaries, and prowlings. Correctly establishing a serial criminal's pattern can involve analyzing hundreds or even thousands of crimes.

The major response to these problems has been the establishment of computer systems containing centralized investigative information networks. The idea of a national computer database to link murders originated with Pierce Brooks, a retired captain of detectives in the Los Angeles Police Department (LAPD) homicide unit (Brooks 1984; Howlett, Hanfland, and Ressler 1986). During his investigation of California serial killer Harvey Glatman in the late 1950s, Brooks had to resort to combing various newspaper files in order to locate murders that might fit the pattern from outside LAPD's jurisdiction (Newton 1998).

Brooks's efforts led to the establishment of the Violent Criminal Apprehension Program (VICAP), which became operational in 1985 under the auspices of the FBI's National

Center for the Analysis of Violent Crime (NCAVC). VICAP uses a standardized form containing a series of behaviorally oriented questions concerning the crime, victim, and offender that allows for computerized matching of similar cases from a national database. Several states have also developed their own computerized crime linkage systems, some of which feed into VICAP (Cryan 1988; Collins et al. 1998; Keppel and Weis 1993a, 1993b).

The Canadian Violent Crime Linkage Analysis System (ViCLAS), developed by the RCMP for murder and sexual assault cases, went national in 1995 (Johnson 1994). Since then, ViCLAS has achieved international recognition and has now been adopted for use by several European countries, Australia, and certain American states (Collins et al. 1998). In the United Kingdom, the Serious Crime Analysis Section (SCAS), National Crime Faculty, is mandated to conduct comparative case analysis for murders, rapes, and abductions.

A major difficulty with computerized linkage systems is low reporting rates. This causes a serious data shortage problem because case matches are an exponential function of reporting level (Rossmo 2000). For example, if only 50% of the crimes are entered, then only 25% of the potential linkages can be identified; with a 20% reporting rate, the linkage ability drops to 4%. It is paradoxical that some police officers, who typically possess little faith in offender rehabilitation, fail to see the value in a comprehensive criminal tracking system.

One of the common reasons quoted for failure to report cases is the time it takes an investigator to complete the input forms, which can involve over 150 questions. Therefore, the choice of behaviors used in the analysis is critical. Both discrimination and utility are important. Certain offender actions are so common (e.g., vaginal intercourse) as to be poor discriminators. Other behaviors are so rare (e.g., the offender writes on the victim's body) that they are unlikely to be encountered. Crime linkage is a holistic process and the questions must also provide a full understanding of events. System designers need to balance the requirement for parsimony with the necessity for a comprehensive assessment of crime scene behavior.

An underlying assumption of linkage systems is that the analyzed behaviors are more or less consistent across offenses. Offender speech forms have been found to be consistent and useful in connecting rape cases (Dale and Davies 1994), and the London Metropolitan Police Sexual Assault Index analyzes verbal themes as part of the process of linking crimes (Copson 1993). But FBI research on 108 serial rapists determined that 58% of the 119 behavioral variables they examined reflected zero or minimal consistency across crimes (Warren, Reboussin, and Hazelwood 1995). Alone, such questions make a poor basis for a case linkage system; together, they may point to common underlying fantasies or behavioral themes.

The true strength of these systems therefore lies in their ability to make concurrent comparisons between multiple variables. A study of British serial rapists found that 28% of the offenders took steps to prevent their faces from being seen by the victim (Davies and Dale 1995). In the FBI research it was noted that 70% of rape contact sites occurred indoors, and 60% within the victim's home (Warren et al. 1995). These are not powerful discriminators separately, but assuming independence between questions, they can be combined in powerful ways. A burglary rapist who covers his face might only represent 17% of the offender population. Additional matching variables can help narrow the investigative focus.

The process of recognition—whether it is of faces, scenes, automobiles, voices, or architecture—is based less on individual elements than on the relationships between them. Humans are much better than serial-processing computers at image and complex pattern

recognition. As of today, most computerized case linkage systems are only designed to manage and search through large volumes of information, leaving the ultimate determination of case association to the analyst. As the volume of information collected by these databases increases, the need for expert system support becomes more crucial.

Grubin, Kelly, and Ayis (1997) caution that because of “the softer and more fluid substance of behavioral ‘evidence’...[the process of linking crimes] must be based on scientific principles rather than on a combination of intuition, experience and theory” (pp. 12, 20). They summarize the practical problems in using offender behavior to link crimes as (1) consistent but common behaviors, (2) consistent but uncommon behaviors, (3) preciseness of behavior description, (4) behavior influenced by victim response, (5) weighting and relative importance of behaviors, (6) variation in behavior consistency, (7) evolution of behavior, and (8) interpretation of behaviors.

The idea that linked crimes should be interconnected provides one simple method for pattern determination. If crime A shows similarities to crime B, and crime B shows similarities to crime C, then crime C should also show similarities to crime A (Rossmo 2000). If this is the case, then the probability of these crimes being connected increases. The results from the case variable matrix can then be plotted in a case linkage chart, which depicts the strength of association, in terms of the behavior variables of interest, between the different crimes. The proper selection and phrasing of crime scene behaviors (variables) are important parts of this analysis.

In summary, crime linkage methods can be outlined as follows:

1. Physical evidence
2. Offender description
3. Crime scene behavior
 - a. Proximity in time and place
 - b. Modus operandi
 1. Find and attack the victim
 2. Commit the crime
 3. Escape from the scene
 - c. Signature

Stranger and Serial Rape

While rape is often seen as a crime of power and anger, several researchers have noticed the importance of sex as a primary motive for certain rapists (Prentky et al. 1989; Soley 1998). The principal components of the human sex drive include the biological, physiological, and psychosexual (Hazelwood and Warren 2001a). The psychosexual component is the most important to the police investigator for an understanding of sex crime. Fantasy thus plays a key role in criminal sexuality. Generally, the more complex the crime is, the greater is the fantasy and the more intelligent is the offender (Hazelwood and Warren). Because reality is imperfect and never lives up to fantasy, criminal offenders feel the need to try again, creating a process that results in serial sex crime.

Many sex offenders are serial criminals. One study of paraphiliacs ($n = 411$, mean duration of deviant arousal = 12 years) found, on average, 581 attempted and 533 completed sex offenses, and 336 victims per offender (Abel, Mittelman, and Becker 1985; see

also Abel et al. 1987). But these averages are misleading because 70% of the offenses were actually committed by only 5% of the offenders.

A stranger-victim is one mark of a serial offender. Kocsis and Irwin (1998) suggest other indicators of serial rape include stylized verbal scripts demanded from the victim, sadistic or violent behavior, paraphilic activities, offender's inability to penetrate the victim or to climax, and souvenir collection. Patterns have been found in the spatial behavior of serial rapists and other sexual predators. Studies clearly indicate they prefer familiar areas and tend to repeatedly use the same geographic and ecological space, sometimes backtracking to previous attack sites (Davies and Dale 1995; LeBeau 1987b, 1992). The offenses of the majority of serial rapists are likely to cluster around their home bases and main anchor points. Not much is known about the behavioral consistency of serial rapists, though some regularity has been observed in escape, control, and planning actions (Grubin, Kelly, and Brundson 2001; Knight et al. 1998).

Research in Britain by Davies, Wittebrood, and Jackson (1997, 1998) demonstrates that certain crime scene behaviors exhibited by stranger rapists are useful for predicting elements of the offender's criminal record. Variables such as concealment of identity, familiarity with the criminal justice system, control of the victim, method of approach, criminal behavior, and alcohol involvement were used to determine criminal record characteristics. Their model best predicted prior convictions for burglary (69% accurate), violent crime (59% accurate), and one-off crimes (i.e., no other sexual offenses; 71% accurate). These models are potentially valuable tools in the generation and prioritization of suspects in sexual assault cases. Wikström (1991) noted that 65% of all rape offenders had a criminal record—40% of these for violence.

Grubin and Gunn (1990) found that 86% of the English and Welsh serial and single rapists ($n = 142$) they studied had a criminal history, typically involving some type of theft. Half had four or more previous convictions, and 29% received their first sentence before 20 years of age. There was a greater percentage of serial rapists with previous sex crimes, usually indecent exposure or indecent assault, than single rapists (46 vs. 25%). A pattern of increasing criminality amongst rapists was evident.

Geography of Rape

Many sexual attacks take place near the home of either the victim or offender (37%), and only a minority (14%) occur in public areas, parking lots, or alleys (Miethe and McCorkle 1998). If the offender is a stranger, however, about half of the assaults happen in open public areas or parking lots. An FBI study of 41 incarcerated serial rapists responsible for a minimum of 10 victims (84% of whom were strangers) found only 12% of these rapes occurred outside—6% in streets or alleys and 6% in parking lots or on highways—while half occurred in the victim's home (Hazelwood and Warren 2001b). Both Grubin and Gunn (1990) and Amir (1971) determined the majority of rapes occurred indoors (61 and 67%, respectively). Warr (1988) estimates that 50–60% of all rapes are residential. These findings challenge the assumption of rape as a street crime and the perception of safety within the home.

Low-density cities have less surveillance and higher rates of rape (Felson 2002). Neighborhoods characterized by a mix of residential, industrial, and commercial land use put people on streets containing parking lots, abandoned buildings, and deserted blocks, making them more vulnerable to attack. These areas are typically in low-income districts.

Neighborhoods with high overall rape rates are characterized by ethnic diversity, population turnover, and multiple-unit rental dwellings. They tend to be in large metropolitan areas, and their populations have disproportionate levels of unemployed and low-income inhabitants (Miethe and McCorkle 1998). Many rapists live in lower socioeconomic neighborhoods, in cheap rented rooms, temporary accommodations, or with no fixed address (Davies and Dale 1995; Johnson 1999). The incidence of sexual assault is greatest in summer (July and August) and lowest in winter (December, January, and February). These crimes disproportionately occur on the weekend and during the evening (37% between 6:00 p.m. and midnight).

Criminals' perceptions of opportunities in their special milieu vary with age, race, and experience, and black offenders tend to be particularly constrained as to where they live and travel (Carter and Hill 1979). Characteristics typically associated with shorter distances between home base and the rape site are youth, black ethnicity, lack of intelligence, social ineptness, and lack of criminal experience (e.g., Canter and Gregory 1984; Davies and Dale 1995; Ressler et al. 1986; Rossmo 2000; Warren et al. 1998).

Rapists who are highly sexually motivated, as opposed to opportunistic, vindictive, or angry (see Knight and Prentky 1990), have been observed to offend further from home, perhaps because of a search for very specific victim types or because of a more sophisticated and organized approach to rape. The same authors observed that rapists with previous sexual convictions traveled further, as did indoor rapists with burglary convictions. Stranger rapists with very specific target requirements (e.g., child victims without adult guardianship) may have to travel further to particular places to find suitable and available victims. Instead of clustering around the offender's home base, the crimes of a serial sex offender with specific victim requirements may present a pattern distorted by victim availability; these have been termed "forced pattern" rapes (Alston 1994).

In a study using routine activity and lifestyle perspectives, Warr (1988) found houses and females at greater risk for burglary were also at greater risk for home intrusion rape (rape following unlawful entry of the home). Both crimes possessed similar opportunity variables: (1) housing (e.g., low income, newer areas, rental premises, multiunit structures), (2) female occupancy (e.g., divorced, living alone or without other adults), and (3) combinations of the first two groups (e.g., female householders, no husband present, aged 25–34, in a renter-occupied structure with more than 50 units). The study concluded that home-intrusion rape is a hybrid offense—a violent crime with the opportunity structure of a property crime.

The main elements of criminal spatial behavior in stranger rape include the following:

- Stranger rapists approach their victims close to home, in areas with which they are familiar.
- Younger rapists commit their crimes closer to home than older rapists.
- The offense pattern of stranger rapists is influenced by the positioning of the home base and other activity sites, by the distribution of locations with relatively large numbers of suitable victims, and by local topography.
- Stranger rapists who are also professional property thieves (in the sense that they plan their property offenses to maximize gain and minimize risk) will locate their rape victims at a greater distance from home than is the norm because their routine criminal activities take them further afield, where there are sufficiently rewarding targets for theft.

The journey-to-crime literature is primarily concerned with examining the distance from offender residence to crime location. A summary of previous research on the journey to rape and sexual assault is presented in table 9.3. Most studies found rape and sexual assault occurred close to the offender's home, with journey-to-crime distances in the range of 1–3 miles (1.6–5 km).

The distance between home and offense site is affected by the surrounding topography: density of population, availability of routes, modes of transport, physical barriers (e.g., rivers and lakes), and psychological barriers (e.g., different ethnic neighborhoods). Rapists who live in less densely populated areas may have to commute to nearby towns or cities in order to locate potential victims (Canter and Larkin 1993; Davies and Dale 1995). Many rapists seek their victims near nodes of relatively intense activity, such as nightclubs, bus stops, or train stations, or along routes leading from such nodes, and these types of setting are only plentiful in large conurbations (Brantingham and Brantingham 1993; Davies and Dale 1995).

Davies and Dale (1995) studied the geography of 79 stranger rapists and 299 sexual offenses in England. The median distance from offender residence to victim approach site was 1.8 miles. On average, younger offenders committed their crimes closer to home than older offenders (the median age was 26 years). Several of the rapists were incessant prowlers by vehicle, public transportation, or on foot. "Prolific offenders" (serial rapists who had committed at least five sexual assaults) were examined separately in order to explore individual-level patterns ($n = 22$). The outdoor victim approach sites for these individuals were influenced by the offender's residential proximity to his hunting grounds, particularly nodes of activity (e.g., entrances to train stations or apartment blocks), and commuting routes (e.g., work, school, shopping). As the desirability of such areas is dependent upon female activity levels, the crimes were influenced by time of day; for example, nighttime assaults occurred against women leaving areas of entertainment. Other offenders hunted in parks and lonelier places, trading off fewer potential victims for lower witness surveillance. Davies and Dale concluded that "a proportion of serial rapists carry out their offences in neighbourhoods that are familiar because of proximity to either home or to other anchor points" (p. 14).

Davies and Dale (1995) noted that some rapist-burglars traveled further from home, but attributed this to their being professional burglars, prepared to travel longer distances for greater financial reward (Capone and Nichols 1976). Two studies also found that rapists with prior criminal convictions tended to travel farther than those who did not have previous convictions (Rhodes and Conly 1981; Warren et al. 1998), highlighting a possible relationship between criminal experience and longer distances. One possible explanation for this is that experienced offenders sometimes travel longer distances because of being well known to local police (Repetto 1976; Rossmo 2000).

LeBeau (1987a) categorized rapists in San Diego, California, by approach method and found burglar-rapists traveled the shortest distances to the approach site (mean of approximately 1 mile). Those who met their victims at a party or bar traveled a bit further (approximately 2 miles). Those who surprised their victims in an outdoor location without social preliminaries traveled longer distances (approximately 3.5 miles). Offenders who met their victims in a public place or outdoors, or who gave their victims a lift, traveled the longest distances (approximately 4.5, 6, and 8 miles, respectively). In approximately 90% of the offenses (286 out of 320), the offender-victim relationship was classed as either stranger or (very) casual acquaintance, and in the other 10%, as acquaintance; rapes involving

Table 9.3 Rape Journey-to-Crime Research^a

Source	Crime (N)	Location	Year	Crime trip distance	Comments
Alston (1994)	stranger serial sexual assault (29 series, 102 crimes)	British Columbia	1977–1993	31% < 0.5 km; 44% < 1 km; 56% < 1.5 km; 60% < 2 km; 76% < 3 km	distance to nearest offender activity node
Amir (1971)	forcible rape (1,292 offenders, 646 crimes)	Philadelphia	1958, 1960	72% within home area (5 blocks)	mobility triangles
Block, Galary, and Brice (2002)	sexual assault (617)	Chicago	1998	1.5-km median (excluding incidents occurring at either victim's or offender's address)	Manhattan distance
Boggs (1965)	rape, robbery (n/k)	St. Louis		most likely within nonresidential area	
Canter and Larkin (1993)	serial rape (45)	Greater London, SE England	1980s	1.5 mi mean minimum crime trip distance	87% marauders; 13% commuters
Chainey, Austin, and Holland (2001)	sex crime	Borough of Harrow, London	1998–2000	1.3/1.7/1.6 km Euclidean/street routing/Manhattan distance	
Davies and Dale (1995)	stranger rape (299 crimes, 79 offenders)	England	1965–1993	1.8 mi Median; 17% (0.5 mi; 29% (1 mi; 52% (2 mi; 60% (3 mi; 69% (4 mi; 76% (5 mi	approach site; 72/24% (1.8 mi ((/>26 years)
DeFrances and Smith (1994)	rape (n/k)	United States	1991	60% in own neighborhood	sample survey (13,986 total) of 711,000 state prison inmates
Dern et al. (2005)	sexual violence (618)	Germany		60% within district; 85% were regional; 95% within federal state	rapists more regional; no age–mobility correlation
Erlanson (1946)	rape (n/k)	Chicago	1938–1946	87% within home neighborhood	home neighborhood = police precinct
Filer (2001)	stranger child sexual assault (72)	British Columbia	Mainly 1990s	3.3 km (SD = 6.3 km); 46/67/79/92% < 1/2.5/5/10 km	crow's flight distance

Table 9.3 Rape Journey-to-Crime Research^a (continued)

Source	Crime (N)	Location	Year	Crime trip distance	Comments
Gabor and Gottheil (1984)	rape, indecent assault (18 crimes, offenders)	Ottawa, Canada	1981	1.4 mi (90% in-townners)	out-of-townners, NFAs, and n/k excluded
Hanfland (1982)	rape/sodomy (66)	Eugene, OR	1978–1981	2.7 mi	older offenders generally traveled further
Hill (2003)	rape (85 crimes)	Glendale, AZ	1995–2003	1.4 mi (SD = 2.8 mi); Euclidean distance; repeat offenders (n = 7)	(19 years traveled further than < 19 years
Hill (2003)	other sex offenses (404 crimes)	Glendale, AZ	1995–2003	1.6 mi (SD = 2.7 mi); Euclidean distance; repeat offenders (n = 7)	(19 years traveled further than <19 years
LeBeau (1987a)	rape (319)	San Diego	1971–1975	2.5/1.8/3.5 mi (rape/serial rape/nonserial rape)	geometric mean; manhattan geometry
LeBeau (1992)	serial rape, burglary, indecent exposure (83 crimes, 4 offenders)	San Diego	1971–1975	25.9/1.9/0.5/3.3 km (4 serial rapists)	attempts, sex-related crimes, and burglaries
Meaney (2004)	serial sexual offenses	New South Wales, Australia	2000–2003	1.8 km first offense (SD = 3.2 km); 5.3 km last offense (SD = 13.8 km)	marauder style more likely
Mowbray (2002)	serial sexual offenses (235 crimes, 37 offenders)	Edmonton, AB	1969–2000	5.6 km (SD = 6.2); median = 3.6 km; straight-line distance	6.9 km (SD = 7.2); median = 4.9 km; manhattan distance
Ostlund (2000)	pedophilia (142 crimes, 25 offenders)	Stockholm	1996–1998	68% within 1 km	isolated sites 18%, semipublic 51%, public 31%
Pyle (1974)	rape (19)	Akron, OH	1971–1972	1.3 mi	“taxicab” (wheel) distance
Rand (1986)	rape (34 crimes)	Philadelphia	1968–1975	53.1% within home census tract	juvenile offenders; mobility triangles
Rhodes and Conly (1981)	rape (323 offenders)	Washington, D.C.	1974	1.2 mi; 0.7 mi median; 62% < 1 mi	wheel distance; adults only

Table 9.3 Rape Journey-to-Crime Research^a (continued)

Source	Crime (N)	Location	Year	Crime trip distance	Comments
Rossmo and Baeza (1998)	serial rape (103 crime trips, 15 crime series, 79 crimes, 17 offenders)	New York City	1984–1992	2.5 mi (residence); 1.0 mi (anchor point)	
Rossmo, Davies, and Patrick (2003)	stranger rape	United Kingdom	1998–2001	2.4 km median (1st quartile = 0.9 km; 3rd quartile = 8.2 km)	Manhattan distance; rape encounter site
Suttles (1968)	lewd fondling, attempted rape, intercourse (5 crimes, 7 offenders)	Chicago	1963–1965	60/80% < 1/2. 1–3 blocks	male juvenile offenders; nearest offender residence used in co-offending cases
Topalin (1992)	serial rape (54)	London area	1980s	2.8 mi; 1.5/3.6 mi black/white; 2.0/3.1 mi unemployed/unemployed	20% in or close to home; first convicted offense
Warren et al. (1995)	serial rape (413 crimes, 83 offenders)	United States		3.1 mi; 1.7/4.9 mi average closest/furthest (local offenders, travel < 20 mi)	rituals, restraints, burglary, all indicative of further travel
White (1932)	rape (11)	Indianapolis	1930	1.5 mi	measured from center of respective census tracts

^aNot all these studies reported complete information (e.g., location, year, distance metric), so some data are missing. To avoid rounding errors, distance findings are presented as originally reported (1 km = 0.62 mi; 1 mi = 1.61 km). The following abbreviations are used in the table: NFA for no fixed address; n/k for not known; and SD for standard deviation. Unless otherwise specified, the figures in the *crime trip distance* column refer to mean journey-to-crime distance.

Source: Summarized and updated from Rossmo, D. K. (2000). *Geographic profiling*. Boca Raton, FL: CRC Press.

intimates were excluded from the study. Although the victim–offender relationship was not clearly defined for each approach category, by implication the research provided some information about the distances traveled by stranger rapists and suggested the existence of a relationship between approach setting and distance.

Warren et al. (1998) found that “local” rapists in the United States traveled, on average, approximately 3 miles in order to offend. Local rapists constituted approximately 80% of the sample (83 out of 106) and were defined as those whose maximum journey-to-crime

distance was less than 20 miles. By implication, they were also stranger rapists, though this was not overtly stated. This study also indicated that two types of rape behavior were associated with longer travel distances: scripted ritualistic types of rape involving the use of restraints and those involving forced entry and theft. Warren et al. suggest that ritualized behaviors are determined by sexual fantasy and may be associated with a more specific choice of victim or higher cognitive processing; rapists with a strong sexual motivation may tend to exhibit greater evidence of planning.

The use of forced entry and theft in a rape indicates the offender may have experience of property crime (Jackson, van den Eshof, and de Kleuver 1997; Warren et al. 1998), and hence his motivation may encompass both sexual and nonsexual components. Consequently, the longer distances associated with this type of serial rapist might be partly due to the targeting of suitably affluent properties for burglary by professional thieves or to caution imbued by previous criminal experience. The findings of Warren et al. regarding burglar-rapists contrast with those of LeBeau (1987a); however, the former's sample involved serial rapists who had eluded arrest for some time, indicating a higher degree of sophistication or instinctive wariness.

In his study of 30 serial rapists in British Columbia, who were responsible for 183 incidents, Alston (1994) determined rape locations were spatially patterned. Using "wheel distance" measures (following the street network), Alston found that 94% of the offenses were within 2.5 km/1.6 mi of the offender's activity space, and most were within 0.3 km/0.2 mi. Activity space was defined as the offender's activity nodes (past and present homes, current and previous work sites, and residences of partners, friends, and family members) and connecting routine pathways. When activity nodes alone were considered, 72% of the offenses were within 5 km/3.1 mi, and most were within 2 km/1.3 mi. The mean wheel distance from rape site to nearest offender activity node was 0.9 km/0.6 mi (median = 0.7 km/0.4 mi, standard deviation = 0.9 km/0.6 mi). The mean wheel distance from rape site to nearest offender routine pathway was 0.5 km/0.3 mi (median = 0.4 km/0.3 mi, standard deviation = 0.9 km/0.6 mi). For those crimes where the geographical milieu was known, prostitution strolls and hitchhiking regions appeared to be favored target regions for offenders. Almost all of the offenses involved the use of a vehicle by the rapist. Approximately 43% of the serial rapists used a con approach, 28% a blitz/surprise approach, and 11% a quasi-acquaintance approach (method of approach was unknown in 18% of the cases).

Rossmo, Davies, and Patrick (2004) conducted a comprehensive study of stranger rape in the United Kingdom. They found the median distance from offender current residence to encounter site to be 2.4 km/1.5 mi (first quartile = 0.9 km/0.6 mi; third quartile = 8.2 km/5.1 mi). The distances ranged from 0 to 85 km/53 mi ($n = 163$; only distances less than 100 km/62 mi were analyzed). The modal distance was 0.5 km/0.3 mi. Figure 9.1 shows the distribution of journey-to-crime distances by 0.5 km/0.3 mi intervals ($n = 129$); cases involving travel over 10 km/6.2 mi are not displayed ($n = 34$, 21%). These distances are consistent with previous research findings, including the general observation by Davies and Dale (1995) that stranger rapists offend relatively close to home.

Other findings by Rossmo et al. (2004) include the following:

- Approximately 24% of cases were part of a series, which ranged from two to five crimes, with a mean of 2.6. Serial rapists traveled further than single rapists (median of 5.1 km/3.2 mi vs. 2.4 km/1.5 mi), and their crime locations were spatially clustered. They exhibited high consistency in the type of rape encounter site (e.g., outdoors,

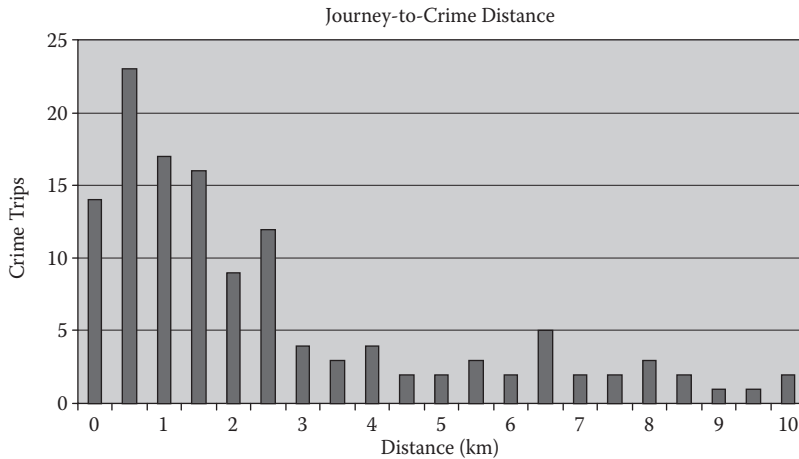


Figure 9.1 Stranger rape journey-to crime distances (10 km/6 mi and less).

victim's home), moderately high consistency in the geodemographic coding of encounter sites within a series, and moderate consistency in their geographic modus operandi (i.e., crime site set categorization EASR [encounter, attack, sexual assault, and victim release]). Serial rapists did not attack prostitutes more often than single rape offenders did.

- There were multiple scenes associated with single rapes in half of the cases.
- Most stranger rapes occurred outdoors (70%).
- Significant differences were observed between street prostitute and other cases, with the former involving double the median distance from offender residence to crime site (5.3 km/3.3 mi vs. 2.4 km/1.5 mi), but with a narrower range. The offenders who attacked street prostitutes in this sample were older (median age of 32 vs. 26 years) and more likely to be of white European appearance (87 vs. 72%) compared to the rest of the offenders in the study. About 15% of all cases involved street prostitute victims.
- Low income and high unemployment geodemographic codes dominate where stranger rapists live, but there are also indications of a group of stranger rapists who reside in more upscale areas; these can be generally characterized as striving and rising neighborhoods.
- Just over half of stranger rapists are aged 18 to 28, and over three quarters are aged 16 to 33. While most previous studies have found crime journeys increase with age, no clear pattern was detected.

Geographic Profiling

Geographic profiling is an investigative methodology that uses the locations of a connected series of crimes to determine the most probable area of offender residence (Rossmo 2000). It is typically applied in cases of serial murder, rape, arson, robbery, and bombing, though it can be used in single crimes that involve multiple scenes or other significant geographic characteristics. Geographic profiling was developed from research conducted at Simon Fraser University's School of Criminology. Crime pattern theory, developed by Professors

Paul Brantingham and Patricia Brantingham (1981, 1984, 1993), provides the conceptual basis for geographic profiling. Crime pattern theory states that crime locations are not distributed in space randomly, but rather are influenced by the features and road networks of the physical environment. An understanding of these patterns provides a means for determining the most probable area of offender residence.

A mathematical representation of this understanding was encoded in the criminal geographic targeting (CGT) computer algorithm. The CGT model is used to produce jeopardy surfaces—three-dimensional probability surfaces—that outline the most probable area of offender residence. These are displayed through color geoprofile maps that provide a focus; for investigative efforts (see figure 9.2, Lafayette southside serial rapist: jeopardy surface, and figure 9.3, Lafayette southside serial rapist: geoprofile).

While geographic profiling can be used as the basis for several investigative strategies, it is important to stress that it cannot solve crimes. Its purpose is to help manage the large volume of information typically generated in major crime investigations. Geographic profiling should be regarded as one of several tools available to detectives and is best employed in conjunction with other police methods. Address information is an element of most record systems, and geographic profiling can be applied in a variety of contexts as a powerful decision support tool. Geographic crime patterns are clues that, when properly decoded, point in the direction of the offender.

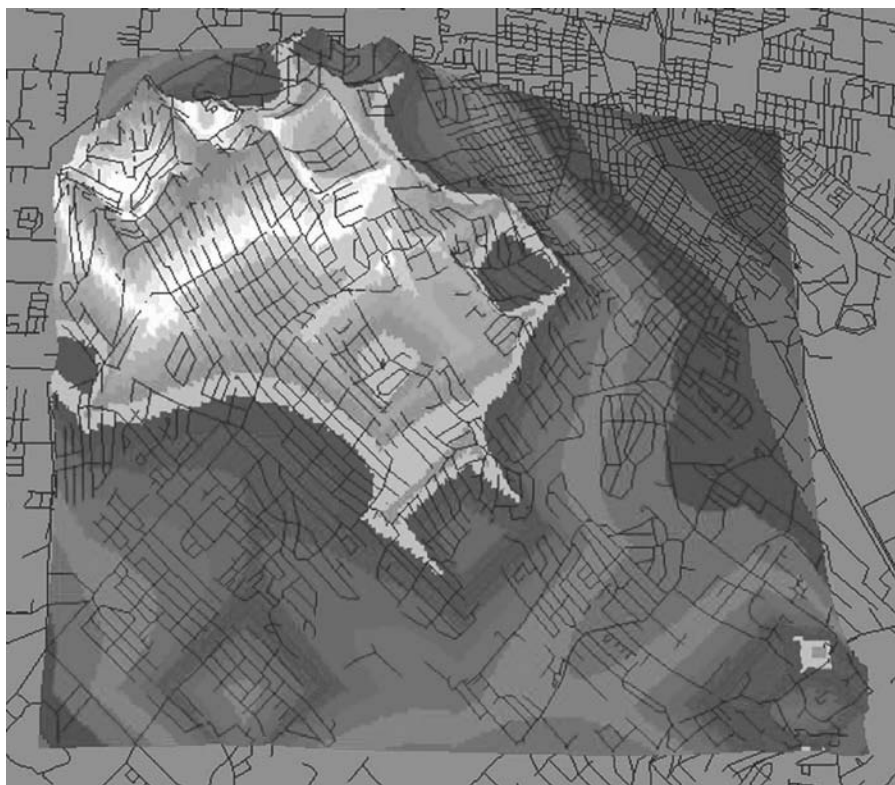


Figure 9.2 Lafayette southside serial rapist: jeopardy surface.

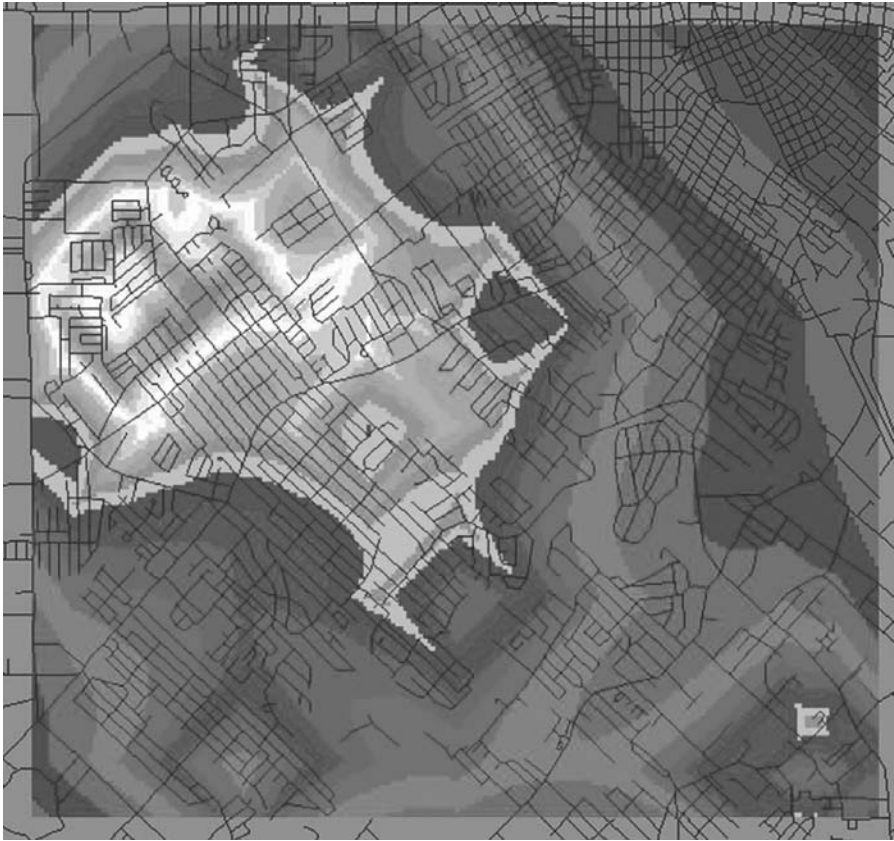


Figure 9.3 Lafayette southside serial rapist: geoprofile.

For example, in the investigation of a series of over 20 rapes from 1988 to 1996 in St. Louis, Missouri, Detective Mark Kennedy employed both psychological and geographic profiling to prioritize a list of some 90 suspects for DNA testing. In addition to a residential focus, the geoprofile drew attention to the St. Louis State Hospital and to what appeared to be likely commuting routes used by the offender. When the Southside Rapist was identified through DNA testing subsequent to a burglary arrest, it was found that he moved several times during the crime series. The geoprofile identified his residential area during his most active rape period; one home was in the top 2% (0.4 mi²), and the other, across the street from the St. Louis State Hospital, in the top 5.6% (1.2 mi²) of the hunting area. The offender, 43-year-old Dennis Rabbitt, pled guilty in January 2000 to 49 counts of rape, sodomy, and burglary and received five consecutive life terms.

The knowledge gained through research and experience of how and where criminal predators hunt for victims has both practical and theoretical implications. Geographic profiling is now an investigative support service offered to law enforcement agencies in cases of both violent and property crime. It has been used in criminal investigations in Canada, the United States, the United Kingdom, Europe, Africa, the Middle East, and Australia.

Geographic Profiling Considerations

The ability to identify the existence of a serial offender is the starting point of the process. The extent and accuracy of the linkage analysis is important because the more crimes that occur, the more accurate the geographic profile is. But providing there is no spatial bias and not too many locations are missed, unlinked crimes are not a critical problem. The CGT algorithm is also quite robust and its results are not significantly affected by the mistaken inclusion of an unconnected crime; generally, at least 90% of the information should be accurate.

While primarily empirical, geographic profiling has both quantitative (objective) and qualitative (subjective) components. The objective component uses a series of geostatistical techniques and quantitative measures, such as the CGT program, to analyze and interpret the point pattern formed by target sites. Because the validity of these measures depends upon number of locations, they are inappropriate for smaller crime series. The subjective component of geographic profiling is based upon the reconstruction and interpretation of the offender's mental map (Homant and Kennedy 1998). A behavioral (psychological) profile is not a necessary precursor for a geographic profile, but the insights it provides to offender personality, behavior, and lifestyle are useful, particularly in cases involving only a few locations. A geographic profile, in turn, helps refine a psychological profile, focus its application, and increase its utility. The two types of profiles optimize each other and act in tandem to assist investigators in developing a "picture" of the person responsible for the crimes in question.

Many different crime factors and environmental elements are considered in the construction and interpretation of a geographic profile. The most relevant ones include the following:

1. Crime locations—offense locations and times are the most important data in a geographic profile. Also significant are the number and types of crime sites.
2. Offender type—the types and number of offenders affect crime geography. If multiple criminals living apart are involved, the geoprofile will focus on the dominant one's residence. Large, amorphous gangs may not be suitable for geographic profiling because of changing group composition. Psychological profiling assists in interpreting offender behavior by providing information on personality, background, and level of organization.
3. Hunting style—criminal hunting methods (used to search for, and then attack, victims or targets) influence crime site patterns. An offender's hunting style, therefore, is an important consideration in geographic profiling (see the following section for a more detailed discussion on criminal hunting methods).
4. Target backcloth—constrained or patchy target backcloths limit the degree of offender choice and may influence the importance of certain crime site types for the profile.
5. Arterial roads and highways—people, including criminals, do not travel as the crow flies. Not only must they follow street layouts, but they also are most likely to travel along major arterial routes, freeways, or highways. Crimes often cluster around freeway exits and entrances.
6. Bus stops and rapid transit stations—offenders without vehicles may use public transit or travel along bicycle and jogging paths. The locations of these routes and stops are important considerations.

7. Physical and psychological boundaries—people are constrained by physical boundaries such as rivers, ocean, lakes, ravines, and highways. Psychological boundaries also influence movement. For example, a criminal of low socioeconomic status may avoid an upper class area or a black offender might not wish to go into a white neighborhood.
8. Zoning and land use—zoning (e.g., residential, commercial, industrial) and land use (e.g., stores, bars, businesses, transportation centers, major facilities, government buildings, military institutions) provide keys as to why someone may be in a particular area. Police in Britain conduct site surveys and location inventories in the area surrounding a crime to help identify what may have brought an offender to a particular location. Similarly, information about the peak area in a geoprofile provides insight to a criminal's anchor point, and zoning classification helps determine if this is a residence or workplace. For example, the geographic profile for a series of bank robberies occurring just after noon fell on a commercially zoned area of the city. The time and location factors correctly suggested an offender who was committing the crimes during his lunch break. The anchor point for his crimes—and the focus of the geoprofile—was therefore his work site, not his home.
9. Neighborhood demographics—some sex offenders prefer victims of a certain racial or ethnic group. These groups may be more common in certain neighborhoods than in others, affecting spatial crime patterns.
10. Victim routine activities—the patterns of routine victim movements may provide insights as to how the offender is searching for targets.
11. Singularities—single offenses that do not appear to fit the overall pattern of the crime series are often a source of important clues, so are worthy of careful review.
12. Displacement—media coverage or uniformed police presence can cause spatial displacement, affecting the locations of subsequent crime sites. The geographic profile has to compensate for any displacement issues.

Criminal Hunting Methods

The hunting process can be broken down into two components: (1) the search for a suitable victim, and (2) the method of attack. The first component influences selection of victim encounter sites, and the second influences body dump or victim release sites. A criminal hunting typology can be produced by combining these search and attack elements.

The following four victim search methods have been identified for violent predatory crime:

1. Hunter—an offender who sets out specifically to search for a victim, basing the search from his or her residence;
2. Poacher—an offender who sets out specifically to search for a victim, basing the search from an activity site other than his or her residence, or who commutes or travels to another city during the victim search process;
3. Troller—an offender who, while involved in other, nonpredatory activities, opportunistically encounters a victim; or
4. Trapper—an offender who has an occupation or position where potential victims come to him or her (e.g., nursing) or who, by means of subterfuge, entices victims into a home or other location he or she controls (e.g., by placing want ads).

The following three victim attack methods have been identified:

1. Raptor—an offender who attacks a victim upon encounter;
2. Stalker—an offender who, upon encounter, follows a victim and then attacks at a different location and later time; or
3. Ambusher—an offender who attacks a victim after he or she has been enticed to a location, such as a residence or workplace, controlled by the offender.

Hunters are those offenders who specifically set out from their residence to look for victims, searching through areas in their awareness space they believe contain suitable targets. This is the most commonly used method of criminal predators. The crimes of a hunter are generally confined to the offender's city of residence. Conversely, poachers travel outside their home city or operate from an activity site other than their residence in the search for targets. While the differentiation between poacher and hunter can be difficult, there are certain indicators that help in the assessment process (see following section).

Trollers are opportunistic offenders who do not specifically search for victims, but rather encounter them during the course of other, usually routine activities. Their crimes are often spontaneous, but many sexual predators fantasize and plan their crimes in advance so that they are ready and prepared when an opportunity presents itself (premeditated opportunism). Trappers have an occupation or position that results in potential victims coming to them (e.g., nurse, hospital orderly). They also entice victims into their home or other location they control by means of subterfuge. This may be done through entertaining suitors, placing want ads, or taking in boarders.

Raptors, upon encountering a victim, attack almost immediately. This is the most common method used by criminal predators. Stalkers follow and watch their targets, moving into the victim's activity space, waiting for an opportune moment to strike. The attack, murder, and/or body dump sites of stalkers are thus more strongly influenced by their victims' activity spaces. Jon Berry Simonis, the Ski Mask Rapist, attacked women in Florida, Georgia, North Carolina, Ohio, Michigan, Wisconsin, Mississippi, Louisiana, Texas, Oklahoma, and California from 1978 to 1981, becoming progressively more violent before he was eventually arrested by the Louisiana State Police. Simon sometimes stalked his victims and, through his work at a hospital, had access to victims' medical records, including their address, marital status, and work details (Michaud and Hazelwood 1998). Ambushers attack victims they have brought or drawn into their "web"—a place where the killer has a great deal of control, most often his home or workplace.

Criminal target patterns are determined by offender activity space, hunting method, and victim backcloth. Hunting style is therefore helpful in determining which crime locations are the best predictors of an offender's anchor point under different circumstances. Another purpose of this typology is the identification of those situations where an analysis of the relationship between offender activity space and crime location geography is appropriate. This allows for the elimination of those cases where such an analysis is either impossible or redundant. Poachers, for example, who live in one city and commit their crimes in another may not reside within their hunting area. Stalkers, whose crime locations are driven more by the activity spaces of their victims than by their own, produce more complex target patterns requiring different analytic methods.

Crime Locations

Crime locations are the basis of a geographic profile, and a given murder can involve separate encounter, attack, murder, and body dump sites. But other locations that are not crime sites per se may also be connected to an offense. Examples of such locations include credit or bank card use, mailings, telephone calls, vehicle rentals or drops, witness sightings, and found property or evidence sites. In these cases it may be possible to geographically profile a single crime, depending upon the number and types of locations.

In October 1995, two teenaged girls in the municipality of Abbotsford, British Columbia, were attacked on the street at night by a man with a baseball bat. One victim was murdered and dumped in the Vedder Canal, some 20 miles away; the other was left for dead, but somehow managed to revive and make her way to a nearby hospital. A few days later the Abbotsford Killer began a series of bizarre actions, starting with several taunting 9-1-1 telephone calls. He then stole and defaced his murder victim's gravestone and dumped it in the parking lot of a local radio station. Finally, he threw a note wrapped around a wrench through a house window; in the note he admitted to other sexual assaults. These actions provided 13 different sites for the geographic profile. He was eventually caught through a local-based strategy initiated by the Abbotsford Police Department. His residence was in the top 7.7% of the geoprofile (0.6 mi²).

A geoprofile may result in two peak areas—an indication the offender has more than one anchor point. Manley Eng, responsible for a series of arsons in Saanich and Victoria, British Columbia, left a crime pattern that resulted in dual peaks: One contained his residence and the other his probation office. Information regarding land use, zoning, and area characteristics helps interpret such outcomes. Examples of multiple anchor points include

- residence and work sites
- residence and social or family sites
- present and previous residences
- two or more offenders living apart

Between 1994 and 1998 the Mardi Gra Bomber was responsible for a total of 36 explosive devices, most in the Greater London area (Cooper 1999). These were mailed or delivered to locations near bank machines, supermarkets, payphones, businesses, and residences. Scotland Yard requested a geographic profile from the Vancouver Police Department. Even though the targets and delivery methods varied, the underlying spatial pattern of the crimes was consistent. The resulting geoprofile had two high-probability regions: a primary area around Chiswick in west London and a secondary peak in southeast London. When police detectives arrested two elderly brothers, it turned out they lived in Chiswick, and their family resided in southeast London. The geoprofile identified the convicted offenders' home in the top 3.4% (9.1 mi²) of the hunting area.

Questions

Investigators may benefit from a geographic perspective on their crimes, independent of a formal profile. It is not just what offenders do, but also what they do not do, that is of interest. Some specific questions worth considering include the following:

Locations

What are the location types connected to this crime or crime series?

Where are these locations? Map them.

What are the distances and travel times between them?

Time

When did the crimes occur (date, time, and weekday)?

What was the weather?

How much time was there between crimes?

Site selection

How are the crime locations accessed?

What else is in the general area?

How might the offender have known of these locations?

What purpose did the crime locations serve?

Target backcloth

Where is the target group (and where is it not)?

How much control did the offender have over the choice of crime locations?

Has displacement (in space or time) occurred?

Hunting

What hunting method did the offender use?

Why these sites and not others?

What was the offender's likely transportation?

The *Rigel* Software System

Rigel, a computerized geographic profiling workstation based on the patented CGT algorithm, was developed by Environmental Criminology Research Inc. (ECRI) of Vancouver, British Columbia (www.ecricanada.com). It incorporates an analytic engine, geographic information system (GIS) capability, database management, and powerful visualization tools. Crime locations, which are broken down by type (e.g., encounter, attack, rape, and release sites for a rape), provide the input and are entered by the optional means of street address, latitude and longitude, or digitization. This reflects the realities of policing in which crimes can happen anywhere—houses, parking lots, back alleys, highways, parks, rivers, mountain ravines, and so on. Latitude and longitude coordinates can be determined from a handheld global positioning system (GPS) that reads the user's position from a satellite fix.

Scenarios, wherein crime locations are weighted based upon certain theoretical and methodological principles, are next created and examined. Output is a geoprofile, a color map showing the most likely area of offender residence. Suspect addresses can be evaluated according to their position on the geoprofile (expressed as a hit score percentage on a z-score histogram), allowing the prioritization of known criminals, registered sex offenders, task force tips, and other information.

Geoprofiles and jeopardy surfaces can be rotated and visually manipulated in a variety of ways, facilitating their interpretation. Output can also be viewed in Google Earth, assisting the user in displaying land use and physical structures within the region of interest. Large databases, including sex offender registries, major case management programs, and crime linkage systems (e.g., ViCLAS, VICAP) can be searched and their entries prioritized

by address. *Rigel* is designed to enable law enforcement agencies to geographically optimize their limited resources. It is the primary tool used in geographic profiling.

Investigative Strategies and Tactics

Certain police strategies and tactics can be more effectively and efficiently conducted with a geographic profile. While specific applications are best determined by the investigators responsible for the case in question, suggested approaches are presented next. The development of these strategies has been an interactive process involving detectives, profilers, and academics. Case examples are used to illustrate these strategies, but it should be made clear that the crimes were not solved by geographic profiling; they were resolved by the assigned investigators. Profiling plays a support role, the importance of which can vary, and it is only one of many techniques in the investigator's repertoire.

While the most common anchor point is the offender's residence, some cases involve other bases of criminal activity. Clifford Olson used body dump locations near Agassiz Mountain Prison, where he had once been incarcerated. John Collins hunted in the area around Eastern Michigan University, where he was a student and summer employee. Aileen Wuornos based her "hitchhooking" from truck stops and freeway entrances in the town of Wildwood, Florida. Inmate records, enrollment and employee registries, and field checks were all potentially useful sources of investigative information in these cases. As important as residence is in structuring activity space, the value of business and institutional records should not be overlooked.

Suspect Prioritization

The geographic profile, in conjunction with a behavioral profile, can help focus follow-up investigative work. The problem in many serial violent crime investigations is one of too many suspects rather than too few. Profiling can help reassess and prioritize hundreds or even thousands of suspects, leads, and tips.

The Southside Rapist in Lafayette, Louisiana, committed a series of 14 burglary-rapes from 1984 to 1995. Detective McCullan Gallien refused to close the file and requested a geographic profile that resulted in the identification of a neighborhood not previously considered by investigators (see figs. 9.2 and 9.3). This was used as the basis for suspect and tip prioritization (there were approximately 1,000 suspects and 2,000 tips). One tip involved a sergeant with the Lafayette Parish Sheriff's Department who fit the FBI's psychological profile and lived in the peak area of the geopofile at the time of the crimes. DNA obtained from a cigarette butt discarded by the suspect matched samples from the crime scenes. The offender confessed, pled guilty, and was sentenced to life in prison. The geopofile located the rapist's address in the top 2.2% (0.5 mi²) of the hunting area.

Police Information Systems

Additional investigative leads may be obtained from information contained in various computerized police dispatch and record systems (Rebscher and Rohrer 1991). Offender profile details and case specifics can help further focus the search. Police agencies with computerized records containing description, address, and modus operandi of local

offenders can also use profiling information, including probable area of residence, as the basis for developing search criteria. Many departments maintain files for parolees and specific types of criminals (Pilant 1994; Skogan and Antunes 1979). Sex offenders often have nuisance crimes (e.g., loitering, trespassing, peeping) in their backgrounds, and the locations of their past offenses may overlap with the present ones.

Task Force Management

Task force operations formed to investigate a specific series of crimes often collect and collate their information in some form of computerized major case management system, such as the British HOLMES or FBI Rapid Start programs (Federal Bureau of Investigation 1996; U.S. Department of Justice 1991). Cases suffering from information overload will benefit from the prioritization of data and the application of correlation analysis (Keppel and Birnes 1995). Geographic profiling can assist in these tasks through the ranking of street addresses, zip or postal codes, and telephone number (NNXs) areas.

This process may also be linked to information available in CD-ROM telephone directory databases listing residential and business names, telephone numbers, addresses, zip or postal codes, business headings, and standard industrial classification (SIC) codes. The details of the specific task force computer database software, including information fields, search time, number of records, and correlational abilities, determine the most appropriate form the geographic profile should take to maximize its usefulness to the police investigation.

Sex Offender Registries

Violent sex offender registries are a useful information source for geographic profiling in cases of serial sex crimes. By providing a list of addresses of known sex criminals, these registries can be used with a geographic profile to help prioritize suspects. The U.S. Violent Crime Control and Law Enforcement Act of 1994 requires states "to enact statutes or regulations which require those determined to be sexually violent predators or who are convicted of sexually violent offenses to register with appropriate state law enforcement agencies for ten years after release from prison" or risk the reduction of federal grant money (U.S. Department of Justice 1994).

Sex offender registries are powerful tools for monitoring and controlling criminal predators who, unfortunately, are more prevalent than is commonly believed. Washington State established the first such registry, and according to the Seattle Police Department Special Assault Unit, in May of 1995 the city of Seattle had a total of 859 registered sex offenders, an average of 10 per square mile. This figure does not include the 20% of released sex offenders who fail to register.

Government and Business Databases

Data banks are often geographically based, and parole and probation offices, mental health outpatient clinics, social services offices, schools, and other agencies located in prioritized areas can provide information of value (it has been estimated that approximately 85% of all records contain an address). Several commercial companies (e.g., Seisint, LexisNexis, ChoicePoint, etc.) offer law enforcement agencies the ability to search multiple personal information databases. Their systems (e.g., Accurint, AutoTrack) use proprietary data

mining algorithms to sample and select megaquantities of data bits electronically, and assign them to individual profiles.

A partial listing of the information sources tapped into by these systems includes the following:

1. Public records, such as bankruptcies, tax liens and judgments, professional licenses, boat/aircraft ownership, vehicle registrations and driver's licenses in some states, workers compensation appeals, state/local civil and criminal court filings, federal civil and criminal court filings, dog licenses, tax assessments, real property ownership, and others;
2. Commercial records, such as magazine subscriptions, warranty card information, utility bills, credit headers (name/address/birth date/social security number, etc. from debtor identification data rather than actual credit worthiness data), telephone listings, unlisted phone numbers (most often obtained from people calling toll-free numbers, thereby inadvertently providing their home telephone number), and others.

In 2001, a serial rapist in Fort Collins, Colorado, assaulted seven women after breaking into their apartments. A DNA sample from one of the crime scenes matched a crime series 1,750 miles away in Philadelphia, Pennsylvania (Gibbons, McCoy, and Fish 2001). The Center City Rapist had preyed on women in the Rittenhouse Square area of Philadelphia from 1997 to 1999, raping five victims and strangling another. He then disappeared until reappearing in Fort Collins 2 years later. Detectives used commercial database services to develop lists of individuals who lived in Philadelphia from 1997 to 1999 and in Fort Collins in 2001. A geographic profile prepared for the Philadelphia Police Department helped narrow down the specific zip codes used in the search. The two lists were cross-referenced to identify individuals who appeared in both, resulting in over 1,100 names. Follow-up investigation by detectives led to the arrest of Troy Graves. He pled guilty to both sets of crimes and was sentenced to life imprisonment in 2002 (Dale 2002).

Motor Vehicle Registrations

A geographic profile can be integrated with suspect vehicle and offender descriptions to search registered motor vehicle and driver's license files contained in state or provincial computer record systems. This is often done by first using the geoprofile to prioritize zip or postal codes most likely associated with the offender's residence. The description and geographic parameters act as a linear program to produce a small set of records containing the appropriate data. This strategy results in areas of manageable size for major police investigations.

For example, a new red station wagon driven by a tall, white, middle-aged male with dark hair may seem to be somewhat vague information. But the description actually contains several parameters: (1) vehicle style—station wagon, (2) vehicle color—red, and (3) vehicle year range—last 5 years. Further focus can be obtained from the various driver descriptors (e.g., sex, race, age range, height, hair color), though the assumption that the driver is the vehicle's registered owner may be incorrect. These parameters can narrow down hundreds of thousands of records to a few dozen vehicles or drivers when combined with a prioritized list of zip or postal codes. This is sufficient discrimination to allow detailed police follow-up.

A case involving a violent child sex offender illustrates this point. The geoprofile was first used to prioritize the postal codes for the neighborhood where the crimes had occurred. Planning and zoning maps were then studied to eliminate industrial, commercial, and other nonresidential areas. Socioeconomic and demographic census data were also consulted to adjust the priority of those neighborhoods inconsistent with the socioeconomic status of the offender as suggested by the behavioral profile.

The final list of postal codes, ranked by priority of probability, could then be used to conduct a computer search of the provincial motor vehicle department records that contain postal codes as part of the address associated with the vehicle registered owner and driver's license files. Suspect vehicle and offender descriptions had been developed by detectives, and this information was combined with the geographic data to effectively focus the search.

Bloodings

During a sexual murder or rape investigation, British police may conduct large-scale DNA testing of all men from the area of the crime ("How the DNA 'Database'" 1995). The first such case was the Narborough Murder Enquiry, when "all unalibied male residents in the villages between the ages of seventeen and thirty-four years would be asked to submit blood and saliva samples voluntarily in order to 'eliminate them' as suspects in the footpath murders" (Wambaugh 1989, pp. 220–221). Close to 4,000 men from the villages of Narborough, Littlethorpe, and Enderby were tested during the investigation.

Considerable police resources and laboratory costs are involved in such "bloodings"; therefore, British police follow intelligence-led DNA screens in which individuals are prioritized based on proximity to crime scene, criminal record, age, and other relevant criteria (National Crime Faculty 1996; Rossmo et al. 2004). In cases of serial crime, geographic profiling can further refine the selection process through targeting by address or zip or postal code, resulting in more efficient and systematic testing procedures. U.S. and Canadian police are also using this strategy. The Baton Rouge serial murders and the Wichita BTK strangler investigations both conducted large-scale DNA suspect testing. Geographic profiles had been prepared for investigators in both cases. When 11 sexual assaults occurred in just over 1 month in Mississauga, Ontario, Peel Regional Police detectives collected 312 suspects. Combining the geographic and behavioral profiles with description and interview information, detectives prioritized the suspects into groups and obtained DNA samples from the most probable individuals. The offender was identified in the first lot. He resided within the top 2.2% (0.03 mi²) of the area under consideration.

Peak-of-Tension Polygraphy

In presumed homicides with known suspects but no bodies, polygraphists have had success in narrowing down the search area for the victim's remains through peak-of-tension (POT) tests (Hagmaier 1990; see also Cunliffe and Piazza 1980; Raskin 1989). Peak-of-tension polygraphy involves monitoring a subject's reaction to photographs, objects, or maps, as opposed to answering verbal questions. A deceptive response to queries concerning the type of location where the victim's body was hidden (e.g., cave, lake, marsh, field, forest) can help focus a search. Because POT tests often involve maps or area photographs, their usefulness is enhanced when results are combined with a geographic profile.

Conclusion

Geographic profiling can provide rape investigators with a compass for prioritizing suspects and managing information. It is an appropriate technique in cases of serial crime or those involving multiple locations. Geographic profiling cannot directly solve a crime, but it is a valuable addition to the detective's toolbox. The challenges of stranger rape cases necessitate a comprehensive set of investigative strategies. The use of geography strikes a chord with practitioners, a resonance explained by the old police truism: "When all else fails, return to the scene" (Barrett 1990, p. 90).

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Linkage Analysis: M.O., Ritual, and Signature in Serial Sexual Crimes*

10

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Introduction

Growing awareness of the serial nature of a significant proportion of sexual crimes has motivated scientific and behavioral efforts to determine ways of linking crimes perpetrated by a single offender. Increasingly, DNA analysis allows investigators and prosecutors not only to scientifically determine the identity of the perpetrator in a single case of sexual assault, but also to ascribe responsibility to the offender, in some instances for cases that have occurred over long time intervals and geographically distinct locales. However, the availability of DNA evidence is only beginning to be consistently and readily obtainable. In a significant proportion of sexual crimes, no DNA evidence is left at the scene or what is available for analysis is insufficient to allow for a definitive identification.

In such cases, behavioral analyses can be used to explore the likelihood that a series of crimes has been perpetrated by the same offender. Based upon an assessment of the modus operandi (M.O.) and the ritual, unique combinations of behavior, hereafter referred to as the “signature,” may be identified to inform the investigation and expert witness testimony at trial. This process of behavioral assessment, referred to as “linkage analysis,” involves five assessment procedures: (1) gathering detailed, varied, and multisourced documentation; (2) reviewing the documentation and identifying significant features of each crime individually across the series; (3) classifying the significant features of the crime as either modus operandi and/or ritualistic constructs; (4) comparing the combination of modus operandi and ritualistic features across the crimes to determine if a signature exists; and (5) compiling a written analysis that details the conclusions derived from the available information.

To demonstrate these principles and the process used in reaching a conclusion, the behavior of one particular offender across two assaults will be presented in some detail. Intrinsic to this kind of analysis is familiarity with various aspects of crime scene analysis and experience either evaluating or investigating a significant number of serial sexual crimes.

Modus Operandi

Law enforcement has historically linked crimes through behaviors of the offender and other elements of the crimes, referring somewhat generically to these dynamics as the “M.O.,” or modus operandi, used or demonstrated by a particular criminal. Within the

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context of criminal investigative analysis, the *modus operandi* can be conceptualized as the various behaviors that are requisite for a particular offender to successfully accomplish a crime. As such, it encompasses all behaviors initiated by the offender to procure a victim and complete the criminal acts without being identified. The M.O. can be quite simple or very complex, with the various degrees of sophistication reflecting the experience, motivation, and intelligence of the offender. Douglas and Munn (1992) observed that the *modus operandi* is dynamic and malleable and evolves as the offender gains both experience and confidence in his or her patterns of criminal offending.

In serial sexual crimes, the *modus operandi* evolves quite rapidly over time and can present significant changes in a period of only weeks or months. This evolution manifests itself as a result of experience, the natural process of maturation, and the education, criminal or otherwise, of the offender. For example, an 18-year-old rapist who failed to use a condom and ejaculated vaginally was later convicted because of DNA evidence recovered from the victim. He served 7 years and was released. Within a matter of months, he raped again, only this time he wore a condom. The same 18-year-old rapist stole two 4-foot speakers, a collection of CDs, and a CD player from his first victim. In the offenses subsequent to his release from prison, he stole only money and jewelry from his rape victims. Another offender reported studying the professional literature on his crime of choice as well as popular magazines that discuss in detail the crime scene behavior of infamous offenders. When he was later interviewed as part of a federally funded research grant, he met the interviewer saying, "I know who you are. When I was raping, I did a literature search on rape and I've read everything you've ever written."

Forces outside the offender can also impinge on the manner in which the crime is implemented. The unavailability of a victim, the behavioral response of the victim, the interruption of an offense by another person—all represent circumstances that can change aspects of the *modus operandi*. One behavioral analyst was approached by a detective asking for guidance regarding a series of rapes. He indicated that the offender had raped 16 women and had been labeled the First Floor Rapist. When the analyst asked about a 17th report that he found in the stack of documents, the detective asserted that the 17th offense must have been perpetrated by another offender as it had occurred on the second floor of an apartment building. The faulty assessment of the detective failed to capture the life contingencies that can impact the criminal behavior of an offender. He had obviously not considered the possibility that the offender was unable to find a victim or to locate an unlocked window on the ground floor that particular evening and was therefore required to execute entry into a second floor apartment to carry out his criminal intent.

However, not all features of the M.O. are subject to change. If a certain behavior has worked well for an offender and has not resulted in any unwanted outcomes, it is likely to be observed in future crimes of the same offender. As each behavior is executed over a number of situations, the criminal becomes more familiar with a particular series of behaviors and, therefore, more able to anticipate the outcomes of them. As with many other aspects of human behavior, this routinized aspect of the crime scene behavior affords the offender a sense of familiarity and control, which allows him to focus more intently on the sexualized or aggressive motive for the crime.

Ritualistic Behaviors in Sexual Crimes

The ritualistic aspects of a sexual crime emanate from the internal psychology of a particular offender as opposed to the situational demands of committing a crime. These behaviors derive from the motivation for the crime and the sexual fantasy that expresses it. They are symbolic, as opposed to functional; as such, they are highly individualized and reflect the aspects of the crime scene that are *unnecessary* to the accomplishment of the crime, but *pivotal* in expressing the primary motivation or purpose of the criminal act itself. Geberth (1996) has linked this fantasy-based element of a sexual crime to the unique psychodynamics of the individual responsible for enacting these impulses through the criminal behavior.

The ritualistic aspects of a crime can also change over a series of offenses, either due to the refinement and more complete reflection of their underlying intent or fantasy substrate or through the addition of unexpectedly arousing aspects of a prior offense. This is suspected in cases of serial rape in which the offender escalates the degree of physical force, uses increasingly intricate bindings, and introduces distinctive verbal exchanges over a series of assaults. While earlier research suggests that 75% of serial rapists do not escalate in the degree of physical violence they inflict over time, 25% do escalate. Apparently some find that more severe degrees of violence or dominance enhance their arousal (Warren et al. 1999). In other instances, bindings that began as a way of restraining the victim can be seen to develop into a very intricate process both in terms of the materials used and the manner in which the victim is restrained. For example, one serial rapist engaged in sexual bondage with all 55 of his victims in 12 states. In his first few rapes, he bound his victims using their clothing. Over time, he began using medical tape, precut lengths of rope that he brought to the crimes, and eventually handcuffs. In a different series of sexual murders, statements demanded of the victims became an increasingly central and salient aspect of the crime, with specific and repetitive statements by the victim being scripted by the offender.

Observations Regarding M.O. and Ritual

In assessing the modus operandi and ritualistic aspects of a crime, certain additional themes or observations emerge from the application of this type of analysis:

1. It is not uncommon for a crime scene analyst to identify more elements of the M.O. than of the ritual. This is not unexpected as the modus operandi may include time, day, and location of the crime; the weapon used; sex and age of victim; the offender's mode of travel; and any number of other variables. The ritual, on the other hand, is much more narrowly focused, comprising those acts specifically designed to complement the motivation for the crime and to meet the psychosexual needs of the offender.
2. All aspects of the ritual may not be present in every crime (Douglas and Munn 1992). The *time* available, *mood* of the offender, and *external circumstances*, such as a roommate coming home, may all prevent the full repertoire of desired behaviors from being enacted. Each of these factors can result in the ritualistic aspects of the crime being diluted, modified, or interrupted depending on the internal state of the offender and the contingencies of a particular crime.
3. Some features of the crime may serve as part of the ritual and not be recognized as such by the analyst. For example, the manner used by an offender to approach his

victim would most often be viewed as part of the *modus operandi*. However, one serial killer who focused only on middle-class female victims for rape and murder used guile to convince the women to accompany him. After his capture, he reported that he obtained an inordinate sense of power from his ability to convince middle-class and intelligent women to go with him, a total stranger, without having to resort to physical violence.

4. Some elements of the crime may function as both *modus operandi* and ritual. In one particular series, a serial rapist captured numerous adult male and female couples at gunpoint in their homes and forced the wives to tie their husbands' hands and feet with shoelaces. Such behavior would correctly be categorized as *modus operandi* as it helped to ensure success by allowing the perpetrator to control both adults simultaneously and to use one to immobilize the other. However, having the wife neutralize the male "protector" also served as a ritualistic feature of the crime in that it psychosexually excited the perpetrator.
5. There may be instances in which one or more ritualistic aspects of the crime remain known only to the offender (Douglas and Munn 1992). One serial killer recorded his daily fantasies about capturing a particular type of woman for sexual assault. He remained very focused on victim demographics such as body style, color and length of hair, and breast size. Such features obviously played an important psychosexual role in the offender's crimes, but were only recognized as being part of his ritual after the discovery of his records.
6. When an "impulsive" sexual offender (Hazelwood and Warren 2001) is involved, the crime *may* be devoid of ritualistic behaviors. Such criminals act out with little or no planning. Fantasy plays a very small role in their crimes and the involvement of paraphilic or other ritualistic behavior is seldom observed with this type of offender. However, as with all human behavior, criminal or otherwise, there will be exceptions. The reader will note such an exception in the discussion of the Sanchez and Johnson cases that follows.

The Signature in Sexual Crimes

Douglas and Munn (1992) described the signature as the "calling card" of an offender. In the current context, this term is used to describe *a unique combination of behaviors that emerges across two or more offenses*. It is a pattern that may include aspects of both the *modus operandi* and the ritual. Recognition of this unique signature aspect of a crime most commonly occurs when crime analysts and/or investigators are attempting to link two or more crimes that have occurred in either close physical or temporal proximity or times or locations that are highly divergent.

Occasionally, the signature is presented in the courtroom by qualified experts to enhance legal arguments that a series of crimes, separated often by time and distance, were committed by the same offender. This type of testimony was allowed in a California case in which one of the authors was allowed to testify that the same person was responsible for a series of six rapes (*California v. Kenneth Bogard* 1996). In New Jersey, the Supreme Court reviewed a similar type of testimony and allowed the expert to testify regarding similarities across a series of offenses, but did not allow the expert to offer an opinion as to whether the crimes had been perpetrated by the same person (*State of New Jersey v.*

Steven Fortin 2000). In a somewhat different context, testimony regarding a review of the signature aspects of two crimes was offered by the prosecution at a hearing to determine if two murders would be joined for prosecution (*South Dakota v. Robert Anderson 1998*). Similar to the qualification of all expert witnesses, the analyst offering this testimony must be qualified through education and experience, with the final decision regarding the reliability and probative value of the testimony being determined initially by the judge and eventually by the jury.

A Case Example

At 12:50 a.m. on November 12, 1994, Margarete Sanchez, a 25-year-old Hispanic woman, was found dead inside one of four large concrete sewer pipes lying on the ground between a foot path and a well-traveled, six-lane highway. Ms. Sanchez left her boyfriend, Fernando Gonzalez, and her four children in a motel room at about 11 p.m. to walk to the convenience store a few blocks away. When she did not return, Mr. Gonzalez sent some teenagers to look for her and when they returned without having found her, he set out along the path to look for her. As he approached the four concrete pipes, he noticed foodstuffs lying on the path. When he bent down to examine the materials, he saw Ms. Sanchez's body in one of the pipes and cried out. Tory Smith, who had been working on his car under a street light on a nearby street, came over and together they removed her body from the pipe. She wore a striped T-shirt, but was braless and nude from the waist down. Smith draped his T-shirt over the lower portion of Ms. Sanchez's body.

A woman who lived directly across the street from the crime scene told the police that she and a male friend were returning to her residence at about 11:30 p.m. when she saw a light-skinned male leave the area of the concrete pipes. Another witness who was driving on the six-lane highway reported that at about 11:30 p.m., he observed two people by the pipes and they appeared to be waving their arms. He told the police that one of them was taller than the other and the shorter person had bushy hair (as did Ms. Sanchez). The police found a convenience store receipt at the scene that was dated and time-stamped at 11:29 p.m. A cheese-steak sandwich was among the items on the receipt, but it was not found at the scene.

One hundred and fifty feet from the body, the police found Ms. Sanchez's shorts and panties hanging from a bush. The panties were inside the shorts and the right rear pocket was pulled out. A short distance from the shorts, a partially eaten cheese-steak sandwich was found on a stone wall. The police determined that an inexpensive necklace had also been taken from Ms. Sanchez.

She had been brutally beaten in the upper part of her face and this resulted in severe bruising. Fists were believed to be responsible for the blunt force trauma to Ms. Sanchez's face. Her nose was broken and her hyoid bone was fractured. Death was attributed to manual strangulation from the front. Although there was no evidence of recent ejaculation, there were spermatozoa present in the vagina. Mr. Gonzalez advised that he last had vaginal sex with Ms. Sanchez the night before her death and had last had anal sex with the victim 1–2 weeks before her death. It was the medical examiner's opinion that the presence of the spermatozoa was not associated with her murder.

Ms. Sanchez's anus had been torn and the body had not reacted to the tearing, indicating that she had died before the healing process could begin. The anal injuries were

attributed to a violent penetration either with fingers or penis. Furthermore, Ms. Sanchez had been bitten at least twice on her chin and again on the outer aspect of her left breast.

The crime remained unsolved until the following year. The following April at about 8:45 p.m., Samantha Johnson (pseudonym), an off-duty female police officer, was driving her marked police cruiser to her home. She was traveling southbound on an interstate highway and observed a compact car parked in a northerly direction in the southbound breakdown lane. She parked her cruiser in front of the smaller car and both Ms. Johnson and the male driver got out of their cars, meeting between them. She identified herself as a police officer and the man acknowledged her status and gave her his driver's permit. Smelling alcohol, Officer Johnson gave him a Breathalyzer test. The man tested positive for intoxication and she took him to her car and called for another officer to take the man to jail. The officer advised that because of other duties he could not assist her for at least 40 minutes. The man had been cooperative, so she told the other officer that she would wait for him.

Within 30 minutes the man began trying to convince Officer Johnson to let him go and "everything would be okay." She later testified that he had remained calm during their conversation, but that suddenly "he went bonkers." She recalled him hitting her with his fists and then she lost consciousness. She awakened to find him attempting to strangle her from the front and she pried one of his fingers back and then lost consciousness a second time. After again regaining consciousness, she found herself nude from the waist down and in the passenger seat with the man driving her cruiser at a high rate of speed. Her kidnapper had driven away with her when the second officer arrived to take custody of the man. She opened the door and hung on as the man shouted for her to "jump, bitch." She reported that he pushed her as she jumped from the car while it was traveling between 65 and 75 mph. Amazingly, she survived.

Officer Johnson had been beaten in the upper part of her face and this resulted in severe bruising around her eyes. She had also suffered a broken nose. She had been bitten on the chin and also on the outer aspect of her left breast. Her lower garments had been removed and even though her shirt was in place, her bra had been ripped off her body. The would-be killer had also inflicted severe vaginal and anal injuries on Officer Johnson.

The Linkage Analysis

As summarized earlier, five steps characterize the linkage analysis:

1. *Gathering the necessary documentation:* In a series of *rape cases*, this phase of the assessment focuses on the victim's statement, police and medical reports, a commercial map depicting the significant locations associated with each of the crimes, and the distances between the points. Significant locations include points of confrontation, assault, and release of the victim. In *homicide cases*, necessary documentation would include police and autopsy/toxicology reports, crime scene and autopsy photographs, and if all crimes occurred within a particular city, a commercial map depicting the abduction and murder sites if known, the body disposal sites, and the distances between each of the various locations.
2. *Reviewing the documentation and identifying the significant crime features:* This phase of the assessment allows the analyst not only to capture the significant features of

each crime, but also to become intimately familiar with each offense in the series. It also provides a readily available source for accessing crime behavior without having to repeatedly search through volumes of data.

3. *Analyzing the crimes and recording all M.O. and/or ritualistic features:* At this stage, the analyst conducts an in-depth study of the significant crime features and identifies those behaviors that are *modus operandi* and those that are ritualistic in nature.
4. *Determining if a signature exists across the crimes:* The analyst seeks to determine whether a unique combination of *behaviors (i.e., a signature) exists across the series of crimes.*
5. *Preparing the opinion:* The opinion is provided in a written report that, at a minimum, should include a listing of the materials reviewed, any site visitations, a listing of those crime features that make up the M.O., those crime features that compose the ritual, and the unique combination of behaviors identified as the signature. The analyst must also be prepared to discuss any dissimilarities noted across the series of crimes under consideration and why they have no impact on the written opinion.

The person who attempted to murder Officer Johnson was arrested and convicted of numerous felony offenses. He was then extradited to the state in which Margarete Sanchez was murdered and stood trial for that homicide. While the analyst was not allowed to testify that the same person was responsible for both crimes, he was allowed to testify as to the M.O., the ritual, and the similarities he had identified across both crimes.

The Analysis in the Sanchez and Johnson Cases

The analyst was requested to prepare a report with two opinions: (1) identify the primary motive for the attacks, and (2) determine if a signature existed across the crimes.

The Motive

It was the analyst's opinion that anger was the primary motive underlying both crimes and that this anger had been acted out in a sexually violent manner. It was believed that the taking of the necklace from Ms. Sanchez was of secondary importance to the offender. This opinion derived from the following: (1) both victims were brutally beaten, with the amount of force being much greater than that needed to subdue the victims for either robbery or sexual assault; (2) both victims were manually strangled (manual strangulation is a more personal method of killing than is strangulation with a ligature); and (3) both victims had injurious anal penetration, a form of sexual assault closely associated with anger-motivated sexual crimes. The analyst later learned that an informant had been told by the offender that he used his fingers to grasp the victim's vagina and anus to drag the woman from one location to another.

The Modus Operandi (M.O.)

The analysis of the crimes determined that the following features formed the M.O. in the murder of Sanchez and the attempted murder of Officer Johnson:

Margarete Sanchez (1994)

- High-risk crime
- Impulsively committed crime
- Female victim
- Similar age (25 years old)
- Victim of opportunity
- Alone at time of crime
- Heavily traveled road
- Occurred during darkness
- Blunt force (fists)
- No weapon used
- Trauma to upper face
- Nude from waist down
- Shorts and panties intertwined
- Shirt left on, breasts free
- No (fresh) seminal fluids on/in victim

Samantha Johnson (1995)

- High-risk crime
- Impulsively committed crime
- Female victim
- Similar age (34 years old)
- Victim of opportunity
- Alone at time of crime
- Heavily traveled road
- Occurred during darkness
- Blunt force (fists)
- No weapon used
- Trauma to upper face
- Nude from waist down
- Pants and panties intertwined
- Shirt left on, breasts free
- No seminal fluids on/in victim

The Ritual

The following features were determined to form the ritual present in both cases. It is noted that these features complement the primary motivation of anger and also serve to psycho-sexually arouse the offender.

Margarete Sanchez

- Brutal facial beating
- Manual strangulation from the front
- Injurious anal penetration
- Bite to chin
- Bite to outer aspect of left breast

Samantha Johnson

- Brutal facial beating
- Manual strangulation from the front
- Injurious anal penetration
- Bite to chin
- Bite to outer aspect of left breast

The Signature

The opinion was formed that a signature did exist across the two crimes. In this case, the signature involved both M.O. and ritualistic features. While each element of the killer’s M.O. had been individually observed in other crimes, the analyst (despite involvement in several thousand sexual crime investigations) had never encountered all of the features in any other single crime. Nor had he seen the combination of ritualistic features in any single previous crime. This co-occurrence of both the functional aspects of the *modus operandi* and the more symbolic and ritualistic aspects of the crime created the signature of this particular offender.

Dissimilar Features of the Crimes

As mentioned, it is important that the analyst also note any dissimilarities in the crimes under consideration and be prepared to discuss why they do not impact negatively on the signature opinion. The following features of the two crimes were found to be dissimilar:

Margarete Sanchez

Hispanic

Murdered

Sandwich/shorts/necklace taken

Found in concrete pipe

Fractured hyoid bone

Victim walked to site

11:30 p.m.

Occurred on Monday

5'4" tall

120 pounds

Different state

Samantha Johnson

White

Attempted murder

Vehicle taken

Found on highway

N/A

Victim drove to site

8:45 p.m.

Occurred on Thursday–Friday

5'9" tall

140 pounds

Different state

Of the 11 features noted, 8 of them (race, height, weight, time, day, state, mode of travel, and disposal site) can be attributed to the crimes being impulsively committed against victims of opportunity. As to the remaining three elements (fractured hyoid bone, murder, and theft of a personal item), they certainly pose no threat to the signature opinion. Although Ms. Sanchez was murdered and her hyoid bone was fractured, from the testimony of Officer Johnson, there was no question that the killer was intent on killing her via manual strangulation. Had the second officer not arrived when he did and had Officer Johnson not succeeded in escaping, it is probable that she would also have been manually strangled to death and demonstrated a fractured hyoid bone. It is also probable that this same interruption deterred a theft from the personal effects of Officer Johnson.

Features Other Than M.O. or Ritual

There will invariably be features of a sexual crime that cannot be accurately described as being part of either the M.O. or ritual and that may not be fully understood by the analyst. In this case, the taking of Ms. Sanchez's shorts with panties intertwined, the taking of the cheese-steak sandwich, and the partial eating of the sandwich cannot be appropriately labeled as M.O. or ritualistic. Because the pocket of the shorts was turned inside out, it is probable that the killer took Ms. Sanchez's shorts as he searched for money and/or possibly drugs, and he took the cheese-steak sandwich and partially consumed it *after the killing*.

As with almost every sexual crime, there are also elements in these murders that may never be satisfactorily explained. Ms. Sanchez's location in the concrete pipe is puzzling. It is reasonable to conclude that the killer moved her into the pipe so that he could carry out his crime without being observed or to delay her discovery; if so, that act becomes part of his M.O. However, if she crawled into the pipe in an unsuccessful attempt to get away from her killer, then it is not related to the offender's choice of behavior.

Conclusions

The serial nature of a significant proportion of sexual crimes has motivated efforts to determine ways of linking crimes committed by a single offender. In such cases, behavioral analysis can be used to explore the likelihood that a series of crimes was committed by the same person. An assessment of the M.O. and the ritual demonstrated during sexual crimes can result in the identification of a unique combination of behaviors or "signature." The signature is viewed as a highly individualized combination of habitual aspects of offending behavior combined with the fantasy and motive for a particular series of crimes perpetrated by a single offender. It is assumed that the combination of behaviors observed in the signature of a crime series is so distinct as to inform not only the investigation of multiple sexual crimes but also aspects of court decision making regarding specific offenders. Within the investigative context, this type of analysis not only can assist the investigative team in organizing their information and networking with other police jurisdictions, but also can help with crime prevention efforts by identifying the possible time and location of potential future crimes perpetrated by the same offender. When offered in the legal arena, it can provide a framework for helping to inform judges and juries as to the various behavioral components of serial sexual crimes and the uniqueness of a particular combination observed across a series of offenses. As a form of crime scene behavioral assessment, linkage analysis offers the experienced investigator or evaluator a framework for distilling a large amount of crime scene information into a succinct comparative framework that can inform efforts to identify the offender and potentially link offenses within the legal arena.

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False Rape Allegations*

11

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Introduction

Compared to other types of serious crimes, rape has a number of unique characteristics. First, because of the low reporting rate for this crime, it is difficult to know how frequently rape occurs. Accurate estimates of the incidence and prevalence of rape are not readily available, as it is believed that the majority of victims do not report to the police, receive medical attention from hospitals, or seek help from service agencies such as rape crisis centers (Kilpatrick, Best, and Veronen 1985). Second, it is still believed by many that women like to be overpowered sexually and that when they say “no” they really mean “yes.” Third, rape and abuse are selectively perpetrated by the male segment of the population and selectively borne by the female segment of the population. Fourth, rape instills fear in women and serves to limit their freedom by placing constraints on their activities (Riger and Gordon 1988). Finally, unlike other crimes, there is still considerable variation in what constitutes a “real” rape. Depending on the jurisdiction, law enforcement agents and child protective service workers may use the terms *unfounded* when there is insufficient evidence to support the complaint and *false allegation* to dismiss the complaint of a “nonbelievable victim.”

Definition

Katz and Mazur (1979) defined *false report* as a “deliberate lie by the alleged victim accusing a man of a rape that did not occur. It may also be a fantasy report that the female believes is true.” (p. 207) These authors also write that wide discrepancies in the reported frequency of false allegation are due to differences in definitions and criteria, and due to the source of the judgments in these situations.

McDowell and Hibler, in the first edition of *Practical Aspects of Rape Investigation: A Multidisciplinary Approach* (1987), presented a sensitive treatment of the issue of false allegation, which included the role of defense mechanisms, secondary gain, and other psychological aspects. They asserted that investigators can make sense of these false claims once they discover the purpose served for the victim by such an allegation. However, a precise definition of the very phenomenon they described was omitted.

McDowell (1990), in another source, again failed to define the concept, but described three conditions used to classify cases as false allegations:

* Sections of this chapter are reprinted with permission from *Practical Aspects of Rape Investigation*, 2nd ed., Boca Raton, FL: CRC Press. We specifically acknowledge the work of Margaret Aiken, Neil Hibbler, and Charles P. McDowell. Other sections of this chapter are reprinted from Aiken, M. M. 1993. False allegation. *Journal of Psychosocial Nursing*, 31(11): 16. With permission.

1. Victim recants complaint.
2. Victim fails polygraph.
3. Investigation reveals allegation to be false.

These criteria may be interpreted as being very broad and imprecise, thereby leaving a wide margin for discretionary interpretation and action.

For the purposes of this chapter, *false allegation* is defined as falsely alleging that a sexual assault has occurred against one's person, or the person of another. The assault may be in the form of touching or penetration, or having been forced to touch or penetrate another in a sexual manner. The person making such an allegation is herein referred to as a "pseudovictim." As discussed later, there are multiple and complex reasons a person may make a false allegation and the pseudovictim may or may not identify a particular person or location.

Potential Consequences of a False Allegation

Imprisonment of an Innocent Person

Imprisonment of a man falsely accused of rape has been described since Biblical times. Potiphar, an Egyptian captain of Pharaoh's guard, employed Joseph to watch over his household. Potiphar's wife "cast her eyes upon Joseph ... caught him by his garment, saying lie with me." Joseph resisted this temptation but his rejection of her caused her to say that the Hebrew servant came to "mock her," that she lifted up her voice and cried, and that he fled leaving his garment with her. Potiphar imprisoned Joseph for 2 years (Genesis 39).

Although not resulting in imprisonment, a more contemporary, and nationally infamous, false allegation case occurred in the 1980s in Dutchess County, New York. Tawana Brawley, a 15-year-old black female was reported missing and not found until a period of 4 days had passed. She was observed in the back yard of a townhouse, which had been previously occupied by her family, standing in a green garbage bag and literally hopping around the yard before lying down and pulling the bag over her head. Her hair had been cut short, she had feces smeared on her body, and "KKK" and "nigger" had been printed on her body with a soot-like substance. She refused to speak with police, but, speaking through her aunt and mother, reported that she had been abducted, taken to a wooded area, and repeatedly raped by four to six white men, one of whom had a police-style badge. Reverend Al Sharpton and others became involved and it was alleged that the county police and prosecutor were involved in a cover-up to protect members of the local police force. Consequently, the national news media became involved and then-Governor Cuomo asserted state jurisdiction over the investigation, which resulted in the formation of a combined state and federal task force. One of the authors (Hazelwood) was involved in the case from the very beginning. After an intensive and lengthy criminal and state grand jury investigation lasting more than 7 months, it was concluded that Brawley had falsified the story. Additionally, the grand jury found no evidence of a cover-up by law enforcement officials and recommended that their minutes be released to the public.

A more recent but equally infamous incident involved a black female alleging that she had been assaulted by several white Duke University lacrosse team players. Again the national news media became involved because of inflammatory statements

made by the local prosecutor. This matter collapsed from a preponderance of evidence supporting the defense, a lack of evidence supporting the allegation, and numerous conflicting statements given by the alleged victim. The state attorney general intervened and issued a blistering statement concerning the abilities and motivation of the local prosecutor.

Impact on Legitimate Victims of Rape

It is generally accepted that today's law enforcement officer is a better educated and more sensitive officer than in the past. This is particularly true of those officers charged with the responsibility of investigating sexual crimes, as is documented by the largest empirical study ever conducted of police attitudes and beliefs about rape (LeDoux and Hazelwood 1983). Most detectives are alert to any indication of bias or antiquated ideas toward the woman alleging rape, although exceptions do remain.

Many departments require officers assigned to sexual assault investigative duties to attend special courses designed to instill sensitivity and empathy toward women who have been sexually assaulted. With this in mind, consider the following hypothetical situation:

A young male officer named Smith applies for and is accepted into his department's sexual assault unit. He undergoes several weeks of specialized training as well as a 40-hour program specifically designed to sensitize him to the trauma experienced by victims of sexual assault. Upon the completion of training, he is assigned to the team charged with the investigation of sexual assault.

Soon thereafter, he is assigned as primary investigator of a case in which a woman alleges that she was raped in her apartment. He escorts the "victim" to a comfortable interview room and speaks with the woman. Following the initial interview, he seeks the guidance of three experienced colleagues and each tells him that the information provided by the woman, combined with the lack of corroborative evidence, suggests the possibility of a false allegation. The young detective is immediately "on guard" against what he perceives as investigative "dinosaurs" who have somehow escaped the "tar pits." In other words, he believes he has identified detectives who have outdated ideas about the crime of rape. He invests himself physically and emotionally in the "victim's" allegation, which is subsequently proven to be false. While some of his colleagues support him, others tease him for being "taken." He is embarrassed and vows that it will never happen again.

Two weeks later, a woman alleging that she has been raped is led into an interview room where she is met by Detective Smith

Emotional Problems in Need of Attention

Frequently, those who make false allegations have legitimate problems worthy of attention in their own right. However, if their complaints are accepted at face value, the underlying problem will go untreated and may surface at a later date. When rape complaints are determined to be false, investigators would be wise to seek the assistance of mental health professionals qualified to identify underlying problems.

Problems Confronting the Investigator

False allegations can result in a variety of problems and most experienced investigators have taken false crime reports of one type or another. Needless to say, one should always be sensitive to the possibility of a false report. Surprisingly, even though the phenomenon of the false rape report is well recognized, there has been a lack of careful research into the problem and little is published on the topic. The studies describing false allegation in child sexual abuse are uniform in reporting the sparse literature in the area (Green 1986; Rosenfeld, Nadelson, and Krieger 1979; Benedek and Schetky 1984). These same authors concurred that when child custody is a prominent issue, the frequency of the occurrence of false allegation rises dramatically. Vindictiveness and psychological dysfunction on the part of the parents may underlie such complaints.

"It is as though the victim is the one on trial; every gesture, ... word can be held against her" (Lefer 1992). Further, Lefer asserts that when there is any inconsistency in the report, validity of the entire allegation comes into question. She raises the issue of emotionality by writing that "women who are unemotional may be conveying that they were not disturbed by the "alleged" event, hence, the absence of harm. Women who are overwrought come across as emotionally unstable, and thus not credible."

To be considered by investigators is the possibility of factitious disorders. Such disorders involve the feigning, production, or exaggeration of physical and/or psychological symptoms that facilitate the individual's objective of assuming the sick role (Feldman, Ford, and Stone 1994). Such persons do not seek recognizable external incentives of evading court proceedings or obtaining drugs, as in malingering, but instead assume the "patient" role (APA 1994). Feldman and colleagues discuss the cases of four women who claimed to have been the victims of rape; the allegations were later proven to be false. They suggest factitious rape may be prompted by a search for nurturance; by dissociation, leading the pseudovictim to believe that trauma earlier in life is ongoing; by a need to be rescued from real, current abuse; and by projections of anger onto specific male targets. Although dramatic, factitious rape is rare, argue the psychiatrists; the thorough investigations of rape claims are advocated even when patients have known histories of deceptive behavior.

Investigators may suspect a false allegation when the victim repeatedly changes his or her accounts of the assault. This was one of the issues in the Duke University lacrosse team case. Care must be taken to distinguish a true changing of the story from a legitimate recollection of additional data. In both true and false claims, new information and more detail may be added in subsequent interviews. The false claimant wishes to "shore up" the allegation to make it more believable, while the genuine victim (as composure and equilibrium are regained) may remember more detail and descriptive data in the days following the assault. This situation places investigators in a very delicate position: Worst-case scenarios are that the pseudovictim successfully manipulates the system for personal gain or that the legitimate victim is further traumatized by aggressive attempts on the part of investigators to elicit the ultimate "truth."

Related to this same discussion is the distinction one must make between deliberate deceit and an honest mistake. The person making a false allegation may offer data that differ from the original report to further deceive and mislead the authorities. In the initial stages of an investigation, a legitimate rape victim, because of stress and psychic pain, may provide incorrect information related to an altered ability to accurately process information.

When a rape or, for that matter, any crime occurs, there must be three elements: perpetrator or perpetrators, act or acts, and a setting or set of conditions. One can make a false allegation with reference to any or all of these elements.

Classification of Unfounded Rape Cases

Prosecutors and investigators find the term *false allegation* of little utility unless the complainant in some way says that the account is untrue. It is more common to use general terms such as *unfounded*, *refusal to prosecute*, and the like. These categories allow law enforcement to close cases without arriving at conclusions. Cases of false allegation are frequently included in these categories. Some jurisdictions may routinely relegate a large percentage of rape complaints to this disposition simply as a means of closing an investigation when it becomes difficult. Because of this method of “closing” an investigation, rates of false allegation may have been inflated and misrepresented. For example, it may be reported that false allegations of rape occur at the rate of 30%, when what is really meant is that 30% of cases have been closed as “unfounded.”

The following section sets forth common reasons for a rape complaint being “unfounded” and recommends more accurate categories. Police consideration of using such categories would greatly assist in differentiating between “unfounded” cases of sexual assault and truly false allegations of sexual assault. It would also help determine whether national statistics on clearance compiled by the FBI are accurate.

Sex-Stress Situations

Sex-stress situations are cases in which a male and female initially agreed to have sexual relations but then something “went wrong.” Usually, the problem involves a third party who became aware of the situation and defined it as rape or convinced the female to say it was rape and she saw it as a way out of some dilemma. For example, a young teenager, having had sex the evening before, becomes concerned with the possibility of pregnancy and wants medication (Burgess and Holmstrom 1974).

It is particularly important for nursing, rape crisis, and mental health professionals to understand sex-stress cases. First, they greatly influence how the system deals with rape. Staff members tend to become obsessed with trying to determine if the situation is a rape case and, consequently, a tremendous amount of energy goes into “diagnosing” rather than helping the victim. Second, these females are victims in their own right and have many emotional concerns over what has been an upsetting experience.

The two main types of sex-stress cases are (1) mutual agreement and (2) financial gain. In a typical mutual agreement case, both parties agree to have sex but then one person wishes to deny the act or becomes repulsed by her behavior. The following case illustrates a situation where there is a reported set of circumstances, a reported act, but no actual offender.

Case No. 1

Roberta, a 27-year-old female civilian employee of a state police department, made a report of rape. She disclosed the alleged rape to a male coworker, telling a very detailed and complex story. She reported that when she was walking to her car from a disco

club, a police sergeant known to her jumped out from behind a car and grabbed her from behind. He forced her into a van and ripped her clothes off. When she refused to spread her legs he cut her thighs repeatedly (all cuts were superficial and within the reach of the victim). He also slashed at her breasts. As she gave this account, she showed her coworker the injuries. The assailant succeeded in having vaginal sexual intercourse with her.

A formal complaint was made to Internal Affairs, which initiated a full investigation and the officer in question was suspended from duty. After the initial disclosure to the coworker, Roberta became markedly uncooperative and resistant to investigative efforts. She refused to submit material evidence and refused the polygraph. Eventually she did turn in her dress which was liberally stained with semen.

The investigating police officer sought consultation regarding the possibility of this being a false rape allegation for two reasons. First, the alleged assailant was outraged, categorically denying everything and readily agreed to forensic evaluation and a polygraph examination. Second, concurrent to this complaint was a highly publicized case involving another police officer who was convicted of raping a woman he stopped for a motor violation. Consultation supported the investigating officer's suspicions and suggestions for proactive interviewing techniques were made.

Roberta, on re-interview, admitted to having made a false allegation. She admitted to repeated and consensual sexual intercourse with a male, previously unknown to her, whom she had picked up at the disco. When she awoke the next morning she found she had overslept, was late for work, and felt "dirty." Consequently, she inflicted the mutilating injuries and fabricated her story. The falsely accused officer had shown considerable interest in Roberta at work and was therefore believed to be a viable suspect. While no charges were brought against Roberta, she was referred for counseling and remained in therapy for an extensive period of time.

In another sex-stress case involving mutual agreement, the woman agreed to sex and the male became violent or "twisted" and frightened the woman. In this situation, although sex was agreed to, the involved acts caused the victim to seek protective assistance from the police.

Case No. 2

A prostitute agreed to have "rough sex" with a client and he took her to his home as his wife and children were going to be gone for two days. She allowed him to bind, slap, and whip her and to have vaginal and anal sex with her.

Two days later, he transported her to an isolated area, ordered her to undress, took a rifle from his vehicle and told her that he would give her a twenty minute head start and then he would stalk and kill her. She refused to run and he ordered her to redress and returned her to her desired location in town.

Extremely frightened, she reported the threat against her life to the police and the man was investigated and eventually convicted of several murders.

A third example of a sex-stress case involves a situation where a parent suspects sex has occurred, perceives some danger to the daughter's reputation, and assumes responsibility in the matter. Another similar scenario involves the teenager reporting the sex to the

parent as rape in order to receive pregnancy prevention advice. The following is such a case where the circumstances and perpetrator were falsely reported, but the act was true.

Case No. 3

Samantha was a pretty 15-year-old girl who arrived home well past her curfew on a Friday night. She tearfully and reluctantly told her parents that she had gone to the skating rink with her friends and at closing time, she and her friends left the building with the intention of walking home. According to Samantha, a young man who worked at the rink offered to drive her home. She accepted his offer and went willingly with him to his car and, instead of taking her home, he drove to a deserted area and forced her to have intercourse with him. The parents immediately contacted the police who took a statement and transported Samantha and her parents to the regional rape crisis center where a nurse was summoned. She completed the necessary examination and evidence collection without incident.

The case was evaluated as being a possible sex-stress situation and a female supervising officer conducted a second interview. Samantha retracted her allegation, stating that she had consensual sex with her boyfriend and was consequently late arriving home. Because of her fear of punishment, she created the fictional scenario.

As mentioned, some sex-stress cases involve a monetary situation. It is not uncommon for prostitutes to encounter a situation in which the customer does not live up to the agreed verbal contract. The client may not pay for services obtained or he may even rob the woman. It is becoming more common for prostitutes to turn to the police, who are rightfully expected to conduct a professional investigation and see that the victim is taken to the hospital for medical attention.

False Rape Allegation

In false rape allegations, *generally* all three components of the allegation are false (i.e., the act, the perpetrator, and the circumstances). These are situations where the pseudovictim is motivated to deceive by exaggerated psychological needs for attention, to avoid unwanted consequences, to cover up for inappropriate behavior, or for financial motives. The pseudovictim has a conscious understanding that the complaint is false. The following case represents a false allegation of rape motivated by a desire to avoid unwanted circumstances.

Case No. 4

Melissa, a 17-year-old student, reported that she had “skipped” an entire day of classes with some fellow students. The group went to an abandoned house where they danced and consumed beer. Walking home, she sat down on a park bench to rest and a large male came up behind her, held a knife to her throat and took her into nearby woods. She began to struggle and he superficially cut (scratched) her three times on either side of her neck. He forced her to undress and vaginally raped her twice, failing to ejaculate on both occasions.

Following the second rape, he allegedly cut the words “Mike’s Girl” into her abdomen. The rapist then forced her to consume a large quantity of vodka, explaining that no one would believe the story of a drunk.

No supporting medical or trace evidence of the rape was present and the words cut into her abdomen had been overwritten. Experienced detectives interviewed Melissa and she admitted that she had contrived the story to avoid punishment for skipping school. She explained that she had cut the words into her stomach while looking in a mirror.

The motive of financial gain was responsible for the false allegations presented in Case Nos. 5 and 6.

Case No. 5

Dorina, a single mother who lived in public housing, brought her two young girls to the rape crisis center for evaluation following allegations of child molestation. No evidence to support the allegation was found in either child. The child advocate informed her that under provisions of “victim’s compensation,” victims of violent crime may apply to the state for compensation in amounts up to \$3,000. The only requirement is that a police report be filed. Dorina filed a police report and was awarded \$2,000 for each child.

Approximately 6 months later, and after making a police report, Dorina again appeared at the center stating that 2 unknown males had broken into her home, raped her, and left. She was unable to provide a useful description and no injury or evidence was present. She was again advised of the availability of victim’s compensation and she made application and was compensated in the amount of \$3,000.

Eighteen months later Dorina once again reported a rape to the police. She was transported to the rape crisis center where she was again evaluated. As before, she was unable to adequately describe her assailant and again neither trauma nor evidence was found. Under the provisions of the victim’s city compensation program, compensation can only be awarded one time per individual. Several months after the alleged second assault against herself, Dorina brought suit against the city public housing authority, seeking punitive damages in the amount of \$150,000. Her claim was that both criminal assaults occurred because of a faulty lock on the door to her public housing and she claimed that she made a formal report requesting appropriate repair of the lock. No record of such a report was ever found and it was determined that all of the allegations made by Dorina had been false and were financially motivated.

Case No. 6

Micaela, a teenage single mother, was brought to the rape crisis center by a police officer. She claimed to have been abducted from the street in her neighborhood by an unknown assailant who dragged her into a vacant house and raped her vaginally. It was noted that during her medical examination, she mentioned several times that her food stamps had been stolen from her by the assailant. She seemed more concerned

about the missing food stamps than about the rape and was unable to give a meaningful description of the assailant. Although she had reported the alleged crime promptly, there was no medical, physical, or trace evidence to support her allegation.

While Micaela was dressing, the nurse asked the police officer if he knew about the theft of the food stamps and he said that that had been her primary concern since she first had made the complaint. He went on to say that there was a lively black-market in the exchange of food stamps for drugs. The officer explained that lost or stolen public subsidies, such as food stamps, can only be replaced if a police report is made. After several attempts to complete the investigation, the police were of the opinion that it was a false allegation made for the purpose of obtaining additional food stamps.

An exaggerated psychological need for attention was the underlying motive for the false allegation in the following case.

Case No. 7

A 31-year-old woman reported that she had been abducted from a mall parking lot by 3 Hispanic males in a battered pick-up truck. One of the men explained in broken English that they were going to beat her husband for having an affair with his wife. However, they were having trouble finding him and they wanted her help.

Over a period of hours, she intentionally mislead the men as to the whereabouts of her husband and eventually they became frustrated and decided to rape her to teach her husband a lesson. The woman reported that her clothes were ripped off her body and each of the men raped her. All withdrew before ejaculating so as to leave no DNA evidence. They then dropped her off and warned her not to report the crime.

There was a lack of medical, trace, or physical evidence to support the allegation of rape and police investigators learned that the “victim’s” marriage was experiencing difficulty. The couple had not engaged in sexual relations during the past year and the husband had recently informed his wife of his intent to leave her for another woman. The complainant admitted making up the story so that her husband would realize that she was sexually attractive to other men and that she had “risked her life to protect him.”

Delusional Rape Allegation

In delusional rape allegations, all three components of an allegation (the act, the offender, and the circumstances) are false. In these situations, the complainant is psychotic and/or delusional. In some cases, this pseudovictim may make several complaints, and not be consciously aware of making multiple complaints because the delusion is a continuous part of her thinking. In speaking with the person, it may become obvious that she is suffering a major mental illness. Even so, it is important to carefully evaluate the complaint because there may be a current or past abuse situation that the person is trying to communicate, as in the following case.

Case No. 8

Ann, a 37-year-old homeless woman, was admitted to a large emergency department for the sixth time in a 3-month period. In each instance, she reported she had been sexually assaulted. She had dirt and leaves in her vagina, superficial cuts and scratches on her inner thighs and a vague description of the man who she alleged had raped her. She further advised that the man had been stalking her for a period of time. While waiting to be seen by the nurse, Ann was angry and volatile with severe mood shifts and little control over her anger. When the nurse examiner came into the room, Ann cried and reached for her hand saying she just wanted to talk to someone who understood and cared.

The nurse examiner's assessment was that Ann's reports of rape were a cry for help for childhood sexual abuse and the goal became to get Ann into counseling where, over time, her issues could be discussed (Ledray 1994).

Who Makes a False Allegation?

To the best of the authors' knowledge, there are no statistics maintained on false allegations. Recognizing this, Hazelwood and Napier (2004) reported on 20 active and retired federal, state, and city law enforcement officers from different regions of the United States (Washington, D.C., California, Texas, Nebraska, Virginia, Florida, Iowa, and Washington) and two provinces in Canada who were telephonically surveyed in a structured manner as to their anecdotal experience with staged crimes (false allegation of rape is one type). Each of these officers had served as a crime analyst ("profiler") within his or her department and consequently was much more experienced with violent crime than the average investigator. It is to be noted that this survey was not intended to provide detailed predictive analysis, but to report investigative perceptions. The officers were asked to approximate the number of violent crimes they had been involved with and the number of fatal and nonfatal staged crimes they had encountered over the years. These officers had 560 years of cumulative law enforcement experience and an estimated 33,360 consultations on violent crimes. Of that number, they estimated that 903 had been staged; of the 903 staged crimes, 411 dealt with death scenes and 492 with nonfatal false allegations of sexual assault.

The officers reported that, in their experience, the person typically making the false allegation was female (100%); Caucasian (100%); 15–20 years of age (10%), 31–45 years of age (25%), or 21–30 years of age (65%).

While it is not intended that this information be generalized to the entire population, the findings that the person most often making a false allegation of rape is Caucasian, female, and between 21 and 30 years of age is consistent with the authors' experience. However, it is important to note that there are no educational, occupational, or intellectual boundaries in this arena. The authors are aware of false complaints being lodged by nurses, psychologists, school teachers, college students, members of the criminal justice system, and female dancers. Investigators would be wise to disregard any criteria presented to them.

Motives for False Rape Allegations

Those who make false allegations may have legitimate problems worthy of attention in their own right. Yet if their false allegations are accepted at face value, rather than as symptoms of psychological needs, the legitimate problems may go untreated and can result in future difficulties. As has been stated, a false allegation, especially when it is based on malice, can result in a grievous injustice. Only by understanding those making false allegations can investigators hope to provide needed assistance for them and protection for everyone else involved.

Attention/Sympathy

Persons making false complaints to elicit attention and/or sympathy usually have overwhelming feelings of inadequacy. They desperately *need* attention, usually in the form of concern and support. In their suffering, a claim of rape may seem a likely method to force a favorable response from friends and relatives as well as the authorities. They may have tried lesser methods of getting attention (e.g., pretending to be ill), which failed. Most important is how the complaining person reacts to the concern and support resulting from the allegation. In typical rape situations, even the most compassionate and supportive response cannot fully alleviate the horror experienced by the victims. However, for individuals in need of attention, this solicitude may very well fill their needs.

Anger/Revenge

In such cases, the complainant is or was emotionally involved with the person she names as the perpetrator and is motivated by a desire to “get even” for real or imagined wrongs. Because the subject is identified, this type of false allegation poses the greatest danger of a miscarriage of justice. In the authors’ experience, it is not uncommon for the pseudovictim to withdraw or modify the complaint after the investigation is initiated.

Alibi

In such situations, the pseudovictim alleges a sexual assault to avoid unwanted consequences (e.g., a teenage girl may allege rape if she stays out overnight without parental permission) or to cover up for inappropriate behavior. As an example, a married woman involved in a sexual affair might allege that she was raped after returning home extremely late in a disheveled state.

False Allegations and the Adaptation Continuum

The creation of a factitious crime to avoid personal responsibility for some act or failure obviously represents an extreme departure from the way mature people normally deal with their problems. The extent to which false claims capitalize on actual events is unknown. However, there appears to be a rough continuum of false reports.

Such claims may involve a slightly distorted report of an actual event to cases in which props (e.g., threatening letters or messages written in the “victim’s” blood) were used. In

its most extreme manifestation, the report can include bizarre scenarios supported by self-inflicted injuries or even self-mutilation and, while such cases are rare and occur at the far end of the continuum, it is incumbent that medical and mental health professionals, interveners, and criminal investigators understand that they may encounter such situations.

While the pathology involved in self-mutilation to support the false claim of rape is rare, factitious claims of illness or injury on a much lower level are well-recognized phenomena in the medical literature.

Munchausen Syndrome

Severe cases of self-inflicted injuries or illnesses in which medical attention is sought have been termed Munchausen syndrome (Asher 1951). The name derives from the central figure in a book of tall tales and fabulous adventures who was named after Hieronymous Karl Friederich Freiherr von Munchausen, a retired soldier known for his generosity and graphic conversations that took the form of "serious narration of palpable absurdities." The key to understanding Munchausen syndrome is that the patient is trying to use hospitals and clinicians in the service of pathologic psychological needs under the guise of seeking medical treatment for an ostensibly legitimate illness.

Munchausen syndrome is based on a preoccupation with manipulation. These patients appear to be compulsively driven to make their complaints. As Gawn and Kauffmann (1955) noted, "While he is aware he is acting an illness, he cannot stop the act." Therefore, reports may capitalize on circumstances and occur only occasionally, or they may be a well-developed means of adapting and part of an extensive history. The degree to which Munchausen syndrome patients defend their claims is in direct proportion to their need to be seen as victims. Dramatic, extreme cases are not likely to confess to the hoax, and those who present such cases are prone to become enraged at the suggestion that their illnesses are anything but genuine (Nadelson 1979; Pandratz 1981).

Mental States

In much the same way that Munchausen syndrome patients manipulate hospitals and doctors, a fraudulent claim of rape might be interpreted as a form of manipulation directed at the criminal justice system. This kind of manipulation is conceptually similar to other kinds of behavior (i.e., malingering and self-mutilation) that are well documented as medically achieved coping mechanisms (Ford 1973). In Munchausen syndrome patients there is also a continuum, ranging from exaggerated claims of infirmity to actual self-induced illness (Grinker 1961). At the extreme end of this continuum, life-threatening injuries are masqueraded as being legitimately contracted (Carney 1980; Carney and Brown 1983). Even child abuse, disguised as natural illness, is suspected of being an under-recognized means of gaining attention (Hodge et al. 1982; Meadow 1982; Waller 1983; Vaisrub 1978).

Although police officers and investigators are used to seeing people who have been harmed or injured by others, they are less accustomed to seeing those who have harmed themselves. Most such instances involve a suicide or attempted suicide. Since self-inflicted injuries used to support a claim of rape or sexual assault are infrequently seen, it is logical for police to initially accept them at face value. Where self-inflicted injuries are recognized as such and are serious or appear to be very painful, it is understandable that police officers

may look upon the “victim” as being psychotic. This is seldom the case. Nevertheless, these individuals are psychiatrically impaired and should be assisted in obtaining professional help. The following case illustrates this phenomenon.

Case No. 9

A 25-year-old housewife reported receiving obscene phone calls and threatening letters that were made out of words cut from magazines and newspapers and pasted on a sheet of blank paper. A short time later, she alleged being raped in her apartment by an unidentified intruder who threatened to return and kill her if she reported the rape to police. She had numerous bruises on her face, a bite mark on her left breast, and rope burns on her wrists. During a polygraph examination, she admitted to fabricating the entire series of events. To support her fabricated story, she had run face first into a support post in her basement to inflict the bruises, had bitten her own breast, and had inflicted the rope burns. She told the investigators that her husband did not understand her or pay attention to her anymore and she was testing his love for her.

As one proceeds along the continuum, the amount of violence the pseudovictim claims was used against her can reach fantastic levels and the presenting dynamics of the case can become increasingly extraordinary.

Case No. 10

A 31-year-old woman alleged that she had been captured by a man as she entered her car in a parking lot. The man ordered her to undress and forced her to perform fellatio. After he ejaculated, he had her spit the fluids into a plastic bag which he later took with him. He then tied her to her steering wheel, gagged her, and inflicted more than 50 superficial cuts on her body, none of which impacted a sensitive area of her body. The woman admitted that it was a false allegation and asked the investigator for help. He agreed to help her find mental health care. Unfortunately, she committed suicide before being treated. Investigation resulted in a suspicion that the woman suffered borderline personality disorder, a few features of which are suicidal gestures, threats, and mutilating behavior.

Keep in mind, however, that legitimate rapes may also incorporate varying levels of misperception; because of this, every aspect must be scrutinized. Support and assistance for the pseudovictim, when appropriate, can only be given by a careful and objective examination of the information, physical and trace evidence, and victimology. The woman in Case No. 10 was in obvious need of professional help and the officer had taken steps to arrange such help. The self-esteem of the woman in Case No. 9 had been eroded by her husband's inattention. By claiming to be the recipient of obscene phone calls and letters, and by claiming to have been raped, she was effectively making a statement of her perception of worth, both as a person and as a sexually desirable partner. Her willingness to engage in self-injurious behavior to support her false claim underscores the seriousness of her emotional problems.

Factors Consistent with False Allegations

In the authors' experience, the following features have been found to be consistent with a false allegation. It is imperative that the reader recognize that some of these features will also be found in legitimate allegations of a sexual assault. Consequently, the question often asked is, "When is a false allegation indicated?" The appropriate response is, "Only when your doubts *overwhelm* the evidence supporting the complaint should you begin to consider the possibility of a false allegation."

Initial Complaint

The manner in which a rape allegation comes to the attention of law enforcement authorities is significant. As is common in legitimate complaints, there are frequently delays in making a report and the reports are often made to someone other than the police.

When initially being interviewed, the pseudovictim may attempt to direct the discussion to "safe" areas. Safe areas are defined as force, resistance, and injuries, whereas "unsafe" areas deal with facts about the crime and/or the offender. For example, when asked to describe the assailant (an unsafe area), the pseudovictim may respond, "He was huge and he kept hitting me [force] and I was kicking and screaming [resistance] and look what he did to me [injuries]." The initial report may be either extremely vague or unnecessarily detailed, as in the following case.

Case No. 11

One of the authors (Hazelwood) traveled to England to testify in a serial rape case. The series consisted of 17 rapes and the consulting author was asked to review the statements written by the victims. In 16 cases, the victim's statement averaged five to nine pages in length. However, the statement of the 17th victim was 28 pages long.

The rape occurred at 8 PM, but the statement began with the victim awakening at 6 AM. By the end of page 12, the "victim" had fixed breakfast, and bagged lunches for her husband and two children, showered and dressed, shared morning tea with a neighbor and watched television. Over the next 8 pages, the woman described cleaning house, having afternoon tea and biscuits, helping her children with their homework, fixing and eating dinner.

In pages 21–26 she described how her husband had stomach illness and asked her to take the family dog for its nightly walk in the park, how she dressed in preparation for the walk in the rain, and strolling through the darkened park as Fido reluctantly looked for a suitable place to do his business. In the last two pages, she wrote of being leapt upon by a "huge swarthy stranger" who knocked her to the ground, ripped her slacks off, tore her knickers from her body, penetrated (no ejaculation), jumped up, and ran away.

Hazelwood and his partner, Judd Ray, met with the investigators and prosecutors on the next day and they were informed that the subject had pleaded guilty to 16 rapes, but stated, "I damn well didn't do the other one." The woman in question later recanted her complaint. The reason that she reported a rape: She was mad at her husband for making her take the dog for its walk in the rain.

Assailants

Typically, pseudovictims report a large and overpowering offender (see Case No. 11) or multiple offenders, such as in the Tawana Brawley or Duke University lacrosse team cases. In stranger-to-stranger false allegations, the offender may be described as a “friend of an unrecalled friend” (e.g., “I believe I met him at a pool party this summer, but I have been to seven or eight pool parties this year”). Interestingly, when describing the style of attacker, pseudovictims do not describe a power reassurance rapist (see chapter 7).

Sexual Assault

The pseudovictim typically reports only those sexual acts in which she normally engages. For example, a woman who does not engage in anal sex is unlikely to report anal rape.

Evidence

Law enforcement correctly places a premium on the evidence supporting an allegation of rape because it often provides the information necessary for prosecution of a case. An absence of the evidence usually associated with rape is sometimes as revealing in identifying a false allegation as is its presence in establishing that a rape occurred:

- While the presence or absence of seminal fluids should never be the determining factor in a rape case, ejaculation is most often absent in false allegations.
- The reported crime scene does not support the “victim’s” report (e.g., ground cover is not disturbed in wooded area; no signs of a struggle in residence).
- Damage to clothing is inconsistent with location of injuries.
- Confirming forensic reports are absent (e.g., lack of foreign pubic hairs).

Injuries

First, it must be understood that the presence of injuries in false claims is not to be expected. However, when present, the nature of the individual’s injuries can provide a great deal of information about what did or did not happen. Men or women who make false rape allegations and support the claim with injuries tend to present a surprisingly uniform pattern of wounds and behavior:

- Pseudovictims are seemingly indifferent to their injuries.
- Injuries were made with fingernails or instruments commonly used by the “victim” (e.g., fingernail file, scissors).
- Injuries do not impact sensitive areas of the body (e.g., nipples, vaginal lips, scrotum).
- The “victim” reports that the injuries occurred while attempting to defend herself, yet the location of the injuries is inconsistent with defense wounds.
- When sharp or pointed weapons are used, the resulting wounds are cuts and not stabs.
- When cuts are inflicted, there may be “hesitation” wounding present.

The areas of the body that are attacked are also of investigative interest. Those portions of the body not normally covered by clothing (i.e., wrists, hands, neck, face) are impacted by superficial injuries, whereas those areas of the body normally covered by clothing (i.e., chest, abdominal region) are likely to be impacted by more serious injuries.

The investigator may occasionally encounter “sensational” injuries (i.e., designed to capture the imagination of the investigator or medical authorities) as in the following case.

Case No. 12

A single woman returned home late one evening and reported that upon entering her residence, she was struck in the face, dragged to her bedroom and forced to undress. She alleged that the assailant raped her repeatedly and continued to slap her in the face as he verbally assaulted her with demeaning and profane slang. He remained throughout the night and after raping her a final time the next morning, he forced her outside and into the woods surrounding her home. He then inserted a tree branch into her vagina so deeply that it had to be surgically removed.

Personality and Lifestyle Considerations

In false rape allegations, extensive and important victimology is often available. In general, such information suggests that the pseudovictim has experienced numerous personal problems and that her ability to cope is seriously impaired. For example, the investigator may find that the rape follows one or more escalating incidents revealing difficulties in her relationships. Obtaining answers to the following questions will be useful in arriving at an objective opinion as to the legitimacy of the complaint:

- Does the person have a history of mental or emotional problems (particularly referencing self-injurious behavior, with hysterical or borderline features)?
- Has she previously reported assault or rape with similar circumstances?
- Did her allegation follow a similar recently publicized crime (suggesting modeling, in which the similarity to the publicized crime offers credibility)?
- Does the complainant have an extensive record of medical care for dramatic illnesses or injuries (see Munchausen syndrome)?
- Do friends or associates report postassaultive behavior of the complainant that is inconsistent with her allegation?
- Did she recently have any negative experiences that could create stress (e.g., breakup of a relationship, failing grades) or any positive experiences that could create stress (e.g., impending graduation, job promotion)?

Other

Over the years, criminal investigators, medical and mental health professionals, and rape crisis counselors have advised the authors of behaviors they have come to associate with false allegations of sexual assault. These behaviors are set forth here, but again, it is to be noted that the presence of such behaviors does not “prove” that an allegation is false:

- Displaying an *abnormal* amount of dissatisfaction with the efforts of the investigator or helping professional;
- Continual recall of additional information such as, “Oh, did I tell you that I was receiving obscene phone calls 2 months ago?” or “Are you interested in an attempted break-in of my apartment a month before the attack?”;
- Lack of interest when police develop a suspect;

- Symmetrical injuries (e.g., three “cuts” each on the thighs);
- Claiming that the right questions are not being asked of her;
- Old clothes worn when clothing is ripped or torn; and/or
- Asking for clothing to be returned.

Second Opinion

When a false claim of rape is suspected and there are serious questions concerning the truth of the report, a critical issue arises: A confrontation has to take place and if the doubts are incorrect, the victim’s trauma may be greatly compounded. Such a confrontation almost always destroys any relationship that may have developed between the victim and the confronting interviewer. One method of handling this challenge to the complainant’s credibility without sacrificing the primary investigator’s rapport with the individual is to introduce a second party who can act as a buffer. The primary investigator needs to maintain a nonjudgmental, supportive, and sympathetic relationship with her and it is counterproductive for him or her to voice any doubts as to the veracity of her report.

It is recommended that unresolved inconsistencies, conflicts, or the lack of supporting data be pointed out by a supervisor (or a coworker playing the role of a supervisor), thereby maintaining the vital relationship between the complainant and the primary investigator. The second investigator should conduct an additional and confrontational interview of the individual.

The style of confrontation should be empathetic and supportive since false allegations are usually attempts to protect self-esteem and harsh challenges may increase the individual’s defensiveness. It is often effective to present doubts in such a way that it is clear those doubts are based upon information provided by the individual herself (e.g., “You reported that you were raped in the woods over a 3-hour period and we examined your clothes carefully, but could not find any evidence of grass, twigs, leaves, or stains on them”). This decreases interpersonal conflict while conveying the impression that investigators have been thorough and objective. It also allows for adjusting investigative hypotheses and gives the person an opportunity to provide additional information without having to place herself in a psychologically threatening position.

The reaction of factitious victims to this approach varies. At the low end of the adaptive continuum, there is usually an emotional confession, mixed with despair and relief. The amount of energy required to maintain her story is exhausting and this becomes a time for her to cooperate and to seek solace. Exaggerators and malingerers often provide great detail as to how and why they masqueraded as a rape victim. For those who adhere to their statements in the face of overwhelming contradictory evidence, it may be advantageous to request they take a polygraph examination.

At the extreme end of the adaptation continuum, the complainant’s distortions are internalized. For her own well-being, she needs to believe what she is saying because she is unconsciously terrified of losing control. Consequently, no matter how the confrontation is handled, her denial is intensified. Predictably, she reacts with outrage. If the family is advised of the findings, they may be of great assistance in her eventual recovery. Unfortunately, because of the disordered lives of pseudovictims, they are often estranged from their families.

Summary

False allegation is a term frequently used and heard in discussions of interpersonal crime. Though simple on the surface, this concept becomes vague and complex under scrutiny. This chapter explored the concept of false allegation in the context of rape, which usually occurs in isolated places where there is no one to support or refute an individual's claims.

False allegations of rape sometimes are not recognized by investigators and are infrequently addressed in the literature. The reason for this is obvious; these are acts that are designed to appear plausible. The key to understanding fabricated complaints of rape lies in determining how a false allegation helps the complainant manipulate, control, or mentally recoup her self-esteem. Therefore, it is the context in which the allegation occurs that provides the framework for understanding the dynamics of the problem.

A final word of caution: Even those individuals who are emotionally prone to make a false allegation can be raped. Basic principles of police professionalism require that officers who investigate rape remain objective and compassionate. If they do not, the veracity of the allegation may never be known and the victim—for she is a victim in either case—may never receive the help and support she needs.

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Collateral Materials in Sexual Crimes

12

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Introduction

Over the years, the authors have assisted investigators in better understanding the significance of materials seized from violent sexual offenders. Some materials, such as items taken from rape victims, are routinely seized by the police when found in the possession of the offender. However, it is common to learn that the significance of these and other items is not recognized by investigators, prosecutors, or mental health professionals. Seemingly innocuous items such as newspaper articles that are apparently unrelated to the crime, books, and real estate listings may play an important role in a greater understanding of the sexual offender and his criminal behavior.

Traditional Evidence in Sexual Crimes

Those who have participated in investigating or prosecuting a sexual criminal know that various types of evidence play critical roles in successfully concluding a case. It is therefore helpful to identify and define the types of evidence that may be encountered in such investigations.

Forensic Evidence

Forensic evidence may be defined as physical or trace evidence that can be scientifically matched with a known individual or item. Such evidence includes fingerprints, footprints, body fluids, hairs, and fibers. Forensic evidence, if properly obtained and examined, can be powerful and reliable evidence in any type of crime.

Circumstantial Evidence

This category of evidence may be defined as facts or circumstances that tend to implicate a person or persons in a crime. Examples of such evidence might include the fact that a suspect owns a vehicle similar to one reported being in the vicinity of the crime at the time it occurred or a suspect who is known to have made a threat against the victim or to have engaged in similar patterns of behavior observed in the crime under investigation and had the means, opportunity, and motive to commit the crime. Although usually not sufficient to obtain a conviction, if observed in sufficient quantity, circumstantial evidence can constitute a powerful case against an individual.

Eyewitness Evidence

Such evidence may include one or more individuals claiming to have witnessed the crime during its commission or to have seen the suspect in the vicinity of the crime. Although believed by many to be the best evidence, its reliability has historically been debated and is the subject of innumerable studies and publications.

Direct Evidence

This category of evidence may be defined as tangible items that directly implicate an individual in a crime. Most commonly, such materials include items *used in the crime* (e.g., handcuffs, gloves, mask) or items *taken from a victim or scene of a crime* (“fruits of the crime”) and found either in the possession of a suspect or in a location under his control (e.g., home, storage area, car).

Items taken during a sexual crime have previously been classified by Hazelwood (1983):

Personal: Items that belong to the victim and are generally of no intrinsic value (e.g., driver’s license, photograph, lingerie). Such items serve to refresh the offender’s recollection of the crime and are used in his fantasized reenactments of the offense. Behaviorally, such items are referred to as either “trophy” or “souvenir.” Such items may or may not be retained by a sexual offender.

Evidentiary: Items taken that, if discovered by the police, could be used to implicate the offender in the crime. Such items may include sheets containing seminal fluids, items with fingerprints on them or even a partially smoked cigarette. The offender is not likely to retain such items, but that possibility cannot be ruled out.

Valuables: Items that have an intrinsic value and are taken during the commission of a crime. Generally, the purpose of taking items of value is financial gain. As with evidentiary materials, these items are not likely to be retained by the sexual offender unless he has a personal need for them (e.g., television, CD player).

Collateral Materials

Prior to beginning a discussion of collateral materials, one should be aware that in the early 1980s, coauthor Lanning noted that preferential sex offenders were very likely to collect theme pornography and other paraphernalia related to their sexual interests. Focusing on child molesters, he began referring to the paraphernalia they possessed as *child erotica*. He defined *child erotica* as “any material relating to children that serves a sexual purpose for a given individual.” *Child erotica* is a broader, more encompassing, and more subjective term than child pornography. Lanning intended that this term include such items as fantasy writings, letters, diaries, books, sexual aids, souvenirs, toys, costumes, drawings, and non-sexually explicit visual images. He noted that this type of material might also be referred to as *pedophile paraphernalia*. These materials are usually not illegal to possess or distribute.

Because of the diversity of material that could be considered child erotica, there was no way to develop a comprehensive itemization. Consequently, Lanning divided such materials into categories defined by the material’s nature or type (i.e., published, unpublished,

pictures, souvenirs, trophies, and miscellaneous). However, many investigators began using the term *child erotica* to exclusively describe visual images of naked children that were not considered to be pornographic. Additionally, for many professionals, the term *erotica* implies that the materials were used only for sexual purposes.

Later, coauthor Hazelwood applied the same concept to sexual offenders who acted out against adults and termed the materials found in their possession *collateral evidence*. Instead of dividing the materials into categories according to nature or type as Lanning had done, Hazelwood divided the materials according to purpose or use. The authors agreed that the term *collateral evidence* was a better one and the two approaches were subsequently reconciled for this chapter.

Webster's School & Office Dictionary (1995) defines the term *collateral* as situated or running side by side, or parallel. For the purpose of this chapter, *collateral materials* will be defined as items that inform authorities as to an individual's sexual preferences, interests, or sexual hobbies. It can be valuable as evidence of intent and/or as a source of intelligence. The finding of collateral material may also influence bail, a guilty plea, and the sentence eventually imposed on the offender.

Collateral materials may include materials with an obvious sexual bent or they may seem benign in nature. Items categorized as collateral may, on occasion, also be classified as *direct* or *circumstantial* evidence. For example, lingerie taken from a rape victim may be sexually arousing to the offender (see "Erotica" section) and simultaneously be used to link him to the crime (i.e., direct evidence).

The authors have identified four categories of collateral material: *erotica* (material that serves to sexually stimulate); *educational* (material providing knowledge about criminal endeavors, the investigative process, the judicial system, or mental health); *introspective* (material providing the criminal with insight into his sexual and/or behavior disorders); and *intelligence* (materials gathered by the offender that provide him with information about future crimes or information gathered about the offender by the investigator from third parties). The experienced investigator will not be surprised to learn that some materials may be categorized as more than one type of collateral material. For example, a partially clothed and bound female depicted on the cover of a detective magazine may be sexually arousing (*erotica*) and an article pertaining to a sexual crime in the magazine may also provide information useful to the criminal in circumventing crime detection techniques (*educational*).

Types of Collateral Materials

Erotica

Erotica is defined as any material that serves a sexual purpose for a particular person. When attempting to identify erotica, one should not apply one's own preference for sexual stimuli, but instead remain objective. For example, the average person is not sexually aroused by a length of rope, but for a person with a fetish for rope, such materials can be extremely stimulating. Material suspected of being erotica must be viewed and evaluated in the context in which it is found. The investigator must use good judgment and common sense. For example, in a child molestation case, the subject's possession of an album filled with pictures of the suspect's own fully dressed children probably has no significance. However, his possession of 15 photo albums of fully dressed children who are not related to him may be very significant. The presence of his own child's underwear may not be significant, whereas

a suitcase containing other children's underwear would be quite significant. For a more complete discussion of collateral material as it pertains to child-related offenses, the reader is referred to Lanning's work entitled *Child Molesters: A Behavioral Analysis* (1992).

In determining whether a certain item should be classified as erotica, the investigator should consider whether

It behaviorally relates to the crime under investigation or to possible paraphilias not evidenced in the crime;

There is an abnormal amount of the material present and it serves no practical purpose (e.g., multiple sets of handcuffs);

The material was hidden; and

The subject has a large financial investment in the material (e.g., \$500 worth of pornography).

Common forms of erotica include fetish items; literature and visual images, either sexually explicit or nonexplicit in nature, that relate to demographically preferred victims; sexual paraphernalia such as inflatable dolls, vibrators, and dildos; fantasy recordings including writings, sketches, drawings, and audio/videotapes/DVDs; records of crimes;* plans for future crimes; crime paraphernalia;† abused dolls (bound, burned, gagged, punctured, dissected, painted); mutilated or altered pictures of people or animals; media accounts of sexual crimes; advertisements (for clothing, lingerie, adult movies, police paraphernalia); weapons collections; and personal items taken from known victims.‡

Educational

This type of collateral material is defined as items that provide the subject with knowledge enhancing his ability to commit a sexual or nonsexual crime, circumvent or thwart law enforcement and/or crime prevention efforts, or manipulate the judicial or mental health process.

Contrary to popular belief, serial sexual offenders do not necessarily have less than average intelligence. Research (Hazelwood and Warren 1989) refutes this belief and documents the fact that serial rapists generally have better than average intelligence.

Intelligent criminals often attempt to learn as much as possible about the type of crime they are committing and resort to literature sources one would not normally associate with such individuals. Ted Bundy, in an interview with FBI Special Agent William Hagmaier immediately prior to his execution, was questioned about the influence of pornography in his life. Bundy asked Hagmaier if he had read the article entitled "Detective Magazines: Pornography for Sexual Sadists" (Dietz, Harry, and Hazelwood 1986). Hagmair advised that he had not and Bundy advised him to do so as it was very accurate.§ Edward Kemper, an infamous serial killer, was reported to have memorized the Minnesota Multiphasic Inventory. When coauthor Hazelwood was attempting to introduce himself to a convict responsible for more than 60 sexually sadistic rapes, the man said, "I know who you are. When I was raping, I did a literature search on you. I've read everything you've written."

* Records of crime would also be classified as direct evidence.

† Also direct evidence.

‡ Also direct evidence.

§ Personal conversation with Mr. Hagmair, 1987.

Educational materials commonly observed by the authors in such cases include fictional and nonfictional crime books; newspaper articles reporting sexual and nonsexual crimes; law enforcement and mental health journal articles; textbooks on psychology and/or criminal justice; published court decisions; detective magazines; crime prevention materials; audio/videotaped programs featuring experts on sexual crimes; and even movies such as *Murder by the Numbers*.

Introspective

Collateral material falling within this category is defined as materials that provide the offender with information or understanding about his sexual or personality disorders, behaviors, or interests. In conducting research on serial rapists, sexual sadists, and pedophiles, the authors were surprised at the attempts of the men to gain insight into and/or rationalize their deviant sexuality. For example, many pedophiles spend a substantial portion of their lives attempting to convince themselves that what they are doing is not totally out of the mainstream but just happens to be politically incorrect at the time. Other offenders may be troubled by what society defines as atypical or abnormal sexual behaviors and turn to publications, college courses, seminars, and in some cases, counseling for answers. Still others recognize that their preferences and behaviors are not normal and are attempting to better understand and thus cope with their deviancy. Such actions do not minimize their responsibility for criminal behavior, but are useful information for sexual crimes investigators, particularly in developing interview strategies.

Introspective materials observed by the authors in sexual crimes include books and other publications on psychopathology; video/audiotapes/DVDs of experts addressing the subject; self-help books; surveys in sexually oriented magazines; and newspaper, magazine, and journal articles on sexual offender research.

Intelligence

This type of collateral material is defined as (1) information or items obtained by the offender in the planning of future crimes, and/or (2) information gathered by law enforcement from third-party sources about the offender. Examples of intelligence are

1. Materials possessed by the offender that indicate he has planned and collected information for the commission of future crimes. Such materials may include license plate numbers; telephone numbers, e-mail or residential addresses of potential victims; commercial or hand-drawn maps with notations or routes of travel; notes concerning the movements or schedules of another person; surveillance photographs of people or locations; written scripts for victims; and lists of materials that will be needed for the commission of a specific crime.
2. Information obtained from interviews of current or former sexual partners of the subject. This may include spouses, lovers, or prostitutes. Hazelwood, Warren, and Dietz (1993) and Warren and Hazelwood (2002) have reported on the value of conducting such interviews. In sexual crimes, the investigator is specifically interested in obtaining facts and knowledge concerning the subject's sexual fantasies, behavioral preferences, habits, and dysfunctions. Also of interest are locations where he may have hidden additional materials, what stressors were present in his life at the time of the crimes, and whether he sexually behaved with the interviewee in a manner consistent with his criminal sexual behaviors.

Case Study

Coauthor Hazelwood consulted on the following case and subsequently testified at the subject's murder trial. The facts of the case, the items seized from the subject, and the discussion provide classification of the materials as either *erotica*, *educational*, *introspective*, or *intelligence*.

The victim, a pregnant 24-year-old housewife, was abducted from her rural home. She was discovered missing when her husband returned from work and found his 22-month-old infant on the floor of their home. There was no evidence of forced entry and no signs that a struggle had taken place. Missing was the victim's car, a quilt, a telephone with a 20-foot cord, the bottom half of a swimming suit belonging to the victim, and every pair of her panties.

The victim's car was found the following morning about 1/2 mile from the residence. Two days later, her decomposing body was discovered 8 miles from the point of abduction. She was dressed in the same clothing she had been wearing when her husband last saw her and there was no indication that the clothing had been disturbed. The autopsy revealed no evidence of sexual assault and the cause of death was determined to have been aspiration due to two paper towels lodged in her throat. It was the opinion of the investigators that the offender had not intentionally killed the woman.

Within 4 months, a 37-year-old man was identified as the person responsible for the crime. He was an unemployed well digger who had recently been fired. One year prior to the crime, he had drilled a well on the victim's property. He was married, had two children, and resided in a single-family residence in an adjacent county.

The man had served time in prison for burglary and had been released approximately 3 years prior to the homicide. He was a high school graduate and of average intelligence. Investigation determined that the subject had committed a variety of crimes over a 9-month period of time before and after the homicide. The following is a sequential listing of those crimes:

March:	Harassing phone call to a woman
May:	Exposed genitals to a woman
June:	Obscene phone call to a woman
August:	Theft of woman's purse from a car
August:	Kidnap and murder (current case)
November:	Fondling and battery of a woman
November:	Impersonation of a police officer and attempted abduction of a woman
November:	Theft of woman's purse from a car
December:	Theft of property from a business site
December:	Kidnap and rape of a 27-year-old woman

The abducted rape victim was taken from her home, raped at an abandoned farmhouse, driven to a second abandoned farmhouse and forced to model a variety of lingerie, raped a second time, and then driven back to her neighborhood and released.

During a search of the killer's residence, the police seized a large volume of materials, which included collateral and direct evidence. The following is a listing of those materials:

1. More than 2,500 index cards containing information on women who had appeared either nude or in lingerie in *Gallery* or *Que* magazines. On each card, he had written a woman's first name, age, marital status, occupation, hobbies, the initials GND ("Girl Next Door" section of *Gallery*) or FNL ("Friends and Lovers" section of *Que*), and the month and year of the issue in which the photograph and demographic data appeared. In the upper right-hand corner of each card was a numerical rating (0–10) of the woman.
2. A spiral notebook containing information identical to that found on the aforementioned index cards.
3. Hundreds of articles of clothing, including panties, bras, nightgowns, swimsuits, slips, mesh tops, wraparounds, nightshirts, camisoles, and teddies. This apparel, purchased from a mail order firm specializing in such items, was estimated to be valued at \$3,000. Several of the items had been placed in plastic baggies and identified to allow cross-indexing to the index cards and the spiral notebook.

Discussion: Items in 1, 2, and 3 would correctly be classified as erotica. The subject's purpose in having this information was to allow him to have sex (masturbatory fantasy) with any of the women, whenever he chose. The amount of time and money he spent purchasing, indexing, and maintaining this collection is indicative of the importance he attached to the material. It is also quite obvious that the man had a lingerie fetish: The murder victim's panties and bottom half of her bathing suit were taken and the kidnap–rape victim was forced to model teddies.

4. Over 100 *Gallery* and *Que* magazines.

Discussion: These magazines would be classified as erotica. They dated to within 1 month of his release from prison on burglary charges; this would indicate his preoccupation with such material existed long before his known sexual crimes. Worth noting is the fact that he was particularly attracted to women who were not professional models (GND and FNL). In the authors' opinion, such women were complementary to his fantasies in that he could mentally relate more closely to such women. It is also to be appreciated that he invested over \$250 in the magazines even though he was financially stressed.

5. Handwritten notes detailing specific items of lingerie and their cost if ordered from the mail order firm. The amount of the anticipated purchases would have totaled over \$7,000.

Discussion: These notes are *erotica*. Whether he purchased the items is not as significant as the paraphilic preoccupation to possess them.

6. A library book entitled *Rape: The Bait and the Trap* and a newspaper article on law enforcement tips to avoid sexual assault.

Discussion: Both of these items would be classified as *educational* materials. They provide information on the crime of rape and what techniques the experts recommend to thwart it. The book would also be considered *introspective* in that it contains information on the underlying motivations of rape.

7. Numerous newspaper articles relating to the unexplained disappearances of women and runaway teenage females. These articles included photographs, descriptive data, and investigative methodology. The police determined that the subject was not involved in any of the disappearances.

Discussion: These items would be classified as erotica and educational materials. They depicted visual images of the missing women and teenagers and lent reality to masturbatory fantasies. They also gave an indication of the media coverage and police procedures in such cases.

8. Three newspaper articles pertaining to the disappearance, discovery, and autopsy of the murder victim. These articles were hidden in a paper bag behind a basement wall in the offender's home. None of the other materials were hidden.

Discussion: These media accounts of the crime would be considered *educational* materials in that they allow the man to track the investigation. Recognizing that some types of sexual killers use media accounts to relive the crime for masturbatory purposes, it might seem logical to also categorize the articles as *erotica*. However, it should be remembered that the offender did not *intend* for the victim to die and subsequently released another kidnap victim. Therefore, it is unlikely that he would use such materials for masturbatory behavior. This material would be considered *circumstantial* evidence in that the articles were hidden and related to the crime for which the man was a suspect. All other recovered materials were easily found.

9. Several newspaper articles dealing with noncriminal activities. They included the grand opening of a new drug store with an accompanying photograph of female employees with their names underlined; wedding announcements with photographs of the bride-to-be; the announcement of a surprise lingerie shower (he had underlined the word lingerie); and a photograph of an English model in a bikini swimming suit.

Discussion: All of these items would be classified as *erotica*. Excepting the model's photograph, the items would also be classified as *intelligence* gathered by the offender for a potential victim pool. He underlined the names of the drug store employees, had a photograph and identifying data on the bride-to-be in the wedding announcement, and knew the identity of the guest of honor at the lingerie shower.

10. Several driver's licenses, license plate numbers, credit cards, and telephone numbers belonging to women.

Discussion: The driver's licenses and credit cards would be direct evidence as they are proof of their theft and therefore directly link him to crimes. The driver's licenses, license plate, and telephone numbers would be categorized as *intelligence*—information he had gathered on potential victims.

11. The quilt taken from the murder victim's home and the bottom half of the victim's bathing suit. Because of the voluminous amount of lingerie present in the offender's home, the victim's panties could not be positively identified.

Discussion: The quilt would be categorized as *direct* evidence. The bathing suit bottom would be labeled *direct* evidence as well as *erotica*. While it is possible that the quilt also served to sexually excite the man, there is nothing to indicate that he had a fetish for such material and therefore that assumption cannot be made. It is more likely that the quilt was used to cover the victim as he carried her from her residence.

12. A hand-drawn map depicting the route to a 27-year-old woman's residence. Notations on the map set forth details on her breast size, age of children, and type of car she owned. The investigators followed the map to her home and determined that the man had dug a well on her farm property about 1 year earlier.

Discussion: The map and notations would be categorized as both *intelligence* and *erotica*. It was learned that the killer had visited her farm on the pretext of checking the functioning of the well. When her husband unexpectedly drove up, the man hurriedly left the farm property.

As previously mentioned, there are two types of *intelligence*: information gathered by the offender in preparing for future crimes and/or victims and information gathered from third parties about the offender. The wife of the subject was interviewed extensively and provided the following *intelligence*:

She said that she was well aware of her husband's preoccupation with female attire, particularly lingerie. He had often purchased teddies and nightgowns for her to wear and he would become sexually aroused when she wore the items. He was a chronic masturbator and would do so openly at all times of the day. He would ejaculate into condoms and leave them lying about their home. When she confronted him with this behavior, he denied the condoms were his and accused her of having affairs.

His extensive collection of lingerie led her to believe that he was having affairs and she began denying him sexual relations for fear of contracting AIDS. She also began refusing to wear lingerie for his pleasure.

She provided information that evidenced he was experiencing several stressors (financial, marital, health, occupational, and sexual) at the time that the known criminal behavior began.

The value of such first-hand information cannot be overestimated. In the instant case, it confirmed one of the subject's paraphilias (fetishism), identified various stressors in his life, and revealed a dysfunctional marriage.

Summary

The authors have assisted investigators and prosecutors in better understanding the significance of materials found in the possession of sexual offenders. In addition to forensic, eyewitness, circumstantial, and direct evidence, investigators should also be cognizant of *collateral materials*.

Collateral materials can include newspaper articles, literature, viewing materials, advertisements, personal notes, fantasy recordings, sexual paraphernalia, collections, and information obtained from consenting and/or paid partners.

Collateral material can augment scientific and other factual evidence in the investigation of sexual crimes. It is helpful in the prosecution of such crimes through the utilization of expert testimony in educating judges and juries as to the significance of the items.

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Interrogation and False Confessions in Rape Cases

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Introduction

Researchers and practitioners alike wonder why the innocent might confess to crimes that carry lengthy prison sentences or life imprisonment (Kassin and Gudjonsson 2004; Ofshe and Leo 1997). Though social scientists have studied psychological interrogations and false confessions for almost a century, these questions have not been fully answered. This is largely because the process of interrogation has only recently been studied in a direct and detailed manner. Over the past three decades, researchers have undertaken a variety of types of studies (field, observational, laboratory, documentary) in order to advance scientific knowledge about how interrogation procedures influence suspects' perceptions and move them from denial to admission. The studies and records of interrogation that have accumulated now make it possible to empirically describe and analyze the psychological process of interrogation and its influence on a suspect's decision to confess (Ofshe and Leo).

Because the third degree has virtually disappeared (Leo 2004), false confessions might seem not only aberrational but also completely irrational. However, confessions by the innocent still occur and pose a serious problem for the American criminal justice system in general and law enforcement in particular (Drizin and Leo 2004; Kassin 2005). No responsible scholar or practitioner suggests that the police intentionally seek to obtain false confessions or that prosecutors deliberately convict the innocent. Indeed, there is little evidence that intentional abuses of power occur with significant frequency. Rather, it appears that a lack of proper training and the use of improper interrogation techniques are the primary reasons that false confessions occur. Police are not always trained to avoid eliciting false confessions or to recognize their varieties and distinguishing characteristics. This chapter briefly documents the process of interrogation and explains why false confessions, like truthful ones, can be understandable responses to certain interrogative strategies.

Causes of False Confessions

Through the 1930s it was not uncommon for police to rely on physical coercion and psychological duress to extract confessions (Hopkins 1931). In the last 70 years, however, more subtle and sophisticated psychological methods have replaced the interrogation techniques of the past. Consequently, it is no longer obvious why the innocent would falsely confess (Kassin and Gudjonsson 2004; Gudjonsson 2003). With the decline of the third degree, the phenomenon of false confessions has become counterintuitive (Leo 2008).

Most people do not appear to know that the phenomenon of false confessions even exists (White 1997) and believe in what the author calls the *myth of psychological interrogation* that an innocent person will not falsely confess unless he is physically tortured or mentally ill (Leo 2001). Contemporary methods of psychological interrogation can and

sometimes do result in false confessions obtained from cognitively and intellectually normal individuals (Drizin and Leo 2004; Leo and Ofshe 1998). The central issue for researchers and practitioners is not whether false confessions exist, but rather why they occur and what can be done to prevent them.

The Police Interrogation

After identifying a suspect, investigators meet with that person to elicit information. The detective may intend that the meeting is only for an investigative interview, or that it is the first step of an adversarial interrogation. The use of an interview format allows the investigator to better develop rapport and to lead the suspect to believe that he is helping authorities solve the crime (Leo 1996) and to perceive that the questioning is nonthreatening (Leo and White 1999). If it is decided to move from an interview to an interrogation, the elicitation of a Miranda waiver typically signals the transition.

Many suspects, whether innocent or guilty, do not appreciate the significance of the Miranda warnings and may waive their rights without giving the content of the warnings much thought. A guilty person may believe that if he does not waive his rights, the police will arrest him; after waiving his rights, he may attempt to misdirect the attention of the police and attempt to learn what evidence they possess. An innocent person, on the other hand, may believe that he is not in any jeopardy by waiving his rights (Leo 1998).

Modern interrogation techniques and strategies are designed to break through the resistance of a rational person who knows he is guilty, convince him to stop denying his culpability, and persuade him to confess (Ofshe and Leo 1997; Inbau et al. 2001). Officers conducting the interrogation elicit the decision to confess by influencing the suspect's perception of (1) the nature and gravity of his immediate situation, (2) his available choices or alternatives, and (3) the consequences of each of these choices (Ofshe and Leo). The detective labors to persuade the suspect that he has few options but to confess and that the act of admitting culpability is the optimal and most sensible course of action.

Step 1: Shifting the Suspect from Confident to Hopeless

American police interrogation is essentially a two-step process (Ofshe and Leo 1997). The goal of the first step is to cause a guilty party to perceive his situation as hopeless. The officer seeks to accomplish this by leading the suspect to believe that he has been caught, that his guilt can be objectively demonstrated to the satisfaction of any reasonable person, that this fact is indisputable and cannot be changed, and that there is no way out of this predicament.

Presuming that the person is guilty, the officer is likely to rely on several well-known interrogation techniques to successfully communicate the message that the suspect has been caught and that his situation is hopeless. The detective may repeatedly accuse the person of having committed the crime and express unwavering confidence in the suspect's guilt, ignoring any assertions of innocence by the person. This may result in the suspect's belief that he has the burden of proving his innocence. If the person offers an alibi, the officer may attack it as inconsistent, implausible, or contradicted by the evidence.

The most effective technique used to convince the suspect of his hopelessness is to confront him with what appears to be objective and irrefutable evidence of his guilt. American

law allows the police to state that they have physical or trace evidence, eyewitnesses, or even polygraph results that support their position of the suspect's guilt, when in fact such evidence may not exist. The purpose of doing so is to convince the suspect that his guilt will be established beyond any reasonable doubt and that his best option is to confess.

Step 2: Offering the Suspect Inducements to Confess

In the second phase of interrogation, the detective seeks to convince the suspect that the only way to improve his situation is by admitting to the offense and to persuade the person that the benefits of admitting guilt clearly outweigh continuing to assert innocence (Ofshe and Leo 1997). To accomplish this, the officer may present the suspect with incentives that communicate that he might receive some personal, moral, legal, or other benefit if he confesses to the crime. These inducements can be arrayed along a continuum and for analytical purposes have been classified into three categories: low-end, systemic, and high-end inducements (Ofshe and Leo).

Low-end inducements refer to self-image, interpersonal, and/or moral appeals that suggest the suspect will feel better or improve his social standing if he confesses (Ofshe and Leo 1997). They are intended to impact the guilty person who is either (1) experiencing a troubled conscience or (2) vulnerable to moral persuasion. The officer suggests that if the suspect continues to deny his culpability, he will also continue to experience guilt and anxiety; however, once he accepts responsibility for his actions by confessing, his distress will be alleviated and his conscience, family, friends, and associates will view him as a better person.

Systemic inducements are intended to focus the suspect's attention on the discretionary ability of criminal justice officials to positively influence his case (Ofshe and Leo 1997). The officer's goal is to have the suspect reason that his case may be more favorably acted on if he accepts responsibility, cooperates with authorities, and admits guilt. The detective may seek to further motivate the guilty party by claiming to be his ally and expressing a willingness to inform others of his willingness to cooperate if the person confesses.

High-end inducements may be observed when an overzealous or untrained officer inappropriately advises the suspect that he will receive less punishment, a lower prison sentence, or prosecutorial or judicial leniency if he confesses—and more severe treatment by the criminal justice system if he does not confess (Ofshe and Leo 1997).

Effective psychological interrogation is a gradual yet cumulative process. As the officer progresses through the two-step process, he works to structure a guilty party's perceptions about the nature of his immediate situation, the limited choices available to him, and what follows from these choices.

The Different Types of False Confessions

Kassin and Wrightsman (1985) first identified three conceptually distinct types of false confession: voluntary, coerced-compliant, and coerced-internalized. Kassin and Wrightsman's typology or classification scheme offers a useful conceptual framework for scholars of interrogation and confession (Gudjonsson 2003). Synthesizing the existing research literature, Ofshe and Leo (1997) have extended and modified Kassin and Wrightsman's initial

typology to include five distinct types of true and false confessions: voluntary, stress-compliant, coerced-compliant, coerced persuaded, and noncoerced persuaded.

Voluntary False Confession

A voluntary false confession is offered either in the absence of police interrogation or in response to minimal police pressure. As Kassin and Wrightsman (1985) state, individuals volunteer false confessions in the absence of police questioning for a variety of reasons, such as a morbid desire for notoriety, the need to atone for real or imagined acts (Gudjonsson 2003), a need for attention or fame, the desire to protect or assist the actual offender, an inability to distinguish between fantasy and reality, or a pathological need for acceptance of self-punishment (Kassin and Gudjonsson 2004). High-profile crimes such as the Lindbergh kidnapping in the 1930s, the Black Dahlia murder in the 1940s, or the JonBenet Ramsay and Nicole Brown Simpson murders in the 1990s may attract hundreds of voluntary false confessions (Gudjonsson 2003). If police suspect that such a confession has been given, there are at least three indicia of reliability that can be used to reach a conclusion about the trustworthiness of the confession (Leo et al. 2006):

1. Does the statement lead to the discovery of evidence unknown to the police?
2. Does the statement include identification of unusual elements of the crime that have not been made public?
3. Does the statement include an accurate description of the mundane details of the crime scene that are not easily guessed and have not been reported publicly?

Stress-Compliant False Confession

A stress-compliant false confession is given when the pressure of custodial questioning overwhelms the suspect and he comes to believe that the only way to end the experience is by confessing (Ofshe and Leo 1997). There are three potential sources of stress during the interrogation: the environment, the detective's interpersonal style, and the techniques and strategies used during the process. During interrogations, detectives commonly (and legally) structure the environment to induce stress. They place the suspect in an unfamiliar setting, they separate him from others, and they control the pace, length, and intensity of the questioning. The officer's interpersonal style may be one that is alternately confrontational, demanding, and insistent. Finally, the techniques and strategies of the questioning officers may be designed to induce anxiety by attacking the suspect's self-confidence and appearing not to listen when he claims his innocence. Even though the suspect knows he is innocent, he may make a false confession because the prospect of continued interrogation is intolerable. If the officer suspects that the person making the confession is doing so simply to end the interrogation, he should attempt to obtain crime information from the individual that will corroborate the confession absent any contamination. Such information should be known only to the police and true offender (Leo et al. 2006). If the suspect is unable to provide such information, the officer should confront the suspect about his motivation for confessing.

Coerced-Compliant False Confession

As Kassin (1997) states, “Coerced compliant false confessions occur when a suspect confesses in order to escape or avoid an interrogation or to gain a promised reward.” A coerced-compliant false confession is similar to stress-compliant false confession insofar as the person knowingly confesses falsely in order to end the interrogation. However, coerced-compliant false confessions occur because of threats and promises made by the questioning officer; the suspect consciously decides to confess in order to gain a reward or end the interrogation (Ofshe and Leo 1997). Officers should be aware of the legal ramifications of engaging in verbal and nonverbal behavior that threatens the well-being of a suspect and should avoid engaging in such activities. Furthermore, officers should make no promises that they are not legally empowered to make.

Coerced-Persuaded False Confession

Such a confession occurs when the detective refuses to accept the suspect’s report of having no memory of committing the crime. The detective uses intimidating techniques and this causes the person to begin to doubt the reliability of his memory. In such cases, the suspect comes to believe that he probably did it or logically must have committed the crime, so he falsely confesses to it. Because a person making a persuaded false confession lacks any memory or knowledge of having committed the crime, he confesses in hypothetical, tentative, or speculative language that he could have, he probably did, must have, or may have—reflecting his uncertainty and lack of knowledge (Ofshe and Leo 1997). When it appears that such a confession is being made, the investigator should be careful to ensure that he does not assist the suspect in constructing the confession and he should avoid filling in the blanks or answering the suspect’s questions about the crime. The officer should also determine whether the information provided by the suspect could have been obtained from other police officers, the media, or the community.

Noncoerced-Persuaded False Confession

The same structure, sequence, and logic occur in this type of false confession as occur in the coerced-persuaded type (Ofshe and Leo 1997). The major difference is that the confession is given not because of any perceived coercion but rather because of other factors that result in the suspect’s temporarily believing that it is likely he committed the crime. Again, such confessions will be given in language such as *I may have* or *I must have*, and the officer is once more reminded not to assist in the formation of the confession or provide crime facts to the suspect.

The Consequences of False Confessions

While it is not presently possible to provide a valid quantitative estimate of the incidence or prevalence of false confessions (Leo and Ofshe 1998, 2001), it is well established that false confessions do occur within our society. However, because researchers, police, prosecutors, and the media may be unaware that a false confession has been elicited, false

confessions are not easily discovered (Drizin and Leo 2004). Even when discovered, they are rarely publicized.

Historically regarded as a form of self-conviction, false confessions ultimately may lead to finding an innocent person guilty. In rare instances, a rapist is caught in the act (more common in the movies than in real life), providing the most damning piece of evidence in rape cases (Drizin and Leo 2004; Leo and Ofshe 1998). To anyone who believes in the American system of justice, false confessions can have results that are frightening.

A person who confesses is likely to be treated more harshly by those within the criminal justice system. An officer who obtains a confession is inclined to consider the case solved. Prosecutors tend to make the confession the centerpiece of their cases and are less likely to initiate or accept plea bargains (Leo and Ofshe 1998). The defendants may have more difficulty in obtaining bail, and defense attorneys are more likely to pressure their clients to plead guilty because the risk of conviction is greatly increased. Even the triers of fact may become biased in favor of conviction when confession is involved.

Conclusion

False confessions occur. A police interrogation is a stressful event for the suspect whether he is guilty or innocent. While acknowledging that false confessions are not the goal of the trained and professional interrogator, it is still incumbent on law enforcement officers to be alert to the possibility of false confessions for a number of reasons.

False confessions can be prevented, and it is imperative that all reasonable steps be taken to ensure that they do not occur. One of the most important procedural safeguards to reduce the possibility of false confessions is a comprehensive training program for law enforcement officers who will conduct interrogations.

As a minimum, officers should be trained in the following three areas:

1. The existence, variety, causes, and psychology of false confessions: If officers are taught the logic, principles, and effects of psychological interrogation methods, they will not only become more knowledgeable about false confessions but also be more effective in obtaining truthful ones.
2. The indicia of reliable and unreliable statements and how to distinguish between them: It has long been a generally accepted principle in law enforcement that valid confessions are supported by logic and evidence. The proper way to assess the reliability of a confession is by analyzing the suspect's postadmission narrative (detailed discussion of the crime after an admission has been given) against the underlying crime facts to determine whether it reveals guilty knowledge and is, in fact, corroborated by existing evidence (Leo et al. 2006).
3. Corroborating suspicions: Police must base their opinions about an individual's guilt on much more reliable and conclusive evidence and should ensure that they have done all within their power to corroborate the confession. True confessions most often provide information that leads to corroborating evidence, whereas false confessions, by their nature, cannot do so.

Awareness that false confessions happen and reliance on objective standards for evaluating a confession are professional approaches to interrogation. A confession that

cannot withstand objective evaluation should not be accepted. Defective confessions have the potential to mislead the investigator initially and the jury eventually, resulting in conviction and incarceration of an innocent person.

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Section III: Forensics and Court

Physical Evidence in Sexual Assault Investigations

14

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Introduction

Physical evidence in criminal investigations, whether associated with sexual assault or not, represents an important and often critical aspect of the overall picture to be presented to a jury. While the intent here is to discuss physical evidence related to sexual assault investigations, the principles discussed are applicable to evidence in many types of crimes. There are, of course, unique aspects to sexual assault evidence per se, but many of the principles discussed here are generally applicable to evidence as a whole.

Events associated with a sexual assault frequently result in various kinds of personal evidence, including body fluids, hairs, and fibers deposited on various surfaces and objects. Such evidence is often transient and subject to adverse environmental conditions, or it may be overlooked due to its size, distribution, and even the level of perseverance exercised by the personnel looking for it. Tasks such as collecting the evidence, documenting it, packaging it, preserving it, and determining what is then to be done with it are important—no, critical—to the overall integrity of the investigation. Rapid advancement of technologies such as forensic DNA analysis has made the crime scene investigator's role more significant and complex in that the evidence often must be handled more carefully now than before these newer methods became available. The value of physical evidence may easily be affected by any and all personnel associated with it, from the first responding officer to the attorney who presents it in court. The need for open and frequent communication between all of these individuals is essential to a successful resolution of the case.

This chapter will neither address the techniques and procedures of the crime laboratory used in the analysis of physical evidence nor discuss the potential results available from different kinds of evidence typical in sexual assault investigations. In general, this chapter will deal with the type of evidence often encountered, and its recognition, documentation, collection, packaging, and preservation to ensure maintaining its integrity. Actual case examples will be mentioned occasionally, particularly to illustrate how not to handle evidence. The sources of the evidence will be considered as well—the victim, the suspect, and the crime scene. The term *crime scene* in a sexual assault refers to all three sources mentioned because the victim and the suspect are as much crime scenes as is the location at which the assault took place.

This and the following chapter are closely connected because this chapter provides a basis for a better understanding of the material discussed in chapter 15. The overall nature of the evidence and general principles governing its recovery are addressed in this chapter, while more detailed discussions of specific evidence and the methods and techniques of collection and handling are presented in chapter 15.

At the outset, it is perhaps useful to consider the potential, the problems, and the misunderstandings associated with the handling of evidence from the crime scene through

the courtroom process. Evidence does not magically find its way from the crime scene to the courtroom, and it is not analyzed without the dedicated efforts of a number of people. Also, it does not find its way to court without a few glitches along the way.

Forensic science has become a well-recognized field today, probably owing in no small part to the fact that several notable cases have occupied the headlines of the nation's newspapers in recent years. Additionally, television programs abound that emphasize evidence analysis in criminal investigation. Evidence must be properly documented, collected, packaged, preserved, and secured by personnel knowledgeable in these procedures. The application of forensic science in an investigation truly begins in the initial stages of the crime scene investigation.

The history of evidence is critical to both its relevance to the case and its admissibility under the rules of law. During the progression from the crime scene to the courtroom, attention must be paid to the proper chain of custody, proper evidence handling, and proper packaging and preservation procedures. Improper handling may render the evidence useless through degradation. Sometimes it cannot be used at all because its whereabouts cannot be established at some point during the process. From the first responding individual at the crime scene to those responsible for maintaining the security of the evidence through the trial, the rule should be: If you do not know how to handle it correctly or have no legitimate need to be involved, then leave the job to the experts. No one wants to be in the shoes of the senior police officer who was elated to find that his crime scene personnel had developed several exceptional fingerprints that did not belong to anyone having normal access to the scene. He was elated, that is, until he found out that the fingerprints were his and that he had carelessly left them when he was doing his own inspection of the scene.

It is also possible for the layman, based on the presentation of results of a detailed study of the evidence, to conclude that the laboratory solved the case when, in fact, many dedicated individuals contributed to the final result. The events leading to trial often include the crime scene investigation; examinations of witnesses, suspects, and victims; the evaluation of evidence; reconstruction of the events of the crime; and preparation of the case for court. The laboratory would not have had the evidence to examine if a lot of work had not been done before the evidence went to the laboratory. The successful presentation of a case in court encompasses the hard work of a number of individuals working together.

Some evidence simply draws attention to itself or is more provocative than other material collected at the scene. The nature of the specific items of evidence or their locations within the crime scene may become a point of disproportionate focus, displacing appropriate consideration of other evidence. The finding of a fingerprint, spectacular bloodstains spattered over a wall surface, the DNA analysis of body fluids from the scene, the presence of a bullet in a wall—all of these may receive attention to the extent that other evidence is largely ignored. Some disciplines may be completely ignored until trial preparation poses the “what about” and “what if” questions. It is important to realize that a complete evaluation of the evidence initiated early in the game will be far more productive than picking up the pieces as trial time draws near.

It is not uncommon for individuals to recall the events of a crime differently. While present at the same events and at the same time, victims, witnesses, or even suspects will not necessarily recall the events precisely the same way. A person's fingerprints in a particular room may disprove his statement that he or she was never in that room. Often such discrepancies and conflicts may be resolved with a complete evaluation and analysis

of the physical evidence. Accordingly, highly skilled attorneys, aware of such potential in the evidence, may attack the evidence itself and/or the manner in which it was secured to prevent its effective use. Again, we come back to the integrity of the evidence and the requirement for complete, documented, and detailed evidence procedures.

Finally, it must be said that communication between the individuals involved in an investigation is critical. The crime scene investigator, the investigative case officer, the medical examiner, the emergency room physician, the prosecuting attorney, the forensic laboratory analyst, and others involved should be aware of the facts of the case and the importance of communicating changes in these facts as they develop. Often, after evidence is sent to a laboratory, the general attitude is to forget about that case for a while and get on with other things. With some kinds of evidence, this is not unreasonable. However, when the investigation develops new information that may affect decisions about the analytical strategy in the laboratory or the conclusions that may be reached concerning a reconstruction of the events of the crime, that information should be passed on to those analysts who can use it. A second example would involve evidence or information developed during the crime scene investigation that is important to investigators on the street or, similarly, information developed on the street that needs to be known by personnel at the scene. Communication of this nature is sometimes overlooked, but should not be.

The Nature of Physical Evidence

A discussion of the ground rules is in order. What are the general principles, terms, and concepts that allow us to have a common understanding of what is important with regard to evidence and its collection, packaging, preservation, and presentation in court?

Physical evidence presents itself in a wide variety of forms, sizes, and locations. Evidence can vary widely with respect to the degree to which it can be analyzed and matched with a particular known source. A simple study of a few cases readily establishes the diversity represented by the evidence. Indeed, while there are some types of evidence that are almost always associated with sexual assaults, there may be no end to the variety of items that, based on the circumstances of the case, may present a very real evidentiary significance. As is the case with any scientific discipline, the need for some means to categorize and identify this wide variety of materials is dictated by a simple requirement for organization.

Not only is it important to be organized about how we look at evidence from the perspective of investigators and those involved in the preparation of a case for trial, but the trial attorney must also set before a jury of lay persons an array of ideas, items, materials, and information that must tell a story and equip them to carry out their responsibilities to determine guilt or innocence. The attorney must educate the jury not only in the saga of the case but also, to some extent, in how the evidence was collected and analyzed and the meaning of that analysis. The presentation of the evidence in a clear and convincing manner is often essential to an attorney's case, whether defense or prosecution. A simple and organized system for identifying, describing, and working with the evidence is necessary.

There is a major advantage in understanding how a forensic examiner approaches the examination of the evidence that arrives at the laboratory. If the crime scene investigator knows what is to be done, then attention can be devoted to the collection and preservation of that evidence in ways that get a maximum amount of information from it. With much of the evidence to be discussed here, known sources will be compared with questioned or

unknown samples. Such a comparison, whether with DNA or fibers, will determine how closely the two sources match one another. Understanding these things, the investigator is better prepared to recognize types of evidence that are perhaps out of the ordinary but that may provide valuable information as well.

Several major principles pertinent to evidence, especially in sexual assault cases, should be dealt with at this point. They are as follows:

1. The identification of evidence—the ways in which evidence may be identified
2. General types of evidence
 - A. Class characteristic evidence—belonging to a general class of items
 - B. Individual characteristic evidence—having its own unique character
 1. From persons
 2. From things
3. Evidence resulting from transfer—ways in which evidence may be distributed prior to collection.
 - A. Direct
 - B. Indirect
4. The evidence environment—understanding the variety of evidence and the relationships between the different evidence types within the scene
5. Evidence/crime scene contamination—addition to or deletion of a portion of the evidence
 - A. Nature of the evidence environment
 - B. Personnel
 - C. Careless and/or inadvertent alteration of the scene
 - D. Packaging of the evidence
 - E. Laboratory environment
6. Degradation of evidence—the effect of a hostile environment
 - A. Heat
 - B. Humidity
 - C. Ultraviolet (UV) light

The Identification of Evidence

Identification in an everyday sense does not seem a complicated concept. There is nothing unique or surprising when we call a screwdriver a screwdriver or a shirt a shirt. This simple identity is based on observations of familiar objects. However, the term *identification* often takes on additional significance in the forensic laboratory. Different disciplines of study apply a unique meaning to the identification of the evidence, depending on its nature, its chemical form, the quantity, its condition, its source, and other considerations.

Identifications may be based on appearance, color, physical properties (such as crystal structure), or chemical properties (such as composition) determined by analysis. A bloodstain on a shirt looks like a bloodstain. To the forensic serologist or DNA analyst, it is an unknown stain until it is specifically identified as blood. This requires more than simple observation; it requires chemical testing. Further characterization is then effected through extensive analysis of the DNA in the blood. Intentional avoidance of a specifically identifying (and possibly wrong) description of a sample of evidence is a practice not foreign to the

crime scene investigator. Many identifying statements have been made only to be proven wrong by testing, followed by embarrassing exposure in court.

Chemical identification of a controlled substance requires specific and sophisticated testing to sufficiently identify the substance according to the legal description for court presentation. Chemical identification of the layers in a chip of paint from the scene often provides sufficient information to distinguish the chips from other sources considered in the investigation, thereby avoiding wasted time and effort.

It is not uncommon for the forensic examiner to receive two items that may have, in fact, been joined as parts of a single object at some time in the past. Such fracture matches represent a specific and positive identification, as the nature of the match is based on the unique edges of the two pieces. Examples of these kinds of matches might include two pieces of glass or stone that fit together, or fragments of a shredded document, painstakingly searched and pieced together to produce the original.

While it may not be strictly within the realm of identification to discuss terminology used in describing evidentiary characteristics and relationships, it does seem fitting to mention the topic here. Terms such as *consistent with*, *typical of*, *matches in all observable characteristics*, or *cannot be distinguished from* often do not instill any great confidence in the reader of a report. However, it must be remembered that when these terms are used, they are the closest the laboratory examiner can get to an identification. While not always as limiting and specific as desired, the information often has value in the overall picture.

Certainly, additional examples of forensic identifications can be cited; however, the preceding discussion should serve to illustrate the idea that identifications will, by necessity, vary in the degree to which an item is identified in the conventional sense.

General Types of Evidence

Class Characteristic Evidence

Class characteristic evidence is that which cannot be forensically identified with a specific source to the exclusion of all others. Examples include the conventional (non-DNA) analysis of hairs, blood, saliva and semen, fibers, soil, glass (excluding fracture matches), and minute wood particles. Forensic science has no current methods to positively associate such items with a single or unique source. Here, forensic examination of evidence is directed at giving as much information as possible about each feature exhibited by each item and about many different types of evidence in combination. The more material of different types that can be associated with a suspect (because these are considered independent events), the stronger the association becomes in the minds of the jurors. Class evidence can be presented in such a manner that there is almost a direct inference of positive or negative association between the suspect and the victim, particularly when a preponderance of evidence exists. For example, a witness may testify that the genetic markers and ABO blood type of semen found in the vaginal vault of the victim match a blood sample from the suspect and that the chances of finding someone in the population at random with the same genetic profile are very small. Another expert witness may testify that a pubic hair from the suspect matches in all characteristics one taken from the victim. These two together are very damaging testimony to the defendant, even though they are both class characteristic evidence.

There can be problems associated with the use of class evidence, stemming mainly from an inability of the evidence to specifically point to an individual with sufficient definition. Difficulties in this regard can often be overcome when it is understood that a preponderance of evidence (even though class in nature) can be nearly as effective as a lesser amount of individual characteristic evidence (see later discussion). A number of misconceptions regarding this type of evidence continue to plague investigations from time to time:

1. If an item does not amount to a positive identification (such as a fingerprint), it is not worth collecting. This narrow focus in thinking is self-defeating.
2. It is too hard and confusing to explain the significance of class evidence to a jury. This is not true. One only has to consider some of the more recently publicized cases.
3. Because an item is class evidence, it is common and therefore not of significant value to the case. The significance of several individual items when recognized collectively becomes considerably greater, even though individually they may be common.
4. If evidence is not present in reasonable quantity, it is not worth collecting, or "If I can't see it, it isn't there." The rapid development of technology to deal with micro-quantities of materials wiped out this excuse long ago.
5. The availability of forensic services that can take advantage of the full range of information available through class evidence is too limited to be worth the time and trouble. To a point this is true, but the length of time between evidence collection and trial is often much longer than necessary for such examinations. If analysis is begun soon enough, much can be done.

These ideas and attitudes usually serve to cover the investigation with a negative cloud of inefficiency and incompleteness. Particularly in recent years, technological advances in the examination and analysis of evidence, class and otherwise, make it all the more important that this potential source is not overlooked. It is not infrequent that a sexual assault scene offers little of value in fingerprints but has an abundance of class evidence. This potential should not be ignored.

Individual Characteristic Evidence

Evidence that can be positively identified with a specific source to the exclusion of all others is individual characteristic evidence. Evidence of this type is frequently found in lesser amounts than class evidence or may not be present at all. Examples include latent prints left by the friction ridges on the hands and feet, specific cuts and tear matches in clothing; fracture matches of broken items such as bottles and ash trays, imprints of body parts on hit-and-run vehicles matched to a victim (ears, noses, etc.), and more recently, the DNA analysis of body fluids. The specific nature of individual evidence makes it desirable; as indicated earlier, there is a temptation to ignore that which is less definitive. But to rely on nothing but individual evidence, especially when additional class evidence is present, is an unwise choice at best.

It is not uncommon for an item of evidence to exhibit both class and individual characteristics. For example, the victim wore a shirt that was torn during an assault in the back seat of the suspect's vehicle. The victim may have related that the suspect tore a piece of fabric from the shirt during the attack. A section of fabric found in the vehicle in the specific location of the assault would be examined for loosely adhering debris character-

istic of debris taken from the vehicle. This would usually be class evidence. Results of an examination of the section of fabric and comparison of it with the shirt from which it was thought to have come (involving the fabric structure, color, pattern, composition, and design) would, again, represent class evidence. However, an examination of the torn edges of the piece and the shirt to show that the two match down to the individual threads would represent individual evidence. Further, the identification of semen on both the shirt and the piece of fabric is class evidence, but subsequent analysis of the DNA to establish a match with the DNA from blood of the suspect represents individual evidence. To take the case one step further, DNA analysis of hairs taken from the shirt and microscopically matched to hairs from the suspect (class evidence) also disclosed the DNA profile of the suspect (individual evidence).

Forensic science has developed DNA analysis to the degree that it is possible to achieve an individual match when a sufficient number of characteristics are analyzed in the DNA from a particular sample. This makes the condition of the DNA (and thus the evidence) more important than ever, as discussed in the Evidence Degradation section.

As one can see from the preceding discussion, individual evidence can originate from two general sources. There are associations that identify the evidence as coming from a particular thing or a particular person. Both of these are illustrated in the preceding example. However, it should again be stated that the value of the evidence to the case can be modified by information discovered through investigation. If an individual had normal and frequent access to a location that became a crime scene and that person's fingerprints were found at the scene, the significance of that find is considerably less than if the individual had never been at the scene. Similarly, denial of ever having been at the scene by the individual when his fingerprints were found there makes the fingerprint evidence very significant. Thus, investigation and forensic examination of evidence go hand in hand and should not be divorced during the preparation of a case.

Individual evidence that establishes beyond a doubt that a particular person is the only source of the evidence is generally confined to four different areas: latent fingerprints, DNA, bite marks (forensic odontology comparisons), and handwriting or hand printing. There are numerous other valuable individual evidence areas, but it should be remembered that both class and individual evidence is important.

Evidence Resulting from Transfer

Two questions often asked by the crime scene investigator are

1. What is here that tells me that the suspect brought something to or took something away from the scene?
2. What is here that tells me that the victim brought something to or took something away from the scene?

The concept implied here is that the investigation might be able to capitalize on the transfer of something during the commission of the crime that associates either the suspect or the victim with the scene and/or with each other. This concept of transfer is operative in our daily lives all the time. Walk across a newly installed carpet wearing freshly shined dress shoes (particularly in a dry atmosphere). More than likely there are fibers from the carpet accumulated on the toes of your shoes. A parent wearing a fur coat and hugging a child

very likely leaves hairs from the coat on the child's clothing. If the child then sits on a sofa with a textured fabric, some of the hairs from the fur coat may be transferred to the sofa. What we see in all of this is evidence of contact. In fact, individuals frequently leave what is often referred to as trace evidence at crime scenes. It is up to the crime scene investigator to find it.

Trace evidence encompasses such evidence as hairs, fibers, smears of semen and/or blood, glass, soils, or even vegetation. It is often present in such small quantities as to make it difficult if not impossible to see without the aid of specialized lighting techniques and other aids. While the necessity of such additional help presents more of a challenge, it is perhaps an advantage; if the investigator has to work to find it, the suspect is likely to have missed it. The suspect may think to sanitize the scene with respect to normally observable evidence, but he will likely miss trace materials transferred to a victim, the scene, or even himself or herself.

Because one of the ultimate goals of crime scene investigation is the reconstruction of the events of the crime, it is important to recognize the opportunity that the transfer of trace evidence affords. To be able to determine that a transfer of evidence took place between two individuals followed by another transfer between one of them and a third person is of particular corroborative value when investigative information suggests that this scenario might have taken place. This illustration identifies two important aspects of transferred evidence—namely, the direct and indirect transfer of trace evidence (sometimes referred to as primary and secondary transfer).

Direct Transfer

The idea of direct transfer is easily grasped and routinely relied upon in investigations. The parent previously described transferred fur hairs to the child's clothing during the hug (direct transfer). A bleeding victim brushes against a tree when leaving the wooded sexual assault scene, depositing blood on the tree and leaving evidence of her presence at the scene. An attacker leans against the still tacky paint at the sexual assault scene and gets paint on his shirt, leaves a fabric imprint in the paint, and leaves fibers from the shirt in the paint. A victim is wearing slacks stained with the soil from the scene of the assault. All are examples of direct transfer from the original source to another object. But the collection of transferred evidence may not have to stop there.

Indirect Transfer

Less frequently recognized is indirect transfer because it is less frequently encountered and still less often thought of during an investigation. The fur hairs from the parent's coat, transferred to and left on a sofa by means of the child sitting there, represent indirect or secondary transfer. In a case in the Washington, D.C., area, just such a transfer of hairs to the child from the mother's coat did take place, followed by further transfer of some of those hairs to the floor of the passenger side of the car belonging to the suspect who was later convicted of abduction with intent to defile. The child's body was not found.

This identification of indirect or secondary transfer not only is important from an evidentiary standpoint, but also can indicate the need to expand a crime scene investigation or indicate other areas that should be searched for additional evidence. Locating trace evidence similar or identical to that found at the scene on the victim in locations associated

with a suspect can be extremely valuable in the reconstruction of the events surrounding the crime with respect to movements of people and objects.

Trace evidence transferred is just that—evidence that has been transferred to its current location. Since it was transferred, it can be transferred again—away and gone—if the item of evidence is not properly protected and preserved to secure the trace evidence. Specifics of evidence documentation, packaging, and preservation are dealt with in the following chapter, but the importance of these subjects is paramount.

The Evidence Environment

The term *evidence environment* is key to understanding the value of being able to present a preponderance of transferred evidence in an effective manner to a jury of lay persons. The word *environment* conveys interest in the surroundings from which a sample of evidence was taken. More than that, however, the evidence environment relates to the particular surroundings and the wide variety of unique characteristics and combinations of evidence that compose it.

As an example, if we examine a bedroom where a sexual assault upon the occupant is said to have taken place, we have only to consider all the types of materials and possible transfer evidence in various combinations that can be taken from this scene. Articles normally present within the room that might provide transferrable evidence include the carpet or small rugs, fabrics composing bed clothing and personal clothing, chair coverings, window treatments, cosmetics, various medications, and various hairs normally shed by and forcibly removed from the victim. Many of these sources may exhibit a combination of colors and fiber compositions. A plaid blanket might be composed of cotton, polyester, and acetate fibers of several colors, thereby providing a variety of fibers and colors to be transferred to a person coming in contact with the blanket. This whole picture presents the investigator with an opportunity to take advantage of evidence from these materials in recognizable combinations. Thus, evidence transferred to the clothing of the suspect may reflect the variety of colors and fibers in the blanket, and the blanket is only one item in the evidence environment. It follows, then, that more combinations of trace evidence common to the scene and the suspect create a stronger association between the two.

Taking full advantage of the evidence environment approach to crime scene investigation dictates recognition of several basic concepts:

1. Trace evidence is transient. In addition to being easily dislodged and lost, it generally originates in the environment most recently contacted. In collecting trace evidence from a carpet, then, the goal should be to remove the debris from the surface as opposed to energetically cleaning the carpet to remove all dirt, hair, fibers, stains, and soil ground in by years of use.
2. The significance of the evidence is greatly enhanced by the presence of materials that are unique or particularly uncommon. Evidence sources that are extremely common have relatively little evidentiary value because they are so common. Fibers from a garment made from a yarn constructed of an unusual fiber with a dye color in very limited use are far more unique and of more evidentiary value than the fibers from a white cotton T-shirt in wide manufacture, for instance.

3. It is significant to show that multiple fiber types, compositions, and colors recovered from the suspect's clothing match known samples from the scene. Even more important is to relate the specific places within the scene from which this evidence originated to the actions of the suspect. This adds greatly to the weight of the evidence in court, not to mention the potential value in corroborating a witness's account.
4. The more transfers taking place, the more significant the association between the original source and the person or object receiving the transferred material is—especially when the available evidence types and varieties are limited. The quantity of hair, fiber, blood, or semen evidence is important; greater amounts of the transferred material indicate a greater struggle or a more lengthy contact.

Effective employment of the environment concept is infrequent, at best. Crime scenes are frequently approached with the mindset that what is foreign to the scene is of value and that if it is normally present, it does not really have any great significance. Items normally present in an assault scene often are not categorized as known samples, thereby tying the hands of the forensic examiner because he will not be able to relate recovered fibers to the suspect. Forensic science is a study of comparisons between known and unknown samples. Having more knowns than needed is far better than not having what is actually needed. Transferred evidence, particularly if complicated, is difficult enough to present to a jury in a coordinated and well-organized fashion. A lack of known reference samples makes the job even more difficult.

Evidence/Crime Scene Contamination

Just as two key objectives in crime scene investigation are to secure and preserve the scene, a paramount goal in evidence handling is to ensure that both the evidence and the scene do not become contaminated. At the scene, in the evidence room, en route to the laboratory, or even in the laboratory, it is the responsibility of all to handle the evidence in a manner that will not allow its contamination. Unavoidable alteration or contamination of the evidence may take place before the scene is discovered or secured, but from that point a priority should be to limit further contaminating influences. Some of these influences are discussed next:

1. The nature of the evidence environment
2. The personnel
3. Careless and/or inadvertent alteration at the scene
4. The packaging of evidence
5. The laboratory environment

The Nature of the Evidence Environment

The natural environment of a crime scene is not normally one of order and neatness. In fact, it is more likely to be disorderly, even to the point of complete disarray. The actual condition of the scene may be one of squalor and grime. Cross-contamination between items of evidence or sources of evidence at the scene is more than a casual possibility. In a scene with two persons freely bleeding, the opportunity exists for transfer of blood from one piece of evidence to another through careless handling. Contamination of evidence

may occur if the suspect wipes the victim and then himself with a single towel, or if someone throws clothing into a pile. These possibilities are real and have occurred. When any information regarding contamination of evidence comes to light, it should be documented. A useful approach to limiting this kind of contamination is to ensure that personnel are briefed on information collected during a thorough preliminary survey of the scene to identify such possibilities for contamination of evidence.

The Personnel

The basic principle of transfer tells us that anyone entering the scene is capable of inadvertently adding something to or removing something from the scene. When the evidence of concern is trace evidence, it is doubly difficult to maintain scene integrity. Therefore, the fewer personnel entering the scene, the better. Personnel who have no legitimate purpose should not enter the scene until documentation and evidence collection are complete. Those who have legitimate access should be aware of their potential to contaminate the scene.

Clothing worn by personnel engaged in the crime scene investigation is important. Any clothing that might add or remove trace evidence from the scene should be avoided. Clothing that can easily generate an electrostatic charge may pick up trace evidence, especially during periods of low humidity. A person might track material into the scene or step in blood and track it about the scene, creating false evidence or contaminating preexisting evidence. To deal with this, a department might, in addition to limiting access, require a specific uniform for crime scene operations. It is easy to secure samples from clothing of known composition for future laboratory elimination comparisons of cloth fibers.

Alternatively, a wide variety of lightweight, breathable, nonshedding disposable clothing is now commercially available for protecting both the scene and the wearer, depending on the environment to be entered. Articles include jump suits, jackets, pants, gloves, hoods, bootees, and various types of breathing apparatus. This clothing may be saved and maintained with the evidence when the scene is completed.

Careless and/or Inadvertent Alteration at the Scene

Individuals not accustomed to working at a crime scene or not observant enough to realize what they are doing can alter or even destroy evidence before it is collected. In a particularly bloody double homicide, an individual who had authority but no need to be in the crime scene had to be reminded more than once to stop stepping on the shoeprint impressions in blood on the floor. Many additional examples can be mentioned, but it is important to limit scene access of personnel who have no real need to be there.

The Packaging of Evidence

Recovery of evidence at a crime scene involves marking the item, followed by proper packaging. At this point, the container (also marked as to the identity, location, date, time, and name of the finder) should be sealed. Evidence should not be removed from the original packaging for viewing or display prior to being examined by laboratory forensic personnel. Doing so allows for contamination and loss of trace evidence, and makes it impossible to testify as to the precise source of trace evidence found on the evidence item. The integrity of the evidence has been compromised.

Proper packaging also means that the evidence is protected against damage. A sexual assault evidence kit once received by one of the authors was packaged in two manila envelopes, one inside the other. Items of evidence included hair and saliva samples, a communication explaining the case, and a tube of blood. The blood tube had broken in the mail and stained much of the contents of the package, including the edges of the outside envelope. The sender can only be thankful the incident occurred several years before the current hazardous materials shipping regulations were established.

Packaging materials should not only protect the evidence but also serve to avoid contamination. Some cardboard containers may have residual cardboard dust and debris from manufacturing. Certain plastic vials contain vaporous plasticizers that may contaminate chemical evidence. Evidence packaging materials kept unprotected in the trunk of a vehicle can collect debris and contaminants from the trunk environment. An extended discussion of evidence containers is not the objective here, but the importance of proper packaging should not be overlooked.

The Laboratory Environment

This is one environment that, in recent years, has become considerably more secure in the handling of evidence. Recent emphasis on quality control and quality assurance procedures within the crime laboratory, along with laboratory certification procedures conducted by outside agencies such as the American Society of Crime Laboratory Directors (ASCLD), has resulted in the adoption of extensive routines for evidence security, storage, transfer, and handling. Still, the condition of the evidence (its packaging, documentation, etc.) can go a long way in supporting the laboratory to this end.

Anyone routinely forwarding evidence to a laboratory normally is in contact with the laboratory personnel and has an appreciation of why and how the evidence must be packaged. A person not normally involved in this aspect of the investigation should not hesitate to get questions answered and confusions cleared up by a simple telephone call to the lab where the evidence is to be sent. The need for communication becomes apparent again.

A specialized case involving evidence contamination and personnel safety bears mention. Because of an improperly packaged knife, there was inadvertent contamination of the evidence with the blood of the person in the laboratory opening the package. Packages containing improperly packaged knives or similar sharp instruments, or sealed with staples that have not completely closed, have caused injury to laboratory personnel in the past. This not only can present a contamination source with respect to the evidence but also presents a very real concern with regard to the transmission of disease to the individual. Proper packaging includes safe packaging as well.

Degradation of Evidence

Perhaps more devastating than the effects of contaminants is the possibility of degradation. A significant amount of sexual assault evidence is body fluid in nature. Blood, saliva, vaginal mucus, semen, and other body fluids may be involved. The biochemistry of these fluids is, by nature, fragile with respect to hostile environments and can be rapidly degraded by unfavorable influences such as high heat and humidity.

The effect of heat on this kind of evidence is much the same as frying an egg. The first and most immediate change seen is the whitening of the egg as the proteins present are

completely and irreversibly altered with the application of heat. No such visible changes are likely to occur in body fluid evidence, but the same principles guide the thermal destruction of the substances the forensic laboratory examiner is going to look for in the sample. Sexual assault evidence should be stored in a cool environment. In some instances, this will mean a refrigerator, particularly for blood samples awaiting transport to the laboratory. Routine practices in many forensic laboratories call for storage of evidence associated with sexual assaults in large refrigerators or freezers.

Wet evidence (wet blood, semen, etc.) should be dried as soon as possible after recovery. This could include drying at the scene, if the items can be protected. The second enemy of the body fluid evidence is moisture. Evidence allowed to remain moist presents a natural environment for the growth of microorganisms that feed on the chemical substances that are of interest to the laboratory analyst. Packaging wet or moist evidence in plastic bags or airtight, nonbreathable containers promotes the conditions optimum for putrefaction and hastens the degradation of valuable biochemical information in the evidence. The result is useless evidence even before it reaches the laboratory.

A third factor needs to be mentioned that has become even more important in view of the ultrasensitive nature of some forms of DNA analysis. This is ultraviolet light (UV) and its potential effect on body fluid evidence. DNA is specifically susceptible to the effects of UV radiation, and samples that contain analyzable DNA should be protected from UV sources. Such sources include direct sunlight, some alternate light sources used in crime scene investigations, and black lights used in hospital emergency rooms for locating sexual assault evidence on victims. While short exposure is not likely to damage the evidence, prolonged exposure may damage the chemical integrity of DNA present.

Considerations Relating to the Victim, Suspect, and Assault Scene

As indicated previously, the investigation starts with the collection of the evidence at the sexual assault scene. This, however, is only a beginning stage in the overall investigation. A variety of evidence comes from different sources and is collected using a number of different procedures. The assault scene is a primary source of evidence in a sexual assault investigation. Remember, there are really three crime scenes at a minimum, and all three may be encountered at different times and at different locations during an investigation. They are, of course, the victim, the suspect, and the assault scene. To achieve maximum efficiency in collecting evidence from these sources, protocols and guidelines tailored to each situation are of importance.

The Victim

The very nature of a sexual assault dictates that the victim is the focal point of the initial investigation. The nature of a sexual assault also dictates that investigators recognize that the victim will more than likely be emotionally distraught and may be physically injured. While it is not the intent of this text to deal with the psychology of the victim, it is natural for the victim to want to take steps to distance herself or himself from the experience. This may involve such actions as bathing, changing clothes, destroying the clothes worn during the assault, not telling anyone of the assault, or not revealing the more embarrassing aspects of the assault (oral or anal assault) to physicians and investigators. These

actions will have the effect of destroying or limiting the recoverable evidence and thus the success of the investigation.

When a victim does report the assault, it may be by telephone. Whether this contact is made to medical or law enforcement personnel, it is the first opportunity to preserve potential evidence. The dispatcher, crisis center worker, nurse, physician, or whoever may take the call should be trained and prepared to reassure and counsel the victim to avoid taking any actions that might jeopardize his or her personal safety or the integrity and preservation of the evidence. Such actions as those mentioned in the preceding paragraph should be carefully discouraged. Valuable corroborative evidence, such as blood, semen, saliva, hairs, and fibers, which is often present immediately after the assault, can be easily lost because of a shower or in the laundering of clothing.

Another frequent first contact occurs between a patrol officer and the victim. With good reason, the officer's first priority is the safety and well-being of the victim. Such concern may be exercised at the expense of the scene security and evidence integrity. If the potential value of the scene is not well understood at the outset by all those involved in the investigation, evidence may be limited, contaminated, or missing. Through extensive discussions with police officers involved in active investigations as well as those who attend classes at the FBI Academy in Quantico, Virginia, certain points surface with some regularity regarding scene investigation and evidence collection when the victim is first contacted. It is not uncommon for responding officers to be ill-equipped to deal with the handling of evidence or the actions of a distraught, emotionally abused victim. Sympathy for the victim may lead to allowing the victim to wash, bathe, change clothes, and possibly take other actions that may eliminate valuable evidence. In some cases, condoms worn by the suspect were thrown into a toilet and subsequently flushed by the victim after using the toilet. The condoms contained the only seminal fluid available from the assault. Not often enough is the victim asked about potential items of evidence within the scene and their location. Some agencies discourage the responding officer from becoming involved in the evidence process at all, leaving that up to the experts. Consequently, patrol officers may not consider physical evidence handling as part of their jobs.

The first responding officer should not make an effort to locate, collect, and preserve as much evidence as possible. He is not likely to be a one-person evidence team, and security of the scene is the primary objective at this point. However, it is equally inappropriate for the officer to consider the protection of the scene and evidence as "not my job."

In many jurisdictions, the victim is taken to a medical facility for an examination and collection of existing evidence. In such situations the victim normally is requested to bring an extra set of clothing to change into after the examination so that the clothes worn during the assault can be taken as evidence. There are times, however, when the victim may have to change clothes prior to transport to a hospital or similar facility. Privacy issues considered, the victim should disrobe over a clean white cloth or paper, preferably supplied by the officer. Each item of clothing should be packaged separately and marked appropriately for chain-of-custody purposes. The paper or cloth should be marked to identify the side facing the victim and folded to retain any trace evidence that became dislodged during the undressing process. Once secure, it should be packaged as another item of evidence. This process will more than likely involve more than one officer. A preferable approach is to take the victim to a hospital for examination and evidence collection.

Whether or not the victim is taken to a medical facility, consideration should be given to the possibility of collecting loosely adhering trace evidence (hairs, fibers, etc.) from the

clothing before the clothing is removed and the evidence is lost. Ideally, photographs are taken and the evidence is documented as to location prior to collection. Removed materials should be immediately packaged and, as always, labeled to include proper documentation as well as chain of custody. The actual recovery of such evidence should be done with gloved hands to avoid any possible contamination of the evidence for purposes of such analyses as DNA. Highly sensitive procedures used in the analysis of DNA, such as polymerase chain reaction, may be affected by residue from the skin of the person collecting the evidence. A good rule to keep in mind is that the less invasive an investigator can be with respect to the evidence, the better off he or she is. Thus, only trace evidence that is likely to be lost should be collected; the forensic laboratory is the best place to remove such evidence so that recovery possibilities are optimized.

In those cases where the victim is taken initially to the medical facility, the same clothing removal procedures are most likely employed by the medical personnel, and the clothing is separately packaged as noted previously. Coordination with medical personnel as to how the evidence will be handled is essential. Careful documentation of the clothing, including photographs, effectively records damaged items and assists in demonstrating injuries suffered by the victim. There are times when the victim has suffered significant physical injury, and clothing must be cut off to allow immediate treatment. During these times, there is often no good recourse, and the clothing may end up piled in a heap. This is one of those situations where you do the best you can with what you have (but document it!). The cutting and removal of clothing should be recorded and the clothing packaged as soon as possible. A laboratory examiner will not know if the hospital personnel or the suspect cut the clothing without documentation to explain it. An examination of the area where the victim's treatment was conducted is advisable to recover any debris or residue left behind.

It is highly likely that the victim will be interviewed as part of the overall examination. The primary interest is the health and welfare of the victim, but if the medical personnel are aware of the requirements governing the use of evidence, a great deal of difficulty can be avoided. Cooperative efforts between the medical and law enforcement professions have been established in many jurisdictions, streamlining the process. The establishment of the SANE program (sexual assault nurse examiner) in many areas of the United States is an example of this collaborative effort. Additionally, the evolution of a wide variety of sexual assault evidence kits to guide the medical professional has improved the overall collection of evidence from the victim's person. These kits are the subject of a later section in this chapter.

The preceding discussion addressed investigation with regard to a living and generally ambulatory victim. Should the assault involve a deceased victim, the general evidence collection principles are the same because the evidence is generally the same.

The Suspect

A primary goal is the association of the victim, the suspect, and the crime scene. An obvious but important point is that the longer it takes to develop a suspect, the greater is the chance for evidence to be disposed of or simply lost. Clothing may be disposed of, vehicles may be cleaned, and individuals may shower or alter their appearance. It must again be emphasized that the trace evidence—that which is likely to be overlooked—can often save the day in such situations. While the possibility of finding even the minute types of evidence diminishes over time, the potential should not be overlooked. The suspect is a

crime scene as much as the victim is although the passage of time may reduce the likelihood of recovering evidence from that scene.

Suspects developed shortly after the incident are the most likely to have valuable evidence associated with them. Every effort should be made to secure the suspect's clothing and any other personal items before an effort to destroy or dispose of potential evidence can take place. Not to be overlooked is the suspect's body. Medical assistance may be helpful in conducting a thorough examination of the suspect's body. Sexual assault evidence kits have been developed for use in examining suspects as well.

A suspect who is injured during the assault and has to seek medical treatment as a result presents an opportunity for evidence collection that is almost as valuable as evidence from the victim. Recovery of clothing (especially that matching any described by the victim), biological fluid samples (blood and saliva), and hairs (head and pubic); records of the examination; and photographs of the condition of the suspect to include scratches and marks possibly resulting from contact with the victim should all be secured while the opportunity is available.

A far less desirable situation is that in which the suspect is not developed for an extended period of time after the assault. It is probable that the more commonly encountered evidence has been lost or destroyed by this time; but it is still important to recognize that the more easily overlooked the evidence is, the more likely it is that some may remain available. Trace evidence such as hairs, fibers, soils, glass fragments, and small stains of blood or body fluids may have been overlooked in any efforts by the suspect to prevent association with the crime. Again, consideration of these possibilities should not be ignored. A semen stain on a pair of pants in the suspect's closet that contains both his DNA and that from the cells lining the vaginal canal of the victim is likely to be valuable evidence regardless of time elapsed.

Occasionally, the presence of disease presents an advantage in an investigation. While that statement may draw some attention, it is possible that during the assault the suspect infected the victim with a sexually transmitted disease. When a victim develops symptoms of a disease and it can be attributed to the assault, attempts should be made to identify the medical condition of the suspect. Legal actions are likely necessary as this kind of information may not be readily available.

Regardless of the time span between the assault and the identification of a suspect, collection of evidence from that suspect should not be ignored. It is not uncommon to see cases in which a sexual assault evidence kit executed on the victim is the only evidence collected. Armed with a confession, investigators may not see the need for collection of evidence from the suspect—until that confession is not admitted by the court or is retracted. The difficulties that potentially accompany the decision not to collect can be enormous and severely damaging to the prosecution of a case. Today's juries have come to expect evidence, and a preponderance of circumstantial evidence can be as effective as or more effective than a limited amount of specific individual evidence.

Sexual Assault Evidence Collection Kits

The role of physical evidence in sexual assault crimes is to associate the victim, the suspect, and if possible, the crime scene. However, it should be recognized that a primary (and critical) role of the evidence is to show that sexual contact did, in fact, take place. It should also be understood that the science of forensic examinations is one of comparisons between

known and unknown samples. For example, DNA from the semen on the victim's clothing might be compared with DNA from the blood of both the victim and the suspect, identifying the suspect as the semen donor. Pubic hairs found in the victim's panties might be compared with the known pubic hairs of the victim and those of the suspect—ultimately, with the same result. Such comparisons are common and the normal course of business in a forensic laboratory. Accordingly, it is evident that the examination of the victim and, if possible, the suspect for significant evidence and known samples is critical to the investigation. A tool for achieving this objective is the sexual assault evidence collection kit.

Here, too, the cooperative effort between the medical profession and law enforcement comes into play. Assuming all necessary medical attention has been extended to the victim, medical personnel have a valuable tool to guide them in the collection of evidence. Working together with an investigating officer who collects the evidence as it is recovered, evidence collection can be optimized, increasing the chances of valuable information resulting from the forensic examinations. This information may be inculpatory or exculpatory, but the combined effort of medical and law enforcement personnel goes a long way toward ensuring the best evidence is secured. However, make no mistake: Personnel (medical or law enforcement) poorly or improperly trained can mishandle the evidence to the point that it is useless or provides inconclusive results, irreparably damaging the case. Medical personnel may include emergency medical technicians or paramedics as well as the emergency room personnel. It is imperative that both are aware of the need for working together.

The extent to which a law enforcement officer is involved in the actual evidence collection process varies widely with jurisdiction; however, an officer should at minimum be the one to package the evidence securely and record its recovery for chain-of-custody purposes. In those areas where the officer has only to pick up the packaged evidence from the medical professionals, the burden of chain of custody and proper packaging of the evidence falls on the medical personnel. This may place the medical person in a position to have to testify about matters outside the realm of normal medical practice. With the two working together, communication can take place that would not be otherwise possible. From both investigative and medical standpoints, the value of working together should be evident. As this issue is one that can become a serious concern for all involved, it should be established as protocol prior to action time when a victim is actually involved.

This effort to work together has improved greatly over the last 25 years. The growing acceptance of prepared sexual assault evidence collection kits has resulted in an improved quality of evidence collected in sexual assault cases. These kits allow the documented recovery of evidence and provide forms to ensure a complete interview of the victim. The kits are often supplied by the investigating agency or, in some jurisdictions, maintained at the medical facility for use when needed.

Earlier versions of these kits were often assembled by trained personnel for local and state crime laboratories. In time, the commercial uses of the kits have been recognized, and they have been available for purchase through several crime scene equipment suppliers for several years. Some suppliers will tailor the kit to the purchaser's specific requirements and print the outside container with a specifically desired logo and chain-of-custody information. Kits are designed for ease of use and provide a systematic examination and collection process to ensure maximum effectiveness. While the kits are designed with simplicity in mind, it is essential that personnel be trained in the legal and evidentiary aspects of their use. The actions of personnel carelessly or unknowingly using the kits incorrectly may

result in lost or contaminated evidence. This responsibility for training in the legal and evidentiary aspects often falls to law enforcement.

While the content of the kits may vary somewhat, the documentation contained is often quite similar. These documents, all of which should be executed by the examining personnel, normally include forms to guide the medical examination and interview of the victim, a consent for the release of any evidence obtained from the victim, a similar form to allow release of victim-related information, and chain-of-custody documents to ensure complete records as to what was found and recovered. Use of these forms allows the recovery of sufficient medical information to assess the condition of the victim, determine the nature of the assault, and document the evidence recovery process and the subsequent chain of custody of the evidence collected. A point not to be overlooked is the question of recent consensual sexual activity of the victim. Recent consensual sexual activity may mean that a blood sample will have to be secured from the victim's partner for comparison purposes to eliminate any results (DNA) that individual may have contributed to the evidence.

Available sexual assault evidence kits contain a variety of materials and incorporate a number of procedures for evidence collection, depending on the age and sex of the individual being examined and the identity of the person as victim or suspect. During collection, the outsides of all containers should be marked with the identity of the individual from whom the evidence was recovered, the person packaging it, the date, the offense, the location of the examination, and any other administrative information deemed necessary. Where swabs or fluids are used, it is advisable to provide an unused and uncontaminated swab or fluid sample packaged separately for control purposes.

Generally, kits will include many if not all of the following items, and the kit contents listed next should serve as a guide to tailoring a kit to a particular department's needs. As indicated previously, some jurisdictions have designed and provided tailored kits to departments and hospitals, and some have taken advantage of commercial resources. Regardless of the source of the kit used, its contents should be well thought out and execution should be carried out by trained personnel.

Known Blood

Approximately 5 milliliters (cc) of blood are drawn into a Vacutainer® tube for blood grouping and DNA analysis. A red-top tube (containing no preservatives) and a purple-top tube (containing EDTA as a preservative for DNA) are normally provided.

Known Saliva

A known saliva sample is usually taken by having the individual expectorate on a piece of clean filter paper. Portions of the paper not stained with the saliva act as uncontaminated controls.

Head Hair Combing/Brushing

The head of the victim is combed or brushed over a clean cloth or catch paper to recover any loosely adhering hairs or fibers. The comb or brush is then packaged along with the materials obtained. This is done before any known head hair samples are recovered. A separate comb or brush is supplied for each area sampled.

Known head hairs. Approximately 25 hairs representative of the entire head area, color, and length should be pulled rather than cut. This is normally done after the collection of head hair combings/brushings.

Pubic Hair Combing/Brushing

The pubic area is combed or brushed with a new comb or brush over a clean cloth or catch paper to recover any loosely adhering hairs or fibers. The comb or brush is then packaged along with the materials obtained. This is normally done before any known pubic hair samples are recovered. A separate comb or brush is supplied for each area sampled.

Known pubic hairs. Approximately 25 hairs representative of the area, color, and length should be pulled rather than cut. This is normally done after the collection of pubic hair combings/brushings.

Combing/Brushing of Body Hair Other Than Head and Pubic Area

In the event an individual has an unusual amount of body hair, separate supplies for taking combings or brushings from these areas might be supplied or used. A separate comb or brush is used for each area sampled.

Vaginal Swabs

Samples of vaginal contents are taken for identification and analysis of sperm cells and/or seminal fluid. A separately packaged control swab is usually provided.

Oral Swabs

Samples of oral contents are taken for identification and analysis of sperm cells and/or seminal fluid. A separately packaged control swab is usually provided.

Anal Swabs

Samples of the anal surfaces and contents are taken for identification and analysis of sperm cells and/or seminal fluid. A separately packaged control swab is usually provided.

Microscope Smear Slides Made from Swabs

Slides are frequently made during the examination for immediate identification of sperm cells, confirming sexual activity has occurred. These slides are saved for later analysis if needed. Slide holders are usually provided for this.

Vaginal Aspirate

The vaginal contents are sampled by irrigation with a sterile fluid such as saline. This is intended to recover semen not recovered by swabbing. The wash is normally placed in a test tube provided in the kit.

Oral Rinse (Wash)

The oral contents are sampled by irrigation with a sterile fluid such as saline. This is intended to recover semen not recovered by swabbing. The wash is normally placed in a test tube provided in the kit.

Nasal Mucus Sample

Sometimes, a gag reflex occurring in persons forced to commit fellatio results in semen or semen components being deposited in sinuses. A special tissue or cloth may be provided for recovering this material. Unstained portions of the tissue or cloth serve as control material.

Fingernail Scrapings

Wooden picks or scraping devices and tissues to collect debris are provided to allow removal of material (blood, hairs, fibers, etc.) that may have been deposited under the individual's fingernails. Each hand is done separately (sometimes each finger is done separately). The material collected is saved along with the scraping device. Debris samples should be packaged separately.

Clothing

Each item of the individual's clothing is separately and securely packaged and sealed in paper. Standard brown wrapping paper or sturdy paper bags are useful for this.

Penile Swabs

The surface of the penis is swabbed to collect blood or any other evidentiary material. A separately packaged control swab is usually provided.

Miscellaneous Debris Collection

Supplies (tissues, envelopes, containers, etc.) are usually provided to collect any unexpected or extra evidentiary material (blood, hairs, fibers, semen, etc.) found on body surfaces. Catch papers or cloths are often provided for the individual to stand on when undressing or to sit on during an examination to recover any evidence dislodged during the examination process.

Sheets/Body Bags

Sheets or body bags used to transport a injured or deceased victim to the hospital should be recovered without loss of any materials present in or adhering to them for the recovery of trace evidence by the laboratory.

The preceding discussion deals with typical items that can be expected in sexual assault evidence kits. Seldom do all commercially available or even locally prepared kits contain every one of these items. The following observations should be of assistance in deciding what to have in a kit, whether it is purchased or assembled in house:

1. Because the pubic region of the victim is often thought to be the only area involved, no head hair combing/brushing sample supplies are recovered. The trace evidence collection potential of head hair (fibers, suspect hairs, glass fragments, botanical material, etc.) is significant and should not be ignored.
2. Some victims are reluctant to discuss or admit any activity involving oral or anal ejaculation by a suspect. Accordingly, oral and anal sampling should perhaps be performed as a normal policy.
3. Catch papers/cloths may be overlooked in kit preparation. Evidence recovered by these means (often not seen until the evidence is subjected to close scrutiny by a forensic examiner) can be lost by simply not using such devices.
4. Fluid samples are particularly vulnerable to degradation by microorganisms. Such samples, if the volume is small, could be air dried, out of direct sunlight, and frozen. In any event, fluid samples should be sent to a laboratory as soon as possible. A common practice in many laboratories is to dry samples of known blood on clean washed cotton sheeting, after which the stain is kept refrigerated or frozen.

5. Examination of several commercial kits shows a specific order for the recovery of samples. The order follows the principle of collecting the most easily lost first and the least easily lost last. That order is not reflected here since the intent is to present the types of samples and briefly discuss them. Designing a departmental kit should take advantage of the instructions that come in commercial kits.
6. Samples for analysis and diagnosis of sexually transmitted diseases may be secured during the execution of a sexual assault evidence kit. Because these specimens are submitted to a medical (and not a forensic) facility for analysis, the forensic laboratory should be notified immediately if any positive results for such diseases are observed and/or reported.

A review of several commercial catalogs reveals a wide variety of kits, in terms of contents, that can be procured. Kits can be specifically designed for the examination of victims (male and female), suspects, adults, and children. The nature of the assault and the victim will largely determine what is required for examination. It is often expeditious to have a general kit containing supplies to cover as wide a range of evidence collection situations as possible.

As with many investigative aids, such as report forms, the sexual assault evidence kit is probably of most value in that it guides the process of evidence collection regardless of the individual examined or the circumstances of the assault. As indicated previously, the victim, the suspect, and the scene should all be considered as crime scenes, and it is necessary to apply the same standard process to evidence collection wherever it may be located.

The Crime Scene

The terms *crime scene search* and *crime scene investigation* may mean the same thing to many. Indeed, it might be the opinion of some that crime scene search is merely a task of locating the evidence, bagging it, and leaving. In fact, given the level of sophistication that has developed in crime scene technology, forensic evidence analysis, and presentation of the case in the courtroom, this impression of crime scene activity not only is outmoded but also needs to disappear. The impression that all that is necessary is to go and pick up the evidence, put it in a bag, and go home is not only short-sighted but also displays a lack of understanding of what is required. Crime scene investigation is far more descriptive of what takes place today, and the experienced crime scene officer is well aware that an apparently simple matter can easily become a major operation.

As has been indicated in earlier sections of this chapter, the value of the evidence collected is often directly in proportion to the care exercised in its collection. Sloppy collection, documentation, and preservation procedures can mean evidence lost, useless for forensic examination, and/or inadmissible in court. Well-designed, routinely followed protocols employed at crime scenes may make a major difference in the amount, quality, and effectiveness of the evidence collected.

It has been said that the secret to good crime scene documentation is to document, document, and document! In the experience of one of the authors, crime scene documentation, while having experienced a drastic improvement during recent years, is an area where a great deal of room for improvement still exists. In cases received for analysis by one of the authors, this area often receives minimal attention at the scene.

Anyone familiar with the repeated use of a complex procedure can understand that careful adherence to the steps of the procedure leads to a job completed correctly. A stepwise process or protocol makes it possible to check one's work and be sure no part of the job is ignored. Crime scene investigation is no different. It should be looked at as a process, some steps of which may be eliminated but not without sufficient and recorded reason.

Another area of concern to crime scene personnel is that of focus. In the pressure associated with a high-profile case (or perhaps a not-so-high-profile case) it is not difficult for focus to shift to one aspect of the case. It has been pointed out that the victim, the suspect, and the scene are all crime scenes. It may happen, for instance, that the victim might become the focus of the investigation to the extent that the actual scene of the sexual activity becomes secondary and receives far less attention in terms of actual scene investigation. Both authors have received evidence in cases where little to no effort was expended at the location of the assault. While it may have happened for a variety of reasons, this kind of lack of attention may be inviting disaster.

General Stages of Crime Scene Investigation

After expressing so much concern about crime scene investigation protocol, it is in order to discuss a general procedure. The following is not intended to represent a panacea for all problems encountered in crime scene investigation, but it can, in most circumstances, be tailored to the needs of any particular crime scene. It should also be noted that there will be some overlap of stages, which if done properly will cause no difficulty. Some stages may continue throughout the entire scene investigation. Further, no suggestion is made that every step is always followed; however, it is suggested that when something is not done, there should be a documented reason for it. It will be obvious that the foregoing addresses large-scale scenes; however, the procedure presented may be scaled down to accommodate smaller scenes. The very nature of the work requires that flexibility be an integral aspect of it. Trying to handle every crime scene in precisely the same manner will soon result in frustration. It should also be noted that many departments have well-established protocols that will probably be similar to what follows. As a stepwise approach, the following are offered:

1. Approach the scene
2. Secure and protect the scene
3. Conduct a preliminary survey
4. Evaluate observed evidence
5. Prepare a narrative description
6. Photograph the scene
7. Sketch the scene
8. Conduct a detailed search for evidence
9. Collect, preserve, and document the evidence
10. Conduct a final survey
11. Release the scene

Approach the Scene

In many instances, the first responding officer will have the initial contact with the victim and the scene. While there are a number of cautions relative to the evidence, personal safety is a topic that needs priority attention. Crime scenes can offer a wide range of safety hazards that can result in injury to the victim or to the officer. Certainly most likely to be encountered in a sexual assault scene are biohazards such as blood-borne pathogens. A section is presented on this subject at the end of this chapter. However, officer safety in terms of mental preparation prior to arrival is something many fail to consider. Even seasoned officers in the face of extremely brutal and violent crimes have been taken by complete surprise on arrival. The emotional effects of processing the scene of a particularly brutal crime are often very unpredictable, and those who feel they can handle it may be rudely surprised. It is only good sense to prepare oneself mentally as to what might be ahead before arriving at the scene.

While the safety and well-being of the victim are of paramount importance and should be of first concern, our discussion here relates to evidence. We will therefore assume the victim is secure. A key point to remember in approaching a scene, then, is that the suspect (in many cases) will have already left the area. Identifying the departure route and the means taken as well as any evidence discarded along the way should allow the officer to avoid disturbing that area. Observing people, vehicles, and the overall area may provide details that will be valuable later in the investigation. Initial officers on the scene should be especially alert to potential witnesses and any other sources of information that might be available.

Secure and Protect the Scene

Initially, it may be that sufficient personnel are not available to accomplish the level of security required or desired. It is critical to provide for the safety of personnel, and efforts should be made to ensure the scene is adequately protected from contamination or unnecessary alteration. This twofold requirement cannot be successfully accomplished without some degree of careful thought and planning. In order to protect the scene, it must be secured. That means that the boundaries must be established. This may result in some disturbance of the scene but should be controlled as much as possible. The scene's initial condition as well as any significant alteration should be documented.

With the boundaries of the scene identified, establish control of the perimeter with assigned personnel, and use a single entry point to control who has access to the interior. Record the names of all persons entering and leaving the scene, and deny access to anyone not having legitimate activity within the perimeter. Uncontrolled access to the scene has resulted in courtroom difficulties on more than one occasion. A predefined agency policy determining who is to be in control and who should have scene access will very likely be helpful. There are additional comments on this in the section titled "Evidence/Crime Scene Contamination."

Conduct a Preliminary Survey

The purposes of a preliminary survey of the scene are to assess the requirements for conducting the investigation and to prevent an uncontrolled, confused processing of the scene. The individual in charge of the scene investigation should conduct a walk-through with

a minimal number of other persons to determine the extent of the search area, and the methods and techniques to be used in the collection of evidence; to identify personnel and equipment needs; and to identify evidence that may be easily moved, destroyed, or altered. That evidence should receive special attention to ensure its successful recovery. The narrative description of the scene is logically started at this time. It is also during this time that entry photographs normally are taken. Observations made at this time help to formulate a theory as to what happened and guide the evidence collection efforts.

Once the survey is completed, a briefing is held to inform the remaining personnel of what can be expected in terms of safety issues; evidence present; areas requiring special attention, such as unique hiding places; the overall layout of the scene; and any special conditions that may require additional help such as electricians, plumbers, or public utilities personnel. Special equipment needed, such as alternate light sources and other materials, should be identified at this point and tasked out accordingly.

Evaluate Observed Evidence

The process thus far has emphasized planning and preparedness, and the need for prior planning continues. During the preliminary survey, evidence readily observed was noted for the purpose of preparing a collection strategy. Recognizing the types of evidence present and the possible attendant hazards at the outset allows formulation of a plan for collection and preservation. This also assists in the execution of a systematic, more intrusive search for evidence that will take place later. Recognition of unique or special situations where types of evidence may conflict with one another should take place now. As an example, it should be determined how blood on a surface exhibiting fingerprint ridge detail is to be handled. Such a situation incorrectly handled by enhancing the fingerprints with chemical processing may destroy the blood for further analysis, and collecting the blood without regard for the fingerprint ridge detail may destroy the detail needed for comparisons. In fact, such a situation was experienced by one of the authors when asked to identify blood on a door that had been treated with chemicals prior to any blood collection efforts. The result was that the blood could not be identified due to alteration by the chemicals applied.

Prepare a Narrative Description

Why prepare a narrative description of the scene if sketches, photographs, and finely detailed evidence notes will be prepared? Why not just take the photographs or do a really good sketch to tell the whole story? Because documentation of the scene in all three ways requires the individual to think and observe differently, when this happens, a more complete picture of the scene is recorded. A narrative description is a primary but often ignored means of documenting the scene. The objective is to record the initial condition of the scene and the evidence (as found) for courtroom presentation. A narrative will record in general terms a verbal description of the scene, either as text or as tape-recorded information. Video taping is also used and can be done with or without audio taping.

Generally, the preparation of a narrative begins with the most generally descriptive information and moves to the more complex without going into great detail. This is done for each area of the scene (room in the apartment, house, etc.) as a running description of the conditions and features of the scene. Narrative descriptions should systematically represent the scene and supplement both the photographs and the sketches.

Photograph the Scene

The importance of photography to the courtroom process of presenting a case cannot be overstated. Complete photography of a scene may result in some photographs not being used, but those needed will be available. Incomplete photography inevitably results in the lack of key photographs and an inadequately documented scene, often to disadvantage in court. An experienced photographer will take long-range, medium, and close-up views of the scene and the evidence, depending on the specific subject being photographed. Photographs taken during the preliminary survey should sequentially walk the viewer through the scene as the photographer walks through the scene. A photographic log is essential to record the photographs taken, as is the use of scales and identification placards or tags in photographs. Evidence should be photographed as found and from viewpoints that will allow a jury to understand where the evidence was located when it was found. The spatial relationship of the evidence to its surroundings should be evident from the photographs.

Unique forms of evidence may require extra effort to ensure photographs are taken properly. Panoramic, overlapping photographs should be taken (preferably with the focal plane parallel to the subject surface) when evidence extends over large surfaces or areas, such as bloodstain patterns covering an expanse of wall. Castings of shoeprints or tool marks should be taken after photography of the impressions.

Ultimately, the photographs should tell the story of the crime. If the suspect entered through the kitchen door, drank some milk, proceeded to the bedroom, assaulted the victim, dragged her to the living room, assaulted her again, and then left through the front door, sufficiently detailed photographs should be taken to illustrate this sequence of events for anyone to see. The photographs should focus on the location of the crime, the nature of the crime, the results of the crime, the evidence present after the crime, and the follow-up activity that occurred after the scene investigation. Exit photographs taken when the scene is released establish the condition of the scene and are useful in answering any claims of excessive damage or alteration of the scene during the investigation.

Photography of individuals (both medium and close-up with scales), such as the victim or the suspect, can be used to record injuries that may corroborate a particular story being investigated. Scratches on the arms and face of a suspect who could not explain them after his mother was found beaten to death in their home represented significant evidence of his involvement in the struggle.

With the availability of hi-tech equipment, it is popular to videotape the crime scene. This type of documentation provides a new dimension to the ability to review the scene; but if done improperly, it can produce a result that is difficult to work with, at best. It is not the intent here to detail techniques and procedures for video work; however, some basic points may be mentioned. Tapes should be of good quality and kept in their boxes or sleeves when not in use. The videographer should be very familiar with the camera and its functions as well as familiar with basic techniques for properly covering an area and the details within that area. A preliminary survey specifically for video purposes may be helpful in planning the taping process.

Many law enforcement agencies currently are using digital cameras for various purposes. It is not recommended that digital cameras be used as the primary tool for crime scenes. Large-format film cameras (no smaller than 35 millimeter) are recommended. The current digital camera technology creates unclear and grainy images, especially when enlarged, and is less effective for jury presentation.

Sketch the Scene

Crime scene sketching is a method of crime scene documentation that is often neglected or inadequately performed. It is worth repeating: Narrative descriptions, photographs, and sketches all complement and supplement one another and should not be used as substitutes for one another. Photographs record a three-dimensional scene in two dimensions. Distances between features in the scene can be distorted and detail can be lost when lighting is not properly controlled. Sketches can be used to record three dimensions and accurately reflect distances. Narrative descriptions (particularly recorded descriptions) can provide details that cannot be covered with sketches and photographs.

In its simplest form, a sketch is a depiction of the area of the crime showing the interrelationships of people, places, and things. Locations of all (or nearly all) recovered evidence should be represented, and sketches can deal with unique situations and hard-to-photograph areas and subjects. A frequent concern of individuals is that they cannot draw. Sketching a scene need not (and seldom does) produce a courtroom-ready diagram the first time. Usually only a rough sketch is prepared, which is later refined and prepared for courtroom use. The critical point is that sufficient data must be collected to allow a final sketch to be made. Various methods for sketching and measuring dimensions at scenes are available and not difficult to learn. It is important to be aware that, in larger scenes, measuring to determine scene dimensions and evidence positions often requires more than one person.

With the ready availability of computers, a selection of inexpensive, user-friendly computer-assisted design software for home design and landscaping has become available in recent years, making professional-looking sketches much more within the reach of all jurisdictions. Basic to moderately complex sketches are a simple matter with these kinds of tools and moderate skill levels with a computer.

A relatively new and remarkably accurate concept for crime scene sketches is the use of standard commercial surveying equipment that uses specialized law enforcement software. This technology, which was used by the U.S. Bureau of Alcohol, Tobacco, and Firearms to assist local law enforcement at Columbine High School in Colorado and Westwood Baptist Church in Texas, can allow angles to be measured to within 1 inch at 100 yards and create exceptional crime scene sketches. Within hours, the equipment and software can produce small or large accurate sketches that show the locations of bodies and hundreds of pieces of physical evidence. This technique is especially useful in mass shootings or bombings in large spaces with a multitude of physical evidence to be recovered and locations to be accurately recorded.

Conduct a Detailed Search for Evidence

A primary aspect of the investigation process is the search for physical evidence of the crime. Continuing the mental preparation for the task at hand, one should consider three questions when beginning (two of which have been previously proposed): What evidence is there here to tell me that a crime was committed? What is present (or missing) to tell me that the victim was here? What is present (or missing) to tell me that the suspect was here? An experienced crime scene investigator, while probably not reciting these specific questions when going into each scene, will often be guided along these general lines in the overall approach.

This stage of the investigation inevitably produces the greatest portion of the evidence recovered. Thus far it has been emphasized that planning is necessary for a successful investigation. In fact, it is at this point that a lack of planning can be most felt. The planning as to who is going to do what, where, and when helps to ensure the success of the effort. Additionally, there should be no unauthorized assumptions of new or unassigned duties. Normally, the individual in charge of the scene investigation should not be looking for and collecting evidence. This individual should be looking out for the needs of the overall process and the individuals doing assigned tasks.

Specialized methods and techniques of evidence location, identification, and collection come into play at this point. Various methods for conducting a search are available, depending on the area to be searched. Many will agree that there is usually more than one way to do a particular job, and careful consideration should be given to the best way to accomplish that particular task. The objective is to collect the evidence in a manner that is least intrusive to the evidence itself. Photography of the evidence in place or as found is a basic need, and scales as well as identifying number placards or tags should be used. Logs contemporaneous with evidence collection and the photographs as they are taken should be kept. Chain-of-custody documentation for evidence recovered should be kept as well.

A particular point worthy of specific mention is that any activity or event outside the normal scope of routine crime scene investigative techniques should be documented. If a piece of evidence is inadvertently picked up by someone and then replaced in its original position, the event should be accurately documented. Any intended or unintended alteration of (or damage to) the crime scene should be carefully documented.

Collect, Preserve, and Document the Evidence

Documentation of evidence has been a continuing process thus far and it does not stop here. Evidence in place has been recorded photographically, and measurements have been taken to locate it within the scene on a sketch. It is at this stage of the operation that consideration must be given to how an individual piece of evidence will be packaged for most effective preservation. Evidence may be contaminated, degraded, or lost if it is not properly packaged and preserved. This process of collecting, preserving, and finally documenting the evidence will go much more smoothly if a single person is designated as the evidence custodian and is responsible for logging and final sealing of the evidence containers. Others in the process must work with and not independently of that person.

Conduct a Final Survey

Like the preliminary survey and the preparation of the narrative, the final survey is an administrative task and falls to the individual in charge of the scene investigation. When the tasks of sketching, photographing, collection of evidence, and documentation are completed and/or updated, a final survey should be conducted. All of the activities carried out thus far should be reviewed to ensure personnel are uninjured, no evidence has been missed, all documentation is complete to this point, and all available theories of the crime have been considered. Specific tasks and stages mentioned earlier should be reviewed with the individuals involved to ensure that nothing has been left undone. A walk-through should be conducted once more. A carefully conducted final survey has located many pieces of evidence, including firearms and even bodies. In a homicide case involving the

death of a mother by her son, the father's body was found in a freezer only after discussion as to whether a final survey was necessary (and the decision was to go ahead with it). While there was some sentiment toward releasing the scene without bothering with the survey, the more methodical viewpoint won. The aim here is to review the entire process to be sure all necessary tasks have been completed.

This, too, is the time for the final or exit photographs of the scene to be taken to document the condition of the scene at the conclusion of the scene investigation. An inventory of all equipment used should establish that none is about to be left behind.

Release the Scene

After a thorough review of the collected evidence and all prepared documentation, release of the scene should be considered. It should be noted that after the release, another warrant is usually required to re-enter the scene. If there are specialists or additional personnel who will be conducting examinations and have not been able to arrive on scene yet, the scene should not, if possible, be released until after this work has been accomplished. In particularly large scenes, it is important to be sure all personnel have completed their work and have been advised that release is imminent so that no one will be caught by surprise. Thus, this stage of the process is one in which all participate to one extent or another.

The individual in charge should be the person to release the scene and should document the date and time of release, the person to whom the scene was released, and who actually released the scene. Copies of paperwork including any warrants and an inventory of evidence recovered are normally left behind.

It Does Not End There

The crime scene investigation is a search, recovery, and documentation process. Following that, the recovered evidence and documentation must be secured, chain-of-custody documents completed, and decisions made by the forensic laboratory as to what evidence will be examined for what types of materials and characteristics. Information of immediate significance to investigators on the street should be communicated to them as soon as possible. A study of information gained through other avenues of investigation, coupled with the preceding and the results of forensic examinations, represents the final step in this sequence of events—reconstruction of the events of the crime.

Blood-Borne Pathogens

On March 6, 1992, the Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor released requirements for the handling of blood-borne pathogens by public service agencies, including law enforcement agencies. The Blood-borne Pathogens Act included requirements that all law enforcement officers who might be handling blood and other bodily fluids be offered vaccinations against hepatitis B on a voluntary basis at no charge. Further, the act requires training and safety equipment to be provided to the officers.

Blood, semen, saliva, and other body fluids from either victims or suspects in sexual assault cases could be contaminated with infectious microorganisms capable of causing sickness or death. For those reasons, law enforcement officers should follow the so-called

universal precaution when handling any body fluid from any source: Assume it is infectious. The purpose of this chapter is not to go into detail regarding this act but to remind law enforcement that these requirements exist.

Bloodstain Patterns

The nature of a sexual assault usually does not involve a great deal of violence and spilling of blood. The sexual assault is not without violence, however, and in those crimes where there is bloodshed, the field of bloodstain pattern analysis may provide useful information to the investigation.

Bloodshed during a violent crime may create bloodstain patterns. It is not unusual for such patterns to record a wealth of information about the events that took place to create them. A suspect, after beating the victim severely, may have blood on a shirtsleeve. If the suspect leans against a door frame and leaves a fabric imprint of the stain, the size, shape, and general characteristics of the stain as well as the nature of the fabric may provide information when compared with the shirt that specifically links the suspect with the scene through a transfer of wet blood. A spatter pattern on the front of a suspect's shirt might be explained by the claim that the suspect picked up the victim and held her to comfort her until help arrived. The story begins to take on a new light when it is recognized that the stains are of an impact nature (not contact stains) and would have been deposited on the shirt during the application of blows to a source of wet blood.

The following outline sets forth evidentiary material that may be critical to the successful bloodstain pattern examination and analysis of a violent crime scene. It is based on the ultimate goal of bloodstain pattern analysis: reconstruction. Not all of the listed materials apply to every case under investigation, and seldom are all of the materials available. However, assembling as much of this material as possible for an analyst greatly assists in the development of a reconstruction of the events of the crime. In many cases, the analyst will not be able to view the crime scene. Assuming that no analyst will be able to come to the scene and that the investigator is collecting evidence to send to an analyst, remember that the investigator is dealing with someone who has to gain a familiarity with the scene that is as good as or better than his but from the perspective of the blood patterns present. Be as thorough as possible in providing pertinent information to the analyst. Do not deny that person information that may help your case—it is your case. If there is a question, do not let it go—talk to the analyst.

1. Documentary evidence
 - A. Medical examiner's report of autopsy
 - B. Crime scene officer report
 1. Initial observations on arrival
 2. Evidence collected
 3. Information concerning activities of suspect and/or victim
 4. Crime scene investigator notes, administrative logs, etc.
 - C. Reports of forensic laboratories, consulting firms, other experts, etc.
 - D. Statement of victim, suspect, and witness
2. Photographic evidence
 - A. Copies of all photographs taken of the scene: victim, suspect, and evidence

- B. If 8×10 or larger color prints are not available, it may be expeditious to send the negatives to the analyst. Normally, small-format Polaroid® prints are not sufficiently detailed to provide necessary information.
 - C. Videotape recordings of crime scene. Video is often used at crime scenes to gain overall spatial relationships between objects at the scene and perspectives not possible with still photography prints. Video, however, unless recorded with better than average equipment, is often not of sufficient quality to allow detailed analysis of small areas and specific stain patterns. Extreme care must be exercised regarding the microphone.
3. Graphic evidence
- A. Crime scene sketches, diagrams, finished drawings, etc.
 - B. Drawings of homes, blueprints, or sales sketches from real estate agents, residential builders, building managers, architects, etc.
 - C. Maps (hand drawn, road, topographic, satellite, etc.)
 - D. Resources: U.S. Geological Survey, U.S. Army Corps of Engineers, state mapping agencies, etc.
4. Physical evidence
- A. Typically, the physical evidence bears blood collected at and associated with the scene.
 - B. Stains and stain patterns on clothing, weapons, and various items collected may provide useful information.

Summary

While evidence in sexual assault investigations is in many respects the same as that involved with other kinds of cases, the more specific issues of sexual assault impart a uniqueness that needs to be recognized. It is hoped that these issues have been adequately addressed here. With the exception of DNA evidence, most of the evidence dealt with in sexual assault investigations is class evidence, not individual. This makes the topic of evidence in general all the more important, as it becomes more critical to be able to present a preponderance of evidence to the court even if it is class in nature. Challenges can be expected in the courtroom that will necessitate a well-established understanding of the evidence, its characteristics, and the procedures by which it was recovered, preserved, and maintained prior to presentation before the court. It has been the intent in this chapter to address the more important aspects of physical evidence in sexual assault investigations.

Evidence Recovery Considerations in Sexual Assault Investigations

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Introduction

The tremendous number of possibilities regarding the identity, type, and general character of evidence that may play a critical role in sexual assault investigations seems to grow with experience rather than to cap out. While this is really no different than in other violent crime investigations, one need only spend a moderate amount of time dealing with these cases to appreciate the variation and complexity of the evidence that can be important. Body fluids, fabric impressions, hairs, latent fingerprints, shoe prints, tire-tread impressions, cosmetics, bite marks, tool marks, fibers, cordage, paints, tape, glass, soil, and documents may seem a long list, but it is certainly incomplete in considering the types of evidence that may play vital roles. The wide variety of evidence makes it necessary for the investigator to avoid focusing on expected evidence in sexual assault cases. Such thinking can result in evidence overlooked and thus a potentially deficient investigation.

Despite that cautionary note, body fluids (blood, semen, and saliva), hairs, and fibers will be discussed here for several reasons:

1. They are frequently encountered in sexual assault cases.
2. Sexual assault evidence collection kits are designed to accomplish the collection of these types of evidence.
3. They will often corroborate the victim's testimony and may positively identify the subject.
4. They demonstrate close contact and sexual elements of the crimes committed.
5. They are difficult to see and easily overlooked.
6. The modern forensic laboratory is often well equipped to handle many examinations dealing with them.

In communicating with a laboratory, the investigator may hear terms such as *unknown*, *control*, *standard*, *known*, *questioned sample*, and so forth, depending on laboratory protocol. This discussion uses the terms *known*, *questioned*, and *control*. Questioned evidence is evidence of questionable origin or about which a detailed history is unknown. Blood on a shirt, loose hairs in the crotch of a pair of panties, hairs on the floor of an automobile, the shirt, and even the panties are all questioned specimens. Questioned specimens are compared with possible sources later in the investigation.

Known samples are those whose origin is known and that can be used for comparison to questioned specimens or samples. Known samples are collected specifically with this purpose in mind, and care is normally taken to prevent alteration of any kind. Hair samples

taken from the head and pubic region of the victim in an assault, as well as blood and saliva samples secured for later comparisons, are known samples. Questioned samples become of value to the investigation when they are compared with known samples to establish their probable or even specific source. Occasionally, comparisons between questioned samples may be of value as well. Fibers of a particular nature identified on a person's clothing and on the floor of the location where the violation took place provide a link between the individual and the scene.

The explosion of technology in recent years has had its effect in law enforcement. Whether documenting the scene with computer-driven surveying equipment or searching for evidence with sophisticated lighting techniques, it still must be emphasized that proper training and careful use of such devices are key to successful recovery of evidence. As with any of the evidence-handling procedures discussed, ineffective evidence recovery or even loss of evidence may result from getting it done quickly rather than doing it right. It should also be pointed out that discovering and recovering evidence are two entirely different actions. A knowledge of the techniques for discovering evidence as well as those for proper recovery and preservation is important.

There are many procedures and techniques available to the investigator and the forensic laboratory. The investigator is well advised to be familiar with the policies of the laboratory to which the evidence will be forwarded because the degree to which the field investigator is encouraged or allowed to conduct testing, however preliminary, varies between laboratories. A good rule of thumb to follow is to be the least intrusive as possible in securing the evidence. Remember that the laboratory has better controlled conditions to recover the small fleck of blood crust from that watch crystal than the investigator probably has. Magnification and special lighting techniques beyond those available to the field often make it advantageous for the laboratory to do the micro work. There is always the exception to the rule, and it should be obvious that a hair or a small bloodstain that will most certainly be lost if not secured in a container should be collected and secured. However, if one has questions or is not sure of what to do or how to do it, the laboratory one intends to work with should be called.

Safety is everyone's responsibility. With the increased awareness of blood-borne pathogens today, we should all be attentive to caring for our own safety as well as the safety of others. In discussing a situation with laboratory personnel, the need for routine and special safety requirements should be covered. Is there reason to believe that the victim/suspect had AIDS, hepatitis, or some other infectious disease? Basic safety practices should be considered, such as proper disposal of sharp items (scalpel blades, etc.), use of protective gloves, and additional clothing to include eyes, nose, and mouth protection. Using a probe to search areas where visibility is poor (a paint stirrer works well) goes a long way toward preventing a needle in one's finger.

The following discussions regarding evidence assume that some of the basic minimums of documentation discussed in the previous chapter have been followed—namely, that the evidence has been properly photographed with a scale when necessary, that a photographic log has been kept, that an evidence log is being kept, and that the packaging to be used will secure the evidence to include proper labeling.

Recovery of Questioned Evidence

Hairs and Fibers

Hair and fiber transfer during violent interaction has been discussed in depth, and the recovery of foreign hairs and fibers at a scene or on an article of clothing has obvious potential to aid the investigation. In the forensic laboratory an examiner can identify hairs as being of human or animal origin and, if animal, can often determine the animal species of origin. Human hairs are often identifiable to racial origin (Mongoloid, Caucasoid, Negroid). Other characteristics, such as color, body area of origin, chemical treatment, method of removal, damage, and presence of foreign material on or chemically in the hair, can often be established. The examination of physical and chemical characteristics of hair often allows conclusions that strongly associate the hair with a particular source individual. Identification of a particular hair as having come from a specific person is not normally possible at this time. This topic will be dealt with in more detail later.

Fibers are so frequently considered with hairs that it is possible to hear the term *hair fibers*. The term is a misnomer and incorrect. Hairs are hairs and fibers are fibers. Fibers, however, can be as important as hairs in sexual assault investigations. Textile fibers are normally classified as either natural or synthetic as an initial step in forensic examinations. Specific color and a variety of other chemical, optical, and microscopic characteristics—as well as the presence of foreign substances indicative of a particular environment—might then be identified, making comparison with other recovered fibers possible. These comparisons are normally made with a known sample but could be made with a questioned sample as well. It should be noted that specific connection of a fiber to a particular fiber source (an individual garment or other fiber source) is not possible based on forensic comparisons.

Hairs are often easier to see and recover than fibers; but both can present difficulties, particularly when the scene is extensive and multiple areas are to be searched. Observations made during the preliminary survey should identify possible sources for these kinds of trace evidence so that known samples can be secured during the conduct of the overall scene investigation.

In general, the discovery of hairs or fibers at a scene involves either removing and securing the trace evidence or collecting the entire item to which the hairs and/or fibers are adhered. It is normally preferable to let the laboratory deal with the removal of trace evidence from a source item, but there are instances when it is advisable to remove and secure individual hairs and fibers to avoid loss or contamination.

Search Methods and Techniques

Many methods are available for identifying and securing hairs and fibers at scenes, none of which is universally effective. The following procedures and techniques are useful, depending on circumstance, environment, and the investigator's knowledge and experience. The techniques fall into one of two categories: visual enhancement or mechanical recovery:

1. General unassisted visual search (naked eye)
2. Oblique light
3. Ultraviolet (UV) light
4. Vacuuming

5. Adhesive lifts
6. Combing/brushing
7. Fingernail scrapings and clippings
8. Lasers and alternate light sources

General Unassisted Visual Search

A general unassisted visual search is just that—a search with the naked eye to locate any trace evidence that may be available to find. Various colors and backgrounds make it difficult to see the evidence, so it is not, perhaps, the most effective method of discovering this kind of evidence. Still, to ignore one's senses is neither good logic nor good judgment. The principle is simple: If you do not look, you will not see evidence. It is at this point that one might find individual hairs or fibers clinging to a vehicle headrest or some other surface, just begging to be collected. If this is the only method available, it should be exercised thoroughly and carefully.

Oblique Light

When a beam of light is directed nearly parallel to a surface (a wall) such that the light plays across that surface, imperfections and irregularities will be highlighted due to the shadows they cast. This created contrast makes it easier to see minute detail and can help draw attention to such evidence as hairs and fibers. The same applies to small objects on a floor (cartridge cases, bullets, etc.). Any surface that may retain hairs or fibers can be searched in this manner, often to good advantage.

Ultraviolet Light

UV light is of value due to its excitation capabilities. When irradiated with UV light, certain chemical substances give off energy in the form of light, resulting in a phenomenon known as fluorescence. Simply said, when exposed to UV light, certain fibers and fabrics will glow in the dark based on the dyes and chemical treatments given the fibers and fabrics. The fluorescence makes it easier to see this kind of trace evidence. UV light is probably of more value in locating fibers than hairs because hairs seldom fluoresce unless treated with cosmetics. UV is also of value when used with fluorescent fingerprint powders, but one should be very familiar with the use of such fluorescent powders. Because of the amplifying effect of the fluorescence under UV, a little powder goes a very, very long way.

UV light is not to be treated casually, and care should be exercised during its use. Ultraviolet lamps produce light in the UV region of the electromagnetic spectrum just at the edge of the visible light spectrum. Light is measured in units called nanometers (nm) ranging from 400 to 700 nm in the visible range, and the UV range is from 200 to 400 nm. The 200- to 300-nm region is referred to as short wavelength UV and the 300- to 400-nm region as long wavelength UV. The significance of this is that UV light (particularly the short wavelength UV) is responsible for sunburn, and extended exposure to a UV source can cause sunburn even if the user is working indoors. Because of its higher energy, short wavelength UV is especially dangerous. Eye protection (UV filtering goggles) is advisable when using either type of UV light. Extended use of UV at a scene can also result in sunburn because some surfaces reflect UV and direct it back toward the investigator. Additional protection such as long sleeves or more extensive protective clothing for exposed

skin may be advisable. Use of UV should be approached with a knowledge of the hazards associated with it and appropriate precautions taken.

Some UV lights supplied for forensic work often have lamps that emit only the long wavelength UV because of the increased danger associated with the short wavelength. While this is an understandable safety precaution, it is often helpful to have a unit capable of giving off both wavelengths because not all fluorescence occurs in the long wavelength region. It is also advisable to invest in a quality instrument as poorly constructed lamp housings and poor filters allow visible light to leak and defeat the effort of working in darkness.

Because the usefulness of UV depends on the fluorescence of trace evidence to make it stand out from the background, a fluorescing background represents a major obstacle to UV use. Bedding (sheets and similar large fabric items) fluoresces due to the detergents normally used in laundering it, and stains accumulated through normal use fluoresce. A reasonable recommendation is to allow the laboratory to conduct the complete examination of such items for trace evidence.

Vacuuming

Vacuuming an area for the collection of hairs and fibers seems an attractive method, especially because it can be thorough and relatively quick. While this is true, there are a number of other factors that should be considered to ensure the best possible results.

Vacuuming allows relatively easy coverage of large areas and objects, which means they do not have to be sent to a laboratory for processing. That is an advantage for everyone. Any area to be vacuumed should be carefully inspected visually to locate any evidence that may be disrupted by the vacuuming. A drop of blood crusted on some carpet fibers could be broken up and reduced to a powder that might never be recognized or recovered if the area is vacuumed without first securing the blood.

Several vacuum kits are commercially available for forensic use. Also available for use with these vacuums are specially designed filter canisters for the collection of hairs, fibers, and other trace evidence. Some are meant to be reused and thus require thorough cleaning of the canister between samples. Others are one-time-use canisters, which have the advantage of maintaining sample integrity both at the scene and when presented in the courtroom.

Vacuuming should be approached with a plan for the area to be covered. A 9- by 12-foot carpet should not be vacuumed with one sample canister. Rather, the carpet should be divided into segments, perhaps 3 feet by 4 feet or smaller, and a sketch should be maintained to identify locations from where the samples came. The same thinking applies to an automobile. Separate samples should be taken from different areas of the vehicle, depending on what is thought to have occurred. If the victim of an assault was forced to lie on the back seat floor with her head behind the driver's seat, that area of the floor should be vacuumed as a separate sample to both isolate any hairs coming from that location and to avoid filling the sample with unwanted debris from other areas of the vehicle. Vacuuming too large an area results in the collection of a ball of fluff and debris that takes a laboratory examiner far more time to examine. Procuring several smaller samples makes everyone's job easier and improves the chances of finding valuable hairs and fibers. While a somewhat unusual approach, vacuuming of body areas has been used with some success to collect foreign hairs and fibers.

Points to be especially careful about when vacuuming a scene include (1) sample contamination due to poor cleaning of a filter canister after the previous use; (2) overusing the canister to collect too much material, thus making it difficult if not impossible for the

laboratory examiner to extract significant evidence; (3) vacuuming too vigorously and collecting ground-in debris that has no relation to the crime; and (4) separation of small tufts of fabric or fibers, distributing the fibers throughout the sample and reducing the sample's effectiveness. An example of the last print would be a small piece of fabric torn from a suspect's shirt becoming shredded into fibers during vigorous vacuuming. The victim's story of tearing the piece loose from the shirt is far more effectively corroborated by having the piece of fabric match the shirt in pattern and shape of the hole as opposed to having loose fibers that are merely consistent with having come from the shirt.

Adhesive Lifts

The adhesive lift technique simply involves using wide, clear packaging tape of relatively low tack and systematically covering a portion of a car seat (not too large) to pick up any hairs or fibers adhering to the seat. People employ a similar technique by using a lint roller on clothing to remove debris. In fact, a lint roller is a convenient tool for accomplishing this technique. Once used, the tape lift is then secured to a plastic bag (sticky side to the plastic) or other clear material for packaging. The tape should not be folded over on itself. Avoid mounting the lift on paper or similar material because removal of the evidence is much more difficult. This procedure can be applied to a wide variety of surfaces to include fabrics, solid surfaces, and even body surfaces, although personal comfort may be an issue with traumatized victims.

The adhesive lift procedure is often more selective than vacuuming because it picks up only surface material, and usually the interest is in showing evidence of recent contact between the individuals involved in the crime. Vacuuming, if not carefully carried out, may collect debris and dirt ground into a carpet that may have been there for years and have no bearing on the violation. It would be impractical to tape the entire scene, and a methodical approach should be adopted based on the information available.

The investigator should be familiar with the needs and policies of the laboratory to which the evidence will be sent. Taping with high-tack tape may result in considerable difficulty in removing the evidence for examination, often resulting in broken hairs and/or fibers. Removal of evidence from the tape may require the use of chemicals to dissolve the adhesive. For this reason, many laboratories prefer not to deal with adhesive lifts. Again, call the laboratory and talk with its staff.

Combing/Brushing

Violent contact between two individuals frequently results in a transfer of hairs and/or fibers. Such evidence, loosely adhering to the clothing of an individual, can be recovered under controlled conditions and used effectively for comparisons with known samples. In the case of sexual contact, specific areas of interest are the heads and pubic regions of the individuals involved. Recovering hairs and fibers from these areas often involves the combing or brushing of the body area over paper spread out to collect what is dislodged. The procedure need not be restricted to the head and pubic areas, and available information about the crime may dictate other body areas as well. It is also important that new combs be used on each body area and that samples taken from different body areas be packaged separately. Simple logic dictates that the combings or brushings be collected before known hair samples are taken from an individual.

Collection of hairs and fibers by combing or brushing is usually accomplished with a brush or fine-toothed comb, with the individual standing or bending so that the body

area to be sampled is over a large piece of paper or material spread out for this purpose. In some cases, such as with an individual with especially long hair, it may be advantageous to have the person lie on the paper while samples are collected. The body area of interest is carefully combed or brushed to cause evidence to fall onto the paper. The paper is then carefully folded to retain the collected material and securely packaged with the comb or brush. This procedure is usually the method of choice in sexual assault evidence kits.

Occasionally, an advantage can be gained by pushing the teeth of a comb through a layer of cotton batting, making the cotton a collecting medium for the hairs or fibers. The white cotton collects and provides a good visual background for the material collected. This may be a useful alternative if collection paper is not available; however, it can present problems as, during transit to a laboratory, the hairs and fibers collected may become worked into the cotton, making them difficult if not impossible to retrieve.

Fingernail Scrapings and Clippings

Fingernails can collect a variety of materials that can be useful as evidence. Many sexual assault evidence collection kits contain materials to collect fingernail scrapings and clippings. It is essential that the person taking these samples understands that contaminated hands or tools may influence DNA analysis results. It is therefore important to use clean equipment and fresh gloves to collect such samples. New materials should be used to collect the material from each hand, which should be packaged separately. It is also important to use care in collecting scrapings, as a careless move could be painful to the person providing the sample. As with combings, materials to collect these samples are normally supplied in sexual assault evidence collection kits.

Lasers and Alternate Light Sources (ALSs)

The use of laser technology in forensic science has expanded rapidly over the last 10 years—so much so that often the terms *laser* and *alternate light source* are thought to be synonymous. A detailed discussion of laser technology is beyond the scope of this chapter, but the use of lasers and ALSs is increasing all the time, and it is important to distinguish between the two types of instruments.

Both lasers and ALS units detect body fluid stains, fibers, cosmetics, and various materials that contain chemical substances capable of fluorescence. Both lasers and ALS units can be useful in locating fingerprints when fluorescent fingerprint powder is used. In a recent nationally publicized kidnapping/child molestation/murder case, an ALS located the suspect's palm print on the bed frame of the victim in her home. The suspect had already become of interest to investigators; when confronted with the results of the palm print comparison with his own, he revealed the location of the victim's body, which had been the subject of searches for weeks.

A laser is a sophisticated instrument, from the apparently simple laser pointer used in classroom instruction to the high-energy industrial laser requiring water-cooling equipment and special environmental housing. Forensic lasers produce an extremely high-energy beam of light that is specifically defined and capable of causing fluorescence in certain materials. The fluorescent effect is usually viewed through filtered goggles or lenses. A single instrument normally produces only one wavelength of light, and its intensity is capable of causing eye damage if the operator's eyes are not protected. Such instruments are usually quite expensive and often require accessory equipment (cooling system, etc.). This makes it difficult to take the instrument to a crime scene. As a result, most lasers are

confined to laboratory use. Smaller units are available for scene use, but the expense is difficult to justify for many agencies.

An ALS, on the other hand, is a more portable instrument and is designed to be taken to the scene. It is far more economically feasible for most agencies, and many agencies have more than one. The Federal Bureau of Investigation has equipped each of its field office evidence response teams with ALSs. While the principle of operation is much the same as that for the laser, the ALS is a high-intensity white light source that has multiple filters, providing the investigator with several wavelengths of visible light for examining the scene. Any resulting fluorescence is viewed with filtered glasses or goggles; however, the light, while high intensity, does not have the energy of the laser and does not pose the same potential danger to the eyes. Caution: Any light source is potentially dangerous to the eyes, especially if one looks directly into the beam. Good sense should be a guide.

Most of the wavelengths in an ALS are in the visible range of the spectrum; however, a number of companies can build a UV source into the ALS if requested. The use of UV built into an ALS is little different from using the hand-held UV light discussed earlier, and the same precautions for eye protection apply. Whether the investigator has a laser or an ALS to work with, or even a hand-held UV light, it should be remembered that these devices are tools, not instruments that will solve all the problems of finding evidence at crime scenes.

Blood

Depending on the facts of any given case, blood can become a major evidence substance in sexual assault investigation. The conventional analysis of blood yields results that are class characteristic evidence. Results obtained with modern DNA analysis methods can be considered individual characteristic evidence. In the past, when DNA databases worldwide were in their infancy, a DNA expert could only testify that DNA analysis either eliminated a subject or was consistent with a subject. More recently, if statistical criteria are met, a DNA expert can testify to a scientific certainty that blood, semen, or saliva came from a specific person. Different judicial jurisdictions may have various restrictions. Some crime laboratories conduct conventional blood groupings and do not have the capability for DNA analysis. The conventional analysis of blood by the forensic serologist is discussed briefly, followed by a detailed discussion of DNA analysis.

Conventional Forensic Analysis

Forensic laboratories must initially establish that an unknown substance is definitely blood and must differentiate between animal and human blood. The family of animal can often be identified when animal blood is encountered. Human blood can be further characterized by many genetically controlled grouping systems. This capability is based on the forensic identification of many complex chemical substances that exist in the cells and serum of blood. These substances include the well-known ABO blood group system as well as various protein and enzyme marker systems, divided into a limited number of types within each system. For example, in one enzyme system called esterase D (EsD), the population can be divided into six categories, and each member of the population will fall into one of these categories. Markers such as phosphoglucomutase (PGM), erythrocyte acid phosphatase (EAP), haptoglobin (Hp), and others exhibit similar distributions throughout the population and supplement the ABO system of blood grouping in the arsenal of

forensic laboratory tools. Known blood samples can be compared with questioned blood based on these markers.

DNA Analysis

For more than two decades, the ability to resolve and detect polymorphic markers has made possible the genetic characterization of body fluid stains for forensic scientists. Although the polymorphic protein and enzyme markers used by many laboratories provide the potential for a high degree of discrimination among different individuals, this upper limit is rarely attained because of the instability of some of these markers in dried stains. Moreover, of the markers that retain their structure and activity in the dried state, the number of expressed or observed forms is limited. Thus, in practice, the individualization of many evidentiary stains cannot be carried out to any great extent given the present array of polymorphic markers used in conventional forensic serology.

In all life forms, from viruses to humans, the basis for variation lies in the genetic material called deoxyribonucleic acid or DNA. Every living organism, with the exception of some viruses that possess ribonucleic acid (RNA), has this chemical as its genetic blueprint. In every cell of a person, the DNA blueprint is identical—whether it is a white blood cell, a skin cell, a spermatozoon, or a hair root cell. This extremely complex chemical is made of five simple chemical elements: carbon, hydrogen, oxygen, nitrogen, and phosphorus. The five elements then combine to form sugar, phosphate, and nitrogenous base molecules to constitute what is called a nucleotide. The language of DNA consists of an alphabet comprising only four letters. These letters stand for the four nitrogenous bases found in the nucleotide and thus in DNA: thymine, cytosine, adenine, and guanine (abbreviated T, C, A, and G). Even though this alphabet is very short, an enormous array of different sequences of nucleotides can exist in a single strand of DNA, which is normally hundreds of thousands to millions of nucleotides long. The chromosomes found in one human cell are composed of six billion nucleotides. For example, if we consider only 10 positions in the chain, each of which could be occupied by any one of the four nucleotides, the number of possible combinations would be 1,048,576. Hundreds of thousands of nucleotides are linked together in a long chain of DNA in a specific sequence of the nitrogenous bases, which then combines with protein to become a chromosome.

Humans have 23 pairs of these chromosomes. One chromosome of each pair originates from an individual's mother and the other from the father. Because the many genes found on the chromosomes for each trait in humans are a combination of the maternal and paternal genetic material, variation is generated in the offspring. No two people, except for identical twins, even though born to the same parents, will be exactly alike. Two brothers, though they may be similar, are not physically or genetically identical; their DNA is different.

DNA is actually made up of two strands forming a double helix (similar to a spiral staircase in structure). The bases (A, G, T, and C) pair with each other in a specific way; A always pairs with T and G always pairs with C on opposite strands of the helix. This is called complementary base pairing. Thus, if the sequence of one strand is known, then the sequence of the other strand can be determined. This is a fundamental principle behind all DNA testing.

When evidence bearing DNA source material such as blood or seminal stains is received in the laboratory, the process of DNA typing begins. There are several methods for performing DNA analysis, but the two most common are designated restriction fragment length polymorphism (RFLP) and polymerase chain reaction (PCR).

Restriction Fragment Length Polymorphisms (RFLPs)

The intact DNA is chemically extracted from the sample, and then enzymes (restriction endonucleases) are added that act like molecular scissors to cut the DNA into fragments. The double-stranded DNA is then chemically divided so that single strands are now found. These DNA fragments are placed in a sieving gel and separated by size in a process known as electrophoresis. The separated DNA fragments are blotted from the gel onto a nylon membrane in a process called Southern blotting.

At this point DNA probes are prepared and applied to the DNA on the membranes. These probes are single-stranded pieces of DNA that can bind via complementary base pairing with the target DNA. A single locus probe looks for only one area of the DNA molecule, whereas a multilocus probe looks for several areas at once. Before the probes are applied to the DNA, they are made radioactive by using an isotope of phosphorus. The radioactive DNA probe then combines with the specific DNA sequences found on the fragments in the membrane. Subsequently, x-ray film is placed in contact with the membrane to detect the radioactive probe pattern. This image, which may develop in several hours to several days, resembles the optically read bar codes seen on products in supermarkets. These images are visually evaluated by an examiner, who then uses computer-assisted image analysis to size them, which means to measure their length. The evidence stains are then compared with the known samples, and a determination of either a match or a no match is made. The suspect is then either absolutely excluded as the stain donor, or a match is made. When a match is made, the frequency of the profile is determined by consulting the human databases; the probability of finding the same match at random is then calculated. Depending on how rare or common the DNA fragments are, the probability of a random match can range from very high, such as 1 in 10, to extremely low, such as 1 in 10 billion.

Recent developments in DNA technology have led to the use of the chemiluminescent probes as an alternative to the radioactively labeled probes. These probes rely on a chemical reaction that produces light (derived from the chemical reaction that fireflies use) and expose the x-ray film in a much shorter time than the radioactive probes. The films are then examined and analyzed in the same manner as described earlier.

DNA typing procedures are especially useful in sexual assault cases. Conventional analysis cannot differentiate origins of similar blood group substances found in mixed seminal and vaginal secretion stains. Therefore, if the rapist and the victim have the same blood type, the scientist cannot determine from whom the blood group substance was derived. DNA analysis eliminates this problem. The technology can separate the DNA from the victim's vaginal tract and the semen from the rapist. Because semen normally contains a large number of spermatozoa, there is a correspondingly large quantity of DNA available for typing. Seminal fluid does not contain DNA; however, in seminal stains lacking spermatozoa, it may still be possible to obtain a DNA type from epithelial tissue or white blood cells present in the stain. For example, a rapist who has had a vasectomy is not likely to deposit spermatozoa but might deposit his epithelial cells in his semen.

As with seminal fluid, saliva does not contain DNA, but, again, there may be epithelial tissue or white blood cells present that can be typed for DNA. Even though a bloodstain may appear to be large enough for RFLP analysis, it should be kept in mind that red blood cells do not contain DNA. The DNA from bloodstains is contained in the white blood cells, which are much fewer in number than the red cells. Urine and perspiration do not

normally contain DNA—but, again, they may occasionally contain cellular material that can be used.

Polymerase Chain Reaction (PCRs)

PCR technology is now being used in many laboratories in conjunction with or as an alternative to RFLP. This technology is capable of using minute amounts of DNA that are too small for RFLP analysis and chemically amplifying the DNA sequences until enough is obtained for analysis. This technology is particularly useful for DNA typing of saliva stains, small amounts of tissue, and the root cells from hairs. As previously mentioned, saliva does not contain DNA but does contain epithelial tissue and may contain white blood cells. An example where this technology is particularly useful is the DNA typing of saliva stains left on stamps, envelopes, cigarette butts, and chewing gum. In one case in the FBI laboratory, PCR technology was used to determine a DNA profile from the sweatband of a hat dropped at the scene of a homicide. Perspiration does not contain DNA, but the skin cells from the suspect had sloughed off onto the sweatband and provided the needed DNA. PCR technology is also very useful when body fluid samples are degraded.

Newer Technologies

Another DNA technology currently being researched is the literal nucleotide sequencing of the DNA to produce a map. The human genetic code has been identified. It will be recalled that the variability of sequence in the DNA molecule is what distinguishes each individual from another.

Certain laboratories, forensic and otherwise, are currently conducting analyses of another kind of DNA found in hairs (and other structures such as bone and teeth) called mitochondrial DNA. Mitochondria are small organelles found in cells that contain their own non-nuclear DNA. Most of the DNA subjected to forensic analysis originates in the nucleus of the body's cells. Mitochondrial DNA is found in the cells (but outside the nucleus) as well as in structures such as telogen hairs, bones, and teeth. Advantages associated with mitochondrial DNA include the fact that it exists in many more copies than nuclear DNA, it is highly variable from person to person, and it is maternally inherited. This technology offers a chance for the forensic scientist to obtain a DNA profile from hairs that have been cut or broken off and are devoid of root sheath cells (pulled hairs). It is also used to assist in the identification of skeletal remains.

It is important to understand that, because it is maternally inherited, mitochondrial DNA is the same throughout a maternal line and therefore does not, at least at this time, provide the ability to identify a hair as having come from a single individual to the exclusion of all others.

Recovery of Blood Evidence

The collection of body fluids for DNA analysis is essentially the same as for conventional analysis, with a few exceptions that will be addressed later in this chapter. Two main dilemmas face forensic laboratories in dealing with blood and other body fluid evidence (such as semen and saliva) in sexual assault cases:

1. Blood is often mixed with contaminants and other body fluids, making forensic

interpretations difficult and limited. In sexual assault cases, serologists often observe test results indicating that, in fact, genetic markers apparently have been contributed by both victim and suspect. The forensic interpretation of this mixture can be confusing, especially when the laboratory results appear to be inconsistent with the facts of the crime. It is essential that any recent sexual activity of the victim be noted by the investigator and made known to the crime laboratory. Body fluids on clothing items (especially undergarments) can be transferred and mixed with other body fluids. Therefore, it is important not only to know the date of the victim's last sexual contact but also to know whether the clothes worn after that contact were the same clothes worn after the sexual assault. Investigators often neglect to obtain this type of information, thus possibly hampering the laboratory.

2. Most blood evidence received by a laboratory is dried and may have been dried for extended periods of time. While it is true that drying a bloodstain arrests most of the degradative processes that normally take place, the breakdown does not stop; aged, dry bloodstains continue to lose biochemical integrity with time. It should be evident, then, that more potentially probative data can be obtained from fresh dried blood than from dried blood aged for long periods. Timely submission to a laboratory is important.

The recovery of questioned blood evidence usually involves dealing with various sizes and conditions of stains. Additionally, these stains are found on items of different colors, textures, and composition. The person collecting the stains has to use good judgment in establishing the most appropriate manner in which to recover the evidence. Collection of questioned wet and dry blood samples is usually done by (1) recovering the entire item bearing the blood, or (2) separate removal of all or a portion of the blood exhibited on an object. A cardinal rule, however, is that body fluid stains, wet or dry, can be rapidly and severely degraded by conditions of high heat, humidity, and direct sunlight. Sunlight includes UV light, which degrades DNA. The less time the evidence is subjected to these influences, the better.

Wet Blood

Wet blood samples should be recovered and immediately transported to a crime laboratory or frozen under uncontaminated conditions for a short time before being taken to the laboratory. The only alternative to this is to take wet samples and dry them at the scene, which can be done if a protected location not subject to contamination can be established. It is usually difficult to collect bulky evidence in the field (clothing, bedding, carpet, tile, drywall) that bears wet blood. The personnel involved in field recovery of wet blood should determine whether the crime laboratory to which evidence will be sent can accommodate wet evidence. Some forensic laboratories require blood specimens in an air-dried condition because of the problems of properly storing massive amounts of damp evidence. Wet blood samples can also be hazardous to crime scene personnel as they are more likely to transmit contagious diseases, such as hepatitis B or AIDS.

A device that is beginning to see more use in police department evidence rooms is a drying hood or any facility dedicated to drying wet evidence. This equipment is available commercially or can be constructed with some ingenuity by departmental personnel. One department devised several effective drying compartments from portable shower stalls.

Eye droppers and syringes are convenient tools for removing wet blood, but the sample must be frozen or shipped to the laboratory immediately. It is almost impossible to air-dry blood in such devices, and separate eye droppers or syringes must be used for each sample collection in order to prevent cross-contamination. Because of these and other difficulties, it is best to avoid collecting wet blood in eye droppers, syringes, or similar devices unless it is to be dried on clean cloth soon after collection.

Another technique is the use of swabs, cotton cloth, cotton threads, or filter paper to absorb the wet stain. As much blood as possible should be concentrated on the gathering medium so that a dense stain results. Simply obtaining smears or small deposits of blood may not provide sufficient blood for forensic testing. Many times, most of the blood is left on the source object, and the absorbent material permits only a limited blood examination or possibly one of no evidentiary value. Most absorbent methods often collect surface dirt and other extraneous debris in addition to the blood.

When absorbent cloth is used to collect blood or any other body fluid, residues of detergent and chemical additives (optical whiteners) should be rinsed from the cloth before it is used. These materials can detrimentally affect serological testing of biological fluids. Some laboratories boil a new bed sheet (already washed several times) for several hours before drying and cutting it into appropriate sizes to use for collection of stains. Individual threads removed from this cloth can be used when small stains must be absorbed. The thread can be gently maneuvered to concentrate the blood in a dense manner.

In summary, wet blood evidence imposes numerous disadvantages on the field investigator. Because of significant time span and evidence storage problems, it is recommended that wet bloodstains be collected, air-dried, and forwarded to the laboratory as soon as possible, or frozen until submitted. Drying allows the fixing of stains in a specific location, reduces the opportunity for intragarment and intergarment transfer, and reduces decay and disease possibilities.

Dried Bloodstains

Dried bloodstains are often encountered as physical evidence in sexual assault investigations. Under most circumstances, it is advisable to submit the entire item that bears the stain for forensic analysis. As with wet blood, blood in the dried state should be protected from heat, moisture, direct sunlight, and possible contaminants. Airtight containers are not recommended because they tend to retain moisture.

Dried blood samples can be removed from articles when it is impractical to submit the entire article to the laboratory or when the stained area is large. Methods most frequently used for removing such blood are

1. Removing the desired sample (stain) completely intact
2. Scraping the stain from the surface
3. Reconstituting the stain

Removing the desired sample (stain) completely intact is the best alternative. Cutting out the stained area with an appropriate tool is in many ways easier than undertaking other methods, especially when articles are large. Removing stains on various items such as concrete, drywall, and wood can require saws or similar tools, which produce dust and other

particulate matter that can contaminate the blood evidence. In such cases, the stained area should be protected with paper, sections of plastic, or other suitable items before removal.

Scraping dried blood from an object often results in small dust-like particles and can lead to the loss of the sample. The blood becomes separated to a great extent, making it difficult for the laboratory to evaluate. Static electricity in the packaging materials can disperse a powder quite easily. Furthermore, many possible contaminant substances on the surface from which the blood is scraped can be mixed with the stain. When it is absolutely necessary to use the scraping technique, the stain should be disturbed to the least possible extent. It is suggested that a clean razor blade be used and submitted to the laboratory as a control specimen accompanying but protected from the removed stain.

The method of applying absorbent materials (swabs, cotton cloths, etc.) to a dried bloodstain typically will not remove any appreciable amount of sample. Therefore, it becomes necessary to reconstitute the dried stain so that it can be absorbed by the material of the swab. A common medium used to perform this task is distilled water. The absorbent material (swab) is wetted slightly in this liquid and applied to the questioned stain area. The questioned stain is then concentrated on the material to the greatest extent possible. Probably the most important drawback to this procedure is the dilution of the sample, which will almost always result in loss of probative genetic information. Further, a reconstituted bloodstain that is not analyzed or dried promptly is fertile ground for bacterial growth, which can degrade the sample. As with the scraping technique, surface contaminants are obtained and intermingled with the blood. The reconstitution of bloodstains is best avoided and used as a last resort.

There will be instances, however, when it is impractical to remove dried blood without using the reconstitution method. For example, in cases of sexual assault involving vaginal bleeding of the victim, it may be appropriate to swab the penis of the suspect for blood or other evidence. As indicated in the last chapter, sexual assault evidence kits often contain materials for this sort of evidence collection. Dried blood can be sampled by using a swab moistened slightly with distilled water. Circumstances will probably seldom allow penile sampling; however, the swabbing procedure should avoid the penile opening, unless blood is obviously present there. It is not recommended that penile swabbing be used routinely; instead, it should be limited to those instances in which blood is very likely to be present.

A major disadvantage of both the scraping and absorbent-material methods of recovery is the difficulty of dealing with porous media. Blood deposited on such articles as concrete, unfinished wood, cardboard, and drywall can be absorbed, and much of the stain can collect below the surface. Scraping a porous object normally will remove only surface-level substances. Swabs, cotton cloth, etc. moistened with distilled water can cause the stain, when reconstituted, to be further absorbed into the porous object. In such cases, it is best to simply cut out a piece of the surface bearing the stains and send the stains intact to the laboratory.

Control Samples

The subject of control samples is relevant to any situation in which blood is removed from an article. Blood is chemically complex, as are the forensic tests used to characterize it. Many substances common to everyday life (detergents, deodorants, fruit juices, plant materials) are capable of interfering with certain blood examination tests. It is a great advantage for the laboratory to know whether such substances are present in the area where a bloodstain

has been deposited. Whenever a stain is recovered from an object or area that will not be sent intact to the laboratory, an unstained control sample of the object or area taken adjacent to the questioned stain should be obtained. A prime example would be the removal of a stain from a wall-to-wall carpet. If the stain is approximately the size of a quarter, it would be satisfactory to cut out a 4-inch square section of carpet bearing the stain. The unstained area surrounding the suspected blood could be tested by the laboratory to determine whether substances that could hinder examination are present. Also, in instances where swabs, cotton cloth, or filter paper is applied to the collection of bloodstains, control samples of these gathering agents from the same source as those used for actual collection should be retained and submitted to the crime laboratory.

One of the problems in the effective recovery of blood evidence is deciding how much blood should be removed when a large amount is present. While bloodstains that appear to be probative in the investigation should be secured as evidence, it may be impractical to remove all the blood that is present. Violent physical contact may result in bleeding by both suspect and victim at the scene. Bloodstains in the crime scene, then, may have come from the victim or the suspect, or they may be a mixture of blood from both persons. It is not possible to distinguish between different blood types simply by looking at stained areas. However, it is possible to see that blood has been deposited at several different points. Each area where the stains appear to be separated should be sampled.

Bloodstains indicating the apparent path a blood source has taken through the scene or identifying the location from which blood came can provide valuable information in reconstructing a crime. In some instances, a determination can be made as to the position of the person who was bleeding. This determination can assist in identifying possible areas from which samples are to be taken. However, the interpretation of bloodstain patterns involves a detailed examination of the configuration of individual stains and stained areas, at the very least. Care should be taken not to disturb the stains by sampling until documentation and analysis appropriate for this interpretation have been completed.

Representative Samples

The application of good judgment based on training and experience is almost always the final determinant regarding the successful collection of questioned blood samples. Still, one must avoid the tendency to take random samples without any attention to the amount of blood present or indications that the blood deposits are from more than one person. Often, the patterns present at the scene can indicate the samples to be taken in a representative approach. It is important to note that the terminology in forensic science for properly recovering these specimens is “representative” as opposed to “random.”

Representative sampling involves collection of the blood evidence that is deemed to be probative based on the facts and circumstances of the case. Samples are taken by evaluating the size and location of stains in conjunction with the information provided by witnesses, the victim, and others. The location of a stain may be of more significance than its size, and based on preceding comments, the amount of blood to be taken per sample and how many samples should be recovered must be carefully considered.

By contrast, random sampling involves the recovery of blood evidence in a disorganized fashion. Here, there is no attempt to evaluate the relevant sampling areas before collection is accomplished; blood samples are taken in a more or less shotgun approach, and no logic is applied to evaluate the scene and what is there to tell the investigator.

Chemical Presumptive Tests

Forensic laboratories have long made use of so-called preliminary tests for the presence of blood. These chemical tests react with the hemoglobin present in the blood of animals and humans and are used to determine whether a stain could be blood. Various substances, such as certain plant materials, have the potential of causing false positive reactions to these tests. Therefore, while these procedures do not establish that blood is unequivocally present, they do strongly indicate its presence. In the crime laboratory environment, preliminary (also sometimes referred to as screening or presumptive) blood tests are conducted under controlled conditions and are supplemented with a variety of other procedures to identify a stain as containing blood and to characterize it further.

There has been a marked increase in interest in the use of preliminary tests for blood at the field investigative level, primarily due to circumstances in which it would be advantageous to distinguish blood from other substances. Dried blood exposed to numerous environmental conditions can take on a variety of shapes and colors and be difficult to recognize. Similarly, minute spots of blood and diluted blood may escape detection if an individual collects only what looks like blood to the unaided eye.

There are a number of commercially available test kits that claim to be ultimate solutions to these problems. One that is becoming more frequently used is Hemastix® (Miles Inc., Diagnostics Division, Elkhart, Indiana), which is designed for use as a blood detection device in urinalysis. It consists of a plastic strip with a filter paper pad at the end. Sampling the stain with a moistened swab and touching it to the filter paper tab will produce a color change if blood is present. The test is simple and relatively economical. A second alternative that some prefer is to use chemical testing agents prepared by the crime laboratory for field analysis. This procedure better ensures the quality and reliability of results because the test materials will more likely be freshly prepared. Some commercial kits can remain for extended periods of time either on supplier's shelves or shelves in the crime scene equipment room. It is incumbent on the investigator who is not a serologist to seek training and guidance in effective use of these tests from experienced personnel in a crime laboratory.

As with any other procedure, preliminary blood tests are to be used with care. The investigator should understand that the protocols used with these tests were developed based on sound scientific principles, and there are reasons for doing things as the instructions indicate. The following points are important:

1. It is possible to destroy or contaminate minute samples by overzealous and untrained conducting of a test.
2. When the suspected blood can be seen by the investigator, generally it should not be tested in the field. Instead, it should be protected and submitted to the laboratory for analysis.
3. In instances when the blood cannot be seen but is believed to be present, field testing is appropriate. This situation is common when an area that once contained blood has been washed or cleaned. However, if the investigator cannot visually observe the suspected blood, it may be that the laboratory can do a great deal with the evidence from a forensic standpoint.
4. Chemical components of the preliminary tests are subject to deterioration as a result of storage time and conditions. When deterioration has occurred, the tests are not

reliable even when blood is present. Quality control of test materials must be maintained and may be a subject of testimony in court.

5. Many tests are suited for application in small areas at a time, making it time consuming, expensive, and difficult to cover large areas or surfaces.
6. The tests can differ in their susceptibility to false positive reactions. Again, the investigator must consult a knowledgeable serologist as to the potential for these reactions.

Chemical Agents

Chemical agents of various types are used for preliminary blood analysis. Some of those encountered are

1. ortho-tolidine
2. phenolphthalein
3. tetramethylbenzidine
4. leuco malachite green
5. benzidine
6. Luminol

The ortho-tolidine, phenolphthalein, and other tests (except Luminol) work fundamentally in the same manner. A portion of the suspected stain is swabbed and treated with the test chemical, and the result in the swab is visually examined for the appearance of a color reaction. The color (bluish-green for ortho-tolidine and reddish-pink for phenolphthalein) is indicative of the probable existence of blood in the location swabbed.

Luminol is a chemical test that operates somewhat differently. When Luminol comes into contact with blood in the proper chemical environment, it has the capacity to exhibit chemiluminescence. This means a positive result causes the stain to emit visible light that can be seen with the naked eye (no goggles or filters needed) in a darkened setting. The user then recovers the stained areas that respond for examination in the forensic laboratory. Luminol testing usually involves spraying of large areas suspected of containing blood. It is not recommended, however, that the entire crime scene be completely sprayed as a routine procedure. Because of the potentially destructive effect on substances in blood that are characterized during serological examination, the application of Luminol to suspected blood evidence normally is undertaken with caution. Using too much spray volume will dilute and diffuse the stains, making additional examination more difficult and photography of the chemiluminescence difficult if not impossible. It has been shown, however, that DNA is not affected by the application of Luminol. Usually this method is used when bloodstains are so washed out (previously cleaned up with a mop, for example) as to be nearly impossible to see with the naked eye. Luminol can also be used in identifying a specific unknown crime scene when there are a number of possible scenes in question.

Personnel applying the tests should know that some of the agents contain harmful chemical substances. Benzidine, which was once used widely (but is now seldom used), is now known to be carcinogenic. A number of chemicals that are related to benzidine are suspect. Luminol should be used in a well-ventilated area and not sprayed indiscriminately. This fact reinforces the point that the choice of a preliminary test should be made on an educated basis.

When used properly, preliminary blood tests can be effective, especially in locating blood that might otherwise go undetected. As with the other methods, tools, and techniques discussed thus far, however, preliminary tests should not be viewed as shortcuts to substitute for proven evidence collection procedures. These tests can become misused tools for those persons who are not willing to spend the time and energy required to conduct a quality search in a methodical manner.

Chemical Enhancement of Blood Evidence

Extreme care should be used when trying to develop fingerprints in blood. Protein-based stains (coomassie blue, amido black, etc.), while enhancing the visibility of these prints, can destroy the blood proteins and make further blood testing impossible. In one case, a door from a murder scene was examined in the laboratory by one of the authors. Bloodstains on the door had fingerprints visible in the victim's blood. To enhance the prints, amido black had been applied by crime scene investigators, making the ridge detail more visible and allowing the prints to be identified as the suspect's. As an afterthought, it was decided that a serologist should be present to testify to the presence of the suspect's fingerprint in the blood. Subsequent attempts to identify the amido black-treated bloodstains even as blood were unsuccessful, depriving the investigation of a useful bit of information and testimony.

One final point of concern dealing with blood evidence regards the handling or touching of stains, or even unstained areas, with bare hands. The sensitivity of many of the new technologies for DNA analysis makes it possible for evidence to be contaminated inadvertently with biological residue from the bare hands of an individual. In addition, one should be concerned about contracting infectious diseases. The use of surgical-type gloves provides protection for both the evidence and the individual. Some prefer the practice of double gloving. Double gloving has its advantages, since a single glove layer can conform so tightly to the skin that dermal ridge detail may be left on a surface handled by the investigator. Two glove layers prevent this. Transfer of a print in this manner is rare, but it has happened.

Bloodstain Pattern Evidence

The study of bloodstain patterns to determine the nature of the activities that took place at the scene during the crime has been of interest to forensic scientists since before 1900. Observations of the size, shape, and distribution of stains and stain patterns can often provide information that will either be useful in interviewing a suspect or result in a nearly complete reconstruction of the events that took place to create the patterns. The best approach in dealing with this type of evidence is to have an analyst visit and study the original scene. Prior to such a visit, it is to the advantage of all concerned to assemble as much of the bloodstain pattern evidence material as possible for the analyst to review.

The scope of this chapter does not allow a detailed discussion of proper documentation of the bloodstain pattern crime scene. Such documentation—photographically, graphically, and narratively—can be and often is decidedly different from that of routine crime scene documentation and thus should fall to an individual with some training in the interpretation of bloodstain patterns. If such an individual is not available, this becomes one of those situations where more is probably better, and lots of photography and notes with good sketches will be helpful.

Semen

The type of physical evidence most frequently associated with sexual assault investigations is semen. The presence of this male reproductive fluid confirms the occurrence of sexual activity and can assist in corroborating the victim's contention of rape. Semen, like blood, can be used for DNA analysis; again, depending on the degree to which the DNA can be analyzed, an expert can testify to a scientific certainty that the semen came from a single individual. If the data are not sufficient, then semen becomes class characteristic evidence.

Conventional Semen Serology

The time-honored means of semen identification is the observation of spermatazoa or sperm cells. When the victim is examined in the hospital environment, microscopic inspection of slides prepared from vaginal, oral, and anal swabs is normally a part of the protocol. Depending on the time elapsed since the violation, sperm cells may be motile (free moving) or dead. Such an examination is done by medical personnel at the emergency room during the execution of the sexual assault evidence kit. The presence of motile sperm cells provides evidence of recent sexual activity. Material from evidence sent to the forensic laboratory may also be examined for sperm cells, but it is unlikely that any observed will be motile. The most significant point here is that sperm cells will not, in most circumstances, remain motile in the vaginal tract for more than 72 hours. When time is an important element of the investigation, the observation of motile sperm cells is of value. Factors that affect this survival include drainage, the chemical environment in the vaginal canal, and cleaning efforts undertaken by the victim.

With the development of newer methods for use in the forensic laboratory, the labor-intensive identification of semen by sperm cell observation has given way to the identification of a protein normally present in high concentrations in semen known as prostate-specific antigen, or p30. The presence of p30 in significant levels is sufficient grounds to conclusively establish the presence of semen in a stain. Besides offering a time advantage, aspermic semen will still have p30, and its presence will not fail to be identified due to a lack of sperm cells. The technology in use for p30 identification is extremely sensitive and highly reliable.

Once semen has been identified, it can be analyzed to characterize chemical substances that will indicate the ABO blood type of the donor. Approximately 80% of the population exhibits detectable amounts of the chemical substances that define their ABO blood group in body fluids other than blood. These people are referred to as secretors. The usefulness of this is simply that semen in the crotch of a pair of panties from a group A victim containing group B blood group substances is valuable evidence, especially when the suspect is determined to be a group B secretor. If both individuals are group A secretors, however, then no distinction may be conclusively made through conventional serology. Known blood and saliva samples from an individual are normally required by the forensic laboratory to determine secretor status. Provision is usually made for the collection of these samples in sexual assault evidence kits.

Enzymes or genetic markers that normally exist in blood are also present in semen and exhibit the same genetically determined characteristics. A specific enzyme type identified in an individual's blood is consistent with that identified in the semen; as with blood, these enzyme types in semen are independent of the donor's ABO type.

DNA in Semen

DNA is found throughout the body, particularly in cells that have nuclei. The same is true with semen, and DNA is mainly present in the sperm cell and, occasionally, epithelial cells that come from the lining of the male reproductive tract. Since vaginally recovered semen contains vaginal material, DNA from epithelial cells from the vaginal lining will probably be present as well. It would not be of value to recount a discussion of DNA and how it is recovered, analyzed, and interpreted; however, it is important to understand where one can expect to find DNA in these investigations and how it might affect the interpretation of analytical results.

Semen Evidence Recovery

Sexual assault evidence recovery kits are designed to target those areas where semen is likely to be after an assault. Consequently, swabs are provided for collection of vaginal contents as well as semen on the external genital area of the victim. The investigator should be aware that a victim, through embarrassment or for some other reason, may not be willing to admit that nonvaginal sexual activity took place. It is not uncommon to locate seminal material on external body surfaces, genital or otherwise, even when no penile penetration of the vagina took place. Accordingly, it is often wise during the execution of a sexual assault evidence kit to complete the collection of all the samples (oral, anal, and vaginal) as a matter of routine protocol in spite of what the victim's story indicates. Obviously, such swabs and the microscope slides prepared with them should be packaged separately; unused control swabs should be provided to the laboratory as well. Microscope slides are normally prepared and used by medical personnel to identify sperm cell motility during the examination of the victim at the hospital. The examination, if possible, should not involve any chemical materials placed on the swabbed slides. As always, body fluid evidence should be dried before packaging (slides, swabs, etc.).

Some sexual assault evidence kits include materials to detect deposits of seminal material in the nasal passages of the victim as a result of oral sexual contact. While not a commonly occurring event, seminal material deposited in the nasal passages after forced oral copulation has been successfully collected. The collection procedure simply involves the victim blowing her nose hard on material provided in the kit. This is certainly less distressing to the victim than other necessary methods of evidence collection. Should this method not be included in the kit available, a piece of clean white cloth (sheeting or the like) measuring approximately 6 inches square will suffice. The cloth, to be handled only by the victim, should be packaged after drying.

Semen deposited in the oral cavity is normally collected by the preferred method of swabbing. Such efforts may not be successful in collecting material lodged between teeth, under the tongue, and in hard-to-reach spots. Rinsing the mouth (with a minimal amount of fluid) in such situations may collect the residual material. The rinse is collected in a container, sealed, and sent to a laboratory as soon as possible. The sample should be frozen if any delay in transport is expected. Such samples are teeming with bacteria that are waiting to feast on the normal constituents of semen. The sooner the sample can be examined, the better the chances of finding some evidence of value. Normal mouth functions such as swallowing and spitting cause a much shorter survival time of semen in the mouth than in the vaginal canal, so oral examinations by medical personnel should be prioritized in an assault examination. It is noted that this type of sample goes against what has been said

concerning the drying of body fluid samples prior to packaging, and expeditious handling is essential. As noted before, the preferred method is swabbing.

Sexual Assault Evidence at the Scene

A sexual assault is an event that naturally draws attention to the victim—as it certainly should. This attention takes the form of medical treatment, compassionate assistance, and evidence collection. At the risk of minimizing this important aspect of the investigation, it is suggested that there may be a wealth of evidence at the scene as well. A point was made in the last chapter about allowing one's focus to obscure one aspect or another of the investigation. This kind of focus is not fiction and should be avoided. Evidence in the form of semen, hairs (suspect and victim), blood, and other items frequently identifies the scene and provides direct connections between one or more of the individuals involved. Evidence of sexual activity and/or assault may be present on a wide variety of evidence at the scene, and concentrating efforts on the victim to the exclusion of the scene is often a grave error.

Semen or other stains may be present on carpets, clothing, or various other materials at the scene. As with blood, the preferred approach of taking the entire item, if possible, still stands. Large areas should be considered for vacuuming or other larger scale methods of trace evidence collection (as previously indicated, sectioning of the area is important). If, during this process, it is anticipated that potentially valuable stained areas may be contaminated or disturbed, cover them with paper and tape or some other suitable protection. With such large items as a carpet, a stain may be cut out, leaving sufficient unstained carpet around the stain perimeter to provide control material. Again, drying is critical before packaging.

Given the methods discussed and the aids available to assist the investigator in collecting sexual assault evidence, inevitably there will be times when semen, like blood, must be collected as a substance from a surface and the entire item bearing the stain, or a portion of it, cannot be taken. Recovery of dry samples can be accomplished by cutting, chipping, or scraping. Wet samples respond to collection by swabs, sections of cloth, or clean absorbent filter paper. Of concern is the recovery of seminal material from glass or painted surfaces when the item cannot be secured. Carefully scraping the material (all of it) from glass into a small container works. Painted surfaces can be scraped as well, and it may be possible to gouge out a section of the surface bearing the stain and surrounding paint to provide a control. Reconstitution of any dried body fluid should be a procedure of last resort. Difficulties with this have been discussed; while it may be necessary in some cases, it is best avoided. Still the old rule applies: the less intrusive, the better. Keep the stain as much in its original condition as possible and be sure it is dry before packaging.

Locating Semen at the Scene

Equipment, tools, procedures, and techniques for presumptive identification are available to the investigator, although employed less frequently for semen than for blood. When the precise location of the scene is unknown, some assistance often makes the job of location easier. As with blood, it is possible to become too dependent on such techniques and equipment and to pass up the more thorough and tedious work of detailed crime scene investigation. Proper handling of the scene is not a time for shortcuts. The tools and techniques available to the crime scene investigator are simply aids.

With that caution, a discussion of some of the practical aspects of the use of UV light or an ALS is in order. Neither of these light sources alone will identify semen. Under the proper conditions, semen can be seen to fluoresce under UV or some of the wavelengths of an ALS. This fluorescence is not restricted to semen stains and can be useful in locating stains that should be taken for subsequent laboratory examination. Seminal fluorescence is not brilliant in many instances; with stains on a substrate (background) that has a fluorescent character of its own, a lightly fluorescing stain may even look darker than the material to which it adheres. Such a stain may be overlooked and should not be. With practice, it becomes evident that there are numerous items, fabrics, threads, substances, forms of dust and debris, etc. that will fluoresce. Experience is a great teacher when it comes to these kinds of observations.

DNA and UV Light

DNA is sensitive to UV light. A portion of the protocol used in the laboratory analysis of DNA involves the use of UV light to disrupt the DNA structure under controlled conditions. The importance of this to the investigator is that UV can and does disrupt the native structure of DNA; if stains at a scene are exposed to UV long enough, this disruption may be extensive enough to interfere with the successful analysis of the DNA. UV is useful, to be sure, but its extended use is to be viewed with caution.

As a precautionary note, the fluorescence does not identify semen; it only highlights it for collection and subsequent examination in the laboratory. This is exemplified by a case in which an investigator stated in a crime scene report that semen, in fact, was identified with the aid of the ALS on a particular item. Subsequent examination by the laboratory failed to confirm this observation; in fact, semen was clearly not identified on the item. Because identification of semen was key to the charge filed, the prosecutor was extremely reluctant to accept the report of the laboratory detailing the negative result and wanted to use the information based on the less certain procedure. Only after considerable discussion was the laboratory result accepted.

The discussion thus far has centered primarily on semen evidence recovered as an uncontaminated substance. In realistic terms, there are numerous cases in which semen is mixed with urine, blood, vaginal fluid, saliva, and other materials. Analytical difficulties can arise in the laboratory when a mixture of body fluids from two or more persons is subjected to conventional analysis. Conventional blood groupings and secretor testing, for example, can be dramatically affected. It is to our advantage, however, that newer DNA techniques have successfully separated DNA from semen and other body fluids, making it possible to identify DNA from the semen donor and the victim in a single stain.

Post-Event Alteration of Stains

The investigator should be aware of the ease with which stains on clothing can contaminate other portions of the same item or another item of clothing after collection, thus altering the evidence. Such situations can create conflict between the evidence and information available from individuals directly involved in the assault. In particular, wet stains (blood or semen) can be problematic in this regard. As an example, consider a shirt worn by an assault victim that is stained with blood around the neck and shoulders resulting from a beating, and stained with semen around the lower portion of the shirt near the hem. Folding or bunching the garment places the stained areas in contact with unstained or

even other stained areas. When the stains are wet, even greater opportunity for transfer exists. New stains or mixtures can be created. The extreme sensitivity of testing procedures used with DNA can mean detection of mixtures even with dry stains abrasively contacting each other. Such transfer of staining has been observed in several cases in the authors' experience, at least one of which was a subject of lengthy national news coverage. Care must be exercised in packaging evidence to prevent this. Layered packing paper or cardboard between layers of fabric often provides the necessary protection to maintain evidence integrity.

Saliva

The goal of conventional forensic analysis of saliva has generally been the determination of secretor status for comparison with results from the analysis of other body fluids such as semen. With the advent of DNA, however, the extreme sensitivity of techniques such as PCR have made saliva far more useful. DNA from epithelial cells sloughed off the surfaces of the oral cavity and present in saliva has made the analysis of cigarette butts, stamps, envelopes, and a variety of other items of greater significance to the investigator.

The high concentration of water and low level of dissolved and solid substances make saliva more difficult to see than blood and semen, which have visible and physical characteristics (color, texture, etc.). Saliva can be present but can go unnoticed even on clean white paper. The situation is complicated by the fact that saliva stains are more often found in areas that have a propensity for contamination, such as ash trays. From an investigator's point of view, it is more natural for saliva to be present on surfaces due to actions such as spitting than it is for blood or semen because these fluids are internal and not likely to be spread around as much. Saliva is not always easy to find, it can often be contaminated, and it is easier to rationalize its existence where it is found.

Saliva Recovery

Techniques used in the recovery of saliva samples at a scene are dictated by the nature of the stain and the nature of the surface on which it is found. Surfaces bearing saliva can be categorized as porous or nonporous:

Porous surfaces: Stains (wet or dry) on porous surfaces that can be removed along with ample surface area surrounding the stain should be recovered. Obviously, stains on surfaces that can be collected as the entire item should be collected in whole. Wet stains should be allowed to dry before packaging. Cutting out a 4- to 6-inch-square section of sheetrock with a saliva stain in the center will allow the peripheral surface area to provide adequate control material for the sample. Surfaces such as unfinished wood, porcelain, paper, cardboard, and many more fall into this category. These surfaces present unique problems since wet body fluids (saliva more than blood or semen) can be absorbed into the substrate to the point where they are nearly invisible. It is not recommended that stains on such surfaces be collected by absorption onto dry swabs or reconstitution with moist swabs. The first option divides the stain into two parts, and the second promotes its absorption into the substrate even more.

Nonporous surfaces: On occasion saliva appears on nonporous items such as painted surfaces, plastics, glass, and metal cans. The mouthpiece of an inflatable toy given to a child by her kidnapper contained sufficient saliva for typing in one case. Collection

of the entire item and removal of a section of the surface bearing the stain along with ample material surrounding the stain are two preferred methods of collection. Non-porous surfaces bearing saliva stains may be susceptible to abrasive removal of the stain materials by packaging if the stain is not protected. The stain can be protected by pliable materials (cardboard or the like) secured to the item to provide cover for the stain. Contamination through handling with uncovered hands or inadvertent rubbing should be avoided. Remember that saliva is more useful to the investigator now because DNA is easily analyzed today.

The reconstitution approach has been mentioned, and it is no more a preferred method with saliva than with blood or semen. However, there are times when such an approach is necessary. When the item or an appropriate section of the item cannot be secured, collection of the stain may be the method of choice. The same precautions are as important with saliva as with other body fluids. Control swabs should be prepared and packaged separately. Wet saliva on items that cannot be moved or sectioned should be absorbed onto dry swabs along with controls and packaged as described previously.

Ash Tray Contents

Cigarette butts and other ash tray contents are encountered often enough to make them a specific topic for discussion. Cigarette butts, toothpicks, chewed matches, chewing gum, and any other ash tray contents that may bear saliva have, in the past, been recovered by simply placing all the items in a bag. In some cases, the ash tray has been dumped, ashes and all, in the bag. This is not recommended. Ashes will, in fact, present a hostile chemical environment to the saliva constituents and should be avoided. There are drawbacks to advanced technology and the ability to identify individuals through the traces of body fluids they leave behind—in this case, contamination. Items from an ash tray, excluding the ashes, should be separately packaged.

Not only is DNA in saliva obtainable through cigarette butts, but paper surfaces offer likely material for retaining fingerprints. Fingerprint development methods and sampling methods for conventional saliva testing have often been incompatible. In the past the investigator often had to choose one type of evidence or the other. Further, the quantity of sample necessary for conventional testing made it difficult to choose sometimes between latent fingerprints and saliva analysis. DNA technology has helped overcome the problem. Smaller samples needed for PCR analysis of DNA and more effective latent fingerprint development methods have improved the situation. If a problem as to which approach should be used arises, consult with the lab. Discussion with the laboratory on these matters is recommended to ensure getting the best information from the available evidence. The investigator should collect as many intact cigarette butts as possible while limiting contamination. Again, if an item is wet, dry it before packaging it in breathable materials.

Bite Marks

A great deal of attention has been given by both crime scene investigators and forensic pathologists to the role and nature of bite mark evidence in sexual assaults. Direct contact between the suspect's mouth and the skin of the victim often results not only in a bite mark but also in the presence of saliva in the immediate region of the mark. The recovery and forensic analysis of this saliva evidence can be of extreme importance, especially in cases

where the bite mark alone does not exhibit sufficient clarity of detail for positive identification with the dental configuration of the suspect. While bite marks are likely sources of saliva, saliva may be deposited through licking, sucking, or nibbling such that no bruising or marks are left on the skin. The statements of the victim concerning the actions of the suspect are indicative of locations from which saliva may be recovered.

The first stage of utilizing saliva in bite mark cases is the recognition of the mark and immediate protection of that location from contaminating or destructive activity. Care should be taken to avoid touching the area of interest with bare hands. After documenting the initial condition and location of the bite mark photographically (with and without a scale), the area should be protected to prevent abrasion or contamination while the person bitten, if deceased, is removed from the scene. When possible, the same applies to an ambulatory individual. The person should be advised to refrain (or prevented) from washing or touching the area, and steps should be taken to protect it with a small cover. As mentioned in the last chapter, liaison between hospital personnel and law enforcement in sexual assault cases is critical as it is possible that medical personnel may have the first contact with the bitten individual and can protect the saliva from contamination or loss. Medical personnel should be made aware of the need to refrain from washing a bite mark unless it becomes necessary during medical treatment.

Saliva may be recovered from a bite mark by using swabs and/or cotton thread wetted with distilled water. The area adjacent to, but not part of, the bite mark should be sampled separately as a control. Special attention should be given to ensuring that the mark is not altered by the saliva collection procedure. Additionally, sampling from bloody areas of the mark should be avoided. Unstained swabs and/or cotton threads used for evidence collection should be retained as additional control samples.

In some instances of sexual assault, efforts by the suspect to bite the victim (or vice versa) may not necessarily result in a bite mark directly on the skin, due to intervening articles such as clothing, bed sheets, and pillowcases. Biting through a fabric article may result in a mark on the skin and the deposition of saliva on the intervening article. Investigators should be alert to this possibility, as the intervening item will be valuable for its saliva content.

Recovery of Known Evidence

Forensic science is a science of comparisons. Questioned physical evidence only has real meaning when compared with known samples from individuals thought to be involved in the crime. While great strides have been made in training and education in law enforcement in recent years, a lack of known standards required for comparisons continues to plague investigations. This may be due to the system, a lack of attention to detail, or any one of a number of other reasons; however, the samples are still required for meaningful laboratory work to be done. Additionally and importantly, the forensic scientist is hampered by the quality of samples collected. The following procedures are recommended with the intent of providing the best possible samples for laboratory comparison and, ultimately, the best possible results obtainable from the available evidence.

Known Hair Samples

When forensic samples are collected under circumstances controlled by the investigator, it is reasonable to expect the best of samples to be secured. Indeed, the success of the work that follows in the laboratory may depend on the technique of an investigator and thus the quality of these samples. As has been stated, questioned hairs will be compared with known hairs. So it is evident that, for a meaningful comparison to be accomplished, the known and questioned hairs must be from the same body area and should represent the variations in length, color, etc., present in that body area. This means that representative samples are important. Often, the forensic examiner can distinguish hairs as having originated from various areas, which generally are head, pubic, limb, beard or mustache, chest, axillary (under arm), and eye areas.

Head and pubic hair characteristics vary more from one person to another within the same racial group and possess a greater number of identifiable characteristics than hairs from other areas of the body. They are therefore most often of value in sexual assault cases. Hairs from other parts of the body, such as beard hairs, may present pertinent physical evidence; however, the bulk of hair identification deals with the head and pubic regions. This is reflected in the design of sexual assault evidence kits. Head hairs taken from four major areas on the head (top, back, left side, and right side) generally compose a complete sample. With pubic hairs, sample hairs are taken from the entire pubic region.

How Many Hairs?

Obviously one or two hairs enable comparisons to be conducted. There are, however, numerous characteristics exhibited in hair that the forensic examiner evaluates. It follows, then, that more than one or two hairs will be required. In fact, it is generally considered that 25 full-length hairs represent an adequate sample, with the four different areas of the head or the entire pubic area represented in the sample. Of course, if it is indicated by the available information that hair from other body areas is involved, a similar number of hairs from the appropriate area should be secured.

How Should They Be Collected?

While there may be some discomfort involved, the preferred procedure for taking known hairs is by pulling hairs from the area of concern. Removing hairs in this manner ensures that the entire length of each hair is available for examination. It is, possible, however, that pulling hairs from an individual is simply not possible under the circumstances. At such times, hairs should then be cut as close to the skin as possible, preferably at skin level, and the laboratory should be advised of the method of collection. With a person whose hair has been chemically treated, this practice can result in a limited number of true characteristics represented in the sample. As a result, it is possible that an individual could be falsely excluded as a source for questioned hairs that actually came from him or her.

It may be advisable to supplement the collection process with a combing procedure as one would use to collect questioned hairs. If this seems like overkill, the following should explain. Hair growth involves three stages in humans. Anagen hairs are actively growing, catagen hairs are in a resting phase, and telogen hairs are dormant and ready to be shed by the body. All three stages are exhibited on an individual's head at any one time, and subtle morphological differences in the hair can be observed by a trained microscopist as these hairs progress from one stage to another. Hairs typically transferred between individuals

during a sexual assault are telogen hairs, ready for discard by the body. Simply put, a combing procedure coupled with the normal pulling or cutting provides the most complete and best representative sample. Should the pulled or cut sample be consumed or inadequate, the combed sample is then used.

It should be evident from the preceding that hair comparisons are not as straightforward as one might think. To provide further perspective to this, add the element of time. Suspect individuals identified soon after the violation probably do not have appreciable changes (the natural growth process or intentional alterations such as dying, bleaching, etc.) that alter their hair. Actions taken by an individual to alter his or her hair such as dying, bleaching, shaving the head, etc. can make it difficult if not impossible to obtain reliable known samples. Thus, it follows that known samples should be collected as soon after the violation as possible.

Elimination Samples

Those familiar with latent fingerprint examinations are aware of the value of elimination prints. Elimination samples of known hairs from individuals who may have contributed hairs to the scene may be useful and necessary. A victim engaging in consensual intimate activity and assaulted by a different person shortly thereafter may still retain hairs from the first encounter, and those might be recovered in questioned samples. The value of elimination of known hairs is evident.

Animals

A final subject to be covered is animal hair. The presence of animal hairs on a victim may place that individual in an environment frequented by the animal (the suspect's pet) when the victim has no access to or reason to be around such hairs. Should a dog or cat become the source of known hairs, several points should be considered. Animals normally exhibit two distinct types of hairs: fur hairs and guard hairs. Fur hairs are short and fine and are close to the body. Guard hairs are longer, more coarse, and display most of what we see as the animal's color. Should known samples be necessary, it is important to secure samples representative of color and body area from the animal.

Known Fiber Samples

In most cases, the first known fiber sources considered are from the clothing of the individuals involved. There are obviously many other items composed of fibers that will likely be in the evidence picture, but clothing is often in the forefront. Indeed, the laboratory routinely takes cuttings representative of the fabric and fibers from clothing for known sample purposes. It has been the continuing theme of this chapter to encourage the collection and securing of the entire item bearing trace evidence whenever possible. Accordingly, under normal circumstances it is not recommended that sample swatches be cut from clothing articles; rather, the clothing item should be sent to the laboratory. Transfer of fibers between individuals often means that additional trace evidence (blood, semen, hairs, etc.) has been transferred as well. To submit fiber samples by cutting and not submit the clothing is taking the chance that nothing of value is on the clothing. The investigator faced with exceptionally large amounts of clothing or other types of cloth items may wish to discuss the matter with the laboratory.

Many types of fibrous items and sources potentially important to an investigation escape notice by investigators, simply because of focus. The term *evidence environment* was mentioned in the last chapter. It was stated that the evidence environment relates to the particular surroundings and the wide variety of unique characteristics and combinations of evidence that are present. This applies to fiber evidence probably more aptly than any other evidence we consider. The wide variety of fibers that make up an environment can often only be appreciated if one takes time to look over the scene, considering nothing else. Accordingly, a useful approach may be to assign an individual to study the scene and secure samples of all realistic fiber sources.

Fiber Samples to Be Taken

Taking fiber samples is more than simply cutting a chunk of fabric or carpet. Representative aspects may have to include fiber color, composition, degree of physical wear, soiling, and any variables that may be unique to the scene. Each fibrous item should be represented, as the scene is to be completely sampled. In addition, the following questions should be considered before taking samples:

1. How many fibrous objects are present and what are the colors present?
2. What is the physical condition of these objects?
3. What is the best way to remove the samples?

What this tells us is that a single chair made of a variety of fibers may have to be sampled in several locations to account for color, degree of wear, stains on the fabric, and composition of fibers.

Taking the Samples

Samples taken should be intact pieces or swatches if possible, as opposed to tufts of fibers, so that the laboratory examiner can see the relationship of different fibers to one another and so that individual fibers can be removed by the examiner. Samples should include a sample of each color present in the article and any material to which the fibers adhere, such as the backing of a carpet. A pair of scissors, a scalpel, or any sharp instrument suffices as long as it is clean and does not contaminate the samples.

Known Blood Samples

The importance of taking known samples is further underscored by the fact that forensic science is a comparison science, and knowns are critical to that process. In this regard, blood is no different from hairs, fibers, saliva, or any other material from which a known sample may be taken. While the actual taking of the sample from an individual and its transport to a laboratory may be considered as the complete job, the following information is intended to dispel that notion.

The most logical individuals from whom to take known blood samples are the victim and the suspect. In second place are those who may represent sources of blood or body fluids at the scene or on the evidence but are not involved in the events of the crime. In sexual assault cases, the most likely sources are consensual and (most importantly) recent sexual partners of the victim. Children of sexual assault victims who may have had a nosebleed on the bed clothing or persons who may have left other body fluid evidence on potential

evidence items should be considered as candidates for known blood samples. The same philosophy that instructs us to take elimination fingerprints guides us here.

Equipment and materials for the collection of known blood samples is normally found either in a sexual assault evidence collection kit or supplied at the hospital where the emergency medical treatment is provided. The kits may be supplied by the hospital or the investigative agency. A wide variety of sexual assault evidence kits is available commercially. In some jurisdictions the kits are prepared by the state forensic laboratory to control uniformity and provide a statewide standard format.

Known blood samples for conventional serological analysis should be provided to the laboratory since they come from medical personnel and were not dried by an investigator on cloth or some other material. Unless specifically instructed on the procedure of preparing such a sample by laboratory personnel, this practice is inadvisable. Experience in the past has shown this practice to produce inadequate samples. Whole blood samples, if not sent immediately, should be refrigerated (not frozen) as a temporary storage measure before shipping to the laboratory. Any lengthy storage should be avoided before getting the blood to the laboratory as refrigeration will not preserve blood indefinitely. Refrigeration will preserve the blood and retard bacterial growth, biochemical breakdown, etc., but freezing will break up the cells, making some forms of analysis more difficult.

Typical clinical blood testing today usually involves taking blood by venipuncture and collecting it in test tubes with various colored rubber stoppers. The colors of the stoppers represent a code to medical and forensic personnel that identifies the types of chemical preservatives included by the manufacturer in the tube. The types of preservatives contained in each tube are intended for specific types of analyses in the clinical or forensic laboratory. Generally, the preferred preservatives today for forensic purposes are:

- for conventional serology: either a plain red rubber-topped siliconized tube with no preservative or a tube with a yellow top containing acid citrate-dextrose; or
- for DNA analysis: a tube with a purple- or lavender-colored top containing ethylenediaminetetraacetic acid (EDTA).

It is common for the laboratory to receive both a tube for conventional analysis and one for DNA analysis in a sexual assault kit because the manufacturer will not know which is needed. If no tubes are included in the kits used, it is best to include both red- and lavender-topped tubes. As with many other aspects regarding evidence, any questions on preservatives should be directed to the laboratory.

Conventional serology and DNA are not the only uses for blood in the forensic laboratory. Blood samples taken for alcohol or drug analysis require that separate tubes be taken. The alcohol tube contains sodium fluoride (gray top); the tube for drug analysis does not contain any preservative. Five milliliters (cc) of blood is a minimum desired amount.

Known Saliva Samples

Contrary to blood handling, the collection of saliva is done with the idea that the sample is dried before packaging and shipping. Secretor status examinations may be conducted on saliva, and DNA testing is possible as well. The normal constituents of saliva include a host of bacteria and sufficient nutrients to support them for some time. As a result, remaining wet at room temperature even for a short time allows biochemical degradation of

substances to be identified by the laboratory examiner. Body fluid samples need to be separated from heat and humidity.

A simple and effective method of saliva collection involves preparing a stain on paper or cloth (filter paper is preferred). The substrate should be clean—free of detergents, cosmetic additives (such as those found on some tissues), and any chemical treatments. Laboratory filter paper can be relied upon to be clean (preferred), and coffee filters provide an adequate collection medium. Gauze pads can be used but are not preferred. The subject individual's mouth should also be cleaned by rinsing with water several times and allowing time for a normal flow of saliva to resume (30 minutes without eating or smoking). The individual should then expectorate into the center of the paper or cloth, creating a stain 1–2 inches in diameter and leaving an unstained area around the periphery of the stain. After partial drying (but while the original stain outline is still visible), the stain should be circled with pencil (pen will run) to establish the stained/unstained boundary. After complete air drying, the paper or cloth can be packaged in a paper envelope.

An alternative procedure of saliva collection (one used in some sexual assault evidence collection kits) involves the use of swabs. Three or four swabs are saturated with saliva in the individual's mouth and allowed to dry before packaging. Additional swabs are provided as unstained controls. This method can be executed with cloth patches by placing a swatch of cloth in the individual's mouth (with forceps) and allowing saturation of the cloth. The swatch should be flattened (to hasten drying) on a clean surface and allowed to dry before packaging. A second unstained swatch sample is packaged separately as a control.

Finally, many laboratories have shifted the full emphasis of their body fluid analysis to DNA. If this is the case, the laboratory may not require a saliva sample. Consult with laboratory personnel before collecting saliva samples if there is any question.

Marking of Evidence for Identification

A most important aspect of the introduction of evidence into the courtroom is the ability to demonstrate a complete and well-maintained chain of custody. Forensic science begins when the preliminary survey of the scene begins. A great deal of work follows to document the scene, collect the evidence, package it, and see that it is protected, preserved, and transported to a laboratory. The evidence then must be analyzed; when it is returned from the laboratory, it must be kept under secure conditions until it needs to be produced in court. Failure to maintain this process and these records may result in inadmissible evidence, thus negating much of the preceding work.

Admission of the evidence in court has several requirements:

1. Authentication by an individual knowledgeable about the evidence and the case—this individual is usually the person who found the evidence or observed its collection;
2. Demonstration of the integrity of the evidence—it must be shown that the evidence has not been altered or destroyed outside the limits necessary for laboratory examination; and
3. Demonstration of an unbroken chain of custody—a complete accounting of the location and identity of persons possessing the evidence from the recovery to the appearance in court is required.

Direct and Indirect Marking

One of the means by which this is accomplished is the routinely accepted marking practice for identifying the evidence. Done properly, marking authenticates the evidence and clearly establishes who has handled the evidence from the scene to the laboratory to the courtroom, providing a chain of custody. It helps establish a timeline for the item in terms of location, and identification of individuals involved may help establish actions to which the evidence was subjected. Marking should be legible and suitable for clear identification of individuals who are part of the chain.

While evidence may come in various forms and cannot always be marked or identified the way we would like, every effort should be made to mark the evidence in some way for later identification. If possible, not only the item but the exterior of the packaging (container) should be marked as well. We might use direct marking—placing a mark directly on the evidence—or indirect marking, which refers to marking only the container or packaging that holds the evidence. Information used in marking the evidence typically includes the identity of the individual finding or securing the evidence, the date, and often an evidence item number relative to the case. Attempting to place too much information on the evidence will frequently alter the evidence. In most instances, extensive records of chain of custody are kept with, but not marked on, the evidence; it is often an advantage later to make a notation in the evidence log as to how the item was marked.

What Should Be Marked on the Evidence?

The packaging should be labeled with a description of the evidence, the location from which it was recovered, the identity of the person finding or securing the evidence, the date, a case number, and an evidence item number. A point of caution: it is easy to let numbers get out of hand at this point. In the experience of the authors, evidence is assigned a number at the scene, a number at the property room, a number when it is submitted to a laboratory (for reference in the letter detailing the case), a number by the laboratory, a number by the court for identification in the courtroom, and finally an actual exhibit number when it is accepted into evidence during the trial. If this seems difficult to accept as an actual occurrence, be assured that it has happened. The profusion of numbers facing witnesses on the witness stand was more than a mere difficulty.

The practice of placing information on tags that are attached to the evidence by tape, string, wire, or some other method is often useful but has its shortcomings. The tags offer space to record useful information and are considered by some to make it unnecessary to mark the evidence directly; however, the potential for removal or loss of the tag—with the evidence appearing in court absent any documentation—is enough to suggest this method should be used with caution. The person recovering the evidence still has the responsibility to be able to identify it in court.

When it comes to marking and recovery, a useful practice is to have two individuals participate in the process. One person performs the tasks of recovery, packaging, and marking of the evidence as well as the container. The second individual witnesses the process and initials the evidence and the container or packaging, thus providing a second person who can authenticate the recovery of the evidence in the absence of the primary recoverer.

Use of an Evidence Log

While documentation of the evidence begins long before the initiation of an evidence log, the log is not a document to be taken lightly and should always be executed when evidence is recovered. Its preparation should be contemporaneous with the collection of the evidence to ensure more complete recording of observations that might be of value later. The log provides documentation of the administrative information regarding scene operations (scene location, date, personnel working at the scene, case identity, etc.); a sequential recovery record of each item of evidence, where it was found, who found it; the roll of photographic negatives on which the item can be found; and details of packaging. Complete evidence log records eliminate many headaches in the preparation of a case for trial. Incomplete records are encountered frequently.

Chain of Custody

While the marking of the evidence begins the actual chain of custody, the documentation continues with the evidence log and the movement of the evidence on to the property room and any other locations to which it might be sent. Proper maintenance of chain records involves recording times, dates, identities, any other pertinent information regarding person-to-person exchanges, transport to another facility (the laboratory, the prosecuting attorney's office, etc.), and return from that facility. In the last chapter, it was said that the secret to good crime scene documentation is to document, document, and document! Nothing has changed. The lack of proper documentation is a hindrance to effective use of the evidence during field investigation, pretrial conferences, and ultimately, courtroom proceedings.

Materials Used to Package Physical Evidence

Throughout this and the last chapter, the concepts of evidence sensitivity to a hostile environment and the transient nature of the evidence have been emphasized. It is the preservation of the evidence that has been so carefully collected to which we now turn our attention. The simple idea of packaging an item and sending it to a laboratory for examination does not seem difficult, but nature and the legal system impose more stringent requirements. Improper packaging and subsequent handling can mean evidence that is degraded, contaminated, or lost completely. Evidence with its protective packaging absent or extensively damaged may be considered to be compromised in terms of its integrity and thus not admitted in court.

Small Evidence Items

The vast majority of evidence in sexual assault investigations generally presents few problems given the guidelines and rules set forth here. Be prepared. Assembling an adequate number of containers (boxes, tubes, plastic vials, envelopes, bags, wrapping paper, plastic bubble wrap, Styrofoam peanuts, sealing tape, etc.) and any other materials dictated by one's imagination is of great benefit when such materials are needed at the scene. The old adage "Prior planning prevents poor performance" is definitely applicable. Evidence encountered in sexual assault investigations often is small in size, consisting of hairs or

fibers, fingernails torn loose, and other small items; there are a lot of small packaging materials to be found (many available free). Some suggestions regarding choice of packaging materials that may be useful include the following:

1. *Boxes*: Get cardboard boxes from small pillbox size (round, square, or matchbox types are useful) to boxes capable of holding various larger items of clothing. Information may be recorded on the exterior, and moisture is not sealed in. Commercial entities provide a number of specialized boxes for guns, knives, shoeprint casts, etc., depending on the department budget.
2. *Envelopes*: Envelopes come in many sizes and shapes from very small (1 inch \times 1 inch) to the quite large envelopes used to contain x-ray films (11 inches \times 14 inches or larger). Envelopes with clear windows enable viewing of the evidence and still allow passage of moisture. A selection of different sizes and types on hand will ease the job of keeping all the evidence straight.
3. *Bags*: There is a wide variety of bags available (paper, plastic, zippered, open-ended, etc.). Paper allows the evidence to breathe and not retain moisture, while plastic does the opposite. Paper bags should be inspected for dust debris from the manufacturing process that may present a contamination issue. Plastic has the additional and decided disadvantage of conducting static electricity. Small hairs, fibers, or scrapings can be difficult to retrieve or incompletely recovered for analysis in the laboratory because of the static. Still, there are useful purposes for both paper and plastic; one can count on needing one or the other or both at a scene. Remember, plastic should not be used for evidence that is the least bit moist.
4. *Wrapping paper*: Normally obtainable in 24-inch and 36-inch widths, rolls of brown wrapping paper with tape to seal it properly are helpful. Commercial forensic supply businesses sell wrapping paper on rolls constructed with two sheets sealed at the edges, forming a large tube that can be used effectively to package items. A specialized wrapping paper technique involves the druggist's fold. Paper sizes of 3 inches \times 5 inches, 5 inches \times 7 inches, and 8 1/2 inches \times 11 inches are easily obtainable and convenient to keep in a crime scene kit. A sheet is folded in thirds one way, opened, then rotated 90° and folded in thirds again, forming a rectangular area in the center into which evidence can be placed. It is useful to label the exterior before inserting evidence and sealing, since a pen may push through the paper if it contains grainy material. Refolding the paper and sealing it with tape provides a useful package for small items.
5. *35-mm Film container*: A useful container that becomes available as the documentation of the scene progresses is the 35-mm film container. It is sturdy and capable of holding small items securely. The interior should be cleaned before placing evidence inside.
6. *Sexual assault evidence kits*: Finally, it is advisable to have on hand several unused, sealed kits. As indicated, hospitals may stock them or the state laboratory may provide them, but having a few on hand at the department is helpful when one is not available from some other source.

These containers and packaging are adequate for nearly all applications with small- to moderate-sized items of evidence. The issue of sealing is worthy of comment and is addressed later in this chapter.

Large Evidence Items

Packaging of large or bulky items normally presents more difficulties and often requires more ingenuity on the part of the investigator. Such items as bulky bedding, furniture cushions, car seats, and carpets may require extra effort to adequately package. The first question with such an item is whether to send it intact or to take a cutting of the appropriate area with sufficient material surrounding it. The practicalities of dealing with such items often necessitate the cut, chip, or scrape approach; however, it is still important to keep in mind that good crime scene work goes hand in hand with good judgment. If the circumstances do not result in any loss of trace evidence by taking cuttings, then cut away. If recovery of hairs and fibers from a sofa back can be effectively accomplished by vacuuming or taping, then either of those methods may provide a useful approach. On the other hand, if an inspection of that sofa cushion or other large item discloses evidence that the laboratory can better recover, then it should be packaged and removed.

The need for good judgment bears additional comment. Some investigators fail to review the evidence and evaluate it in light of the available case information, particularly with a large amount of evidence. The result is a shipment of evidence to the laboratory that is basically all the evidence collected at the scene (in a case involving one of the authors, the evidence filled an entire evidence storage room). Clearly, the investigators did not know what to do with it, so they took it all to the lab to figure out.

The other side of the coin is just as true. The forensic laboratory has a responsibility to recover evidence that the field investigator cannot recover. Does the suggestion to call the laboratory for discussion sound familiar? Communication goes a long way to make it easier for everyone involved in the investigation. Most of the time it is not necessary to provide the laboratory with all the evidence collected at the scene. Doing so can greatly expand the chain of custody and complicate the overall picture.

Handling large or bulky evidence items often presents a challenge at time of packaging and shipping. Personal ingenuity often plays a role in getting the job done; however, there is no easy way that will work all the time. The following suggestions relate generally to the packaging of large items and supplement those given previously for smaller items. What follows is important, even if the discussion seems repetitive:

1. We have discussed why it is important to dry wet biological evidence, but larger items present a special problem because the drying process can take longer—especially if the item is saturated with blood, water, or some other fluid (some fluids never dry, such as oil). The likelihood of bacterial growth and putrefaction becomes significant, while rapidly moving air and direct sunlight have their negative effects as well. It was mentioned earlier that a dedicated drying area is the answer to a lot of situations; taking it a step further, a well-ventilated room dedicated to evidence handling and drying is a valuable asset. Such a room should be secure, should not allow opportunity for contamination, and should protect the health and safety of the personnel working nearby. Personnel entry and exit logs should be kept to comply with the need for chain-of-custody records.
2. While plastic packaging materials definitely are not recommended for evidence packaging (sealing in moisture and trapping condensation), there are times when the use of such materials is expeditious for temporary storage and transport of wet evidence from the scene. Air drying evidence at the scene is usually difficult unless the items

are small in number and size. Consequently, it may be advantageous to use plastic bags for transporting evidence to a drying facility. Any bags used should be dried and kept with the evidence, as trace evidence (hairs, fibers, etc.) may adhere to the plastic. This applies, again, to temporary storage and transport of wet evidence—not permanent packaging.

3. Excess handling of the evidence after recovery is to be avoided. Many investigators have worked high-profile cases where the evidence may have been spread out as a display for all to see, perhaps on a large table or an area of floor space. This compromises the integrity of the evidence, at best. The potential loss of critical trace materials should be understood. After securing the evidence package at the scene, the next individual to open it should be someone who can deal with the recovery of trace materials unless there is no anticipated need for such examinations to be conducted.
4. While in some circumstances there will be exceptions to this, a priority at the scene should be to ensure that every item of evidence is packaged separately. Packaging all the clothing from the victim or the suspect in the same bag carries the potential for loss of corroborating information from the evidence. Pubic hairs identified as microscopically identical to those of the suspect (or having DNA matching the suspect's) and found in the crotch of the individually bagged panties of the victim are far more valuable corroborating information than the same pubic hairs would be if found in a bag with all of the victim's clothing. In the latter instance, there is no way the hairs can be specifically tied to the panties; thus, the hairs could have been on the outside of the victim's clothing and not associated with a sexual assault. One important exception to this is when a large pile of clothing or bedclothes has to be recovered and the separation increases the chance of loss of trace material. Packaging of multiple items in the same container would be in the best interests of the case. It is advantageous to document the arrangement of the items in such a pile as much as possible (blue towel covering yellow sheet, which is on top of a pair of blue jeans and a T-shirt). However, it is usually best to separately package as much of the evidence as possible.
5. A matter that is not always evident is the potential for inter-item contamination associated with contact among items from the victim, the suspect, and the scene. Handling evidence from the different sources in the same area potentially transfers evidence such as hairs, fibers, or even dried blood in the form of dust. This is not a small point and can be easily dealt with by secure packaging, cleaning evidence-handling areas after handling each item, and avoiding placing items from the three different sources together in boxes.

Sealing evidence requires further attention. The simple use of tape from the desk in the office, the stapler, or a variety of packing tapes or wires is not strange to most experienced evidence handlers. The current emphasis on evidence integrity makes it important to consider better and safer ways of sealing evidence and ensuring the evidence has not been subject to unauthorized access. Specialized tamper-proof tape has become commercially available in recent years and is required in many agencies. This tape seals the package in most cases without difficulty, but when entry of the package is attempted, the tape tears, breaks, and does not release in its original condition. Resealing the package requires a second piece of the tape, showing that the original seal has been broken.

A second point relates to both personnel safety and contamination of the evidence. The use of ordinary staples to seal the folded-over top of a paper bag is a common practice.

Staples are also used to attach tags and other identifiers to the packaging. Many laboratory examiners have been stabbed by incompletely closed staples. Some have even bled (unintentionally, obviously) on evidence contained in the package. Staples are best left off the list of sealing materials for evidence bags.

Having the needed materials on hand before going out to a scene is much better than dealing with lack of required materials. There are enough complexities in thoroughly processing the scene without having to worry about the lack of the right materials on hand.

Summary

Handling different types of physical evidence can represent a complex task. Specialized techniques that apply to the five major kinds of evidence have been set forth as suggestions and recommendations. The infinite possibilities that cannot be adequately anticipated make it incumbent on the crime scene investigator or other evidence-recovery party to evaluate each problem before action is initiated. Aspects to consider include the number of available personnel, evidence storage facilities, access to a crime laboratory, and requirements established by the laboratory for receipt of evidence from the field. Most of all, planning and cooperation are the prime elements of success. These words are used routinely to the point that they may seem overly emphasized. Nonetheless, as with all areas of human endeavor, these two factors can make the difference among poor, mediocre, and exceptional performance. Physical evidence utilization is no different.

The information provided in chapters 14 and 15 includes methodologies that law enforcement and the criminal justice community can apply to the use and interpretation of physical evidence. Many elements must move cohesively toward the central goal of making correct sense of the evidence in the court.

One element, while only mentioned in passing, may actually be the one that truly makes the difference between success and failure. Even if a case has the best crew in terms of training, experience, and techniques of evidence processing, it can still be compromised by the attitude of each individual involved. Attention to detail and care are the key distinctions between merely handling the scene and a first-class job, and the difference is often a function of attitude. Even the best in funding, technique, administration, and organization cannot outweigh the detrimental effects of poor attitude.

Conscious and subconscious psychological reactions are the most difficult human aspects to predict and control. Law enforcement personnel are not any more immune than anyone else to the tragic effects of the brutality and violence so characteristic of sexual assault crimes. The emotional effects of dealing with these matters can result in good judgment replaced by frustration and confusion. If responses to the challenges of evidence collection or legal challenges to evidence become reactive and governed by personal feelings, the resulting turmoil can be reflected in a disorganized effort during both the investigation and trial. The human side of evidence collection and utilization should be understood and monitored in order to deal with these kinds of problems before they become serious. This one issue transcends the myriad components of forensic science and must be given appropriate attention in the investigation of sexual assault cases.

Acknowledgments

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Additional Reading

The following texts and resources are presented to supplement the material in chapters 14 and 15. While this text has attempted to provide useful guidelines based on experience and scientific principles, the reader is encouraged to seek additional resources to gain the views of others as well as information beyond the scope of what is presented here. The current chapter was narrowed somewhat in scope to focus on the topics at hand, and there are many more forms of evidence that can provide assistance to the investigator in sexual assault cases.

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Medical Examination of Sexually Abused Children

16

ANDI TAROLI

Primum Non Nocere

Investigation of child sexual exploitation requires specialized skills and training, which include a basic understanding of the medical assessment of child victims. The information in this chapter is meant to be a foundation upon which to build. Investigators are encouraged to utilize the references and resources provided at the end of the chapter for further study.

Multidisciplinary Investigations

A long pull, and a strong pull, and a pull all together.

Charles Dickens, *David Copperfield*

There is perhaps no greater need for communication and cooperation than in child sexual abuse investigations. No one (except the sex offender) benefits from a clumsy, disjointed process that retraumatizes child victims and creates roadblocks to investigation and successful prosecution.

Cases involving child victims are somewhat unique in that both law enforcement and child protection workers must investigate and reach conclusions about the validity of allegations, though usually to a different burden of proof. Multiple interviews, repeated exams, misunderstandings, and frustration are the norm when two separate investigations occur. Worse, the victim may recant, become uncooperative, or appear to give inconsistent statements as a stressful, lengthy process takes its toll on the child and his family.

In 1985 the first child advocacy center (CAC) firmly established the concept of a multidisciplinary team (MDT), consisting of law enforcement, social service, prosecutors, victim services, and medical and mental health professionals, and located in a setting that is supportive and nonthreatening to the child victim and conducive to interagency cooperation. The model is intended to reduce the trauma to an already victimized child, enhance the quality of the investigation, promote accountability, and increase utilization of community resources. Since then, the number of MDTs and CACs has increased almost exponentially in the United States, with preliminary research showing support for this approach (Smith, Witte, and Fricker-Elhai 2006; Jones et al. 2005).

The Pediatrician's Role

pe-di-a-tri-cian (noun) [peèdee ah trish n] a doctor who specializes in the care and development of children and in the prevention and treatment of children's diseases

The pediatrician plays an integral role in the assessment of child sexual abuse, as well as its recognition, prevention, and treatment. Though occasionally viewed by defense attorneys as agents of law enforcement, specialists in child maltreatment are doctors first and foremost, and their goal is to promote the health, safety, and well-being of their young patients. It is generally accepted in the field that to be considered an "expert" in pediatric sexual abuse, the physician should have conducted over 1,000 examinations. Newly trained examiners should review cases on a routine basis with other experts, either in person or by utilizing electronic peer-review imaging software. Because of the inherent legal and criminal implications of performing these exams, forensic pediatricians must:

- keep impeccable records and understand the importance of documentation
- understand proper evidence collection techniques
- provide records for documenting a chain of custody for evidence obtained
- prepare and provide court testimony when requested

Child-abuse pediatrics is a fairly recent area of specialization, with an increasing number of pediatric training programs offering fellowship opportunities. Most recently, approval was granted for subspecialty board certification, and development of the certification testing procedure is under way. Forensic pediatrics encompasses a rapidly expanding body of clinical knowledge and research; the specialist must understand the usefulness *and limitations* of the medical contribution to the investigation.

Clinicians making any diagnosis rely on a detailed assessment of (1) the patient's complaint; (2) the past medical, family, and social histories; (3) the medical exam; and (4) diagnostic testing. Pediatricians often rely heavily on information presented by caregivers (information that may or may not be true). The ultimate diagnosis will also be affected by variations in child development, the range of normal child sexual behavior, the home environment, cultural factors, and most importantly, the pediatrician's knowledge of the psychosocial dynamics of child sexual exploitation American Academy of Pediatrics [AAP] 1999).

It is well documented that child sexual abuse and other adverse experiences commonly occur together (Dong et al. 2004; Bowen 2000). There is strong evidence that child sexual abuse, physical abuse, neglect, parental substance abuse, domestic violence, and crime in the home are interrelated, underscoring the need for a comprehensive pediatric evaluation in these cases, rather than just a quick check of the genitals (Dong et al. 2003; AAP 1999).

Although family doctors, pediatricians, and emergency physicians may be called upon to evaluate a child alleged to be sexually abused, many are not adequately prepared to do so. In one survey of pediatricians, 53% of respondents felt their training in abuse was inadequate and did not feel confident doing sexual abuse exams, even though half of them were currently performing them (Arnold et al. 2005). A similar Canadian survey also showed that pediatricians felt child protection is a neglected area of pediatric training (Ward et al. 2004). Disturbing results of a national survey of U.S. pediatric chief residents showed that a third of them could not identify the urethra or the hymen on photos of prepubertal female genitalia (Christian et al. 2004). It is incumbent upon every physician caring for children to know his or her limitations, be aware of community resources, and make appropriate referrals to one of a growing number of pediatricians with special expertise in evaluating and treating sexually abused children.

The Scope of the Problem

Current knowledge indicates that about one in four girls and one in six boys will be sexually abused before the age of 18. According to the FBI's National Incidence-Based Reporting System (NIBRS) data, nearly 70% of all sexual assaults reported to law enforcement involve children age 17 and younger; more than half are younger than 12 and kids under 6 years old make up 15% (Figure 16.1). The youngest children are most likely to be sexually abused by family members, with strangers accounting for only a small fraction of offenders against children (Snyder 2000; Snyder and Sickmund 2006).

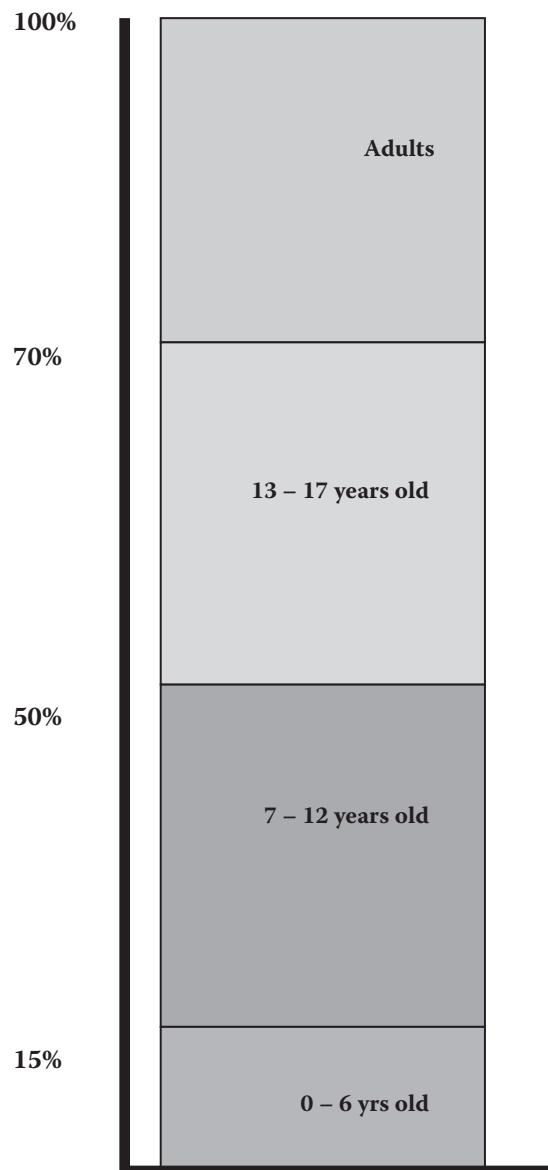


Figure 16.1 Age distribution of all victims of sexual assaults reported to law enforcement (NIBRS data).

Establishing accurate estimates of the occurrence of child sexual exploitation is complicated by

- lack of uniformity in crime reporting
- victims who never report their abuse
- established cases of abuse with no identified perpetrator
- cases declined for prosecution because of the young age of the victim

It is also difficult to compare studies of incidence and prevalence, mainly due to variation in study design: definitions of abuse (e.g., contact vs. noncontact), sample characteristics (e.g., nonuniform age groups), and sampling techniques (random vs. probability). Crimes against children often escape detection by the criminal justice system. This statement is not only generally accepted, but is also supported by the reports of both offenders and victims (Prentky, Knight, and Lee 1997). Further evidence for the reliability of this statement comes from retrospective surveys. Representative samples of adults in the general population provide fairly consistent prevalence data: 25% of women and 16% of men report having been sexually abused as children (Felitti et al. 1998). One study indicates that about a third of adult women sexually abused as children never told anyone about their victimization prior to the research interview (Smith et al. 2000).

“Children Are Not Little Adults”

The preceding statement is the mantra of every pediatrician, everywhere. The evaluation of child victims differs significantly from that of adults in almost every aspect:

- The child’s ability to describe what happened may be minimal to nonexistent.
- Disclosures may be delayed weeks, months, or years after the abuse occurred.
- Sexual contact involving bodily injury is uncommon.
- Physical evidence and exam findings are unusual.
- Healed anogenital injuries may be obscured by physical maturation and hormonal changes.
- Sexually transmitted infections are detected less frequently, especially in the youngest victims (Stevens-Simon et al. 2000; Beck-Sague and Solomon 1998; Ingram, Miller, et al. 2001; Ramos et al. 2006; Kelly and Koh 2006).
- Family members or caregivers may be unsupportive or actively interfere with the disclosure and assessment.
- Allegations may surface in the context of visitation or custody disputes.

The Medical History

The Patient’s History (Interview)

Physicians rely on a detailed history of the presenting problem to make a diagnosis; every medical student is taught that 90% of a diagnosis is based on the history alone. Child sexual abuse is no exception. It is imperative, then, to optimize every aspect of the child’s

history, or interview, in order to obtain the maximum information with the least trauma and distress to the child.

In the United States, considerable variation exists in who takes the lead in obtaining the child's history or interview. The task may fall to Child Protective Services, police, specialized interviewers, physicians, or some combination of these. Investigators should be aware that, in most situations, statements made to a physician would fall under the hearsay exception (when the history is obtained for the purpose of diagnosis and treatment), allowing the physician to testify to those statements. Many MDTs and CACs utilize forensic interviewers, who are specially trained in objective, fact-finding interviews. When indicated, these specialists may gather medical history as well as information needed by law enforcement and child protection—again, to reduce trauma by decreasing the number of people interviewing the child. An in-depth discussion of forensic interviewing is beyond the scope of this chapter, however, as are the implications of court decisions (e.g., *Crawford v. Washington*, 541 U.S. 36, 2004) that affect the admissibility of medical testimony in certain circumstances. Investigators are encouraged to become familiar with decisions applicable to their jurisdiction. For a concise summary of the basic tenets of forensic interviewing, please refer to the American Professional Society on the Abuse of Children (APSAC) Practice Guidelines (1995, 2002).

General Principles for Interviewing Children

Children's language capabilities and linguistic styles vary considerably; unless you are aware of these potential barriers to good communication and practice overcoming them, the information you gather may be sparse and seemingly contradictory. *Problematic interviews are most often the result of poor interviewer technique.* The interviewer should not lead the child or suggest information and, above all, not add to the child's distress. Other factors affecting the quality of the disclosure and a child's willingness to talk include the following:

- the age of the child
- the intrusiveness of the sexual contact
- the relationship with the offender
- support of the nonoffending parent
- an intentional versus "accidental" (discovered inadvertently) disclosure

For example, a child who was assaulted once by an unfamiliar acquaintance is more likely to come forward than a child who is chronically molested by an alcoholic father who terrorizes the family with unpredictable violence.

Setting

In order to maximize the child's comfort and improve memory retrieval, the setting for the child's interview should be relaxed, friendly, and supportive (Figure 16.2). Hectic emergency departments, with their buzzers, alarms, and interruptions, are frightening places, as are police stations because children may assume that they were brought there because *they* are in trouble. This is especially pertinent when children come from families that consider law enforcement "the enemy." CACs provide a neutral, comfortable setting, with child-friendly interview rooms and minimal distractions. Increasingly, these interview rooms are equipped with closed circuit viewing and recording capabilities.



Figure 16.2 The interview room should be comfortable, be suitable for different age groups, and have few distractions.

Apprehension about getting shots or other fears should be allayed. Speak to the child alone, away from the nonoffending parent or other caregivers. Children are often afraid, embarrassed, and reluctant to discuss details of their abuse in front of people who are emotionally involved with the perpetrator, especially when it comes to the more intrusive aspects of the abuse. Investigators should try not to interview children in their homes; it is essential that the setting be emotionally neutral, a place in which the child can feel safe and reasonably secure that the perpetrator will not show up unexpectedly.

Timing

Once the child's safety has been assured, the exam and interview can be scheduled for a time when the child will be most cooperative; it is unreasonable to expect a tired, hungry child to give a detailed, reliable history. Scheduled exams are appropriate for most child sexual abuse evaluations, as disclosures are commonly delayed. The history and exam may need to be performed immediately for acute assaults (generally, less than 72 hours prior), if there is a complaint of anogenital pain or bleeding, or if there is risk of continued exposure to the alleged perpetrator. Immediate evaluation of acute assaults allows for the administration of prophylactic antibiotic treatment in cases of genital contact or exposure to body fluids and offers the opportunity to collect forensic evidence.

Questions

The first and most important rule when talking to children about sexual abuse is to avoid suggestive and leading questions. Use open-ended questions as much as possible (e.g., "And then what happened?") and focused, multiple-choice type questions as little as possible

(e.g., “Did it happen at night, during the day, after school, or some other time?”). Direct questions and those that can be answered with a “yes” or “no” should be used sparingly, if at all. *Only those individuals trained in interviewing children should utilize dolls, drawings, or other objects to obtain information* (APSAC 1995, 2002). If not recorded, the information obtained should be documented in exquisite detail, as should any statements made spontaneously by the child during the performance of the physical exam.

A word of caution: history taking should be just that—finding out *what* happened, *where*, *when*, and *how*—not an opportunity for therapy or counseling. The sole purpose of taking the history is to obtain an objective account of events, signs, and symptoms. If a determination of abuse has been made, the child should be referred to an appropriate mental health professional.

Similarly, the interviewer should remember to keep his or her expressions and responses neutral. Displaying shock or embarrassment may cause the child to minimize, “forget,” or shut down completely. Praise for answering questions or threats to provoke disclosure are both ill advised and forensically disastrous. The interviewer must be unbiased and willing to entertain the “null hypothesis”—that is, that nothing has happened.

Number of Interviews

Reducing the stress of repeated interviews has been a focal point of the MDT and CAC approach to child sexual abuse assessment. At any age, divulging embarrassing details of sexual abuse to one person is difficult; extending that level of trust to multiple strangers on multiple occasions becomes a cruel punishment for the disclosing child. There are other advantages to minimizing the number of interviews conducted: Apparent inconsistencies in the allegations are reduced (usually caused by differences in interviewer technique and use of language), as is the potential for a “tainted” or contaminated history. These problems can be avoided by using a single, unbiased interviewer for repeat or extended interviews.

Content

Providing medical care for children who have been sexually abused involves gathering enough information to formulate a differential diagnosis (all reasonably possible diagnoses), narrowing the possibilities, and coming to a conclusion within a reasonable degree of medical certainty. The physician would be remiss if he or she were unaware of information that, on the surface, seemed unrelated to medical care. Elements of the child’s history, such as a description of the perpetrator’s appearance, locations where the abuse occurred, or other reports of collateral evidence provide insight into the veracity of the child’s statements. These details also assist in assuring the child’s safety and potential for future contact with the perpetrator. Similarly, one must assess other factors observed during the child’s history, such as level of spontaneity when answering questions, guardedness, or appearing “rehearsed.” All these pieces are important parts of the diagnostic puzzle. (For an in-depth discussion of collateral materials, please refer to chapter 12.)

In addition to the details of the abuse scenario, the history should include:

- the extent of the sexual contact
- perception of pain or discomfort
- occurrence of injury or bleeding
- exposure to body fluids

Some knowledge of the alleged perpetrator may help to determine the child victim's risk of exposure to sexually transmitted disease; for example, an adult male perpetrator with history of incarceration poses a much greater risk than an inexperienced 12-year-old boy.

Girls should be asked when their last menstrual period began and their age at menarche (initial onset of menses) because pregnancy may occur even during a girl's first menstrual cycle. All children should be asked about the possibility of other perpetrators or incidents of sexual abuse they may have experienced. Sexually active victims should be questioned about any recent consensual sexual contact and use of condoms.

Past Medical History, Family and Social History, and System Review

Physical or behavioral indicators supporting a diagnosis of child sexual abuse may be found when an experienced clinician elicits a detailed medical history from the accompanying parent or caregiver. Conditions or complaints may be discovered that had been mistakenly attributed to other causes prior to the disclosure of sexual abuse. Patients may have had previous medical attention for symptoms of urinary tract infections, vaginal discharge or bleeding, or anogenital discomfort. A history of enuresis (bedwetting), urinary frequency or urgency, and dysuria (pain with urination) may be due to irritation resulting from genital contact. It is also important to ascertain whether the child has had any previous history of anogenital injury or surgery, as any abnormalities found on exam need to be interpreted with this in mind.

Behavioral changes resulting from sexual abuse are most often nonspecific reactions that can occur in response to many other types of traumatic experiences, such as divorce, domestic violence, or death of a loved one. Depression, anxiety, anger, poor self-esteem, sleep or appetite disturbance, and declining school performance are common. Behaviors that are more specific for abuse include sexual acting out that is *intrusive* or *developmentally inappropriate*. Obviously, children of any age who try to insert things into another person's genitals or anus or try to put their mouths on other people's genitals are clearly out of the range of normal sexual behaviors. Self-destructive behaviors such as substance abuse, cutting, and risky sexual behaviors may also be seen, especially in older children and teens.

The pediatric assessment should also include an inquiry into the living arrangement and social circumstances of the child's home. Studies have clearly demonstrated that exposure to abuse, neglect, or household dysfunction has a high degree of co-occurrence with other types of maltreatment and other adverse childhood experiences. Identification of other harmful exposures is crucial for intervention and treatment. These adverse experiences—abuse (physical, sexual, or emotional), neglect, witnessing domestic violence, and exposures to substance abuse, mental illness, or criminal activity in the home—have significant, cumulative effects on the child's future health and well-being (Felitti et al. 1998).

The Physical Exam

This section will focus mainly on the exam of the prepubertal child because the exam of adolescents is similar to that of the adult and is discussed in detail elsewhere in this text.

Ideally, and for several reasons, the child victim should not undergo more than one exam when allegations of sexual abuse arise:

- Like repeated interviews, repeated exams are unduly stressful for the child, particularly when the examiner is not comfortable or skilled in performing them.
- Repeated exams focus undue attention on the child's genitals, instead of on the crucial aspect of the investigation: the history.
- The initial contact with a medical provider (often the local hospital's emergency department) will be viewed as the exam performed for the purpose of diagnosis and treatment; courts may view subsequent exams (by pediatric specialists) as purely "investigative." Statements made to the initial physician would be admitted under the medical hearsay exception, but subsequent conversations may not, and the specialist's findings will be regarded with suspicion.

Child victims should be referred to the most experienced medical professional available for an exam. There are several reasons for this in addition to those outlined earlier in this chapter. First, a specially trained pediatrician is more likely to be aware of all the normal variations that can be seen on genital exam. Lack of familiarity with normal variants can result in a belief that there is "evidence" when there is none, can damage the credibility of the case if the physician is shown to be incorrect, and can possibly result in wrongful prosecution. The examiner also needs to be familiar with an array of diseases, infections, and conditions occurring in children that are often mistaken for abuse: Strep infection, Crohn's disease, hemangiomas, lichen sclerosus, and urethral prolapse are just a few.

A head-to-toe exam should be performed to detect any associated findings of abuse or neglect. A complete exam also has therapeutic value, offering both patient and family reassurance of the child's health and normalcy. Any signs of trauma (bruises, bite marks) should be photographed and/or documented in drawings. Particular attention should be paid to abrasions, petechiae, or bruises that correlate with the victim's description of events. Examples include the following:

- fingertip bruises on the thighs or buttocks from being held down
- petechiae on the palate (roof of mouth) from forced fellatio
- ligature marks on the wrists and/or ankles
- other marks from gagging or binding
- bruises or abrasions resulting from pressure and friction during sex acts

Colposcopy

Many, if not most, clinicians who routinely perform sexual abuse exams for children utilize a colposcope to aid in the visualization of genital structures, to document any positive findings, and to assist in peer review. The colposcope is basically a magnifying video camera, providing video or still images (Figure 16.3).

Images captured during the exam are part of the medical record and should be maintained accordingly. The pediatrician can decrease fears and amuse the patient by playing with the imaging system, allowing the child to see his or her own wiggling fingers or toes magnified on the computer screen.

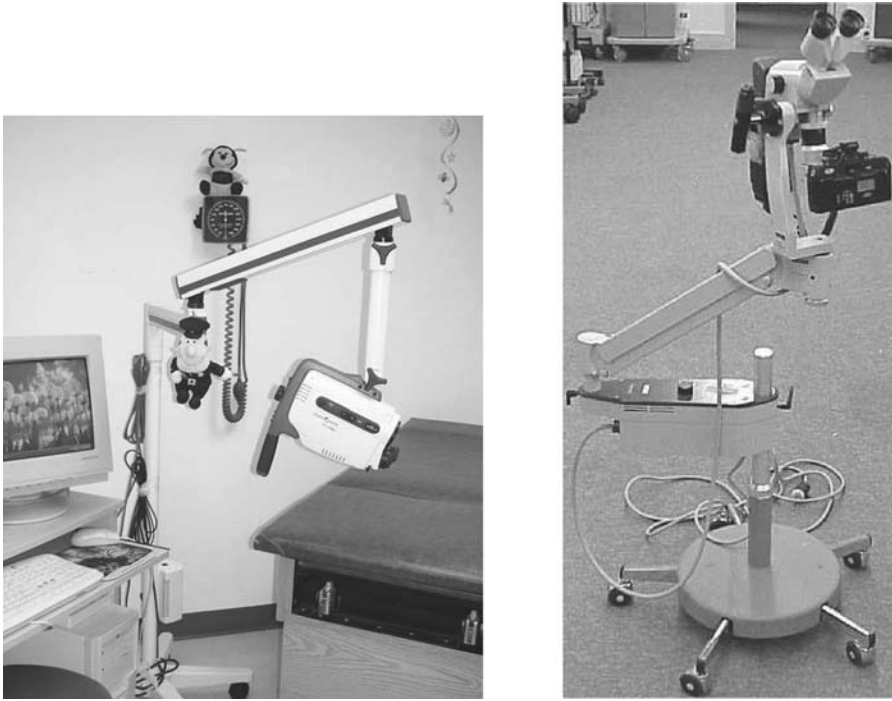


Figure 16.3 Examples of colposcopes (Welch Allyn on left; Zeiss on right).

A supportive parent or caregiver should be present for all sexual abuse exams. When approached in a caring and gentle fashion, children usually have no problems during the genital exam. The process should be explained to them ahead of time to minimize their apprehension. In the *prepubertal* female, the exam is primarily conducted by external inspection of the genital structures and almost never involves the use of a speculum, as the unestrogenized genital tissues are usually exquisitely sensitive to touch. The labia are separated and pulled out and down for maximal visualization. If it is necessary to explore the vagina, the patient must be taken to the operating suite for an exam under anesthesia. Once the child has begun puberty, various methods can be utilized to examine the edges of the hymen: large-diameter cotton swabs, Foley balloon catheters, or a small speculum to assess the vaginal walls for trauma (see Figures 16.4a and 16.4b).

The Hymen—Myths and Truths

Male and female investigators alike often have many mistaken ideas about what can and cannot be discovered by the examination. Myths and misconceptions about the hymen abound, and any discussion of exam findings is useless until a few matters are cleared up:

- Every normal female has one.
- It is not an impenetrable membrane; it does not break, rupture, burst, pop, or provide proof of virtue (or lack thereof).

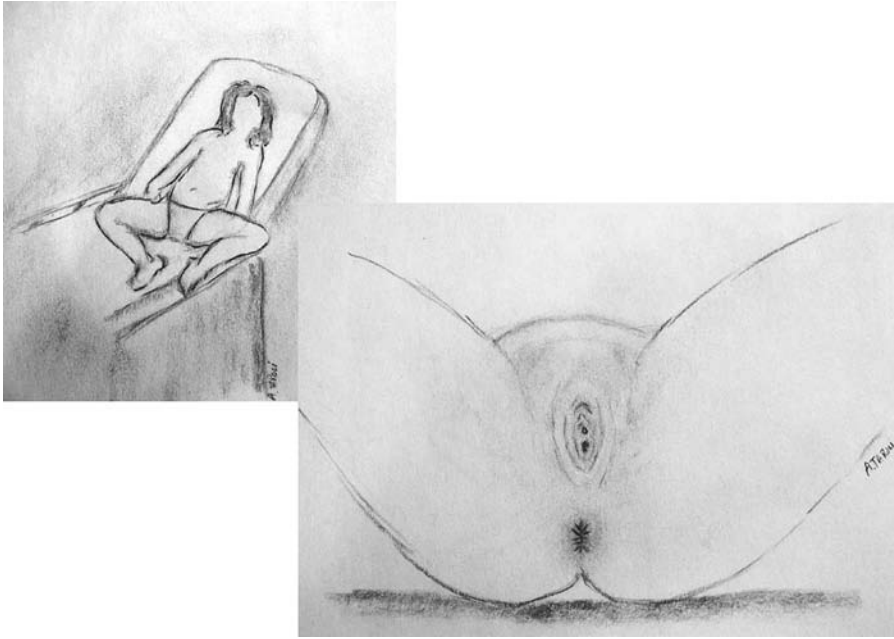


Figure 16.4a Exam position: frog-leg supine position. The child is lying on her back, feet together, knees parted. The labia are pulled out and down for maximal visualization. Appearance of structures may vary depending on the amount of traction used.



Figure 16.4b Exam position: knee-chest prone position. The examiner's thumbs push the labia up and outward, while gravity causes the hymen to drop down for a better view of the entire width of the inferior portion.

- From birth, the hymen has an opening in it. The hymenal membrane has a sort of donut-shaped appearance; only rarely is a female infant born without any opening in her hymen.
- The hymen is an internal structure; it is recessed in between the labia majora and labia minora, at the very entrance to the vagina. It is NOT injured or affected by horseback riding, gymnastics, bicycling, or like activities.
- Being an internal structure, there is no “casual” way to come in contact with the hymen (no matter what perpetrators may try to tell you).
- Measuring the opening in the hymen cannot distinguish between abused or non-abused girls (Berenson et al. 2002; Ingram, Everett, et al. 2001).

Examination Findings

Acute Injury

Examination of the male genitalia is more straightforward than that of the prepubertal female (for obvious reasons), so the majority of this section is devoted to the evaluation of girls.

Contact with the internal genitalia (in between the labia) may cause a range of findings, from mild erythema (redness) and slight swelling to abrasions, petechiae, or lacerations and contusions. The friction and pressure during sexual contact may cause irritation and inflammation. Because the area in between the labia includes the urethra (outlet for urine), symptoms of sexual abuse sometimes include dysuria (pain with urination), day- or nighttime wetting, and frequent urination. Children may report vaginal pain or discomfort, with or without bleeding.

Lacerations or tears of the hymen may extend partially through the membrane, or completely transect it through to its base, where the hymen inserts on the vaginal wall. Anal trauma may include minor fissures, abrasions, bruising, or severe lacerations. Rectal bleeding may occur at the time of the abuse or later, with passage of feces.

Chronic Exam Findings

The examination of a sexually abused child is most often normal—that is, without any physical findings to “confirm” the abuse. The more superficial the injuries sustained, the more quickly and completely they heal. Larger, deeper wounds are more likely to leave some physical abnormality as they heal. When physical findings *are* present, they are usually found in the inferior portion of the hymen (between the 3 and 9 o’clock positions). In the past, a variety of what we now know to be normal variants were considered to be indicative of healed penetrating injuries. Research over the years has shown that very few examination findings can be considered “proof” of sexual abuse. Healed blunt force penetrating trauma may produce deep notches or clefts in the hymen, or complete transections (healed lacerations) through to the base of the hymen between the 3 and 9 o’clock positions, leaving little or no hymenal tissue at that point. There may be wide areas in which the hymen appears to be “missing” in the inferior portion of the membrane; there may also be scars of the posterior fourchette or vestibular fossa, or perianal scars. All of these findings should be confirmed by different exam positions and examination techniques. (For a complete discussion of the significance of various physical findings, please refer to Adams 2005.)

Why Are Positive Physical Findings Uncommon?

Absence of evidence is not evidence of absence.

Stephen Jay Gould

The hymen is a ring of tissue surrounding the entrance to the vagina. It often has a donut- or crescent-shaped appearance, and to document exam findings, clinicians use a clock-face reference to describe location (Figure 16.5.) Before puberty—that is, before onset of estrogen production—the hymen and surrounding tissues are thin and vascular, giving the area an extremely reddened appearance, which is frequently mistaken by parents as being abnormal.

The hymen is made up of tissue called mucosa; like the mucosa inside the mouth, minor injuries to the mucous membranes of the vagina and hymen heal very rapidly and very completely, usually without leaving any residual sign that injury has occurred. (Think about what happens when you bite the inside of your cheek.) With superficial abrasions and lacerations, the epithelium regenerates by about 48–72 hours; by 5–7 days, evidence of injury may not be readily apparent. The likelihood of residual physical findings increases with more extensive injury. Deeper wounds heal by repair, with formation of granulation tissue and wound retraction. New vascular connective tissue develops in the first few days after injury and matures over several months, changing in color from red to pink to pale.

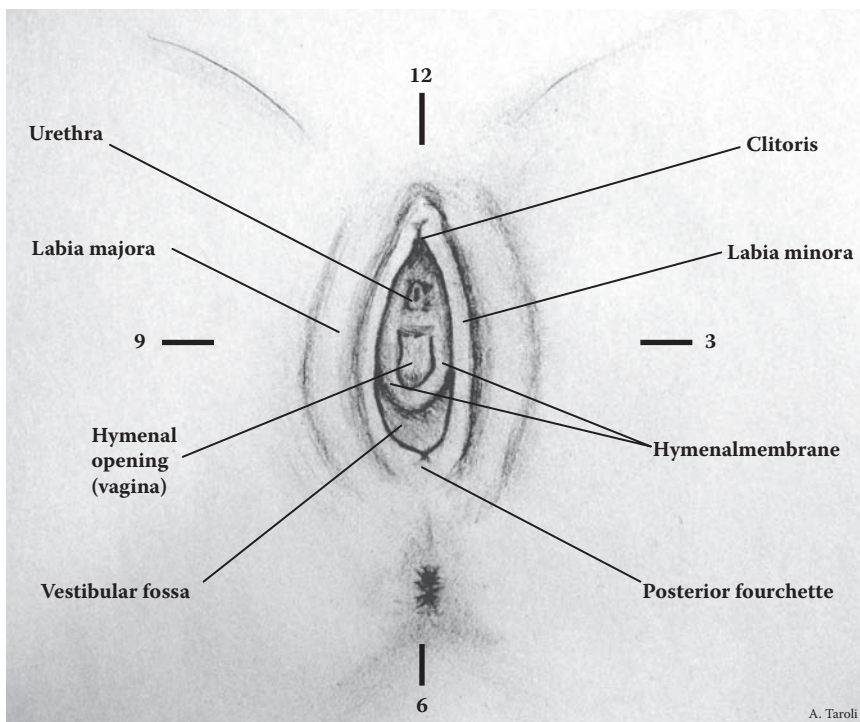


Figure 16.5 Prepubertal genital anatomy, with clock-face descriptive anatomy.

Injuries to the anus and surrounding tissue heal in a similar fashion. Significant lacerations may distort surrounding structures as they heal, but often do not; some scars may be difficult to differentiate from normal skin tags or variations in perianal skin.

When puberty begins and estrogen levels increase, the hymen responds by becoming thicker, redundant, less vascular, and markedly elastic. After all, the body is preparing for the time when not just a penis, but a baby, will be passing through. Contrary to popular myth, a significant percentage of mature females have no bleeding after their first sexual intercourse. Any positive findings from injuries occurring prior to puberty may be obliterated or obscured as the child matures, further complicating the medical assessment.

Figures 16.6–16.18 demonstrate a few of the features discussed here, and Table 16.1 gives some insight into their significance. The Venn diagram in Table 16.1 reminds us of the many possible combinations of findings that can be seen in children being evaluated for sexual abuse. The history given by the child remains the most important aspect of the assessment. Aside from pregnancy or recovery of semen from the child's body, the history will often determine the relevance of physical findings.

“Penetration, However Slight”

An adult's perception of what constitutes “penetration” is formed by experience: something passing through the hymen and into the vagina, or into the anal canal. It is important to remember that most young children will not understand the word “penetration.” If you ask them if something went “in” their private part or vagina, their idea of what constitutes



Figure 16.6 Normal hymen, early puberty, annular configuration.

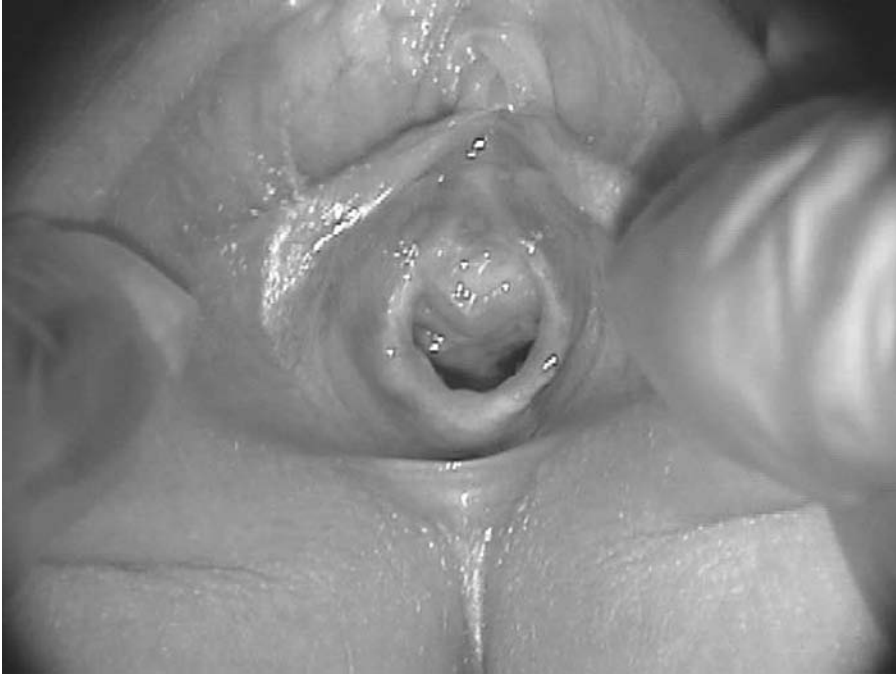


Figure 16.7 Normal prepubertal hymen with scalloped edges as seen in the frog-leg supine exam position.

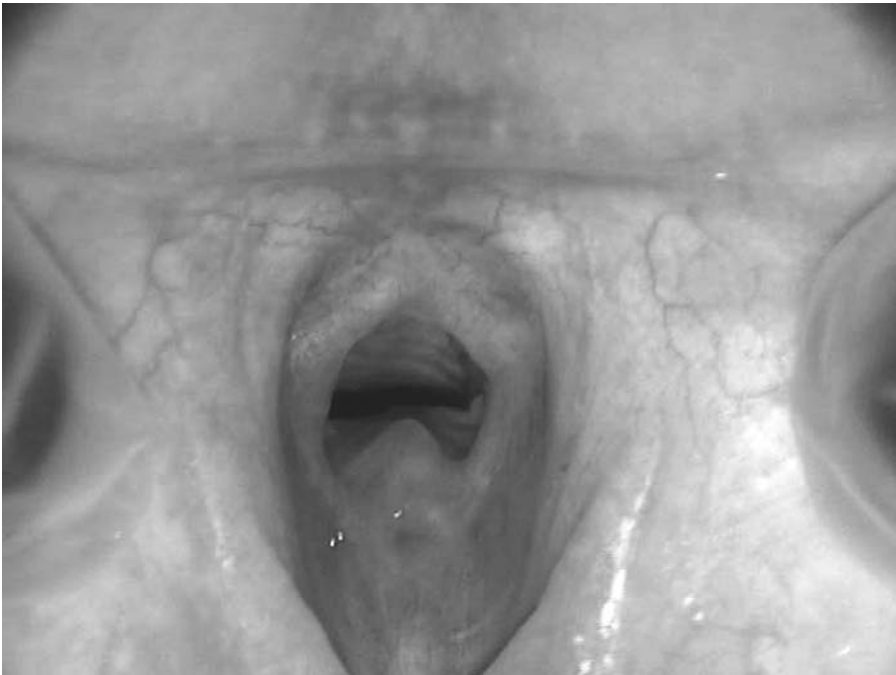


Figure 16.8 Same patient as in Figure 16.7, shown in knee-chest prone position. Gravity aides the hymenal membrane to drop downward, better delineating the width and edges of the membrane.



Figure 16.9 Normal prepubertal hymen, crescentic, knee-chest prone position.

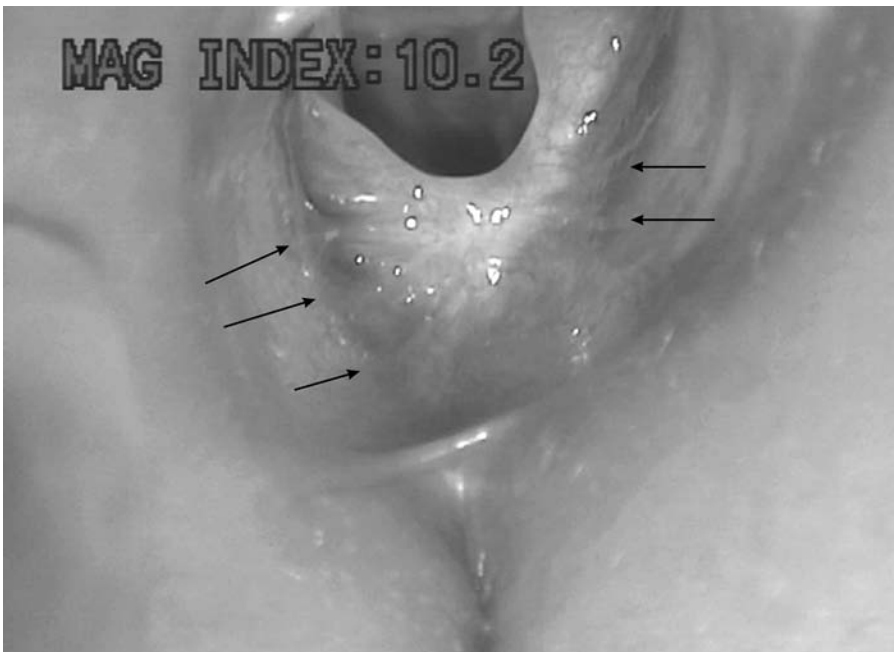


Figure 16.10 Normal prepubertal crescentic hymen, with prominent vestibular bands.



Figure 16.11 Symmetrical anal folds (rugae); normal exam.

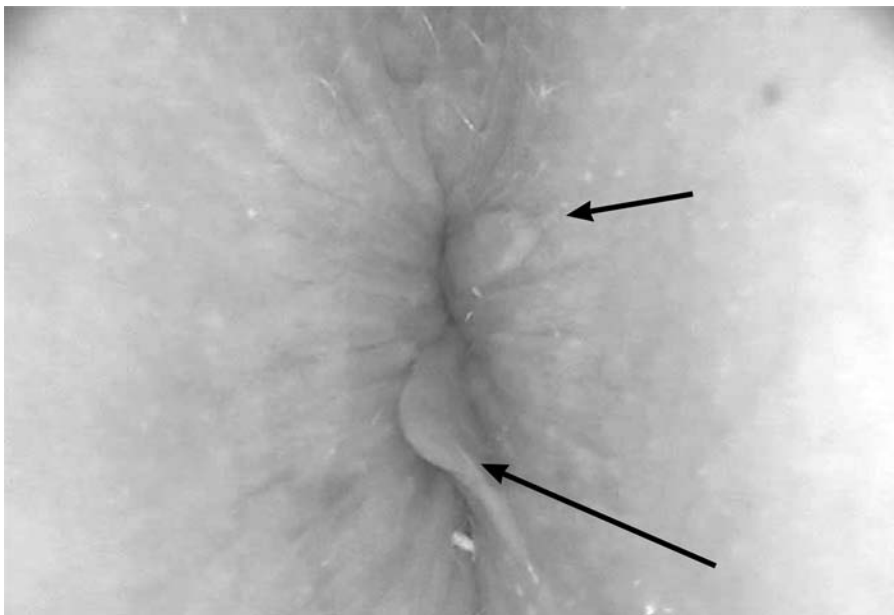


Figure 16.12 Hypertrophied perianal skin folds at the 2 and 5 o'clock positions, in a young boy disclosing a history of recurrent anal penetration by his grandfather. Normal skin tags are usually seen in the 12 and 6 o'clock positions; tags off the midline may be more likely to represent scars from old, healed trauma, but this is still an indeterminate finding.

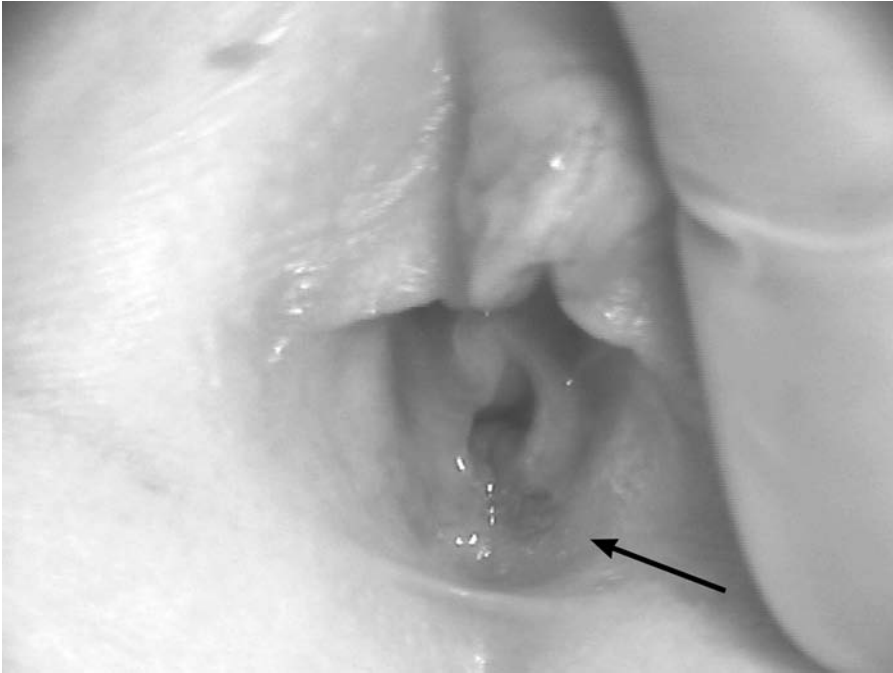


Figure 16.13 Eight-year-old girl with history of vaginal, anal, and oral penetration 8 hours prior to exam. Semen was recovered from the child's underwear. There is an acute laceration of the hymen at the 5 o'clock position, with surrounding contusion.

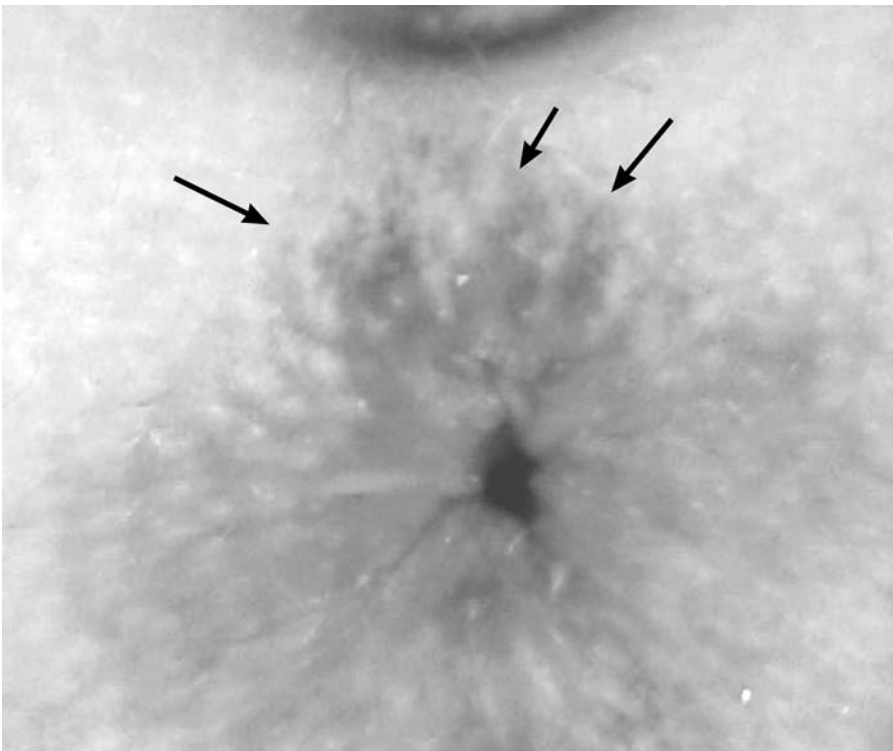


Figure 16.14 Same patient as in Figure 16.13: acute anal abrasions and superficial lacerations (arrows), and contusions surrounding the anus.

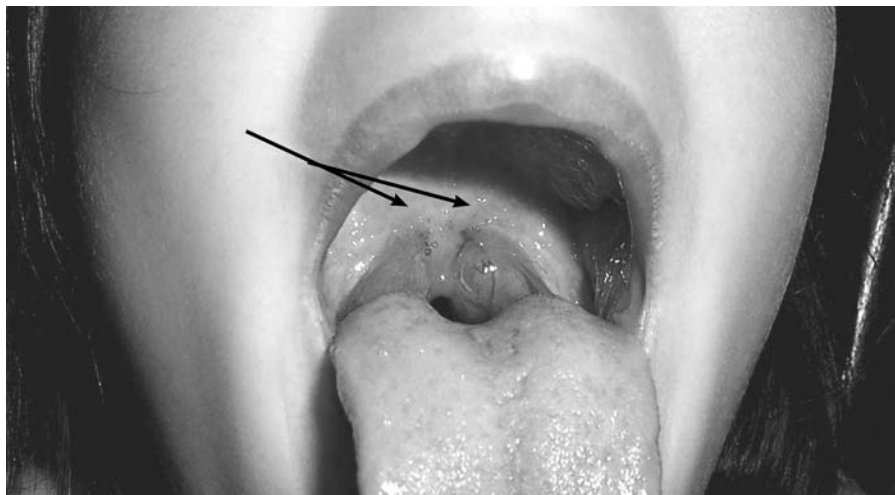


Figure 16.15 Same patient as in Figures 16.13 and 16.14: petechiae and erythema of the posterior palate and pharynx after forced fellatio. This child also had abrasions and bruises on her back and buttocks resulting from the assault.

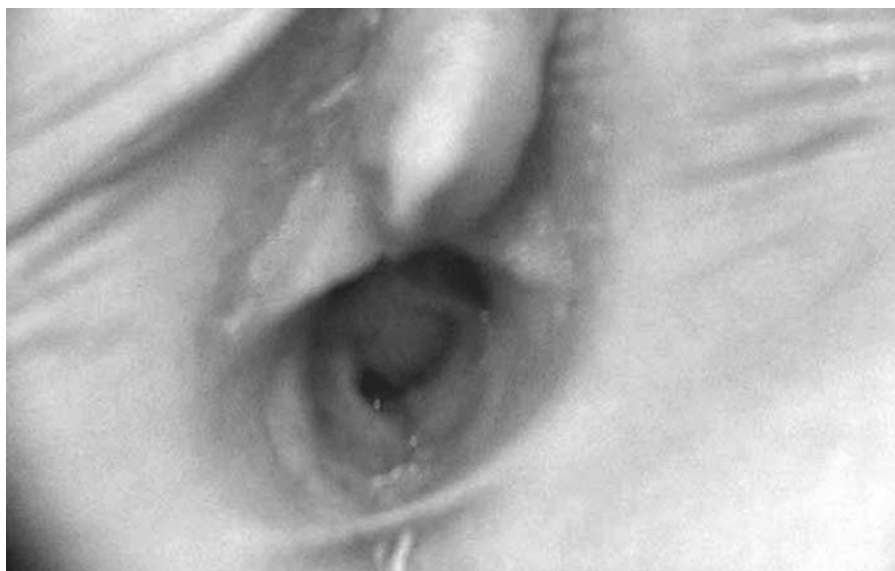


Fig. 16.16 Same patient as in Figure 16.13, 2 weeks later. The complete transection of the hymen is healing but still visible.

“in” may be different from an adult’s. To children who have no frame of reference for the behavior, anything that goes beyond the labia may be perceived to be “in,” even if the object does not contact the hymen or go into the vagina. A similar description may be given for the sensation of an object pushed between the buttocks and against the anus, but not passing into the rectum. This knowledge will help parents and investigators understand why there has been no physical injury when the child insists there was “penetration.” For legal

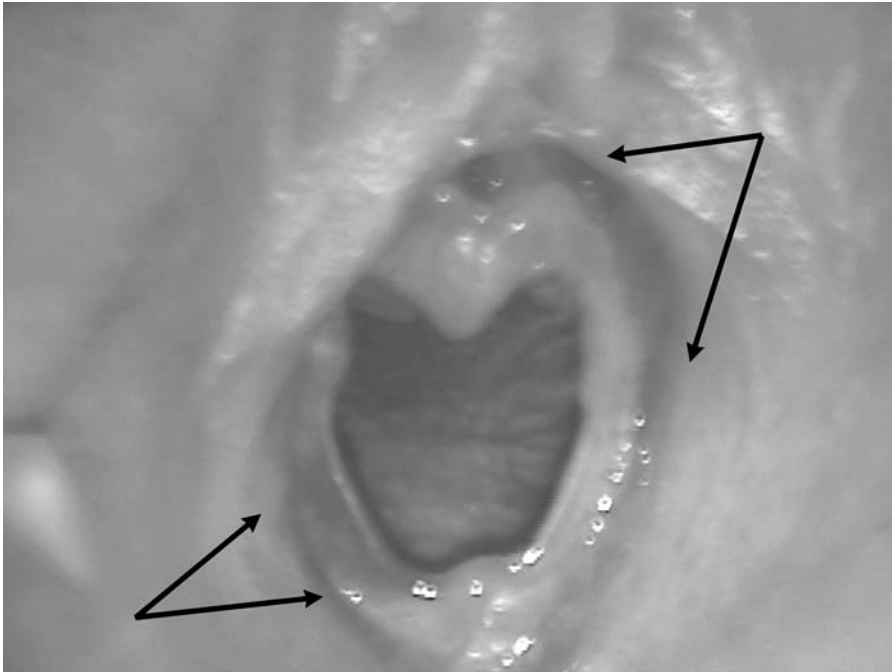


Fig. 16.17 Contusions and petechiae of the hymen between the 1 and 3 o'clock positions, and between 7 and 9 o'clock in a 5-year-old who disclosed digital penetration and fondling 1–2 days prior to exam.

purposes in many states, however, what qualifies as penetration is the slightest contact with the anal or genital orifice—in essence, any contact parting the labia majora or in between the buttocks, against the anus.

Another important reason for the lack of physical findings in sexually abused children is the types of sexual acts committed by perpetrators: fellatio, cunnilingus, fondling, masturbation, and “vulvar (or labial) coitus,” in which the penis is pressed and rubbed against the genitalia, in between the legs. The buttocks may be used in a similar fashion. Friction and rubbing of body parts may produce only some redness and mild swelling, which disappears quickly. In addition, perpetrators frequently use some type of lubrication (saliva, KY jelly, lotions, etc.) to decrease the likelihood of injury. Remember that decreasing the likelihood of pain and injury decreases the perpetrator’s chances of being discovered.

Evidence for Absence of Physical Findings

It is hard to imagine that small children are not seriously injured by sexual contact, but research has demonstrated the infrequency with which sexually abused children have abnormalities on exam. In 2000, Berenson et al. reported on a comparison of large groups of abused and nonabused girls between 3 and 8 years old. The results demonstrated that the genital exams of the abused girls did not differ significantly from those of the nonabused group. Another study (Heger et al. 2002) reported on medical findings of almost 2,400 children who were specifically referred for evaluation of sexual abuse. Overall, exams were normal in 96.3% of cases. When prepubertal children with significant injury due to sexual

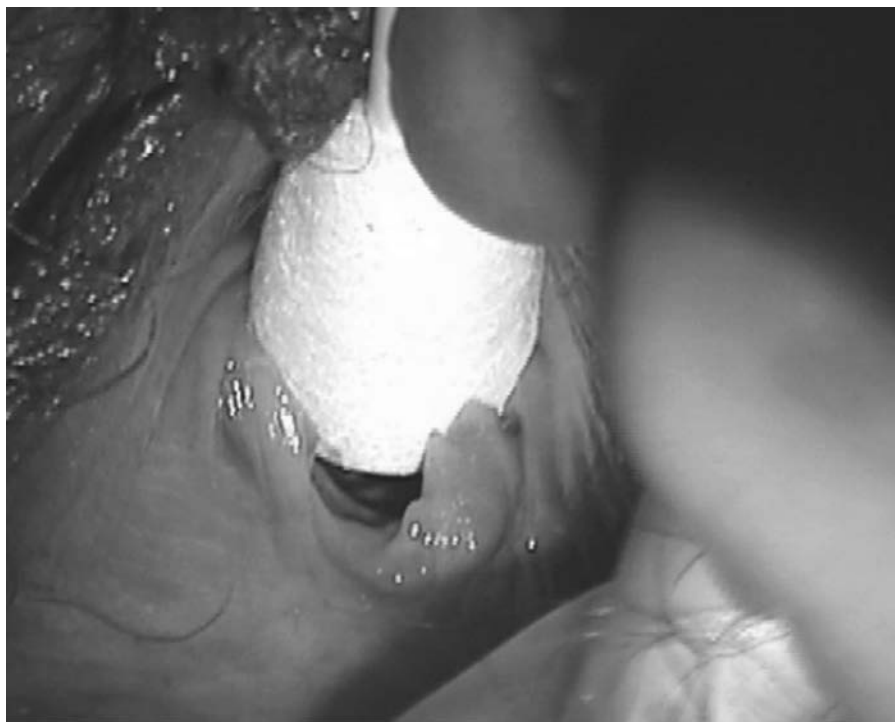


Fig. 16.18 Wide section of absent hymen in an adolescent, demonstrated with the assistance of a large-diameter cotton swab.

abuse were followed to healing with photocolposcopy (some requiring surgical repair), most anogenital trauma healed quickly, most often without residual physical findings (Heppenstall-Heger et al. 2003).

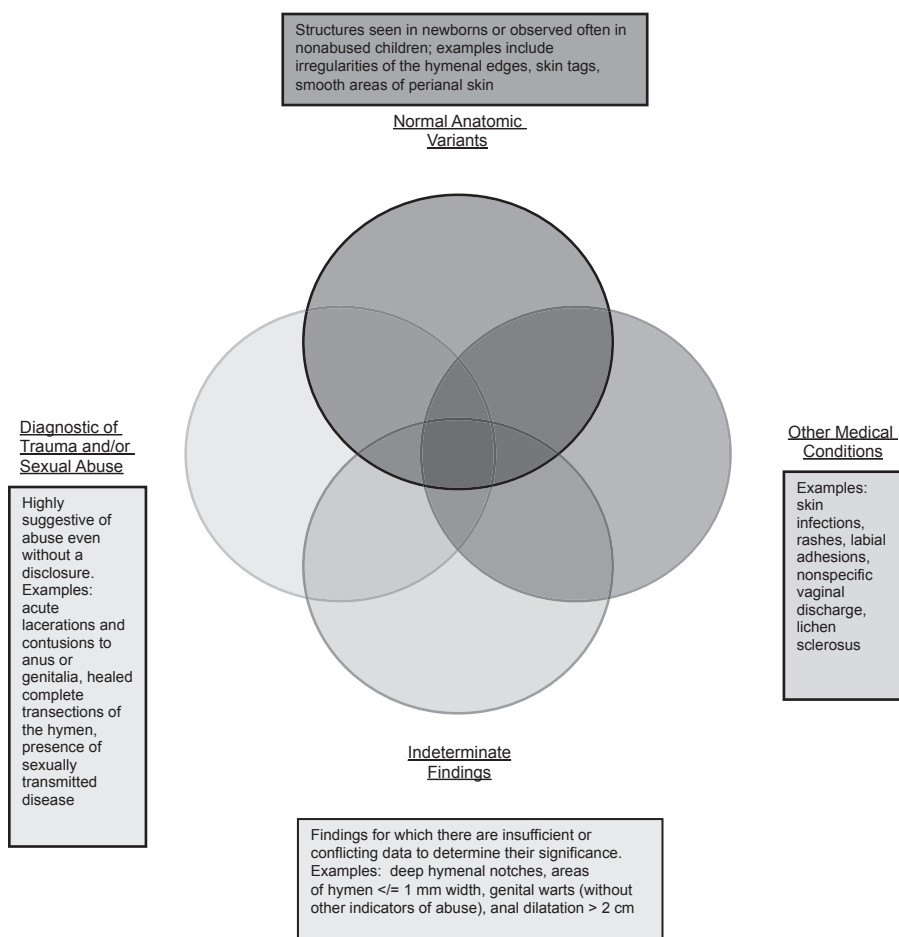
Studies of adolescent girls are also impressive. In 2004, Adams, Botash, and Kellogg described the exams of 27 teenage girls who admitted to a past history of penile/vaginal intercourse; 52% of them had no findings suggestive of past penetration. When 36 teens who had become pregnant as a result of sexual assault were examined (Kellogg, Menard, and Santos 2004), only 2 of them had definitive evidence of penetrating genital trauma. Strikingly, these two did not include one girl who had had a previous miscarriage and D&C, one who had had a previous child delivered by C-section, and one who had had an abortion a few months prior to exam. So, it is abundantly clear that “normal” does not mean “nothing happened.”

This information is of paramount importance; professionals from medicine, child protection, law enforcement, and prosecution need to be comfortable knowing that, even with allegations of digital or penile penetration, physical findings are not expected. Investigators will then be able to focus on the child’s history. These concepts must also be communicated effectively to judge and jury so that the child’s story will not be discounted as inaccurate.

The Written Report

The words and phrases used in composing the medical report will be scrutinized by everyone involved in the investigative and legal aspects of child sexual abuse cases. The medical

Table 16.1 The Venn diagram reminds us of the many possible combinations of findings that can be seen in children being evaluated for sexual abuse. The history given by the child remains the most important aspect of the assessment. Aside from pregnancy or recovery of semen from the child's body, the history will often determine the relevance of physical findings.



Source: From Adams JA. Approach to the Interpretation of Medical and Laboratory Finding in Suspected Child Sexual Abuse: A 2005 Revision, *The APSAC Advisor* 2005; Summer: 9–12.

diagnosis is formulated by combining information from the past history, the child's statements, physical exam, and diagnostic studies. The opinion is given to a reasonable degree of medical certainty, which is no different than a diagnosis offered in any other field of medicine. Clinicians should not use vague, abbreviated diagnostic terminology, such as "findings consistent with abuse." The documentation should provide a concise summary of all the pertinent information utilized in coming to a conclusion. The child's statements, symptoms related to sexual abuse, physical findings, and results of diagnostic studies should all be explained as to their relevance: how each supports or discounts the likelihood

Table 16.2 Implications of Commonly Encountered Sexually Transmitted (ST) or Sexually Associated (SA) Infections for Diagnosis and Reporting of Sexual Abuse among Infants and Prepubertal Children

ST/SA confirmed	Evidence for sexual abuse	Suggested action
Gonorrhea ^a	Diagnostic ^b	Report ^c
Syphilis ^a	Diagnostic	Report ^c
Human immunodeficiency virus ^d	Diagnostic	Report ^c
Chlamydia trachomatis ^a	Diagnostic ^b	Report ^c
Trichomonas vaginalis	Highly suspicious	Report ^c
Condylomata acuminata (anogenital warts) ^a	Suspicious	Report ^c
Genital herpes ^a	Suspicious	Report ^{c,e}
Bacterial vaginosis	Inconclusive	Medical follow-up

^a If not likely to be perinatally acquired and rare nonsexual vertical transmission is excluded.

^b Although culture is the gold standard, current studies are investigating use of nucleic acid amplification tests as alternative diagnostic methods.

^c Report to the agency mandated to receive reports of suspected child abuse.

^d If not likely to be acquired perinatally or through transfusion.

^e Unless a clear history of autoinoculation is evident.

Sources: Adapted from Kellogg, N. 2005. *Pediatrics*, 116: 506–512; Centers for Disease Control and Prevention. 2006. *Morbidity and Mortality Weekly Report*, 55(RR-11): 83–86.

of sexual abuse. This practice not only provides insight into that patient's medical assessment, but also serves to inform and educate anyone who reads the report. The diagnostic process is complex, and the physician's report should reflect that.

Forensic Evidence Collection

There are some essential differences between forensic evidence collection in child sexual abuse cases and that in adult sexual assault. For example, issues of evidence environment and the presence of transfer evidence assume much different significance. Abuse most commonly occurs in a child's own home, and mingling of victim and perpetrator's trace evidence would be expected. Since child sexual abuse is usually nonviolent, bloodstains are rare. During contact, ejaculation is usually external, disappearing quickly as the child is bathed and clothing is laundered. Forensic specimens are unlikely to be recovered from any source when the child's disclosure comes long after the last episode of sexual contact.

In cases involving a prepubertal child where the last sexual contact is thought to have occurred within 72 hours, or if the child complains of anogenital pain and/or bleeding, an immediate exam is indicated. Even in cases where the initial complaint is of fondling within that time period, a case can be made for an urgent exam, as it is not uncommon for a child to disclose more intrusive events when a detailed interview is conducted. At least one study has demonstrated several children with positive forensic evidence that was not anticipated by the initial history (Christian et al. 2000).

In adults and adolescents, the window of opportunity for collecting vaginal swabs is 96 to 120 hours, based on the newest methods of detecting even minute amounts of DNA. The

vaginal pH and cervical mucous promote survival of sperm, and sperm have been documented to persist in the vaginal and cervical canal for almost a week. However, ejaculation usually does not occur internally with young children, and the vaginal environment in the prepubertal girl is not favorable to the survival of sperm.

Where the Evidence Is (and Where It Is Not)

The 72-hour time-frame recommended for evidence collection has been standard practice based on adult studies done before development of newer DNA detection methods. Several recent studies, however, make a good case for modifying not only the timing of performing rape kits, but also what kind of specimens should be obtained in the *prepubertal* child:

- A retrospective study of 273 children under 10 years old evaluated for acute sexual assault demonstrated that over 90% of positive forensic findings (of any type) were obtained within 24 hours of the assault; after 24 hours, virtually all forensic evidence was recovered from clothes or linens. No swabs from the child's body were positive for blood or semen after 13 hours following the assault (Christian et al. 2000).
- Another retrospective study involved 122 children under age 13 seen within 24 hours of sexual assault. Semen or sperm was detected only on body swabs from those 10 years old and over *or* on clothing or other objects (Palusci et al. 2006).
- In 2006 Young et al. published retrospective data on children seen within 72 hours of sexual assault. None of the 49 children under 12 years old had positive forensic evidence from body sites. The three positive samples in that group were all from underwear. In contrast, 13 of 31 adolescents had positive tests, all from body sites (in eight of these cases, clothing was positive as well). All positive rape kits were from children (older and younger groups) presenting within 24 hours of the assault.

These studies, though not utilizing newer DNA detection methods, strongly suggest:

Forensic evidence is unlikely to be found on the child's body more than 24 hours after sexual contact;

Semen or sperm is more likely to be identified on the body of an older, female child who has not bathed since the sexual contact; and

The highest yield for positive forensic evidence is on clothing, linens, or other objects.

These studies also provide support for the clinical assumptions that a child's history of pain is associated with an increased likelihood of genital injury and positive forensic evidence, and a history of bleeding is associated with genital injury and positive forensic evidence.

Sexually Transmitted Disease (STD)

The occurrence of STDs and the yield from cultures obtained on prepubertal children without symptoms is low. Obtaining cultures from young children can be quite uncomfortable for them, both physically and psychologically. The decision of whether to perform cultures on a sexually abused child is made on a case-by-case basis and is dependent on several factors: the likelihood of exposure to body fluids, the local incidence of STDs,

presence of symptoms in the child, and the perpetrator's risk level of having STDs. The CDC and others (Ingram, Miller, et al. 2001) offer guidelines for the evaluation of STDs in sexually abused children.

In general, the detection of STDs in children (beyond the neonatal period) should suggest the occurrence of sexual abuse. This has exceptions, however, depending on which infection is present.

- Infection with gonorrhea, syphilis, HIV, or chlamydia in children indicates that the child has been sexually abused.
- Sexual transmission of trichomonas, genital warts (HPV), and genital herpes (HSV) is less definitive, but still suspicious for sexual abuse.

False Allegations of Sexual Abuse in Children

False or mistaken allegations of sexual abuse of young children differ considerably from false accusations presented by an adolescent or adult. Please see chapter 11 for more information pertaining to false rape allegations by adults.

The complexities involved in sexual abuse allegations concerning very young children stem in part from having not one, but multiple complainants: (1) the child, (2) the parent or caregiver, and (3) the “interveners”—therapists, interviewers, family, friends. Each has information, an opinion to offer, and possibly a special interest in the outcome of the investigation.

Cases where child sexual abuse is alleged, but eventually *disproved*, usually fall into one of a few categories:

- fabricated allegations by a parent or caregiver with an agenda;
- embellished reports of normal or borderline child behavior or physical signs/symptoms, either by a caregiver with an agenda or a caregiver who is preoccupied with sexual abuse;
- misinterpretation of events or behaviors by the child or alleged perpetrator; or
- victim's blame of someone (*anyone*) else rather than the true perpetrator, usually out of fear or a strong emotional bond with the perpetrator.

A liar should have a good memory.

Quintilian (ca. 35–95 A.D.)

It is rare that very young children intentionally lie about being sexually abused. Some children, though, do lie, especially as they get older. In reality, more children lie about *not* being abused (Oates et al. 2000; Malloy, Lyon, and Quas 2007). Children may withhold certain pieces of information about sexual acts that particularly disgust or embarrass them. Very often, a child will tell just enough about the activity so that an adult will intervene and the abuse will stop. When the child feels safe, he or she may want to suppress the magnitude of the trauma and deny the true extent of the abuse. When young children do lie about sexual abuse, they usually do so to please a parent or adult because they are influenced by their parents or, much less commonly, for attention or out of anger.

Keep in mind, however, that it is much easier for a child to lie when asked “yes” or “no” questions and children, like adults, are much more likely to lie when they think they are going to get in trouble by telling the truth. It is also true that young children who are “coached” provide significantly less detail when asked follow-up questions. It will be difficult, if not impossible, for a young child to invent the sensations, surroundings, and details for events he or she has not experienced.

More often than not, the child who appears to be lying will in fact simply be inaccurate in his report:

- His memory may be distorted by the emotional and psychological trauma of the abuse. The child who dissociates during sexual abuse will have limited ability to recount what happened (Everson 1997).
- Part of the child’s statement may be influenced by age-appropriate fears (“the monster from my closet came into my bed”) or the need to maintain a sense of control and self-esteem (“then I stabbed him and he ran away!” Everson 1997).
- The child is confused by the perpetrator’s intentional misrepresentations or deceptions. (“We’re just playing a game, right?” “That’s not blood, that’s just red marker on my finger.”)
- Memory distortion may result from medications or drugs given to the child by the perpetrator.
- The child’s history has been affected by exposure to family conversation about the abuse and/or perpetrator. This is especially evident when children adopt adult-type language to describe the abuse (“Uncle John fondled me and molested me”).
- The child’s history may have been tainted or contaminated by suggestions, assumptions, or misconceptions of “interveners”: therapists, interviewers, physicians, family members. This speaks to the recommendation that children have as few interviews as possible by the least number of well-trained interviewers as possible.
- If the victim has strong emotional ties to the perpetrator or feels threatened, the child may attribute the abuse to a “safer” target.

As with adults, children will alter the facts of a story to make themselves look better. They may embellish the story for fear they will not be believed if the abuse is not severe enough, or conversely they may significantly minimize the abuse out of embarrassment, fear, or love for the perpetrator.

Sexual abuse allegations concerning a child at the center of a custody dispute compose one of the prickliest situations encountered by those who assess child sexual abuse. The sources of vexation include the following:

- The involved child is usually very young, preverbal, or young enough to be suggestible.
- As in all child sexual abuse cases, there is the usual lack of any physical findings or forensic evidence.
- These cases require an extraordinary number of man-hours by professionals from medicine, law enforcement, social services, child protection, mental health, prosecution, and victims’ services, sometimes from multiple jurisdictions.
- There is inherent bias in stories presented by each side of the family.
- A bitter, hostile atmosphere exists between parents.

It has been estimated that false allegations account for only a small portion of cases when families are engaged in child custody disputes (Gunter et al. 2000). The prime focus in these cases should be the child's disclosure; a meticulous accounting of every aspect of the disclosure provides invaluable insight into the sincerity of the parent's concern. Factors to consider include the following:

- To whom did the child disclose? Disclosure to an objective third party (teacher, nurse) inspires confidence in the report; disclosure to a parent may cause some doubt.
- What triggered the disclosure? Complaints of pain when bathing or with urination or if a child is questioned about sexually acting out may trigger a disclosure. Statements made "out of the blue" may be more suspect.
- What exactly did the parent ask? Be specific. ("What happened to your peepee?" is very different from "Daddy hurt your peepee, didn't he?")
- When did the first disclosure occur? Was it the day before a custody hearing?
- How did the disclosure come to the attention of authorities? Trace the disclosure in time from initial statement to your involvement.
- How many people have talked to the child and who are they? Family and friends will have a different impact on a child than a teacher or daycare provider will.
- What exactly did each person say to the child? What are the potential sources of a tainted or contaminated history?

Even the most skeptical investigator must recognize, however, that valid allegations may arise once the child is out of the abusive environment and feels safe or if the child fears he or she will be returned to an abusive parent.

Sequelae

What's done to children, they will do to society.

Karl A. Menninger, American psychiatrist (1893–1990)

Child sexual abuse impacts individuals and society for a lifetime and beyond. Experiencing sexual abuse in childhood has been associated with

- post-traumatic stress disorder
- attention deficit disorder
- depression, anxiety
- substance abuse
- risky sexual behaviors, sexually transmitted diseases
- unintended pregnancy, male involvement in teen pregnancy
- increased risk of adult sexual assault

Co-occurring adverse childhood experiences such as household dysfunction, substance abuse, domestic violence, and criminal activity in the home all contribute to the long-term influence on children's lives in a cumulative manner (Felitti et al. 1998; Hillis et al. 2000; Shipman et al. 2000; Weinstein, Staffebach, and Biaggio 2000; Dong et al. 2003).

Investigators working in the field long enough often encounter the same families repeatedly through the years. The study of the intergenerational cycle of abuse is still in its relative infancy, considering that child sexual abuse was not accepted as a problem by society until the 1970s. About half of women whose children are victimized were sexually abused themselves. This is thought to result from a number of risk factors, such as maternal relationship difficulties, psychological problems, and substance abuse, all of which may interfere with a mother's ability to recognize risk and protect her children (Smith, Davis, and Fricken-Elhai 2004). Maternal resilience (effective efforts at recovery from her own abuse) is associated with protection from the intergenerational passage of child sexual abuse (Leifer, Kilbane, and Kalick 2004).

Every child who has been sexually abused should be referred for a competent psychological evaluation. Resilience and recovery from trauma have been shown to be associated with the ability to accurately remember and verbalize negative past experiences. This knowledge should be shared with families early on; it is not uncommon for parents to assume that very young children will simply forget about the abuse, or they believe that it is best to "move on" and not talk about it. Therapy should also include an assessment of the family dynamics and level of support. It has consistently been shown that adjustment of sexually abused children is associated with parental support (Elliott and Carnes 2001). The possibility that other children in the home have been abused must be explored. The victim and family will need guidance and support throughout the long and frustrating process of criminal prosecution.

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Injury and Forensic Examination of the Victim

17

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Introduction

Survivors of sexual assault require comprehensive, efficient, and sensitive care as soon as possible after the assault. Survivors have physical and emotional sequelae after sexual assault that must be addressed. This chapter reviews the literature on genital injury prevalence, location of genital injury, injury in consensual intercourse, documentation, common definition of genital injury pattern, skin color, and best practice. In addition, this chapter outlines the forensic examination, and treatment as well as collection of evidence from a victim of sexual assault. Examination after sexual assault is necessary for identification, early intervention, and treatment of physical injuries and for the purpose of collection of forensic evidence from the victim's body. Specialized training in the forensic examination is advised if not required by each state for physicians and sexual assault nurse examiners.

Overview

Detection and management of genital injury is important from both a health care and a criminal justice standpoint. While complications from genital injury are relatively uncommon, injuries need to be identified and treated so that discomfort and the risk of infection and scarring are minimized. Genital injury also plays a significant role at multiple decision-making points during criminal justice proceedings, such as the decisions to report, file, prosecute, and convict (Sommers, Fisher, and Karjane 2005). Documentation of genital injury is a critical component of the forensic examination, especially given that an important reason for not reporting to the police is the "lack of proof that an incident happened" (Fisher, Cullen, and Turner 2000). Forensic evidence documenting injury following sexual assault can be used as one of the constellation of factors of evidence to enhance the government's case in allegations of sexual assault. It also allows the jury or judge to make an informed decision to convict or not.

Genital injury can be described in multiple dimensions. Genital injury prevalence is defined as the proportion of women with an occurrence of injury as calculated from injury frequency. Genital injury frequency is defined as the number of injuries counted by an examiner during each aspect of the examination: visual inspection, colposcopy, and toluidine blue (or other contrast media) application. In females, genital injury is often described by three locations: external (labia majora, labia minora, periurethral area, perineum, and posterior fourchette), internal (fossa navicularis, hymen, vagina, and cervix), and anal (anus and rectum; Sommers et al. 2006). Genital injury severity is defined as the area and degree of injury. Finally, genital injury types are described as tears, ecchymoses,

abrasions, redness, and swelling, or TEARS (Slaughter et al. 1997; Sommers 2007; Sommers et al. 2001).

Genital Injury Prevalence

Genital injury prevalence is calculated by using the frequency of genital injury in a given population. Following sexual assault, the prevalence of genital injury varies by examination type and ranges from 5% on direct visualization (Massey, Garcia, and Emich 1971) to 87% with colposcopic technique (Slaughter and Brown 1992). Commonly, three strategies are used for genital examination: (1) direct visualization; (2) staining techniques (or contrast media) such as Gentian violet, Lugol's solution, toluidine blue, or fluorescein, which are applied topically to accentuate and demarcate injuries and make them more visible to the eye; and (3) colposcopy, the use of a magnifying instrument, or colposcope, that generally has some type of image capture (photograph, digital image, etc.).

Injury Prevalence with Visual Inspection

Between 1970 and 1995, investigators using direct visualization during the sexual assault exam in large sample populations (>100) found a genital injury prevalence of less than 40% in series composed of women, adolescents, and children (Cartwright 1986; Everett and Jimerson 1977; Goodyear-Smith 1989; Hayman et al. 1972; Massey et al. 1971). In an early report on sexual assault victims, Massey et al. studied 480 females and found detectable gynecologic injuries in only 5.2% of the sample. Other investigators reported injury prevalence of 20–40%, and most injuries were relatively minor. For example, in 1,223 women and children, only 20 victims had severe vaginal and vagino-perineal lacerations, whereas 199 had minor genital injuries (Hayman et al.). Cartwright reported similar findings in 440 females: an adjusted frequency rate of 0.2% for genital injury requiring treatment and 16.1% with no treatment needed.

Investigators often reported differences in injury prevalence in children as compared to adults, but others reported differences in prevalence based on injury severity. In a study of women and children after sexual assault ($N = 190$), Goodyear-Smith (1989) found that 19.5% of children and 40% of adults had genital trauma (bruising, inflammation, tenderness, abrasions, or lacerations), and 3.5% of children and 6% of adults had anal injury. Everett and Jimerson (1977) studied 117 women and children who had a sexual assault exam and reported that 19% had minor genital injuries (lacerations and abrasions) and 7% had major vaginal or perineal lacerations.

More recently, authors have reported higher injury prevalence with visual inspection: between 50 and 60% in a sample of women ($N = 1,076$) seen in an emergency department (Riggs et al. 2000) and in 801 sexual assault survivors (Gray-Eurom, Seaberg, and Wears 2002). Some authors, however, continue to report lower prevalence depending on injury classification (Sugar, Fine, and Eckert 2004). Because one study had lack of control over the examination and very little detail on injury classification, it was not included in this review (Crane 2006).

Injury Prevalence with Staining Techniques

Toluidine blue was first described as a mechanism to highlight cervical neoplasms (Richard 1963), but it is also used to identify injury during the forensic examination because it adheres to areas of abraded skin and microlacerations (Crowley 1999). Several investigators using small sample sizes ($N = 24\text{--}44$) found an injury prevalence of 40–58% when using toluidine blue after sexual assault (Lauber and Souma 1982; McCauley et al. 1987). Lauber and Souma, however, defined injury as laceration only. In an investigation that changed clinical practice, Jones and colleagues (2004) found that when using toluidine blue before and after a standard forensic examination, 1 of 27 female patients demonstrated a new genital injury from speculum insertion. This study not only caused a change in sexual assault exam protocols in North America but also suggested that a factor existed in the studies cited previously that may have confounded their results.

Injury Prevalence with Colposcopy Technique

The first description of a forensic examination using a colposcope in adults following sexual assault appeared in 1981 (Teixeira). With a colposcope, Teixeira was able to identify 11.8% more cases of sexual assault in 500 females than were found by conventional examination. Other investigators replicated his findings that colposcopic technique was better than direct visualization and toluidine blue contrast to detect injury in children (Muram and Elias 1989; Woodling and Heger 1986). In a small sample ($N = 17$), investigators found that the colposcope documented trauma in 9 of 17 cases (53%) whereas gross visualization documented trauma in only 1 case (6%).

Colposcopic technique is generally associated with documentation of a higher injury prevalence than other techniques, particularly when combined with staining techniques. For example, examiners using colposcopy technique and staining found an injury prevalence of 83% in adolescents and 64% in women ($N = 209$; ones et al. 2003). Sachs and Chu (2002) reported an injury prevalence of 81% in 209 sexual assault survivors while Slaughter and Brown (1992) found a genital injury prevalence of 87% in 131 sexual assault survivors. This same research team later found genital injury in 68% of the victims reporting sexual assault (Slaughter et al. 1997).

Location of Genital Injury

The most common locations for genital injury in young adult and adult females is the posterior fourchette, a tense band of tissue that connects the two labia minora. Other common locations in female children and adults are the labia minora (two thin inner folds of skin within the vestibule of the vulva), hymen (thin membrane composed of connective tissue that overlies the vaginal opening), and fossa navicularis (shallow depression located on the lower portion of the vestibule and inferior to the vaginal opening; Grossin et al. 2003; Jones et al. 2003; Lauber and Souma 1982; Slaughter and Brown 1992; Slaughter et al. 1997). While prevalence by location varies somewhat among studies, Slaughter et al. (1997) found that, of injured females, 70% had a posterior fourchette injury, 53% a labia minora injury, 29% a hymen injury, and 25% injury at the fossa navicularis. Jones et al. (2003) reported

similar findings in women and girls ($N = 766$); 78% had injuries at one of the four locations mentioned earlier, although women experienced less injury to the hymen and greater injury to the peri-anal area as compared with girls.

In a study using a different classification system, Grossin et al. (2003) found that in 161 female sexual assault victims examined within 72 hours of the assault, 20% had vulvo-vaginal injuries (injuries of the external female genitalia, including the labia, clitoris, and vaginal opening and vaginal injuries), 11% had hymeneal injuries, and 7% had anal injuries. In contrast, adult sexual assault victims in Nigeria had a low detection of genital injury, with only 14 of 171 adult victims having documented injury to the vulva, 18 with vaginal injury, and 10 with injuries of the hymen (Olusanya et al. 1986). These findings were replicated in a small series of victims in Northern England (Bowyer and Dalton 1997). In summary, the majority of evidence in large series of sexual assault cases indicates that the posterior fourchette and labia minora are the most common locations of genital injury in adult females, although not all studies have similar findings with regard to location of genital injury.

Comparison of Genital Injury Prevalence Following Consensual Sexual Intercourse

Investigators and clinicians who study genital injury following sexual assault have also been interested in injury prevalence in the consensual sexual intercourse population. Investigators studying a small series of women with vaginal injuries combined a sample of women who were sexually assaulted ($N = 7$) with women who had consensual coital injuries ($N = 24$). The most common presenting sign in these two groups was vaginal bleeding (Wilson and Swartz 1972). In two review articles, the authors noted that minor trauma to the vagina commonly accompanied vaginal intercourse (Elam and Ray 1986; Geist 1988). They also noted that vaginal intercourse was often accompanied by tears in the lower part of the hymen and posterior fourchette and that the most common injuries during a female's first intercourse were hymenal lacerations and tears. A prospective study with a small sample ($N = 18$) demonstrated that following consensual intercourse, 61.1% of the cases had positive findings with colposcopy and contrast dye. Injuries included increased vascularity of the vagina, vascular enlargement (telangiectasia), broken capillaries, and microabrasions (Norvell, Benrubi, and Thompson 1984).

With several exceptions, injury prevalence following consensual sexual intercourse is generally reported at approximately 10%. In a study of 48 women who had voluntary sexual intercourse within 48 hours of the exam, investigators found a 10% injury rate (McCauley et al. 1987). All participants with injuries gave a history of dry or painful intercourse. This proportion of injury is similar to those found by other investigators in the consensual sex population (Lauber and Souma 1982; Slaughter et al. 1997). Fraser et al. (1999) followed 107 sexually active women, aged 18–35 years, over a 6-month period. They investigated changes in vaginal and cervical appearance. In 3.5% of the inspections, they reported a total of 11 abnormalities: three ulcerations, two ecchymoses, five abrasions, and one tear. The prevalence of injury was highest when exams occurred after intercourse in the previous 24 hours or following tampon use.

In the Slaughter et al. (1997) study, injured controls ($N = 8$) had trauma limited to a single site as compared with their nonconsensual counterparts. Four participants experienced ecchymosis and four a single tear or abrasion. Five of the injuries were on the posterior fourchette and three on the hymen. In a more recent study, the investigators

reported that 30.4% of consensual participants ($N = 46$) and a surprisingly low 32.1% of nonconsensual participants ($N = 56$) had genital injury (Anderson, McClain, and Riviello 2006). These study findings raise interesting questions about the low injury prevalence in the consensual population reported previously. Further work is needed with methodologically rigorous studies to determine injury prevalence following consensual sexual intercourse, and how injuries that occur during consensual sex compare to the injuries that occur during sexual assault.

Genital Injury Type

Genital injury types are described as TEARS (Slaughter et al. 1997; Sommers et al. 2001):

Tears are defined as any breaks in tissue integrity including fissures, cracks, lacerations, cuts, gashes, or rips.

Ecchymoses are defined as skin or mucous membrane discolorations, known as “bruising” or “black and blue” areas due to the damage of small blood vessels beneath the skin or mucous membrane surface.

Abrasions are defined as skin excoriations caused by the removal of the epidermal layer and with a defined edge.

Redness is erythemous skin that is abnormally inflamed due to irritation or injury without a defined edge or border.

Swelling is edematous or transient engorgement of tissues (Sommers 2007).

Other less widely used injury classification systems exist as well. One group of investigators proposed an injury typology that included nonperforating soft-tissue injury, lacerations, or current bleeding (Biggs, Stermac, and Divinsky 1998). The TEARS classification, however, is the most commonly used and at this point is the classification most likely to provide comparable data across studies and clinical practice.

Role of Genital Injury in Criminal Justice Proceedings

In recent years the role of nongenital and genital injuries in criminal justice proceedings has become clearer, but the role of genital injury alone is less clear. Two studies using a retrospective review of medical records in the 1970s and 1980s found no correlation between judicial outcome and the severity of all injuries (genital and nongenital; Penttila and Karhunen 1990; Tintinalli and Hoelzer 1985). Penttila and Karhunen, however, reported that in cases when the defendant was imprisoned, there were significantly more victims with severe injuries than in other categories of criminal justice outcomes. Several limitations are apparent in these two studies. The examination protocols were most likely visual inspection only, reducing the likelihood that all injuries were detected. In addition, while injury frequency was calculated separately for genital and nongenital injury, injury prevalence was determined on the basis of any injury type. The definitions of severe or major injury were questionable. Severe injuries were defined as skeletal fractures or trauma that required major operative repair in one study and numerous bruising, scratches, abrasions, and lacerations in the other study. Thus, one study excluded any genital injury from

the severe category (Tintinalli and Hoelzer) while the other had a very broad definition of major injury that included minor conditions such as scratches (Penttila and Karhunen).

Other studies did not differentiate between genital and nongenital injuries, making generalizations difficult. McGregor and colleagues (1999) developed a clinical injury scoring system by using practitioners' ratings and a statistical scoring strategy. The score had a range of 0 (no injury) to 3 (severe injury) and a combined multirater kappa score of 0.87. Both genital and nongenital injuries were included in the scoring, and only nongenital injuries fit the criteria for "severe." The investigators also found that the odds ratio (OR) for filing charges associated with moderate or severe injury was 3.33 (95% confidence interval [CI] 1.06–10.42), but genital injury alone was not associated with the filing of charges. In a replication study ($N = 462$), the investigators found an association for injury severity and filing of charges in the following categories: mild injury (OR = 2.85, 95% CI = 1.09–7.45), moderate injury (OR = 4.00, 95% CI = 1.63–9.84), and severe injury (OR = 12.29, 95% CI = 3.04–49.65). Severe injury was the only variable associated with conviction. Genital injury alone was not associated with either filing of charges or conviction (McGregor, Du Mont, and Myhr 2002).

Rambow and colleagues reported on 182 sexual assault cases, 53 of which had the potential for successful prosecution (a victim willing to testify and an identified assailant). They found that 34% of these cases resulted in a successful prosecution, and evidence of genital or nongenital injury was significantly associated with a successful legal outcome (Rambow et al. 1992). In perhaps the most rigorous protocol of all of these studies, investigators used a population-based, retrospective review of forensic evidence in 801 forensic examinations (Gray-Eurom et al. 2002). All examiners used a standard protocol, underwent initial training, and maintained monthly peer review during the study period. They found injury in 57% of the forensic examinations. Survivors > 18 years of age (OR = 2.23, 95% CI = 1.2–4.16), the presence of trauma (OR = 1.93, 95% CI = 1.08–3.43), and weapon use by the assailant (OR = 2.00, 95% CI 1.05–3.81) were all significantly associated with successful prosecution. No attempt was made to differentiate between genital and nongenital injury or to grade injury severity.

At this time the role of genital injury in the filing of charges and conviction has yet to be fully understood. No investigators using state-of-the-art examination techniques, rigorous research methods, and a valid and reliable classification system for genital injury severity have studied the criminal justice outcomes following sexual assault. Until rigorous studies are available to guide forensic and criminal justice practices, the literature supports detailed documentation of genital and nongenital injuries to be used as evidence in court proceedings.

The Forensic Examination

Team Approach to Forensic Services

In order to help ensure comprehensive collection of evidence as well as treatment of injury, sexual assault victims are now treated with a team approach. Identification and treatment of injury has become a piece of a much larger picture in the immediate aftermath of sexual assault. The team approach requires representatives from rape care advocacy, law enforcement, prosecutors, a police crime laboratory, and a medical team that includes nurses or physicians who are trained in forensic evidence collection. The role of rape care advocacy

in the period immediately after assault is to provide emotional support and supportive information via accompaniment during interview and examination. Law enforcement is responsible for conducting an interview and beginning the investigative process. Prosecutors and the police crime laboratory provide guidelines for the collection of evidence. The police crime laboratory analyzes any evidence collected related to the crime of sexual assault. A specially trained nurse or physician interviews the victim, conducts the examination, and collects evidence from the victim's body. A physician provides medical prophylaxis and treatment.

Law enforcement, rape care advocacy, nurses, and physicians must be available to victims 24 hours a day, 7 days per week. A team of rape care advocates, law enforcement personnel, and health care providers who are trained in caring for sexual assault survivors is advisable. Every survivor of sexual assault should have access to a sexual assault response team in the immediate aftermath of the crime.

Access to the Sexual Assault Response Team

Victims of rape or sexual assault report the crime in a number of ways. The victim may call 911 giving her or him access to police. The victim may call a rape crisis hot line, or the victim may appear in the emergency room of a hospital accompanied by a family member or friend. Each point of access to the team must be prepared to receive the victim. Many victims do not report this crime fearing "revictimization" by the legal system or the health care system or both. Many victims are fearful of not being believed by police or health care providers. Many victims also fear retaliation by the offender if they report the crime. Department of Justice surveys reveal that rape and sexual assault are underreported crimes (U.S. Department of Justice, Bureau of Justice Statistics 1996). It is important for team members to recognize victims' hesitancy to report. Creation of easy access to the team and appropriate, consistent, and caring initial responses to contact is crucial to victim reporting.

Trained personnel who follow protocols that help ensure victim safety and preservation of evidence should receive 911 calls. These calls should be evaluated for the imminent danger for the victim and he or she should be given instructions as to how to preserve her or his safety until police can arrive on the scene. Such instructions should also contain directions to the victim to help preserve evidence. These instructions should include the following:

- Do not urinate or defecate if possible. If you must urinate, do not use toilet paper
- Do not eat or drink anything
- Do not gargle
- Do not change clothes
- Do not take a shower or bath
- Do not douche

Victims may reach the team via rape crisis center hot lines. Hot lines provide referrals 24 hours per day, 7 days a week. Trained personnel refer any victims of recent sexual assault to the emergency rooms that provide access to the sexual assault response team. Medical evaluation after sexual assault is vitally important.

Victims may gain access to the team via direct entry to the emergency room. Victims may call a friend or relative after the assault. The assisting person may bring the victim directly to the emergency room. If this is the case, health care personnel will triage for injury and then activate the sexual assault response team including police, advocates, and a forensic examiner.

Preparation of personnel at all points of access to the team is an important team function. Whether the victim calls 911, calls a hot line, or comes directly to the emergency room, safety of the victim is the first priority, followed by preservation of evidence and access to the sexual assault team.

Setting

Interview and examination within approximately 72 hours after sexual assault are usually performed in the emergency department (ED) of a health care facility. It is not required that this be the setting; however, the 24/7 availability makes the ED the likely place for immediate care after assault. The role of the health care facility on a sexual assault team is to ensure the medical safety of survivors of sexual assault. Every ED is equipped with emergency department physicians who can provide urgent care for survivors who require immediate medical attention. A prompt medical response to the arrival of the survivor at the ED is essential.

Medical intervention is required in many cases of sexual assault. Survivors may require interventions such as suturing of lacerations, treatment for fractures, or evaluation and treatment of head trauma. Safety of the survivor is always the number one priority. Necessary medical intervention precedes any evidence collection.

If interview and examination after sexual assault are not conducted in an emergency room, careful triage for injuries must be performed prior to interview or forensic evaluation. A setting that is not in an emergency department should be reasonably close to emergency facilities for easy and quick access to medical care if necessary.

Role of the Forensic Examiner

A registered nurse or a physician who has been trained to provide comprehensive and competent care to sexual assault survivors in the immediate aftermath of an assault is an important member of the sexual assault response team. This person's specialized training includes interview skills, assessment for injury skills, and knowledge about collection of forensic evidence and therapies for prevention of sexually transmitted diseases and pregnancy. Forensic examiners must have photography skills and must be prepared to testify in a court of law.

Sexual assault can occur any time and any place. The nurses or physicians trained to treat sexual assault survivors must provide 24-hour coverage. The providers must be able to reach the ED or other site where care is being provided within an hour of the arrival of a victim. In an ideal setting, the victim, law enforcement, the rape care advocate, and the forensic examiner arrive at the ED simultaneously. More commonly, the victim arrives at the ED accompanied by law enforcement, after which the rape care advocate and the forensic examiner are called.

Forensic Interview in Health Care Settings

As soon as is reasonably possible after medical intervention ensures the safety of the victim, an interview and forensic examination are conducted. After injuries have been treated, a quiet place should be sought in which an interview can be conducted. Interviews need not be conducted in the same room as examinations. Interviews should be conducted in a secure area to prevent patients and personnel from overhearing details of the assault. Minimal interruptions during interviews are desirable. The interview must be conducted in a nonjudgmental fashion.

The purpose of the forensic interview in the health care setting is twofold. One purpose is to hear the victim's account of the crime in order to guide the forensic examination. For example, the forensic examiner must hear from the victim the time and location of the assault. Length of time since the assault will identify the type of evidence that may be retrieved. Location of the assault will key the examiner to the possibility of finding as evidence particles that transferred from the crime scene to the victim's body.

The forensic examiner must hear in detail the type of sexual activity involved in the assault. Examiners are looking for trace evidence that is often difficult to find without a clear history. For example, semen and saliva, even with the use of good lighting sources, are difficult to locate. The examiner must know how control of the victim was obtained. If bindings were used, for example, the examiner will look for evidence of the restraint.

The second purpose is related to law enforcement, which also requires information from the victim. Law enforcement must know where the crime occurred; they must locate the crime scene for further investigation. Law enforcement must hear and record the victim's account of the sex acts performed during the crime so that the assault can be "coded" appropriately. Information about the suspect is necessary for appropriate investigation of the assault.

The victim's account of any injuries sustained during the assault is vital to the investigation. The survivor must describe any loss of consciousness, head blows, or any pain or bleeding that occurred during the assault. She or he must explain any physical force utilized during the assault as well as any use of restraints. Sex acts including penetration of the vagina, rectum, or mouth by a penis, finger, or object must be described. Any biting, licking, or kissing and any oral-genital contact must be described.

If the survivor is noted during the interview to have any physical or mental deficiency, the examiner must describe this. Utilization of members of the medical team to appropriately evaluate physical or mental disabilities may be required.

Law enforcement and the forensic examiner should conduct the interview of the victim. If at all possible, the interview should be conducted with both law enforcement and the forensic examiner present at the same time. Who leads the interview is a choice among team members, but conducting one interview has many beneficial effects. It is difficult for the victim to discuss the nature of the crime. Discussing nonconsensual sex with total strangers is a difficult task indeed. The victim does not wish to repeat her or his account many times. The rape care advocate may be present during the interview to provide support if the victim desires her or his presence. The advocate's hearing of the account may be desirable for future counseling sessions.

Conducting of one interview eliminates the need to repeat the account by the victim and it also eliminates contradictory information given during a stressful time by a victim. An interview conducted by two members of the team can also help ensure comprehensiveness of the interview. Further questioning by law enforcement during the investigation process is often necessary. Victims should be advised of that possibility.

Interview Format

A format for interview should be designed and approved by all members of the sexual assault response team. Consistency in interview questions helps ensure the quality and integrity of sexual assault investigation. Documentation of the facts of the case related by the survivor is the goal of the interview. The interview is recorded in a concise fashion containing quotes from the survivor as much as possible. Interview prior to examination cannot always be accomplished, but is very desirable. The interview guides the examination process and begins the investigative process.

Consent Issues

Consent from the victim must be obtained for examination and treatment. In a true medical emergency, consent is assumed and medical personnel proceed. When the survivor is able to consent, permission must be obtained for examination, for reporting the crime to law enforcement, and for taking photographs.

Age for providing consent is frequently an issue in cases of sexual assault. Many victims of sexual assault are adolescents and may fall below the age of consent. Each state defines age for consent, what qualifies as emancipation, and exceptions for consent in minors without parental permission in areas such as the treatment of sexually transmitted diseases or treatment of pregnancy. Forensic examiners must explore the law describing consent in the state in which they practice. In most cases, it is advisable to obtain parental consent for examination and treatment. Parental consent for examination of an adolescent survivor of sexual assault is the beginning of long-term involvement of parents in the adolescent healing process after sexual assault.

Consent to report to law enforcement is vital to investigation of the case. Consent to report is strongly encouraged. Rape care advocacy is often helpful in explaining issues related to consent. Victims may refuse to consent to reporting of the assault based upon a belief system that is not grounded in fact. Members of the advocacy groups use education as a tool to encourage reporting. If the survivor refuses to consent to report, examination and treatment are provided, but forensic evidence is not collected.

Photographs are an important component of evidence collection. Permission to photograph must be obtained prior to taking pictures with a camera or via a colposcope. Health care facilities adopt consent to photograph forms that can be located in the emergency room.

Obtaining consent may be delayed if the victim is intoxicated or drugged and cannot give consent. Urgent care is provided, but interview and forensic evidence are delayed until the victim is able to consent and cooperate for interview and examination.

History

Medical history must be obtained prior to physical examination and treatment. History must include chronic diseases, medications, allergies (particularly to medication), and immunizations received. For female victims, information on last menstrual period should be requested, as should method of birth control.

For female victims, history of last consensual intercourse must be obtained. Police crime laboratory analysis requires this information. Analysis of seminal fluid requires the knowledge that fluid from consensual sex may be incorporated into the specimen submitted for evidence.

History of events that occurred after the assault and may influence evidence collection must be obtained. These include bathing or showering, changing clothes, douching, gargling, urinating or having a bowel movement, and eating or drinking.

Forensic Examination

The body of the victim is carefully inspected by the nurse or physician for any possible transfer of evidence from the crime scene to the victim or from the suspect to the victim. Common trace evidence found in the immediate aftermath of sexual assault includes semen and saliva, blood and tissue, hair and fibers, and bite marks. The body is systematically inspected for injury and presence of trace evidence. Any organized method of inspection is acceptable. The most common organizational method is head and neck, chest and abdomen, arms, back, and legs. Pelvic examination and inspection of the rectum and buttocks end the examination. All injury is described and photographed. All trace evidence is collected and packaged in a systematic fashion after it has been dried. Evidence can be lifted with gloved hands, combed onto a piece of paper, scraped with a glass slide, reconstituted with moistened cotton swabs or pieces of gauze, or picked up with forceps with plastic covers to protect the tips.

First, the procedure for forensic examination must be explained to the victim. This can be done by either the rape care advocate or the forensic examiner or by both members of the team. Explanation is usually given after the interview is complete. A private and preferably quiet place for examination is desired.

The examination must be complete and concise and conducted in a caring and sensitive manner. The rape care advocate should be present for the examination. Law enforcement should not be present during the examination. The forensic examiner may invite a parent or spouse or partner to be present during the examination at her or his discretion. Examination should take place in a private area that will remain free of interruption. No one should enter or leave the room during the examination period. This not only ensures privacy, but also prevents contamination of evidence collection and ensures chain of custody.

Overall Appearance

The examination begins with overall appearance of the survivor. The physical appearance of the victim is objectively described and a photograph of the victim is taken prior to

evidence collection. Two photographs—one front view and one side view—may be taken. It is advisable that the victim holds a piece of paper with her or his name and date on it for inclusion in the photographs. Demeanor of the victim is a question often asked in a courtroom setting. The examiner must objectively describe the victim's behaviors observed during interview and examination. For example, if the survivor is crying, this should be noted along with exactly when during the exam or interview crying was observed. Aspects of a neurological examination including coordination can be objectively documented. The opinion of the examiner as to the demeanor of the survivor should never be included in a forensic report. Statements such as “in no apparent distress” are not objective and are inappropriate in a forensic evaluation.

Consistency of the forensic examination after sexual assault is important. Each examination should follow a format that has been reviewed by the sexual assault response team. Consistency in examination reduces the risk of “forgetting” a portion of the examination and also serves the examiner well in a courtroom situation. Objectivity of the examiner is vital to good testimony. A description to a judge and/or jury as to the examination procedure utilized with every victim of rape or sexual assault brings credibility to the examiner.

Clothing

The survivor is asked, after overall appearance is documented in writing and via photographs, to undress over a white paper sheet. The clothing worn during the assault is placed within paper bags and submitted for analysis to the police crime laboratory. If the clothing worn during the assault is not the clothing the victim wears to the examination, the clothing she or he is currently wearing should be submitted and law enforcement should request that the clothing worn during the assault also be submitted to the police crime laboratory. The victim places items of clothing in paper bags with each piece of clothing placed in a separate paper bag to prevent cross contamination. Items of clothing usually sent for evidence collection are shirt, pants or skirt, and underwear. Coats and shoes are usually not sent unless there is evidence present on them. The sheet over which the victim undressed is also sent to the police crime laboratory within a paper bag. The purpose for sending the clothing is to allow the police crime laboratory to inspect each piece for transfer of evidence from the crime scene or from the suspect to the clothing. The police crime laboratory will describe each piece of clothing and carefully inspect it for evidence transfer. The item most frequently found to contain transfer from the suspect to the victim's clothing is women's underwear. If a female victim changed her underwear before arriving in the emergency department, it is important that the underwear worn during and/or right after the attack be found and delivered to law enforcement.

Each item of clothing must be dry prior to being sent to the lab. This may require hanging items to dry in the examination room while the examination is being performed. At times, when an item of clothing is soaked in blood, drying must occur in the police evidence room. If this is the case, the item is placed within a biohazard bag for protection of the law enforcement officer. The wet item is then given to the law enforcement officer for his or her care. The officer will take responsibility for freezing the item, drying it, or taking it directly to the crime laboratory. If the clothing is dry after forensic examination, the paper bags are sealed with evidence tape, identified, and passed to law enforcement. Law enforcement may choose to examine the clothing for rips, tears, and stains prior to sealing the paper bags. If this occurs, the officer should wear gloves. If the victim is unable to undress herself or himself, the examiner should wear gloves while the clothing is removed.

If clothing must be cut in order to be removed, cutting should not occur through rips or tears or stains.

Detection of Injury

The victim is then dressed in a patient gown. She or he is inspected for signs of injury on the body. Inspection must occur with good light sources. High-intensity lights and a Wood's lamp are most commonly utilized. Inspection should be done slowly and carefully with the history of the event in mind throughout. Any sign of trauma must be described and photographed. Bruising should be noted and dated. Any soft tissue injury, laceration, contusion, redness, or swelling should be noted, photographed, described in the record, and drawn on a body map contained within the record. Any areas of pain or tenderness should be noted.

Photographs should be taken of each injury. At least one orienting photo should be taken that clearly reveals the body part that contains the injury. At least one close-up photo should be taken of each injury. One photo should be taken of each injury with a scale and one photo should be taken of each injury without a scale.

Bruising occurs over time. Early on a bruise appears as a reddened area. In time, it becomes black and blue, then yellow and green. Arrangements for follow-up photography should be made with law enforcement after completion of the examination. Follow-up photography will capture changes in injury over time. Methodology for assuring chain of custody from digital photographs must be discussed within the sexual assault response team. Methods for storing digital photographs vary with type of camera.

Head and Neck. Inspection for injuries obtained during the assault is vital to the investigation. Inspection most commonly begins with the head and neck area. Lacerations, abrasions, scratches, and bruises of the head and neck area are noted and photographed. The eyes are carefully inspected for petechiae and retinal hemorrhage. Petechiae can be related to anoxia and retinal hemorrhage can be related to violent shaking. Any victim who lost consciousness during the assault and/or experienced head trauma requires appropriate medical evaluation and treatment. The nose and the ears are inspected with an otoscope for bleeding, swelling, or bruising. Behind the ears must be inspected for signs of bruising. Mouth and lips are inspected for injury. Early bruising and petechiae have been observed in victims of oral sexual assault in the mouth and throat area. If the victim is punched in the area of the mouth, injury will be detected. Use of a Wood's lamp may assist in finding semen on the face. The teeth of the victim should be observed for integrity.

Bruising of the neck is a common finding in victims of sexual assault. Control of the victim is frequently maintained via the offender's hand on the victim's throat. Any indication of early bruising of the neck should be noted and photographed.

Body. The body is then inspected for injury. The entire body is inspected for bruising, scratches, lacerations, abrasions, bite marks, and edema. If bondage was utilized during the assault, close attention must be paid to the legs and arms for early bruising or other signs of restraint. The breasts are commonly injured in sexual assault. The breasts must be carefully inspected for saliva, bite marks, bruising, scratching, and swelling. The inner thighs of the survivor must be carefully inspected for scratching and bruising. The inner thighs are also a common place for the discovery of semen. A Wood's lamp may assist in this discovery. Abrasions on the back are commonly discovered after sexual assault.

Collection of Forensic Evidence

Forensic evidence is collected from the survivor's body. Her or his body is inspected for hair, fibers, blood, semen, and saliva. The history of the event guides the examination for evidence. A Wood's lamp is often helpful in finding semen and saliva. Items such as hairs, fibers, grass, or sand are packaged on a piece of paper placed within an envelope or, if dry, in a dry, clean container. The container or envelope should not be airtight to retard growth and degradation. Dried blood found on the survivor's body can be scraped off with the side of a glass slide onto a piece of paper. The paper is folded druggist style and placed within an envelope. If dried blood cannot be scraped off the body, it can be lifted with cotton swabs slightly moistened with sterile water. These swabs are then dried at room temperature and packaged in an envelope. Semen and/or saliva found on the body can be reconstituted with cotton swabs dampened with sterile water that are then dried and packaged.

The survivor's head hair is combed through looking for any transfer of evidence from the crime scene or perpetrator. The hair is combed through onto paper and both the paper and the comb are packaged into an envelope and sent to the police crime laboratory. Head hair is not pulled from the victim at this time. Pulled head hair may be necessary for the investigation only if a hair with a root is obtained from the suspect as part of evidence collection. In that rare case where a full head hair from the suspect is found, pulled hair from the victim is recovered for a control during the investigative process.

Fingernails are scrapped looking for fibers, blood, and tissue, especially if the victim scratched the suspect. These scrapings are placed onto paper and placed into an envelope. Fingernail scrapping from one hand should be kept separate from scrapings from the other hand. Fingernails may be clipped and the tips sent to the laboratory if the fingernails are broken or injured during the assault.

A blood sample or buccal swabbing is drawn from the survivor. These samples become the known or reference source of DNA in the investigation.

The oral cavity is swabbed with cotton swabs. The area around the gums and teeth is the area of concentration. These specimens are analyzed for semen and sperm. It may be required by the police crime laboratory that a slide be made of the oral secretions.

Bite marks can be analyzed for identification. Any bite mark found on the body requires assistance from a forensic dentist. No attempt should be made by a forensic examiner to analyze a bite mark. The forensic dentist utilized by the team must be consulted.

DNA can be found in any human tissue or body fluid containing nucleated cells. The new methods for analyzing DNA require minimal amounts of substance. Careful searching of the body can reveal important forensic evidence that can be analyzed for the presence of DNA. DNA can be retrieved from samples of blood, flesh, seminal fluid, vaginal fluid, saliva, hair with roots, perspiration stains, and dandruff in sufficient sample.

Examination of Genitalia

Examination of genitalia and rectal examination conclude the examination. The female victim should be appropriately draped and reclining on a gynecology table for this examination. A male victim can be examined on an examination table and should also be draped appropriately. The rape care advocate should be seated at the head of the exam table in order to provide support and education.

Inspection begins the genital examination. Colposcopy assists in the detection of injury. If a colposcope is not available, a digital camera can be utilized. The examiner carefully inspects the external genitalia using the colposcope or digital camera to detect any injury. Common injuries found on external genitalia include tears, ecchymosis, abrasions, redness, and swelling. Photographs are taken via the colposcope or camera. Inspection of external genitalia and orienting photographs, if they are to be taken, are done before evidence is collected. The photographs will then demonstrate the appearance of the genitalia prior to collection of evidence. The number of photographs taken is a decision made by the team. A common approach is one or two "orienting" photographs of external genitalia that include the entire area followed by photographs centering on any injured area in the external genitalia. Each area of injury in addition to being photographed should be described in the record and drawn on a body map within the record.

Toluidine blue dye is a dye that can be utilized to enhance visualization of any injury to the external genitalia. After initial photographs, the dye is applied to areas of injury using a swab or swabs. Excess dye is then removed with a mild vinegar solution or with water-soluble lubricant. The dye will "take" only in areas where the integrity of the tissue has been disturbed. Photographs of any injury are then retaken with the dye in place. If toluidine blue dye is applied in female victims, it should be placed on any sites of injury prior to insertion of the speculum.

Pubic hair is combed for any transfer of evidence. A clean comb is utilized and the combing occurs onto a piece of paper. Both the comb and the results of the combing are sent to the police crime laboratory. The comb and the hair are folded into a piece of paper that is placed within an envelope. Any matted hair in the pubic region is clipped and sent in a piece of paper in an envelope to the laboratory. Pubic hair is not pulled at the time of examination. Pulled pubic hair may need to be collected at a later date upon the unlikely circumstance when a hair with a root from the suspect is recovered in evidence collection. If this occurs, a pubic hair with a root from the suspect is obtained, and a control pubic hair sample from the victim must be obtained. The low frequency of necessity for pulled pubic hair from the victim coupled with the discomfort associated with the procedure negates any recommendation that pubic hair be pulled in the immediate aftermath of sexual assault.

The external genitalia may be swabbed for semen. Swabbing can be done with moistened cotton swabs or with moistened gauze. If the victim is a male, the penis and scrotum should be swabbed. Careful attention during swabbing must be paid to the multiple folds in the scrotum. It is not recommended that the examiner place any swabs into a male victim's urethra. This procedure is painful and will not produce useful evidence.

Injury to the hymen may be detected in internal inspection prior to insertion of the speculum. Careful inspection of the hymenal tissue with labial retraction is required. In victims who have no sexual experience prior to the assault, good visualization of the hymen is necessary. Positions required for good visualization are lithotomy with legs in stirrups, and the knee chest position. Firm, but gentle traction of the labia is required for visualization of the hymenal tissue. The colposcope can aid in identification of the tissue. The use of a Foley catheter for visual inspection of the hymen may be necessary in female victims with redundant hymenal tissue. In this case, a Foley catheter is inserted past the hymenal tissue. The balloon is then inflated with air or water. The inflated catheter is pulled back against the hymenal tissue and brings the tissue forward for observation. Photographs are taken of any injury.

Internal genitalia in the female victim are inspected secondarily. Speculum insertion is required for internal inspection. Orienting photographs of the vaginal walls and cervix should be taken. One or two “orienting” or overall photographs will demonstrate the appearance of internal genitalia prior to collection of evidence. Photographs of any areas of injury are then taken. Common injuries seen on internal examination are bruising, bleeding, and lacerations. The TEARS acronym can be utilized in the recording of injury to internal genitalia. Each injury should be photographed as well as described in the report and drawn on a body map within the record.

Vaginal swabbing is done after inspection. The vagina is swabbed with at least four cotton applicators. One applicator is inserted into the cervix. The other three are utilized to absorb any secretions visualized in the vagina. The swabs must stay in place for purposes of absorption for a few minutes. Any secretions noted on the speculum when it is withdrawn from the vagina are also swabbed. Secretions on the bottom blade of the speculum are derived from surface area underneath the cervix. Swabbing the speculum allows for collection of secretions from this area. The police crime laboratory may request that a slide from swabs be made of the vaginal secretions. All swabs must be dried prior to packaging for the crime laboratory. Any slides made are allowed to air dry before packaging.

In a male survivor, external genitalia are inspected and photographed. The penis and scrotum are swabbed. The swabs are dried and packaged and sent to the police crime laboratory.

Rectal Examination

Rectal examination is performed after genital inspection and collection of evidence. Anoscopy is performed if the case involves known or suspected sodomy and the patient consents to the procedure. Swabs for forensic evidence can be collected via the anoscope. Appearance of rectal bleeding indicates a need for anoscopy. The rectum is inspected in both the lithotomy and side lying position in all cases of sexual assault. The rectum is carefully inspected using gentle but firm traction. Tears, bruising, and masses (rectal prolapse) have been noted after rectal assault. The rectum is inspected utilizing the colposcope or digital camera. Any injuries are photographed via the colposcope or camera. Toluidine blue dye may be used to enhance visualization of perianal injuries. Swabs from the rectum are obtained in all cases of sexual assault.

The buttocks must be inspected before completion of the examination. The buttocks must be inspected for any injury such as bite marks or bruising. Evidence in the form of semen or saliva must be collected from the buttocks if present.

Proper Handling (Management) of Evidence

A drying box must be utilized or the examiner must design another method of drying swabs and pieces of gauze. A common method for drying, in the absence of a drying box, is individual test tubes, clearly identified, in a test tube rack. It is important that all material submitted to the police crime laboratory be dried at room temperature. Swabs must be kept separate from each other to prevent transfer of evidence during the drying process. The source of the swabs must not be confused during the drying process.

Any and all evidence collected must be labeled properly. Swabs must be placed in envelopes clearly marked “vaginal,” “oral,” or “rectal.” Each piece of evidence must be marked

on the container (indirect marking) with description, name, number or other designation, person who recovered the evidence, and date. An evidence log should be part of the permanent record. Each piece of evidence collected should be marked on the evidence log.

A common way to organize the collection of evidence is via an “evidence collection kit.” Three different companies make kits. Each kit organizes the collection slightly differently. They provide envelopes marked with areas of collection such as vaginal swabs, rectal swabs, oral swabs, pubic hair combing, debris collection, fingernail scrapings, head hair combing. Both the forensic examiner and the police officer should sign off the evidence log and the sexual assault evidence collection kit if one is utilized. The kit is sealed with evidence tape by the examiner and the law enforcement officer.

Any evidence collected during examination is turned over to law enforcement. If the victim brings evidence to the examination that cannot be contained within an evidence collection kit, it is given to law enforcement. For example, if the victim brings a condom utilized during the assault to the examination, the condom is placed in a biohazard bag and given to law enforcement. Menstrual pads and tampons collected as evidence are also packaged separately from the kit and given to law enforcement. After evidence has been collected, the kit is given to the officer. Clothing collected during the examination is given to the officer.

Chain of Custody

Chain of custody of evidence must be maintained throughout the examination. The purpose of chain of custody is to demonstrate that the evidence was never left unattended, thus leaving open the possibility for tampering. Evidence must be in the control of the forensic examiner or the law enforcement officer at all times or it must be under lock and key with minimal availability to the key. The evidence log indicating what was collected (clothing, condom, tampon) and the kit should be signed and dated by both the officer and the examiner. Evidence must be collected properly, stored properly (no higher than 70°F), transported properly via the law enforcement officer, and documented as to its collection and transfer properly. Each sexual assault response team must develop procedures to ensure chain of custody of all pieces of evidence. Without meticulous procedure and documentation of procedure related to chain of custody, evidence cannot be utilized in a court of law.

Documentation

Concise and well-organized documentation is a must in sexual assault cases. A clear and easy to use charting system is important for consistency in charting among the examiners and for clarity in the prosecutor’s office. Photographs should be submitted to law enforcement. A photography log should be included in the record. In this log, each picture taken, colposcopic pictures included, should be listed with a number and description of what has been photographed. Body maps and maps of genitalia on which to draw injuries are recommended. At times, drawings become necessary in a court of law. A narrative account of the assault is recommended for inclusion with in the chart.

Documentation should be nonjudgmental and draw few conclusions. Documentation should be legible and clear. Commonly, prosecutors ask for the forensic examiner's opinion in writing as to consistency of findings with history. Forensic examiners typically conclude their documentation with a statement indicating consistency or inconsistency of physical findings with history from the victim.

Drug and Alcohol Testing

Many police crime laboratories are equipped to analyze blood and or urine for toxicology. If the police crime laboratory does not have this capability, law enforcement will hold a contract with a private laboratory capable of performing toxicology screenings. The decision to provide blood or urine for toxicological screening is made by law enforcement and the forensic examiner. The examiner may recommend screening based upon the interview of the victim and/or the neurological evaluation of the victim. If toxicology screening is to be obtained, a specimen should be collected and submitted to law enforcement under guidelines for chain of evidence. The specimen should be collected per laboratory rules as soon as possible after the victim's entry into the health care system. At times, when neurological testing indicates that obtaining informed consent due to intoxication is an issue, the forensic examiner may choose to wait and watch the victim before interview and examination are conducted. Drug and alcohol screening samples should be obtained prior to the waiting period for reasons of medical as well as forensic necessity. Full toxicology screening must be requested. The appropriate laboratory as indicated by law enforcement must perform analysis. Clinical toxicology (of an additional specimen) can be performed in the hospital laboratory as needed.

Therapy and Prophylaxis

Medical therapy is implemented as required. Suture of lacerations, treatment of fractures, and other medical therapies are a priority and are implemented prior to evidence collection.

Prophylactic treatment for sexually transmitted diseases (STDs) and prevention of pregnancy should be addressed in every case of female sexual assault. Male survivors of sexual assault require prophylaxis for STDs. The Centers for Disease Control (CDC) has published a protocol for prevention of STDs after sexual assault. Cultures are not taken in the immediate aftermath of sexual assault. Treatment is the current recommendation if the victim is infected, with cultures performed at follow-up visits. Protocol for treatment of STDs is followed according to the CDC published standard with deviations for age or allergies or pregnancy implemented throughout the guidelines (Guidelines for Treatment published by the CDC).

Prevention of pregnancy is offered to all female victims of sexual assault. Prevention of pregnancy is achieved via emergency contraception published in (*Contraceptive Technology*, 16th edition, Irvington Publishers Inc, New York). Progesterone-only tablets, Plan B, may be given to prevent pregnancy rather than a combination of estrogen and progesterone. An existing pregnancy should be ruled out via a pregnancy test prior to administration of emergency contraception.

Follow-Up Care

Follow-up examinations for pregnancy testing, cultures for STDs, follow-up hepatitis B vaccinations, healing of injuries, and anonymous HIV testing are recommended. Follow-up examination can occur in a private health care office or at a public health center. Arrangements for follow-up medical care should be made after interview and examination. Rape care advocates can be of great assistance in scheduling and assisting the victims to maintain these appointments.

Counseling after sexual assault is vitally important. The presence of rape care advocacy in the immediate aftermath of sexual assault sets the stage for follow-up counseling. During the forensic examination, the rape care advocate ensures the safety of the survivor and works toward keeping the forensic evidence collection process and the follow-up experiences as victim-focused and nontraumatic as possible. The rape care advocate does just as the title suggests: advocates. She or he will follow the survivor after the assault. The advocate may accompany the survivor for follow-up visits and screenings. The advocate accompanies the survivor to court. The advocate will ensure that the survivor receives adequate counseling and support for as long as is necessary after sexual assault.

The forensic examiner may call the survivor one time within 48 hours of the assault. The purpose of the telephone call is to answer questions related to the examination and to provide reassurance to the survivor concerning her or his health. The objectivity of the forensic examiner is assured by termination of contact with the victim after this follow-up telephone call. The rape care advocate assumes the responsibility for long-term advocacy and counseling.

Discharge Instructions

Written discharge instructions related to completion of STD treatment and prevention of pregnancy are recommended. Discharge instructions should contain information about follow-up visits (where and when) and they should include information about 24-hour help lines and how to contact rape care advocacy centers. The survivor should have all findings of the examination explained clearly with written suggestions for any follow-up care that may be required.

Conclusion

Women and men, young and old, deserve compassionate, complete, comprehensive care as soon as possible after sexual assault. The development of highly specialized teams containing members from law enforcement, health care, and rape care advocacy helps ensure that all victims of sexual assault receive an integrated, concise, and timely response to sex-related crimes. Forensic examiners ensure the collection of evidence that enhances investigation of sexual assault and helps to ensure the safety of victims and survivors.

As technology and examination techniques have improved, the literature reflects a growing ability by examiners to detect genital injury following rape and sexual assault. In particular, the combination of colposcopy with digital image capture and nuclear staining has led to reports of genital injury prevalence approaching 90% following nonconsensual sexual intercourse. Several replication studies demonstrated the same four locations that

are the most common sites for genital injury: posterior fourchette, labia minora, hymen, and fossa navicularis. In addition to relatively well established data for injury prevalence and location, the role of genital injury in criminal justice proceedings is clear. The forensic evidence documenting the existence of injury following rape can aid the victim, police, prosecutor, and jury in their respective roles in the decision-making processes. Because the examination is based on scientific evidence, it may influence victims to report their experiences to police, encourage police to file a complaint, and persuade prosecutors to file rape charges and pursue a conviction (Sommers et al. 2005).

Additional work is needed, however, to understand the multiple dimensions of the pattern of genital injuries after rape and sexual assault. By expanding the definition of pattern of genital injury to a multidimensional model, including genital injury prevalence, frequency, location, severity, and type, scientists may be able to further explicate the differences between injury patterns in the consensual and nonconsensual populations. Measurement strategies with validity and reliability testing are not yet available for all the dimensions of genital injury pattern, but with further scientific work, the use of a comprehensive model of injury pattern will inform the health care science in critical ways and will provide representative evidence in criminal justice proceedings.

Findings in Sommers and colleagues' (2006) study are intriguing and open new avenues for research. Two ready explanations are available to explain findings that white and black women have a statistically significant difference in injury prevalence. Differences in skin pigmentation may alter the ability of the examiners to observe injury regardless of the technique employed, although white and black individuals have a continuum of skin color that is not bound by race and has a wide variation. Sommers's findings suggest that individuals with darker skin may be at a disadvantage for injury identification with the current examination strategies (direct visualization, contrast media, colposcopy). On the other hand, work studying women after vaginal deliveries indicates that women with dark skin may have a protective factor against injury that is not present in lighter skin, although bias may have confounded the results of those investigations (Howard et al. 2000; Robinson et al. 1999). Although skin color is a socially charged issue, it is critical that further exploration occurs across the continuum of skin pigments to ensure that those with darker skin color are not placed at a disadvantage during the forensic examination. With advanced measurement strategies that reflect a multidimensional definition of injury pattern, health care and criminal justice practices will have a stronger scientific basis for decision making and the most rigorous techniques can be employed to benefit all sexual assault victims.

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Classifying Rape and Sexual Assault

18

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Introduction

In order to more fully appreciate what the rape victim is a victim of, it is helpful to understand the dynamics of the offender. What prompts men to rape? What are such offenders like? Do they progress from less serious to more aggressive offenses? What determines their choice of victims? When faced with such an assailant, what can a potential victim do, to deter him? Will the offender return? These are some of the questions commonly asked about rapists, and it is difficult to provide simple and unequivocal answers to them.

One of the major obstacles to the development of definitive knowledge about men who commit sexual assaults is access to such offenders. Rapists and child molesters characteristically do not self-refer to mental health agencies for a variety of reasons. Some fear that disclosure will result in their incarceration in a mental hospital or correctional institution. Others do not appreciate that their behavior is inappropriate or symptomatic. And those who may voluntarily seek out consultation and treatment find few community-based programs and agencies responsive to their needs. Human service providers have not been trained to work with such clients. Even those sexual offenders who are apprehended and convicted will find few rehabilitation programs within the criminal justice system specifically addressing their needs. The result is that sexual aggressors, for the most part, have not come to the attention of behavioral scientists. Without an opportunity to work with and study a sizable number of such persons, a body of information has been slow to develop regarding this form of sexual psychopathy. Rather than having a sense of who they are, what they do, and what motivates their offenses, we are left instead with stereotypes and myths about men who rape.

This chapter reviews current knowledge on the motivational intent and classification of rapists. Intent of the offender becomes clear only if the crime is viewed from the motivational position of the offender. The crime will usually make no sense if one attempts to understand it only from the perspective of the victim, a police officer, or a prosecutor. Only from the offender's point of view does it seem rational. Behavior reflects personality and is the basis for investigators' and profilers' attempts to form opinions about an unknown offender.

Motivation for Rape: Early Research

Early research for classifying the underlying motivational intent for sexual assault identified three domains: power, anger, and sexuality (Groth, Burgess, and Holmstrom 1977). This early classification was taken from the perspective of the rapist and clinical work with him.

Clinical work with offenders and victims in the 1970s–1990s revealed that rape was in fact serving primarily nonsexual needs; it was the sexual expression of power and anger.

Rape was viewed as motivated more by retaliatory and compensatory motives than sexual ones; it was a pseudosexual act—complex and multidetermined, but addressing issues of hostility (anger) and control (power) more than desire (sexuality).

The defining issue in rape is the lack of consent on the part of the victim. Sexual relations are achieved through physical force, threat, or intimidation. Rape, therefore, is first and foremost an aggressive act and, in any given instance of rape, multiple psychological meanings may be expressed in regard to both the sexual and the aggressive components of the act.

The most basic observation one can make regarding rapists is that not all such offenders are alike. They do not do the very same thing in the very same way or for the very same reason. In some cases, similar acts occur for different reasons and in other cases different acts serve similar purposes. From our clinical experience both with identified offenders and with victims of reported sexual assault, we find that in all cases of forcible rape three basic components are always present: anger, power, and sexuality (Groth, Burgess, and Holmstrom 1977). The hierarchy of and interrelationships among these three factors, together with the relative intensity with which each is experienced and the variety of ways in which each is expressed, may vary from one offense to another. Yet there is sufficient clustering so that distinguishable patterns of rape become evident: the anger rape, in which sexuality becomes a hostile act; the power rape, in which sexuality becomes an expression of conquest; and the sadistic rape, in which anger and control become eroticized. In every act of rape, then, both aggression and sexuality are involved; it is clear, however, that sexuality becomes the means of expressing other, nonsexual needs and feelings that operate in the offender and motivate his assault. Rather than being primarily an expression of sexual desire, rape is, in fact, the use of sexuality to express issues of power and anger. It is a sexual act that is concerned much more with status, aggression, control, and dominance than with sexual pleasure or sexual satisfaction. It is sexual behavior in the service of nonsexual needs and, in this sense, rape is clearly a distortion of human sexuality.

The Rationale for Classification

Science has traditionally evolved by simplifying large domains of information. Simplification seeks to assign the data into subgroups that possess common characteristics. The science of classification (“taxonomy”) is fundamental to all science. The task is to reduce the domains into subgroups that have theoretically important similarities. The resulting subgroups connect the content of science to the real world. Through such a process of classification we make sense of our experiences. The process that helps us to apprehend our world at the sensory level is the same process that scientists use to order and simplify their world at the empirical level.

One of the few indisputable conclusions about sexual offenders is that they constitute a markedly heterogeneous group (Knight, Rosenberg, and Schneider 1985). The childhood and developmental histories, adult competencies, and criminal histories of sexual offenders differ considerably. Moreover, the motives and patterns that characterize their criminal offenses also differ considerably. As such, it would be misleading to suggest that sex offenders have a single “profile” or that we can pronounce judgments about *all* sex offenders with any degree of accuracy (e.g., “sex offenders cannot be treated” or, for that matter, “sex offenders can be treated”). Indeed, it would be equally misleading to suggest that there is

a profile for all rapists or for all child molesters. Classification research reveals that rapists and child molesters are *very* heterogeneous and that each offender group may include a half dozen to a dozen discrete subtypes.

Usefulness of Classification

Classification of sex offenders serves several purposes:

- *Criminal investigative analysis.* The first relevant event is the crime itself. Thus, the first benefit of a classification system would be in aiding the apprehension of the offender through investigative profiling. Profiling, in its general application, involves the use of crime scene data to draw inferences about the offender in order to aid with identification and apprehension. The use of a classification system introduces two stages into this process. Victim statements (assuming that there is a live victim) and crime scene data such as evidence found at the location of the offense, photographs of the scene, and witness statements are used to bootstrap a classification of the offender. Assuming that it is possible to estimate, with reasonable confidence, the offender's subtype, the profile of that subtype is then used to assist with apprehension.
- *Informing decisions within the criminal justice system.* The second relevant event, after the offender has been apprehended, involves the discretionary and dispositional decisions made by the criminal justice system. In this capacity, a valid classification system can indeed inform the many staff within the criminal justice system about issues such as recidivism risk, risk of violence, appropriateness for probation, and custody level (i.e., security risk). At point of consideration for parole or discharge from community-based treatment, risk decisions once again become important. This clearly is an area where classification could serve a very useful purpose. Although there has been relatively little research on validating a classification system for this specific purpose, recent predictive validity studies on two empirically derived taxonomies are promising.
- *Treatment planning.* The third relevant event occurs either during incarceration or when the offender has been returned to the community via probation or parole. This event is treatment. Thus, the third possible benefit of a classification system would be to inform treatment planning and clinical decision making (e.g., increasing the specificity and accuracy of treatment plans). To the extent that rehabilitation within the criminal justice system remains a goal and to the extent that limited resources require strict allocation, classification systems that can shed light on treatment planning will be very important.
- *Etiology.* One of the most important aspects to understand about sexual offending is etiology. Classification systems can tell us something about the course of life events that led to the onset of sexual offenses. Indeed, it may be possible to discern the unique roots of each subtype (i.e., the path that led from childhood or adolescence to becoming a particular *type* of sexual offender). For example, the pattern of life events that led to an outcome of becoming an opportunistic rapist might be quite different from the pattern of life events that led to an outcome of becoming an anger rapist. Most empirical work to date has focused on the development of "path models" that predict taxonomic outcome from familial, childhood, and adolescent variables (e.g., Prentky et al. 1989; Rosenberg et al., 1988). These concurrent validity studies of

current classification models have begun to shed light on the different life experiences that lead to different subtypes. Although classification of sexual offenders has a long history (Knight et al. 1985), it has been, essentially, a nonempirical one. The only validated classification system for rapists that has emerged from lengthy, programmatic research is MTC:R3 (Knight and Prentky 1990).

The classification of rapists for this chapter is twofold: (1) the *Crime Classification Manual* by type of crime, and (2) the MTC:R3 by motive. The five primary motivations are frequently expressed in complex sexual fantasies that often begin to develop after puberty (Prentky et al. 1989). More contemporary classification typologies outline how various sex crimes are often fantasy driven (Douglas et al. 2006).

Crime Classification Numbering System

The numbering system used to classify crimes in the *Crime Classification Manual* (Douglas et al. 2006) uses three digits. The first digit represents the major crime category. There are five major crime categories: homicide, arson, sexual assault, nonlethal, and computer. Homicide category is identified by the number 1 (codes 101–199), arson by the number 2 (201–299), rape and sexual assault by the number 3 (301–399), nonlethal crimes by the number 4 (400–499), and computer crimes by the number 5 (500–599). The second digit of the code represents further grouping of the major crimes. Sexual assault is divided into three groupings: (1) criminal enterprise, (2) personal cause, and (3) group cause. The third digit of the code represents specific classifications within these groups.

Individual classifications within these groups are further divided into subgroups using two additional digits following a decimal point after the code. For example entitlement rape (313) is divided into four subgroups: 313.01 social acquaintance rape, 313.02 subordinate rape, 313.03 power-reassurance rape, and 313.04 exploitative rape.

Victims of rape and sexual assaults will generally be divided by age into three categories:

1. Adults are defined as individuals at least 18 years of age who are almost always pubescent and usually considered capable of consent under laws proscribing sexual conduct. Some exceptions may include persons who are mentally retarded, brain impaired, or psychotic.
2. Adolescents are defined as individuals 13–17 years of age who are usually pubescent but whose legal status under laws proscribing sexual conduct varies from state to state and even statute to statute within the same jurisdiction.
3. Children are defined as individuals 12 years of age or younger who are usually pre-pubescent and who are considered minors incapable of consent under almost all laws proscribing sexual conduct.

300: Criminal Enterprise Rape

Criminal enterprise sexual assault involves sexual coercion, abuse, or assault that is committed for material gain. The MTC:3R motive in felony rape is opportunistic. Opportunistic motive refers to an impulsive rapist type who shows little planning or preparation. He usually has a history of unsocialized behavior and the rape serves as an example of the degree

to which he lacks interpersonal awareness. These rapists show no concern for the welfare or comfort of their victims. The rape is for immediate sexual gratification rather than the enactment of a highly developed fantasy or sexualized ritual. The rape is in the service of dominance and power. For example, the offender is robbing a home and a female is present. He sees the opportunity to rape.

301: Felony Rape

Sexual assault committed during the commission of a felony, such as breaking and entering or robbery, is considered felony rape. The classification is made as to whether the rape was primary or secondary in intent.

301.01: Primary Felony Rape. The intent of primary felony rape is a nonsexual felony (e.g., robbery or breaking and entering). The victim is at the scene of the primary felony and sexually assaulted as a second offense. If the victim was not present, the felony would still have occurred.

301.02: Secondary Felony Rape. The primary intent of secondary felony rape is sexual assault. A second felony is also planned. This implies the offender knows a person will be present for two crimes to occur.

Case No. 1

Gloria is a 27-year-old single, black female who was born in South Carolina. She moved with her family to New York and has since lived in two different projects in the Bronx. She attended public school and earned average grades. Her favorite subjects were English and physical education. She left school in the 10th grade to have her first child. Prior to the rape, Gloria was employed as a home attendant.

Gloria was four months pregnant and living with her mother and daughter in a Bronx housing project. She had gone out to dinner with two friends. After dinner, she was driven home. As she was walking to her building, she saw her brother and another friend. She went into her building, passing the mailboxes, and into the elevator. She pressed the 5th floor and heard someone coming so she held the door. She recognized this man, James. As James came into the elevator, someone else also entered the elevator. As the door closed, this unknown man grabbed her from behind and began choking her neck in an arm hold. She struggled and lost consciousness. When she awoke she was on the roof landing. The unknown male was on top of her and James was pointing a gun at her. She remembers screaming but not hearing herself. The unknown male told James not to shoot and Gloria then passed out a second time. When she awoke the men were gone. Her clothes had been ripped off except for one pant leg. Her clothes were strewn about the area. She dressed feeling very dizzy, sore and in shock. She walked down about 15 flights of stairs because she was afraid the men might still be in the elevator. She reached her mother's apartment. She had trouble talking. Her daughter woke up and came to see her. Gloria then telephoned a friend. When her mother realized what had happened, she called the housing police. Subsequently an ambulance took Gloria to the hospital.

Gloria was hospitalized for 5 days. Medical reports indicated she had trauma to the head with intracranial damage, a hematoma to her forehead, and a cerebral concussion with postconcussion syndrome. She had flashbacks to the rape and the gun pointed at her. She worried about damage to her unborn baby. She had rectal

bleeding from an anal tear and needed further medical treatment for a sexually transmitted disease.

Gloria was unable to return to live in her mother's apartment and had to be relocated. She remembered two prior crimes in the building involving a 20-year-old friend of hers who was raped and murdered on the same rooftop and a young 18-year-old man who was beaten and hung from an exit door. She had nightmares. She was reminded of the rape when seeing military camouflage suits as that was the outfit of one of the assailants. She had aches and pains from the severe bruising. She had sexual difficulties with her boyfriend.

Gloria was threatened and intimidated with a gun that was used to control, intimidate, and terrorize her. There were two assailants who caused severe physical injury, who both raped her, and who also robbed her. The motivation for the felony rape was robbery. The psychological motivation was anger. She was rendered physically unconscious during the assault and it is clear in terms of the victim's psychological response to the attack that fear, intimidation, and threat to life paralyzed her and made the assailant feel powerful and in charge.

310: Personal Cause

Rape and sexual assault motivated by personal cause is an act ensuing from interpersonal aggression that results in sexual victimization to persons who may or may not be known to the offender. These rape and sexual assaults are not primarily motivated by material gain and are not sanctioned by a group. Rather, an underlying emotional conflict or psychological issue propels the offender to commit rape and sexual assault. Although the case may be legally defined as rape, the term *sexual assault* is used in this classification to encompass a wide range of forced and pressured sexual activities.

Level of aggression. Classification of sexual assault and rape under the personal cause categories as entitlement, anger, or sadism uses, as the determining criterion, the amount of aggression involved. Evidence for high expressive aggression used to determine the correct classification includes any combination of the following:

1. Injuries greater than minor cuts, scratches, and abrasions;
2. Force in excess of that needed to attain victim compliance (e.g., slapping, punching, or kicking, when there is no evidence of victim resistance);
3. Specific acts in the offense (e.g., mutilation, burning, stabbing, choking to unconsciousness, biting, kicking, anal penetration, or insertion of foreign objects); and
4. Desires or attempts to humiliate a victim (derogatory, demeaning remarks; any use of feces or urine; any forcing a male to observe; or evidence of forced fellatio after sodomy).

312: Domestic Sexual Assault

The victim in this classification is a partner, spouse, or family member of the offender.

313: Entitlement Rape

In exploitative rape (313.04), sometimes called power rape, expressed aggression is generally low and does not exceed what was necessary to force victim compliance. Callous indifference to the victim is evident. Issues of power and control are underlying psychological conflict.

The MTC:3R typology defines *sexualization* as motive in entitlement rapes. Sexualization essentially refers to a high degree of preoccupation with gratifying one's sexual needs. Sexual preoccupation is typically evidenced by highly intrusive, recurrent sexual and rape fantasies, frequent use of pornography, reports of frequent uncontrollable sexual urges, use of a variety of "alternative" outlets for gratifying sexual needs (e.g., massage parlors, X-rated movies, sex clubs, strip bars), and engaging in other deviant sexual behaviors (paraphilias), such as voyeurism, exhibitionism, or fetishism. The sexual assaults of these offenders are often well planned, as evidenced by a clear, scripted sequence of events, possession of assault-related paraphernalia, and an apparent plan to procure the victim and elude apprehension after the assault.

In this type of sexual assault the offender quickly gains control over his victim. The evidence of such power and control is that the victim submits to sexual demands on the part of the offender. The offender places his victim in a situation through verbal threat, intimidation with a weapon, and/or physical force where she cannot refuse or resist him, and this provides the offender with a reassuring sense of power, security, strength, mastery, and control. In this fashion he compensates for underlying feelings of inadequacy, vulnerability, and helplessness.

This type of rapist often shows little skill in negotiating interpersonal relationships and feels inadequate in both sexual and nonsexual areas of his life. Having few other avenues of personal expression, sexuality becomes the core of his self-image and self-esteem. Rape becomes the means by which he reassures himself of his sexual adequacy and identity, of his strength and potency. Usually the aim of the assault is to affect sexual intercourse as evidence of conquest and, to accomplish this, the victim may be kidnapped, tied up, or rendered helpless in some fashion.

Because it becomes a test of his competency, the rape experience for this offender is one of anxiety, excitement, and anticipated pleasure. The assault is premeditated and preceded by an obsessional fantasy in which, although his victim may initially resist him, once overpowered she will submit gratefully to his embrace since she will be so impressed with his sexual abilities. In reality, this offender may often be handicapped by impotency or premature ejaculation. If not, he still tends to find little sexual satisfaction in the rape. The assault is disappointing for it never lives up to his fantasy. The power rapist commits his offense in an effort to resolve disturbing doubts about his sexual adequacy and masculinity. He aims to place a woman in a helpless, controlled position where she cannot refuse him or reject him and thus shore up his failing sense of worth and adequacy.

Often he must convince himself that his victim became attracted to him, really wanted sex but could not admit it, and clearly consented nonverbally to and enjoyed the sexual contact. Yet at some level he realizes that he has not found what he is looking for in the offense; he senses that something he cannot clearly define is lacking. He does not feel reassured by either his own performance or his victim's response to the assault; therefore, he must go out and find another victim—this time the "right one."

The offenses become repetitive and compulsive. The amount of force used in the assault may vary and there may be an increase in aggression over time as the offender becomes more desperate to achieve that indefinable experience that continues to elude him. Usually there is no conscious intent on the part of this offender to hurt or degrade his victim; his aim is to have complete control over her so that she will have no say in the matter and will be submissive and gratify his sexual demands. Aggression, then, may constitute a show of force or a reaction to resistance on the part of the victim. That is, when the victim resists

the advances of her assailant he retaliates by striking or hitting her. Aggression here usually becomes expressed less as an anger motive and more as a means of dominating, controlling, and being in charge of the situation. Rape becomes an assertion of the offender's virility or a reassurance of his competence—a reflection of the inadequacy he experiences in terms of his sense of identity and effectiveness.

Case No. 2

Warren is a 20-year-old single male on leave from the military. He picked up an 18-year-old student he met at a bar and drove her to a secluded area. She begged to be let go but he grabbed her and said, "You don't want to get hurt, baby—you want to get laid. You want it as much as I do." He forced her to submit to intercourse and then offered to buy her dinner. While out on bail he committed an identifiable offense. As an adolescent, Warren had been involved in a number of sexual incidents involving exhibitionism and sexual play with children. He was seen for treatment at a local mental health center. As a teenager he had no steady girl friends and in the service he was being supported by a 30-year-old man in exchange for sexual favors. Warren, however, does not regard himself as a homosexual. Apart from his two rape offenses (and two earlier ones for which he was never apprehended), he had been arrested for motor vehicle violations. Although of above-average intelligence, his academic and vocational accomplishments were mediocre. The only activity he has pursued with any degree of diligence has been bodybuilding.

313.01: Social Acquaintance Rape. In this offense, there is prior knowledge or relationship between the victim and offender. Often, the relationship is social, and for adults and adolescents, the assault usually occurs on a date. For child cases, the relationship might include a neighbor or family friend.

313.02: Subordinate Rape. The relationship between the victim of subordinate rape and the offender is one of subordination and status imbalance. One person has power over another by employment, education, or age. The offender uses this authority relationship to take advantage of the victim. Such relationships include student/teacher or athlete/coach affiliations.

Case No. 3

June, a 14-year-old sophomore at a private school, began to receive increasing attention from the 39-year-old school guidance teacher and at his request began to visit him in his office. She was flattered that a teacher would seek her out, be interested in her, and treat her as an adult. He would take her aside to teach her in his office rather than to instruct her with other students. He learned of her favorite foods and drinks and he treated her special. He began to send her e-mails during the holiday break at Christmas when the school was closed. He complimented her on her looks, maturity, and intelligence.

Next the teacher began to question June about her sexual experiences (of which she had none) and made it clear he wanted to be part of her experience. He began to drive June around in his car. He bought beer for them to drink and then he started making sexual advances, first asking her to kiss him and then progressing to physical contact.

Driving around in his car made June feel grown up. She thought to herself: Here is this teacher so cool and making time to spend with me and telling me I am smart and ahead of the other students. He sympathized with her broken home and gave her advice on how to deal with her parents. He told her that his father was 27 years older than his mother, was abusive and an alcoholic. June felt sorry for him.

The sexual activities began as kissing and fondling and advanced to digital penetration, oral sex, and vaginal penetration. The sex occurred in his car several times a week. The teacher told June that he loved her. June's father became suspicious of the teacher's relationship with his daughter. Despite the red flags of the relationship, school administrators failed to seek consultation on the situation even after the father had made his suspicions known. The ability for the teacher to continue his relationship with June for 2 additional years suggested the control he had. The teacher talked June into leaving her father's home (which alienated her from her father) and moving into her mother's home. The mother worked two jobs and was rarely home to supervise June.

June developed medical problems and sought medical attention. She learned the teacher had infected her with chlamydia and that she suffered from pelvic inflammatory disease. She made the decision to meet with police and pressed charges against the teacher. During this time, June was drinking heavily as a way to self-medicate.

The teacher pled guilty to statutory sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, indecent assault, and corruption of a minor. He received a mandatory sentence of 5–10 years.

314: Anger Rape

Sexual assault in the category of anger rape is characterized by high expressive aggression (unprovoked physical and verbal aggression or physical force in excess of that necessary to gain victim compliance must be present). Rage is evident in this offender. He may have manifested behaviors listed for sadistic sexual assault, but these must appear to be punishing actions done in anger, not to increase sexual arousal. The primary motive for the offense is anger and not sexual gratification. When the offender knows the victim, the assault on that victim appears to be the result of the offender's easy access to that victim. These offenses are predominantly impulse driven (e.g., opportunity alone, possibly coupled with impaired judgment due to drugs or alcohol).

The motive in the MTC:R3 typology is termed pervasive anger. The degree of force used in this type of assault is excessive and gratuitous. The violence is an integrated component of the behavior even when the victim is compliant. Resistance from the victim is likely to increase the aggression and serious injury or death may occur. The rage is not sexualized, suggesting that the assault is not fantasy driven. The violence is a lifestyle characteristic that is directed toward males and females alike. The rape is but one feature in a history of unsocialized aggressive behavior noted across various social settings.

In some cases of sexual assault it is very apparent that sexuality becomes a means of expressing and discharging feelings of intense anger, rage, contempt, hatred, and frustration; the assault is characterized by excessive brutality. Far more physical force is used in the commission of the offense than would be required simply to overpower and subdue the victim. Instead, the assault is one of explosive physical violence to all parts of the victim's body. This type of offender approaches his victim by striking and beating her; he tears her

clothes, knocks her to the ground, uses abusive and profane language, rapes her, and frequently makes her perform or submit to additional degrading acts.

The anger rapist finds it difficult to explain his assault, when he cannot deny it, except to rationalize that he was drunk or on drugs. Often the specific details are lost to his memory in that he becomes “blind with rage” during the assault. Satisfaction and relief result from the discharge of anger rather than from sexual gratification. Pleasure is derived from degrading and humiliating his victim.

His relationships with important women in his life are fraught with conflict, irritation, and irrational jealousy, and he is often physically assaultive toward them. His sexual offenses tend to be episodic and sporadic, triggered by conflicts in his relationships to these actual women in his life.

Case No. 4

Derek is a 25-year-old married man and father of four. His mother abandoned the family shortly after his birth. Throughout his life his father reminded him that his mother was a “whore and never to trust any women; they were no good.” During his adolescence Derek became acquainted with his mother and once, while drunk, she exposed herself to him and asked him to fondle her. He fled, terrified. In vain efforts to win his father’s recognition and approval, Derek put a premium on physical toughness. In high school he played sports “like a savage” and then entered the Marine Corps. He had an outstanding service record and after discharge got married (against his father’s wishes) and attended college. One day he got into a dispute with his female history teacher over the merits of the Gulf War and felt she was ridiculing and humiliating him in front of the class. He stormed out of the room, very angry, thinking “women are dirty, rotten bastards” and went to a bar for a few drinks. On his way to his car he spotted a 40-year-old woman (whom he described as looking older) in the parking lot. He grabbed her by the throat and hit her in the mouth; ripped off her clothes and raped her. Prior to this offense, Derek’s only criminal record consisted of arrests for gambling, loitering, and being drunk.

314.01: Gender Anger Rape. The category of gender anger rape is reserved for offenders who hate women and express their rage through rape.

The core feature and primary driving force behind the vindictive type of rapist is anger at women. Unlike the pervasive anger rapist, women are the central and exclusive focus of vindictive rapists’ anger. Their sexual assaults are marked by behaviors that are physically injurious and appear to be intended to degrade, demean, and humiliate their victims. The misogynistic anger evident in these assaults runs the gamut from verbal abuse to brutal murder. As noted, these offenders differ from pervasive anger rapists in that they show little or no evidence of anger towards men (e.g., instigating fights with or assaulting men).

Although there is a sexual component to their assaults, there is no evidence that their aggression is eroticized, as it is for the sadistic types, and there is no evidence that they are preoccupied with sadistic fantasies. Indeed, the level of aggression in the sexual assault is often instrumental in achieving the primary aim of demeaning or humiliating the victim (e.g., forcing the victim to fellate the offender). Vindictive rapists also differ from both the pervasive anger and overt sadistic offenders in their relatively lower level of lifestyle

impulsivity (i.e., they have relatively fewer problems with impulse control in other areas of their lives).

The rape experience for this type of offender appears impulsive more than premeditated. He will typically describe being in an angry, frustrated, and depressed frame of mind. Quite often a precipitating stress can be identified that involves a significant woman in the offender's life—his mother, his wife, his girlfriend, or some such person. The conflict he experiences in this relationship reaches a crisis level and then becomes activated by some upsetting altercation or frustrating interaction with this individual. The resulting fury is released and discharged in a sexual assault against a victim who may be, but more frequently is not, the actual person toward whom the offender harbors such feelings. Nor does the precipitating event inevitably involve a woman. It may be that he lost his job, was rejected from the Armed Services, had an automobile accident, got into a fight at a local bar, or some such thing. What appears significant is that this type of rapist does not report feeling sexually aroused at the time of his offense but instead is feeling troubled and hostile. His controls give way and he describes a sudden surge of anger or a feeling of rage flooding through him. The aim of this type of offender is to vent this rage on his victim to retaliate for what he perceives as wrongs done him. Sex becomes a weapon and rape is the means by which he can use this weapon to hurt and degrade his victim. Sex itself is regarded at some level of experience as base and degrading and this offender typically finds little or no sexual satisfaction in the rape. His subjective reaction to the sexual act is frequently one of revulsion and disgust and often he experiences difficulty in achieving or sustaining an erection during the assault. His intent is to hurt his victim and his assault is brutal and violent. His motive is revenge and punishment and in extreme cases this may result in homicide.

Case No. 5

Rita, a 40-year-old single teacher, after completing a 3-day seminar with a group of friends from work, stopped at a lounge to relax before returning home. She returned to her second floor apartment around 8:30 p.m., unpacked and changed from her traveling clothes, listened to her phone messages, made a few phone calls, invited her boyfriend over for supper, and started a tea kettle. The doorbell rang and thinking it was her boyfriend, she went to answer it. However, it was not her boyfriend, but rather her landlord's son, Nick, who told her he had a message from his father that would "upset her" and, therefore, had to tell her inside her apartment and not in the hallway. The essence of the message was that the landlord thought someone was using her apartment when she was out.

As Rita turned to get some cigarettes, she was hit abruptly on her head by Nick, and fell to the floor. The assailant held a gun to her head and threatened to "blow out her brains." He demanded money and her car keys; then ordered her to disrobe. She told him she had her period and he forced her to undo his pants and fellate him. Hearing noises believed to be her boyfriend, the assailant forced Rita out of the apartment, without her clothes, through a back alley to the back steps of a church. He instructed her to begin again and to "do it right" this time. His language was laced with demeaning, vulgar terms. The assailant continually hit her and held the gun to her temple. He forced vaginal sex. A noise was heard; the assailant removed his tee-shirt, forced Rita to put it on; marched her back to his father's apartment where she

was ordered to clean up her face and put on a pair of his running shorts. She was then forced out of the apartment, saw her boyfriend, ran to him and together flagged down a passing truck to take them to a hospital. The assailant then ran away. The juvenile later was convicted.

The dominating motivating dynamics of the rapist were power, control, and displaced anger. Rita's response to the rape was compliance until she had the opportunity to escape. The language used and the moving of the victim from location to location can note this. The displaced anger is noted in the extreme aggression inflicted on the victim. These dynamics are not uncommon in juveniles who rape and displace anger to someone of the same age as the ambivalent person in their life. The language used by the assailant suggests a dynamic compatible with a sadistic fantasy of domination and submission.

314.02: Age Anger Rape. The motive of the offender in age anger is to seek out victims of a specific age group, usually elderly or young. The anger rapist commits sexual assault as an expression of his hostility and rage toward women. His motive is revenge and his aim is degradation and humiliation.

314.03: Racial Anger Rape. This category is reserved for what appears to be racially motivated rape.

Case No. 6

Having just returned from an evening movie, Mary walked into the apartment building where she lived with her mother and sister, pushed the elevator button for her floor and entered. As the elevator ascended toward her floor, it suddenly stopped in-between floors. Mary tried to get the elevator to move and to get help. Suddenly she saw the elevator hatch open up and a man descend. She was terrified until she realized she recognized him. She asked him for help. Then a second male came through the elevator hatch. She then realized something was wrong. A knife was flashed and she was threatened with death by a garrote if she screamed. Mary was stripped of her clothes, sexually assaulted by both males and forced to endure a variety of perverse sexual acts (oral, anal, and vaginal sex; urinating on her body and in her mouth; vomiting on her face; multi-layered sexual acts alternating male to female and male to male). She coped through prayer to live through the terror she was experiencing.

The assailants then forced Mary through to the hatch of the elevator to ride to the basement. There was hesitancy by the assailants as to where to take her next (i.e., outside or the woods). She was then forced to climb 12 flights of stairs to the building roof where the sexual assaults and deviant acts were repeated (both assailants simultaneously inserting their penises into her mouth). Conversations by the assailants were interlaced with sexual questions and comments, racial slurs, orders and threats of murder. She was held over the edge of the roof and taunted with the question: Have you ever flown? Both her life and her mother's and sister's lives were threatened if she told of the acts.

Eventually one assailant left. The second assailant changed his behavioral style ("he acted really crazy") as he continued the assaults. Mary managed to talk him into freeing her and she was able to return to her apartment.

She arrived at her apartment to find her mother and sister frantic with worry. She disclosed the rape and the police were immediately called. She was terrified to have

to ride in the elevator. She was taken to the hospital where she was examined. Police followed all investigative leads and were able to apprehend the pair. Both men were convicted. However, their families live in the area and Mary has great fear of her safety when they are released from prison.

This was classified as anger racial rape due to the clear conversation and racial slurs made by the assailants, who were white, to Mary, who was black.

314.04: Global Anger Rape. This category is reserved for offenders who appear to be globally angry at the world. This is a highly expressive aggression assault with no evidence of sadism and no evidence that the offender was focally angry with women.

315: Sadistic Rape

The MTC:3R cites motive of sadism for the sadistic rapist. This type shows evidence of poor differentiation between sexual and aggressive drives, and a frequent co-occurrence of sexual and aggressive thoughts and fantasies. To be classified as an overt sadistic rapist, an offender's behavior must reflect his intention to inflict fear or pain on the victim and to manifest a high level of aggression. Moreover, because the defining feature of sadism is the synergistic relationship between sexual arousal and feelings of anger, there must also be some evidence that the aggression either contributed to sexual arousal or at least did not inhibit such arousal. Because the two feelings (sexual arousal and anger) have equal ability to enhance or increase the other, the sexual acts may precede aggression or the aggression may precede the sexual acts. The cardinal feature, in either case, is the intertwining or "fusing" of the two feelings such that increases in one lead to increases in the other. As a group, overt sadistic rapists appear to be angry, belligerent people who, except for their sadism and the greater planning of their sexual assaults, look very similar to pervasive anger rapists.

In the sadistic rape, aggression itself is eroticized. The offender derives satisfaction in the sexual abuse of his victim. Sexuality and aggression become intertwined into a single psychological experience: sadism. The assault itself appears ritualistic and usually involves bondage and torture. Sexual areas of the victim's body—her breasts, genitals, and buttocks—become the focus of injury. The rape experience for this type of offender is one of intense and mounting excitement. He finds pleasure in the victim's torment, anguish, distress, and suffering. His assault is deliberate, calculated, and premeditated. The victim is stalked, captured, abused, and, in extreme cases, murdered. The nature of the assault may or may not involve the offender's genitals; the victim may be raped with an instrument or foreign object, such as a spoon or bottle. In some cases sexual penetration may take place after the victim is dead.

Such assaults are repetitive, but interspersed with other less dramatic offenses, such as consenting sexual relations in the offender's life. For this sadistic offender, anger and control become sexualized in terms of the offender's finding intense gratification in controlling, hurting, degrading, and often destroying his victim.

Nonsadistic Type. For the sexual nonsadistic type rapists, the thoughts and fantasies that are associated with their sexual assaults are devoid of the synergistic relationship between sex and aggression that characterizes the sadistic types. Indeed, these two rapist types are hypothesized to manifest less aggression than any of the other rapist types. If confronted with victim resistance, these offenders may flee rather than force the victim to comply. Their fantasies and behaviors are hypothesized to reflect sexual arousal, distorted "male"

cognitions about women and sexuality, and feelings of social and sexual inadequacy, and they have masculine self-image concerns. Compared with the other rapist types, these offenders have relatively few problems with impulse control in domains outside sexual aggression.

Case No. 7

On July 31, 1998, Gina, a 37-year-old legal secretary, met friends at a neighborhood bar in a shopping center. She was a friendly, “free spirited” single mother who was playing Mega Touch and drinking Jack Daniels when Shane, a 28-year-old handsome, tan, muscular landscaper with blue/green penetrating eyes walked in. He began flirting with Gina admiring her “tight body” and calling her “pretty lady.” Around 1:30 a.m., Shane asked for a ride home and although friends tried to discourage her, Gina assured them she would be fine and left barefoot with Shane and carrying her sandals.

Around 5:30 the next morning, a man leaving on vacation glanced at the blue car next to his and saw a woman (Gina) with her head leaning against the window of the driver’s side. At first he thought she was sleeping, but then realized she was dead. The police were called and then the medical examiner.

Crime scene: Blood was splattered on the front seats and gearshift. The victim’s skirt was pulled up to expose her buttocks.

Forensics: Feces were found under the victim’s fingernails. No fingerprints of value were found; no weapon was found. Blood had washed away any DNA evidence.

Autopsy: The autopsy indicated the victim died of multiple injuries to the head and body. Her vagina was lacerated in four areas with a foreign object.

Investigation: Detectives talked with the family and determined the victim was last seen at the pub. Detectives talked with witnesses at the pub and took a photograph of Shane for identification. Detectives knew Shane from a previous rape report. Shane was arrested. His story was that he left the bar with Gina; that they were “messing around”; he had to urinate and she came out of the car with him to have him urinate in her hair. When they returned to the car she straddled the gearshift and gave him oral sex and that she choked on his penis. He tried to wake her up by patting her face; then he tried to redress her before leaving the car.

After Shane’s arrest, rape victims who had not reported came forward. They resisted reporting because of embarrassment, blaming themselves, and thinking they would not be believed. Many said they were not sure it was rape because he was not a stranger and they had gone with him at his request.

Shane was charged with murder 1 and rape. No bail was set. Reconstruction of the sequence of acts in the car was hard to determine, but the victim was believed to have been beaten about the head and face, followed by vaginal sex, then oral sex, and then she was strangled. A Consolidation of Cases Hearing was held.

Crime dynamics: The cycle of sadistic rape behavior noted in the defendant included the following: The victims were white, attractive, outgoing young women. Shane was acquainted with his victims; he met them at a drinking establishment or at work. He gained his victims’ interest by complimenting them and engaged them in superficial conversations. He asked for a date, invited himself for a ride, or asked for a ride home.

All of the victims willingly accompanied him to the location where he later assaulted them. Victims did not report any threats made by Shane prior to the assaults. In all but one instance, the victims drove to the destination of the assault. Initially, none of the victims perceived any physical danger. After Shane initiated sexual contact with the victims, they resisted and struggled to get away. The victims would cry and plead for him to stop. In all instances, the victims became afraid and terrified because of his increasing physical aggression. After he had established physical control, the victims described Shane forcing cunnilingus, vaginal rape, and the pain of his fist inserted into their vaginas. Shane laughed at his victims, made humiliating and demeaning remarks, ejaculated on their faces, and bragged he treated them like whores.

Shane was a sexual sadist (i.e., there was a persistent pattern of his becoming sexually excited in response to his victim's suffering). Callous indifference was shown. With Gina, even though he noted she was not breathing, he did not call for help. He claimed she hit her head on the steering wheel and hit the left side of her head on the driver's door. ("Put my ear to her chest, not sure I heard anything but I have bad hearing in that ear. I said to myself that this was great, my luck she probably die[d].")

Trial outcome: Shane was convicted of murder 1 and acquitted of the rape charge.

To be classified as a muted sadistic type rapist, there must be evidence that either the victim's fear or discomfort or the fantasy of violence contributed to the offender's sexual arousal (or did not inhibit such arousal), and that the amount of physical force used in the sexual assault did not exceed what was necessary to gain victim compliance. Symbolic expressions of sadistic fantasy characterize these offenders, who may employ various forms of bondage or restraint, noninjurious insertion of foreign objects, and other sexual "aids," such as a lubricant or shaving cream. What is absent is the high level of expressive aggression that is clearly manifest in the overt sadism type. In general, muted sadistic offenders, except for their sadistic fantasies and their slightly higher lifestyle impulsivity, resemble the high social competence of nonsadistic rapists.

Case No. 8

Eric is a 30-year-old divorced man charged with first-degree murder. His victim, a 20-year-old woman he picked up at a singles bar, was tied to a tree, whipped, raped, sodomized, and slashed to death. Although found to be sane, Eric claimed he was high on drugs and couldn't remember what had happened. He had a criminal record that included assault and battery, breaking and entering, nonsupport, and motor vehicle violations. At the age of 17 he had tied a 13-year-old neighbor girl to a bed and assaulted her. He beat his children and burned his wife with cigarettes during intercourse. Shortly after his conviction, Eric committed suicide.

319: Abduction Rape

Abduction by a stranger implies transportation of an individual into a vehicle or building or to a distance of more than 20 feet for the purposes of committing a crime.

Case No. 9

Fran, a 32-year-old single white sales manager, had made reservations to stay in a hotel during a business trip. She drove from the airport to the hotel. As she entered the hotel garage she was unable to get a ticket from the automatic machine and no one was in the garage booth to give instructions or a ticket. She continued into the garage and found a parking space. As she was preparing to leave her car, she was aware of a man running over to her and thought he had the parking ticket. Suddenly, the man forced a sharp instrument to her neck and a second man appeared. Fran was shoved into the back seat of her car and abducted from the parking garage.

During the time period that she was in the back seat of the car, she tried a number of strategies to get out of the situation: she talked, pleaded, cried. All efforts failed and there was increased verbal aggression (“Shut up bitch”) and physical aggression of the weapon being jabbed into her ribs. After a time period, the car stopped and Fran was blindfolded, forced out of the car and then locked in the trunk of the car. Her immediate thoughts at this time were of death. She heard her abductors talking in the car and realized she was going to be raped. The car stopped and started several times over a 1 to 2-hour time period. Then the car stopped again and Fran was pulled out of the trunk, the blindfold was tightened and she was shoved into the front seat of the car where she was then raped, vaginally and orally. She was forced to drink some type of liquor from a bottle. After the rape, Fran was shoved back into the car. The rapists lectured her about keeping her doors locked as they were going to leave her in a “bad” section of the city. They ordered her to count to 10 and they left the car. Fran removed the blindfold; calmed herself as best she could and began driving and looking for help. She was able to ask someone for directions to a hospital and was led by another car to a hospital. At the hospital various staff members saw her. The police were called and she gave a statement to two officers. She telephoned her brother who came to the hospital and took her back to his apartment.

330: Group Cause Sexual Assault

This category is used for three or more offenders. When there are two offenders, each should be classified under personal cause. Although there are clearly group dynamics (e.g., contagion effects, defusing of responsibility) and social dynamics (e.g., highly developed gang cultures in particular communities or cities) that foster gang rape, the factors that motivate each of the offenders may well be different.

331: Formal Gang

A formal gang is characterized by some internal organizational structure, a name, other identifying features (e.g., colors, insignias, patterns of dress), and some evidence of group cohesiveness (e.g., members owe some allegiance to the gang and gather to participate in a variety of activities). In sum, the gang must have some mission or purpose other than the assault.

332: Informal Gang

An informal gang is a very loosely structured group that congregates, typically on the spur of the moment, with a common purpose of marauding or otherwise engaging in antisocial

activity. Although the group may have one or more leaders, there is no formal organizational structure. This category should also include all other instances of multiple offender assault in which there is no evidence that the group constitutes a formal gang.

Case No. 10

Having spent an evening with her husband and other couples at a local restaurant, 25-year-old Nan was outside waiting for her husband to pick her up in their car. She heard a car and suddenly a man grabbed her from behind and pushed her in to a car. She was thrown to the floor of the back seat; she was threatened if she did not stop screaming and a foot was wedged on her chest. As the car kept traveling, she was ordered to disrobe and when she failed to comply fast enough, the abductor pulled off her clothes. She was then raped orally and vaginally. The three assailants then took her to a home where four additional men were waiting. Throughout the night, Nan was forced to endure multiple sexual acts including rape and sodomy. She believed she would be murdered. Her terror was heightened with the methodical, planned manner of the assaults. She coped by being very visually aware of her surroundings and by dissociating herself from feeling what was occurring to her body. For example, after being forced to bathe with one of the rapists in a bathtub, she noted blood on the towel after drying herself. Feeling horrified, she threw the towel at the man and asked, "What have you done to me?" This major outburst illustrated her dissociation from the injuries inflicted upon her. The abductor then forced her into the car again, drove to another site and sexually assaulted her, and finally drove her to another location where he released her.

This rape was classified as an informal gang rape and anger racial rape because she was white and the assailants were black. She sought help; the police responded and she was transported to a hospital that treated her for her physical and sexual injuries from the rapes.

Her major psychological defense in coping with the victimization was dissociation. ("I just focused on the details of the house.") While this strategy was successful in identifying the house and led to the arrest and conviction of three rapists, four rapists remain at large.

390: Sexual Assault Not Classified Elsewhere

This category is reserved for those assaults that cannot be classified elsewhere.

Multiple Motives Underlying Sexual Assault

Although different patterns of rape are apparent, they all have a common motivational base: power. In some cases, the offender asserts his power by controlling his victim (the power rape); in other cases, he does so by controlling and hurting his victim (the anger rape) and, in still other cases, by controlling, hurting, degrading, and destroying his victim (the sadistic rape). Anger, power, and sexuality are evident in all rapes, but the role each of these components plays and the pattern in which they interface may vary from one offender to another.

Rape is a complex, multidetermined act that, in addition to expressing anger and asserting control, also serves to compensate for feelings of helplessness, to reassure the offender about his sexual adequacy, to assert his identity, to retain status among peers, to defend against sexual anxieties, to achieve sexual gratification, and to discharge frustration. In this sense the act of rape is equivalent to a symptom: It expresses the conflict, defends against anxiety, and partially gratifies or discharges the impulse.

Rape: Its Impact on the Victim

The issues of power, anger, sadism, and sexuality in rape have several implications. Clinical work with offenders and victims indicates that for both the initial impact of rape is not sexual. Although the act is sexual, what is traumatizing to the victim in the offense are the jeopardy her life is in, her helplessness and loss of control in the situation, and her experience of herself as the object of her assailant's rage. This is important to appreciate since the etiology of the victim's trauma is the offender's pathology. To acknowledge a rape assault means to recognize that there is a victim and an offender. Rape is more than an illegal act and more than an extreme of cultural role behavior. From a clinical point of view, it is important that rape be defined as a distortion of sexuality and that the pathology of the offender be recognized.

Rape Is an Act of Aggression

In some offenses, the assault appears to constitute a discharge of anger. In other cases, the aggression seems to be reactive to the resistance on the part of the victim (i.e., when the victim resists the advances of her assailant, he retaliates by striking, hitting, or otherwise hurting her). Hostility is quickly triggered and released, sometimes in a clear, consciously experienced state of anger or, in other cases, what offenders will describe as a state of fear or panic. In still other offenses, the aggression becomes expressed less as an anger motive and more as a means of dominating, controlling, and being in charge of the situation—an expression of mastery and conquest. And in a fourth variation, the aggression itself is intrinsically gratifying. It becomes eroticized with respect to the offender's finding excitement and pleasure in both controlling his victim and hurting her whether or not sexual contact is achieved. These variations on the theme of aggression are not mutually exclusive, and in any given instance of rape, multiple meanings may be expressed in regard to both the sexual and the aggressive components of the offense.

Child Molesters

Those offenders who sexually assault children show similar dynamics. Sex may become a weapon and a means of discharging anger and frustration when it plays a part in the battering of a child (the anger assault). It becomes an expression of power and control when the offender uses threat, intimidation, and force to overcome his victim's resistance and gain sexual access to the child (the power assault). Aggression as an erotic experience is seen in the offender who finds excitement and pleasure in the deliberate and intentional infliction of pain and sexual abuse on the child victim (the sadistic assault). These types of assaults are essentially rapes where the victim is a child. Fortunately, the majority of sexual

encounters between adults and children are not marked by violent aggression or brutality. The most common means of achieving sexual contact with a child victim is through enticement (the pressured assault). In this encounter, the adult attempts to enlist the child's cooperation and participation in sexual acts through bribing the child with gifts or treats, rewarding the child by misrepresenting moral standards, and/or exploiting his position of authority as an adult. In the pressured offenses the child is generally highly valued by the offender. He sees children as loving, affectionate, warm, trusting, clean, and attractive. He feels safer and more comfortable with them and in many respects idealizes and identifies with them. There is no intent to harm the child. The risk of such encounters is more psychological than physical: the premature exposure to adult sexuality and the forfeiture of more age-appropriate, developmental sexual experiences; the use of sex to gratify non-sexual needs such as approval, recognition, acceptance, and the like; the burden of maintaining secrecy and guilt and fear surrounding disclosure; the sense of exploitation and betrayal by trusted persons, etc.

The sexual victimization of children ranges from encounters at one extreme where there is no physical contact between the adult and the child (such as in indecent exposure) to encounters at the other extreme that result in the death of the victim (the lust murder). In order to assess the impact of such victimization, attention needs to be paid to such variables as the type of sexual activity encompassed in the assault, the relationship between offender and victim, the duration of the sexual involvement, the means by which the offender gains access to the child, and the motives underlying the sexual assault.

Recognition of the various determinants in the psychology of the offender may help counselors more fully appreciate the impact of sexual assault on the victim. Dispelling myths and misconceptions about the offender helps to prevent the compounding and perpetuation of the victimization.

Summary

Accounts from both offenders and victims of what occurs during a rape suggest that the issues of power, dominance, anger, sadism, and sexuality are important in the understanding of a rapist's behavior. All three issues seem to operate in every rape, but the proportion varies and one issue seems to dominate in each instance.

The conceptualizations of the issues of power, anger, and sexuality in rape have several implications. Clinical work with offenders and victims indicates that the initial impact of rape is not sexual for either group. Although the act is sexual, what is traumatizing to the victim is the life-threatening nature of the assault, the helplessness and loss of control in the situation, and the experience of self as the object of the assailant's rage. This is important because the etiology of the victim's trauma may be interpreted as the offender's pathology.

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Prosecuting Rape Cases: Trial Preparation and Trial Tactic Issues

19

TERESA SCALZO

Introduction

Rape cases are typically the most difficult cases to successfully prosecute because jurors' beliefs in common rape myths cause them to question victim credibility, which in turn causes them to question the veracity of the entire case. This chapter discusses techniques that prosecutors can employ both before and during the trial to ensure successful rape prosecutions. First, this chapter will address techniques for conducting offender-focused prosecutions and highlighting defendants' predatory practices. Next, this chapter will offer suggestions for enhancing victims' credibility. Finally, this chapter will propose general trial strategies for presenting the case as persuasively as possible.

Conducting an Offender-Focused Prosecution

Prosecutors generally focus on the offender when prosecuting criminal cases. When prosecuting a rape, however, they tend to focus on the victim and any of the victim's flaws or vulnerabilities. This is especially true in the prosecution of nonstranger rape cases. Rape cases must be tried in the same way that other criminal cases are tried—with a focus on the offender. The facts of some cases will make it easy to use an offender-focused prosecution. Other cases, particularly those in which the defense raises the defense of consent, may be more challenging. An offender-focused prosecution can demonstrate to a jury that the defendant is a predator who engaged in purposeful actions as opposed to a “nice guy” who, through no fault of his own, became caught in a bad predicament (i.e., the rape allegations). When conducting an offender-focused prosecution, prosecutors should construct arguments to focus on the offender's behavior and reveal it as purposeful. In addition, prosecutors should seek to introduce evidence of an offender's other bad acts whenever possible.

A prosecutor should construct arguments that focus the jury's attention on the offender's behavior and highlight any predatory actions. Commonly, prosecutors try rape cases by explaining away flaws in the case and apologizing for the victim's vulnerabilities. It is more effective, however, to show the jury why a predator would target a person with those vulnerabilities. Examples of offender-focused prosecution strategies include the following:

- *The imperfect victim.* Generally, the worse a victim initially appears to be as a witness, the better a target the victim was for the defendant. For example, an offender might select a victim who was voluntarily under the influence of drugs because the offender recognizes that drug users are going to be less credible in the eyes of the police and prosecutors as well as the jury or too high to remember sufficient facts

to either identify the offender or testify at trial. Prosecutors should remind the jury that defendants carefully select victims with the intention of not getting caught. As a result, prosecutors should acknowledge a victim's imperfections and point to the evidence that demonstrates that the defendant selected the victim because her imperfections made her the "perfect victim."

- *Cases with minimal force or no traditional weapon.* Many rapists use only the force necessary to overcome the victim's resistance. This may equate to nothing more than lying on top of the victim and pinning her arms down. Further, rapists may gain control of their victims through the use of surprise, deception, manipulation, planning, premeditation, or betrayal of the victim's trust. As a result, prosecutors must investigate the manner in which the rapist gained control over the victim. For example, did the offender lie to the victim by promising her a safe ride home and then drive her to a dark, isolated field where he raped her? Did he trick her by asking to come inside her home to use the bathroom? If so, the prosecutor should explain that this behavior was purposeful and constituted the defendant's weapons. Prosecutors should also argue that the offender preyed upon the victim's surprise, trust, or naiveté. Specifically, the offender counted on the victim being in a vulnerable position caused by his lies and manipulation.
- *Delayed reporting.* Rather than viewing the delayed report as vulnerability on the part of the victim, consider whether the defendant played a role in delaying the report. Interview the victim and ask why she reported the rape when she did. Did the defendant do something as part of his "exit strategy" to keep the victim quiet? Did he threaten her or her family members or friends, either with force or blackmail (by threatening to get her into trouble for any bad decisions she made that he took advantage of)? Did he make her question her own judgment by telling her she had led him on, thereby causing him to rape her? If so, prosecutors should explain the delayed report in terms of the defendant's exit strategy and detail how he effectively silenced the victim. For example, the prosecutor could argue, "He tried to shame her into silence." Prosecutors must not merely point out the defendant's threats; they must label the threats as "the defendant's exit strategy." In addition, in nonstranger rape cases, prosecutors should show the jury any postrape manipulation where the offender used any of the victim's weaknesses he knew about to silence her.

Next, prosecutors should present evidence of the defendant's other bad acts whenever possible. Many states have some form of Federal Rule of Evidence 404(b) that can be used to introduce other bad acts. All too often, the investigation focuses solely on the current case and does not look for prior rapes or attempted rapes. Frequently, the victim's background is investigated and questioned, but the defendant's background is not. When possible, prosecutors should ask investigators to interview the defendant's friends, prior girlfriends, and others who might know of any prior assaults. Although these individuals may have a motive to lie, they may also be willing to assist or may unknowingly offer some helpful information. If the defendant has any prior cases, review those cases, even if they were dismissed. Further investigation might be warranted. The prosecutor in the current case should also seek out any prosecutors who prosecuted the defendant on prior occasions to gain insights into his personality that may not be apparent from the criminal file. Prosecutors should not focus only on completed rapes; other acts can be used to demonstrate the defendant's pattern of behavior toward women. Significantly, other assaults or behavior that did not result in a completed rape still may support the argument that the offender

deceived the victim, manipulated her, or planned and premeditated the rape. In addition to prior cases, look for lawsuits, restraining orders, professional misconduct records, employment records, and military records. Be creative in finding and using other bad acts. Even a simple Internet search may reveal something useful.

The successful use of other bad acts evidence is illustrated by a case in which the defendant sought out overly intoxicated women and lured them to an isolated location. When they were alone, he attempted to kiss and fondle them. The women who were sober enough to fight him off were lucky enough to be left alone. However, the defendant raped the woman who was so intoxicated that she was not able to stop his advances. In this case, the prosecutor was able to successfully argue that the defendant sought out potentially vulnerable victims and took steps to test them and determine whether they were vulnerable enough for him to prey upon. His decision to rape the woman who ultimately became his victim was a conscious choice made only after specifically testing her ability to resist. It was not merely a spontaneous bad decision. In this way, the prosecutor showed that the rape was carefully planned and executed and not just a situation where the victim failed to make clear that she did not consent.

When introducing evidence of other bad acts, make sure to research your jurisdiction's rules of evidence and case law. If notice is required, be sure to file the requisite notice. Even if the law is clear, it is generally best to prepare a legal brief to present to the judge as the judge may not be as familiar with the specific law or facts as the prosecutor who has spent a great deal of time preparing to present the case. Assist the judge by presenting the necessary arguments for a favorable ruling.

Finally, when selecting a theme for the case, pick one that is offender focused. One example is "a predator picks his prey." Use the theme throughout the case to keep the focus on the offender's choices and behaviors. The jury must be reminded that the defendant's actions were intentional and not merely the result of spontaneously made poor decisions.

Enhancing the Victim's Credibility

Jurors' negative perceptions of victim credibility can be a significant barrier to success in rape cases. Credibility of the victim and provability of the case are inherently intertwined, in large part because rape is a crime of secrecy. There are almost never eyewitnesses to a rape. Moreover, rape cases rarely have physical evidence that conclusively proves that a rape occurred. Prosecutors are left with the victim's word, which means that jurors must find the victim credible before they will convict the defendant. Prosecutors must ensure that the victim testifies in the most convincing manner possible. Pretrial preparation of the victim, therefore, is as important in a rape case as the execution of the direct examination. Further, it is crucial that prosecutors support and protect victims prior to trial to ensure that they are confident and compelling witnesses.

First, a victim must feel supported and protected in order to testify comfortably at the trial. This is critical to the jury's evaluation of the victim's credibility. Prosecutors must establish close relationships with the victim advocates in their communities so that they are able to connect victims with those advocates. Victim advocates can provide support and assistance to victims, including securing any necessary treatment or services. Prosecutors should also allow victim advocates to accompany the victim to any preparatory sessions, interviews, and hearings. In addition, prosecutors should provide a safe and comfortable

place for the victim to wait to testify. They should also be certain to ask the victim if she needs any additional support.

Next, prosecutors should protect the victim's privacy and integrity through the preparation and filing of legal motions. It is critical to protect the victim because a victim who feels protected throughout the criminal justice process is less likely to become angry or defensive on the witness stand. When a victim becomes angry or defensive, jurors are likely to believe that she has something to hide, instead of understanding the behavior as a normal human reaction. A number of strategies can be used to protect the victim:

- *Utilize pretrial motions to protect the victim's physical safety and privacy.* The most obvious example of a victim protection motion is a motion to revoke bond. This can be done if the defendant poses a specific threat to the victim—for example, if he contacts or threatens her. In addition, the prosecutor can request a no-contact order to keep the defendant from contacting the victim. Another example is a motion to clear the courtroom of individuals who might threaten or attempt to intimidate the victim. Prosecutors can also request extra deputies for the courtroom or arrange for a deputy or police officer to escort the victim between her car and the courthouse before and after any hearings. The defendant or his friends or family frequently take these opportunities to intimidate the victim. Although you may not always succeed in preventing the intimidation, the victim will see that you are fighting to protect her, which will translate into her increased confidence on the witness stand.
- *Do your best to protect the victim's identity.* If possible, use her initials and date of birth in court documents as opposed to her full name. Work to educate the media about the danger to victims' safety and integrity when their personal or identifying information is revealed. Make specific requests that they not reveal the victim's identity.
- *Oppose frivolous defense motions intended to harass and intimidate the victim.* For example, oppose motions requesting a psychological examination of the victim. Challenge motions asking for the victim's counseling records unless there is some reason to believe that the records would yield exculpatory evidence. These examinations and the exposure of records often fail to yield exculpatory information and can result in embarrassment to the victim. Force the defense to litigate these motions and to demonstrate that they are not frivolous or merely intended to harass the victim. A victim who knows that her private counseling records are going to be released to the defense and possibly revealed at trial may refuse to cooperate with the prosecution in order to protect her privacy.
- *Oppose attempts to pierce the rape shield law and challenge inappropriate defense attempts to dissuade the victim from testifying.* Often, defendants and their attorneys employ tactics designed to dissuade the victim from testifying with the hope that the prosecutor will either not find out or will do nothing. This is demonstrated by a case in which the defense investigator served subpoenas on a rape victim's friends and informed them that they would be called "to testify that the victim slept around" in an effort to intimidate the victim. The testimony was prohibited by the rape shield law. Rape shield laws prevent the introduction of a victim's or witness's sexual activity unless it is required by an exception or on constitutional grounds. In such a situation, prosecutors should move to quash the subpoenas and file a motion to exclude the testimony under the rape shield law. If the prosecutor does not have standing to quash the subpoenas, he or she can advise the victim to seek a civil attorney to quash the

subpoenas. The prosecutor should also inform the victim about rape shield laws and keep her informed about the evidence that will be introduced and excluded at trial. An informed victim will be harder for the defense to intimidate. For many victims, knowledge is power and is sufficient to keep them strong enough to testify.

Direct Examination

Testifying in court can be a traumatic event for rape victims, who are forced to mentally relive the details of their assaults in front of the defendant and a courtroom of strangers. Consequently, in addition to supporting and protecting victims prior to trial, prosecutors must carefully prepare them to testify. The following suggestions can be used to present the victim's testimony in the most persuasive manner possible:

- *Explain the importance of "little lies" to the victim.* Tell the victim that the most important rule for her to follow in the courtroom is to be truthful. Tell her to be honest about ALL details of the event, even if the details seem insignificant or are embarrassing. Even the most honest of victims may not appreciate the devastating impact of "little lies." For example, an underage victim might not want to admit that she voluntarily drank alcohol with the defendant. Prosecutors must explain to the victim that "little lies" as well as attempts to hide or exaggerate even the smallest of details will be uncovered by the defense on cross-examination. In closing, the defense will use the "little lies" as evidence that she is not credible and therefore cannot be believed about the rape.
- *Instruct the victim on the importance of accuracy.* Prosecutors must ensure that victims use accurate language to describe their assaults. For example, a victim may use the term *ripped* to describe the defendant's action of roughly removing her panties, even when the panties were not torn. The slightest imprecision opens the door for cross-examination and may call the victim's credibility into question. If the victim is not accurate when she testifies, it is the prosecutor's job to clarify her testimony. Ask the victim what she meant when she used the word *ripped*. In the example set forth here, the prosecutor must ensure that the victim articulates that the panties were pulled off roughly but not torn.
- *Explain the importance of remaining calm on the witness stand.* Explain that a victim who becomes angry will be unable to think clearly. In addition, the defense may suggest to the jury that the victim who becomes angry and hostile on the witness stand should have been able to fight off the rapist. This may give credence to the defense allegation that the victim consented.
- *Explain inconsistencies.* In rape cases, the slightest inconsistencies in the victim's statements or testimony may seriously impact the victim's credibility. Prosecutors must review all victim statements, identify any inconsistencies or partial revelations and address them with the victim and other witnesses prior to trial. Explain major inconsistencies in direct examination. Prepare the victim to answer the defense's inevitable questions about the inconsistencies. When the jurors understand that the inconsistencies were not deliberate lies on the part of the victim, they will be more likely to find her credible. Remember to reinforce in closing that it is natural to have some inconsistency in any case. In closing, the prosecutor can tell the jury that if the

jurors were interviewed 3 months after the end of the case, there would be 12 versions of what happened during the trial.

- *Explain counterintuitive behavior.* Victims often behave in ways that are counterintuitive to jurors' expectations. Jurors expect "real" rape victims to resist their attackers to the utmost of their ability, report the rape immediately, and be hysterical in court. In reality, victims behave in any number of ways, many of them counter to jurors' expectations. When a victim does not behave in ways that are consistent with jurors' expectations, jurors tend to assume that the victim is lying. Prosecutors can overcome challenges associated with victim behavior that is counterintuitive during the victim's direct examination by calling an expert to explain victim behavior. Tips for calling an expert will be explained later in this chapter. The following suggestions will enhance the victim's direct examination and allow the prosecutor to effectively explain any victim behavior that was counterintuitive to juror expectations.
 - *Work with the victim to understand any behavior that the jury may perceive as counterintuitive.* To explain a victim's response to rape to a jury, the prosecutor must first understand it. Identify any behaviors that jurors will perceive to be counterintuitive, such as not screaming during the rape, failing to immediately report the rape, or continuing to socialize with the rapist. Work with the victim to identify and understand these behaviors. Remember that it is not uncommon for victims to recognize that something horrible happened to them without labeling it as rape. Often, a victim may not label the traumatic experience as rape until after a discussion with a friend, law enforcement officer, or doctor. If the victim did not immediately label the experience as rape, it was not unreasonable for her to delay in reporting. Moreover, the victim may have engaged in illegal or immoral behavior prior to the rape, causing her to comply with the rapist's demands or delay in reporting.
 - *Ask the victim to explain her behavior during direct examination.* For example, in a case of delayed reporting, the prosecutor should ask the victim to explain the time and circumstances of the report. When did the victim report and why? For example, if a victim was on a date with the offender at the time of the assault, she may not have reported immediately. Later, however, the victim may have gone to the hospital because she thought she had contracted a sexually transmitted infection. Sometimes, those to whom victims first describe their assault will convince them to contact the police. Prosecutors should explain to the jury that the time and circumstances of reporting enhance the victim's credibility.
 - *Give the jury a foundation to understand the victim's behavior.* When explaining victim behavior to a jury, a prosecutor must present the jury with enough evidence of the victim's background to enable them to understand that her reaction, while counterintuitive to them, was absolutely natural to her. The prosecutor must personalize the victim in order to give the jury a context in which to evaluate a victim's credibility accurately. Consider the example of a college student who was using cocaine on the night she was raped and who delayed in reporting because she knew she would lose her scholarship if her college found out that she was using cocaine. Before explaining the cocaine use to the jury, explain that the victim was the first in her family to attend college and that, without her scholarship, she would have been unable to afford to continue her schooling. When the jurors appreciate

the impact of losing the scholarship, they will be more likely to understand why she did not report the rape and therefore more likely to find her credible.

- *Demonstrate that the defendant “became a stranger” if he was known to the victim.* In cases where the defendant truly was a stranger, prosecutors can easily rebut any insinuation by the defense that the victim consented. However, in cases where the victim knew the defendant, jurors may have a harder time believing that the defendant raped the victim due to the pervasiveness of the myth that rape is perpetrated by strangers. In a case where the victim knew the defendant prior to the rape, remind the jurors that it was reasonable for her to trust him. Because the victim trusted the defendant, she did not recognize the danger until it was too late. It is critical for prosecutors to demonstrate how the defendant tricked the victim and used her trust to take advantage of her. At trial, first have the victim explain the type of person the defendant appeared to be and explain who he really was. Ask the victim to describe for the jury the moment she realized that she was in danger and that the defendant was going to rape her. Ask her to describe any changes in his demeanor, speech, or behavior. The contrast will show the jurors that although the defendant did not initially fit their stereotype of a “real” rapist, he is, nevertheless, guilty. It is important to demonstrate that the defendant tricked the victim into believing that he was someone who would not hurt her. Argue that the defendant became a stranger to the victim when he raped her.
- *If the consent defense is used, show the jury how the victim said no.* If the victim said no more than once, ask the victim, “After you said no the first time, then what happened?” Emphasize the repeated attempts to say no by incorporating them into the questions. For example, if the victim physically resisted, ask, “After you said no three separate times, then what happened?” In closing, argue that the victim said no three separate times, then after telling him no three times, she showed she meant no by kicking him and pushing him. It must be clear to the jury that it was obvious to the defendant that the victim did not consent.

General Trial Strategies

Preparation

Rape cases require more preparation than other types of cases. To the extent possible, the prosecutor should work with investigators as early as possible in the case. As discussed previously, the prosecutor should begin to work with the victim as soon as he or she is able. Interview the victim and prepare her prior to the preliminary hearing or grand jury proceeding. Interview and prepare all other potential witnesses as well. If it is important enough to call a witness in a rape case, it is important to take the time to prepare the witness. When possible, visit the crime scene and examine any physical evidence. During trial, use photos and diagrams to recreate the reality of the crime for the jury. Consider preparing a timeline or creating demonstrative evidence. Review all inconsistencies and be prepared to explain them. Identify any issues in the case that the jury may question and be prepared to address them.

Witness Order

Witnesses do not necessarily need to be presented in chronological order. If there is a witness who supports the victim's testimony in a way that makes the victim seem more credible, present that witness before the victim. With this approach, when the jury hears the victim's testimony, they will already be inclined to find her credible. For example, consider starting with a witness who saw the victim immediately after the incident in a highly emotional state or a medical witness who treated an injury. When the jury hears the victim's testimony, they will be less inclined to question it because they have already heard the corroborating witness. Again, anything the prosecution can do to strengthen the victim's testimony will enhance the chance of success at trial.

Pretrial Motions

In addition to the use of other bad acts, victim protection, and rape shield motions as discussed previously, prosecutors should consider filing a motion *in limine* to limit irrelevant defense evidence about "bad" victim behaviors. For example, if the victim is a drug user but did not use drugs on this occasion, file a motion to preclude any mention of the victim's drug use. If the victim has a criminal record, consider filing a motion to prohibit mentioning her record. Although prosecutors should not apologize for case weaknesses, they should not allow the defense to take advantage of them.

Voir Dire

Although voir dire can be used to educate a jury panel, it is unlikely that prosecutors will be able to change long-standing prejudices of jurors who are inclined to believe rape stereotypes and myths. Prosecutors will generally be more successful by eliminating jurors who hold such deep-rooted beliefs that they cannot be fair. By asking questions in voir dire about jurors' preconceived opinions, the prosecutor can try to keep people with such biases off the jury.

In some jurisdictions voir dire is oral, in others it is written, and in still others it is a combination of oral and written. Regardless of the format of voir dire, prosecutors must attempt to educate the jury and screen out jurors who cannot be fair in a rape case. In addition to traditional voir dire questions, prosecutors should address the following areas during voir dire:

- *Identify prior victims, defendants, and their friends and family.* Prosecutors must identify jurors who have either been victimized or accused of rape or who have close friends or family members who have been victims or accused. Tell the jurors to listen to the entire question before responding and then ask: "Is there anyone here who has been either a victim of rape or been accused of sexual assault or has had a close friend or family member that has been accused of rape or has been the victim of rape?" When possible, it is best to ask any follow-up questions in a sidebar to prevent embarrassment to the juror and avoid poisoning the panel. Let the jurors know in advance that you will ask the judge to discuss any responses in private at the bench.
- *The need for corroboration.* Members of the public who are unwilling to admit that they believe that women lie about rape will often freely admit that they would hesitate

to convict a defendant of rape without some form of corroboration, even though this is not required for a conviction. Therefore, in cases where there are no eyewitnesses or corroborating physical or medical evidence, prosecutors should ask whether jurors would have a difficult time finding the victim credible without any eyewitnesses or corroborating physical or medical evidence. Ask, “If you believe the victim beyond a reasonable doubt, can you convict the defendant?”

- *Lack of significant physical injury.* In cases where there is no significant physical injury, prosecutors should ask whether jurors expect physical injury. Ask if they would have a difficult time finding the victim credible due to the lack of injury.
- *Victim behavior that is not consistent with juror expectations.* In cases where the victim behaved in a way that is counter to jurors’ expectations of how a victim should behave, consider asking how the jury expects a victim to behave. For example, if there is a delayed report, ask jurors if they can think of reasons why a rape victim might delay in reporting. In addition, prosecutors should ask whether the jury will wait to hear the victim’s reason for reporting when she did before deciding whether the victim is credible. Similarly, prosecutors should ask the jury about any other behaviors that may cause them to question whether the victim is credible.
- *Prior relationship.* If there was a prior relationship between the victim and the defendant, the prosecutor should ask whether this concerns the jury.
- *No weapon.* In cases where no gun, knife, or other traditional weapon was used, the prosecutor should ask whether jurors understand that it is possible that rapists may gain control and overpower their victims without a traditional weapon. The prosecutor can use examples that highlight the way the defendant gained control of the victim. For example, a prosecutor could ask, “Do you believe that it is possible for a defendant to gain control over a victim by using his ability to adversely affect the victim’s job?”
- *“Bad” victim behavior.* If there is any “bad” behavior on the part of the victim, such as prostitution, drinking, or using drugs, the prosecutor should ask whether the jury has any biases or preconceived notions. The prosecutor can also ask whether jurors believe that such behavior is a justification for rape.
- *Imperfect victim.* In cases of unsympathetic or imperfect victims, prosecutors should tell the jury that the law does not distinguish between victims. Instead, the jury must consider the law and whether each of the elements of the crime has been met. To decide based upon sympathy for the defendant or prejudice against the victim would violate their oath. Ask if the jury can promise to decide the case based upon the evidence and not whether they like or dislike the victim or defendant. Extract from jurors a promise that they will follow the law whether they agree with it or not.
- *Juror education.* Ask questions to develop the theory of the case. For example, the prosecutor can ask, “Have you ever been betrayed by someone you trusted?” or “Has someone ever taken advantage of your vulnerabilities?”

Opening Statement

An opening statement is the first opportunity for the prosecutor to fully reveal to the jury the essence of the case. A prosecutor should re-create the reality of the crime by painting a clear image of the facts of the case for the jury. Foremost, be confident in presenting the

opening statement. Never apologize to the jury for the lack of evidence. (Juries, unlike judges, are unfamiliar with inadequacies of a case.) Bring out the best points and defuse the worst points of the case. Do not be afraid to address the weaknesses, but de-emphasize them. Ensure that the opening incorporates an offender-focused theme and is presented in a manner that focuses on the offender.

Victim Cross-Examination

Prepare victims not only for direct examination but also for the harsh reality of cross-examination. In cases where the defense is consent, cross-examination may be particularly aggressive. Victims who are prepared in advance for the challenge of the experience will be better witnesses when they testify. It will also be easier for victims to endure the trial process if they understand that they are not being asked difficult questions because they are a bad person or because they did something wrong. Instead, if they are being cross-examined harshly, it is because the defense attorney is protecting his or her client. An advocate may be extremely helpful to the victim and to the prosecutor by being present during preparation for cross-examination and during the trial itself. It may be helpful to have a colleague practice cross-examining the victim.

Review all areas of the victim's testimony about which it is likely she will become emotionally upset or angry, such as drug or alcohol use or prior admissible sexual contact with the defendant. Advise her that she will be asked for full details about the sexual experience with the defendant. Explain to the victim that if she becomes angry or hostile, the jury is likely to believe she has something to hide. Tell the victim not to be rude or sarcastic in answering the defense attorney's questions, even if the defense attorney is rude or sarcastic to her. In addition:

- Tell the victim that when appropriate, you may object to defend her and whenever you object, she is to stop answering the question until the judge indicates otherwise.
- Remind the victim to answer only the question that is asked and not to volunteer any additional information.
- Explain to the victim that if she does not understand the question, she should say that she does not understand the question.

Expert Testimony Regarding Victim Behavior

In cases in which a victim's counterintuitive behavior might cause the jury to find that she is not credible, consider presenting expert testimony to explain the victim's reactions. An experienced expert can explain behaviors a jury might otherwise not understand. An expert need not be expensive. For example, a community-based victim advocate who has worked with many victims and can articulate the various behaviors victims commonly engage in, including those that the jury is likely to perceive as counterintuitive, would be a qualified witness who might not charge a large fee for testifying. Psychologists, social workers, police officers, FBI experts, and sexual assault forensic examiners are other potential choices for experts who can explain that rape victims behave in any number of ways and that there is not one consistent form of victim behavior.

Medical Testimony

Many jurors believe that all women who are raped sustain serious physical injuries. They do not understand how a rape can occur without injury. The reality is that very few rape victims sustain any physical injuries other than the rape itself. When a medical examination is done, it is important to present it thoroughly, even if it shows that no injury occurred. If a sexual assault forensic examination was done, do not stipulate to testimony about the exam. Have the nurse or doctor who performed it explain it in as much detail as possible. The procedure is long, invasive, and uncomfortable. Jurors who understand what the victim had to endure in order to prosecute the case will be more likely to find her credible.

In addition to explaining the details of the examination, it is important to present expert testimony explaining any injury or lack thereof. When injury exists, use an expert to explain that the victim's description of how the injury occurred is consistent with the examiner's findings. This explanation of her physical injuries and their consistency with the victim's testimony becomes crucial in arguing to the jury that the victim should be believed.

If there is no injury, use the expert to explain how it is possible that a woman could be raped but have no physical injuries. If the victim has not suffered any trauma to her vaginal area, the defense attorney will try to argue to the jury that the lack of vaginal injury is consistent with the defendant's version of consensual intercourse or no intercourse at all. Typically, the defense will argue, if the victim had been forced, she would have suffered some type of injury to the vagina. To a layperson, this argument is persuasive. However, it is inaccurate. Therefore, in a case without genital trauma, bring in a medical expert to educate the jury on this issue. Have the expert testify that in his or her training, practice, and experience, significant physical injury from a rape is extremely rare. The doctor or sexual assault forensic examiner should explain the female anatomy and how rarely visible bruises or tears are noted even in confirmed sexual assault cases. The expert should conclude with his or her expert medical opinion that the lack of trauma is entirely consistent with the victim's version of events.

DNA

Advances in DNA technology have made it far easier to prove the defendant's identity in rape cases. Often, when the defendant realizes that his identity can be proven, he resorts to the consent defense. In such cases, prosecutors must decide whether to present testimony regarding DNA testing or to rely on the defendant's concession that intercourse occurred. The prosecutor must consider his or her own community's expectations; however, it is generally preferable to present evidence of DNA testing to show that the prosecution was thorough and did everything in its power to investigate the case completely. Be careful not to spend so much time on DNA testimony that the jury might begin to wonder whether there is actually a question as to its soundness.

Do not forget that DNA evidence can do more than prove the defendant's identity. It can reinforce the victim's version of events. If the victim states that the defendant licked her breast and there is DNA evidence to confirm that he did so, present the evidence to the jury. Every piece of the victim's testimony that can be corroborated strengthens the prosecution's case.

If DNA evidence exists in the case, review all lab reports, quality control reports, chain of custody documentation, and all other reports from the lab. Anticipate areas of weakness in your case and work with an expert on how to overcome the challenges.

In cases where there is no DNA evidence, the prosecutor must consider whether to present an expert to discuss how it is possible for intercourse to occur without DNA evidence being left behind. If the defendant opts to use the consent defense, expert testimony may not be necessary. However, if the defense is that the intercourse never occurred, the prosecutor should present expert testimony explaining how the absence of DNA is not inconsistent with the victim's testimony.

Toxicologist and/or Pharmacologist

In cases of drug or alcohol-facilitated sexual assault (see chapter 23), the prosecutor must decide whether to use a toxicologist and/or pharmacologist to address challenging issues. It may be necessary to explain that the victim was incapable of consent. In the case of a victim who was unconscious at the time of the rape, a toxicologist and/or pharmacologist can be used to explain that it is possible for a person to remain unconscious throughout the rape, as jurors may have a hard time believing that a victim would remain unconscious for any part of a rape. When choosing an expert, remember that it is possible that the same witness may be qualified to testify on both toxicology and pharmacology, but this should not be assumed.

In cases of drug-facilitated sexual assault where drug testing failed to reveal the presence of a drug, an expert should be used to explain the challenges inherent in detection. Use the expert to explain how long the suspected drug remains in the blood or urine if the testing was done outside that time period. Ask the expert to explain the sensitivity of any equipment that was used in the testing process and the inability to detect drugs under a certain amount. If no drug was found and the victim was drinking alcohol, explain that the amount of alcohol the victim consumed was not sufficient to cause the physical reaction and level of intoxication the victim experienced, thereby supporting the theory that the victim was drugged. Explain that many date rape drugs mimic the impact of alcohol because they, like alcohol, are central nervous system depressants.

Prosecutors may decide to use a toxicologist and/or pharmacologist in rebuttal if any issues arise during the case. This option is particularly useful when the defense alleges that the victim was not unconscious during the rape as she testified, but instead, blacked out due to excessive alcohol consumption and cannot remember the events of the evening. Often, the defense will allege that the victim initiated the intercourse and was an active participant but does not remember because she experienced a blackout. An expert can explain that it does not matter whether the victim was blacked out or passed out. In either state, she was not capable of consenting and would have appeared extremely intoxicated to an observer.

Cross-Examination of the Defendant

Defendants in sexual assault cases are not easy to cross-examine. They have a substantial interest in lying and may actually believe their own lies. Often, they will minimize and rationalize. In addition, they have generally spent a good deal of time thinking about the case and rehearsing. Most of the challenges inherent in cross-examination of a defendant

in a rape case can be overcome by thorough preparation. Do not assume that the defendant will choose not to testify. In every rape case, prepare as though the defendant will testify, even when the defense attorney denies that his or her client will testify. Try to learn as much as possible about the defendant. Obtain any available material, including prior criminal and civil files, prison records, prison visitor logs, military records, work or school records, and health records.

When cross-examining, avoid rehashing the direct examination. Repeating the direct examination is not only boring to the jury, it allows the defendant to emphasize key defense points a second time. Identify a limited number of key points to challenge on cross. Remember that the purpose of cross-examination is to make points that can be used in closing to reinforce the prosecution's case.

Although it is generally best to ask leading questions whenever possible, at times it may be necessary to ask open-ended questions. Prosecutors, unlike defense attorneys, do not always have the luxury of knowing the answer to every question that will be asked. However, be cautious with open-ended questions as they may give the defendant another opportunity to tell his or her story.

Listen carefully as the defendant testifies. Key in on the words he uses. What exactly is he saying? Is he saying "No one saw me there" or "I was never there"? Often, defendants reveal the truth unwittingly. If the defendant says, "No one saw me there," have him repeat that portion of his testimony. Highlight his exact words in closing. Also, be aware of defendants who use legal language that suggests overpreparation by the defense attorney. Varying the order of cross may confuse this defendant and shake him from his overly prepared story.

Consensus-based cross-examination may be particularly effective when the defense is consent. In this type of cross-examination, the prosecutor should attempt to get the defendant to agree to as many of the facts of the case as possible. Ideally, the prosecutor will be able to argue in closing "the only fact with which he disagrees is the one that makes him guilty—whether or not she consented." In closing, the prosecutor can use a demonstrative exhibit listing all points of agreement between the defense and prosecution and emphasizing that the only disagreement was whether or not the victim consented, the very point which makes him guilty.

Every case is different and the prosecutor must prepare for each individual case; however, some arguments are fairly common in rape cases. The following is a list of suggested topics for cross-examination:

- For cases where the defendant initially denied having intercourse with the victim and later changed his defense to consent after learning of forensic evidence, focus on the changes in the defendant's statements and what the defendant knew when making each statement. A timeline can be used in closing to reinforce how the defendant changed his story depending on what he thought the prosecution knew.
- For cases where the defendant used force or a weapon, focus on the amount of force or weapon used. It may be effective to ask the defendant very specific details about the attack to show that the defendant enjoyed brutalizing the victim.
- For cases where coercion or a nontraditional method of force was used, focus on the circumstances of gaining control of the victim and taking advantage of the victim's vulnerability.
- If the defendant is an anger retaliatory rapist (see chapter 7), ask questions about women generally. What was the defendant angry about? What was the relationship

with the victim? Why did the defendant choose this victim? Is the victim like the defendant's mother or whomever the defendant is angry at?

- If the defendant is a power assertive rapist, ask questions to show that he believes that he can do whatever he wishes to women because he is entitled.
- If the defendant lied or manipulated the victim, ask questions to highlight the lies and manipulation. Verify that he said or did the things the victim alleges. Ask questions to verify the actions that constituted the defendant's exit strategy.
- When the defendant behaved inconsistently, ask questions to highlight the changes in behavior. Did the defendant act one way before the rape and then change his behavior immediately after? Does the defendant have a girlfriend or wife? Do not attempt to get the defendant to concede that he behaved inconsistently; instead get him to agree to the specific actions. In closing, reiterate the inconsistent actions and argue that the defendant behaved inconsistently because he is guilty.
- Emphasize any behavior that shows consciousness of guilt.
- Focus on tiny details. Often, when a defendant is forced to be specific, lies are exposed.
- If the defense is consent, ask the following:
 - Did the victim say no? How? When? How many times?
 - Did the victim say yes? How? When? How many times?
 - The defendant chose the victim. When the defense is consent, the defendant must acknowledge that he wanted to have sex with the victim. If not, how did the sex occur? Many defendants will be hesitant to admit this point, making their story appear less credible.
 - What were the defendant's intentions? Did he want to have sex with the victim? If so, what steps did he take in order to have sex with her? If not, was it just an accident?
 - Did he want to get the victim alone? If so, what steps did he take to get her alone?
 - If the defendant claims that there was a relationship or that he was dating the victim when, in fact, there was no relationship, tie him to details. Ask if there was a relationship. How long was the relationship? When did they meet? Did he know her friends or family? Was he in love with her? How much in love was he? Did he tell anyone about it? Who? When? What?
 - If the defendant claims that he knew the victim "wanted him," explore her "desire" and show how ridiculous this is. Ask how he knew she wanted him. How did she communicate her desire? A look? Body language? Words? Do other women want him?
 - What behavior does he think constitutes consent? Kissing? Fondling? Drinking? Wearing certain clothing? Going to a bar by herself?
- In cases with an imperfect victim, the defendant will often attack the victim in his testimony. The prosecutor must show that the defendant's trashing of the victim is an attempt to deflect from his actions and get the jury to engage in victim blaming. The defendant wants to hide from the jury the fact that he selected the victim and decided to rape her. The prosecutor can refocus the jury on the defendant's intentions and behavior by showing the differences between the time of the rape and now:
 - Contrast the romantic descriptions of the encounter versus negative descriptions of the victim. What happened to change things, if not the rape? Corroborate the lack of pre-rape conflict.
 - Did the victim's behavior change after the rape? When did she become imperfect? He liked her enough then to have sex with her; why does he have negative things to say now?

- What motive does she have to lie? If she is normally a liar, why was he with her?
- In cases where the defendant committed other illegal acts such as drug use, it may be effective to ask about these acts. However, be cautious when venturing into this area. Know the law and file required notices under the “other acts” rule.

Closing Argument

The closing argument is a very crucial part of a criminal trial. The closing should be at least 90% written (at least in outline form) before the trial begins. The closing is the prosecutor’s opportunity to show the jury why he or she has proven all elements of the crimes charged. Apply the facts to the law and explain to the jury why the defendant is guilty. Be deferential to the judge by telling the jury that the judge will instruct them on the law, but you would like to take a few moments to discuss it and how it applies to the facts of the case. If the prosecutor uses language similar to the language used in the jury instruction, the jury will have a better understanding of the case than if they had heard the legal definition only once. Carefully analyze any key issues in the case such as the lack of any requirement that the victim offer physical resistance. Review all corroborative evidence and show the jury that there is more than just the victim’s word for them to rely upon. Explain to the jury how the evidence shows that the victim is credible.

In addition, the following suggestions can enhance the prosecution’s closing argument:

- Urge the jury to resolve credibility issues in favor of the victim and the government witnesses and give them reasons for doing so.
- Recreate the reality of the crime for the jury. The jury must be able to picture the crime from the victim’s perspective in order to understand the horrific nature of the case. Describe the fear that the victim felt. Although a prosecutor cannot ask the jury to put themselves in the victim’s shoes, the prosecutor can describe the case in such a way that it is real for the jury.
- In cases of an imperfect victim, tell the jury that a trial is not a popularity contest, but rather a search for the truth. Remind them of their oath to follow the law and not decide the case based upon sympathy or prejudice.
- Stress the testimony of neutral or unbiased witnesses.
- In cases where the defendant testifies, remind the jury that they must evaluate the testimony by the same yardstick that they evaluate the victim’s testimony.
- Use the emotional aspects of the rape—that the dignity of the victim has been attacked.
- Remind the jury that it is their solemn oath to obey the law even if they do not agree with or approve of it.
- As always during the course of the trial, be proud to be a prosecutor and be proud to represent the interests of the victim and the community at large. Never apologize for the lack of evidence. If you are confident, then that confidence transcends to the jury.

Jury Instructions

If standard jury instructions are insufficient, prosecutors should consider drafting proposed instructions. Prosecutors must ensure that the jurors understand that a delayed complaint does not mean that the victim is a liar. Draft an instruction that explains to the jury that they must consider the victim’s reasons for reporting when she did in evaluating her cred-

ibility. Draft an instruction that states that there is no need for corroboration if the jury believes the victim's testimony. Also, draft an instruction that explains that the victim's testimony must be evaluated in the same manner as all other witness testimony. Jurors may mistakenly believe that the victim should be held to a higher standard of credibility.

Additional Trial Strategies

- Personalize the victim but do not refer to adult victims by their first name. Say "Donna Jones cried for help" or "Miss Jones will tell you."
- Depersonalize the defendant. Refer to the defendant as "the defendant" whenever possible.
- Do not spend the case defending any weaknesses. Answer the defense's most fallacious points, but otherwise spend the case on the offensive showing the strength of the prosecution's case and how the elements have been met.
- During defense arguments, do not be afraid to object. Although most judges will give defense attorneys considerable leeway, do not allow defense attorneys to violate the rules of evidence or prejudice the jury. Do not get carried away and object continuously, but set the tone with appropriate objections.
- Never refer to the victim's version of events as the victim's "story."

Summary

This chapter discussed techniques that prosecutors can employ to ensure success in rape prosecutions. Combine an offender-focused prosecution with techniques for enhancing the victim's credibility to ensure success. Working with the victim prior to trial and filing key pretrial motions are as critical to success as courtroom skill in a rape case.

Section IV: Special Populations

Cyber “Pedophiles”: A Behavioral Perspective

20

KENNETH V. LANNING

Introduction

This chapter will focus on insight into the behavioral patterns of offenders and victims in sexual exploitation of children cases involving computers and the Internet. The information and its application are based on my education, training, and more than 30 years of experience studying the criminal aspects of deviant sexual behavior and interacting with investigators and prosecutors. Although I have great confidence in its behavioral accuracy and reliability, its legal acceptance and application must be evaluated based on agency policy, rules of evidence, and current case law. The use of any terms in this chapter that are also utilized in the mental health field (i.e., *impulsive*, *compulsive*, *paraphilia*, *pedophilia*) is not meant to imply a psychiatric diagnosis or lack of legal responsibility.

The use of computers and the Internet to facilitate the sexual exploitation of children needs to be addressed from three important perspectives: *legal*, *technical*, and *behavioral*. The technical aspects of this problem change almost daily and laws are complicated and evolving. The underlying human needs being met by the technology, however, remain pretty much the same. This chapter will focus predominantly on the behavioral aspects of the problem. No attempt will be made to explain the details of complex and rapidly changing technology or the fine points of the law and appellate case decisions. Other sources of knowledge and expertise concerning these important perspectives of this problem should be sought out elsewhere.

We have historically warned our children about the dangers associated with strangers, but often neglected to help them understand that sex offenders are often people they have come to know either in person or, now, online. Throughout history, nonfamily members who sexually exploited children have frequented the places where children gather. School yards, parks, and malls have been public contact places for some offenders. Many offenders with better interpersonal skills, however, have gained access to children through their occupations, hobbies, and volunteer work. Over the years, offenders have also utilized technological advancements (e.g., cameras, telephones, automobiles, video cassette recorders) to facilitate their sexual interests, needs, and behaviors. Starting in the 1990s, computers, online services, and the Internet have increasingly become points of contact and technological tools for sex offenders. The use of this technology continues to grow and expand. In many ways, however, offenders utilizing computers and the Internet to facilitate their sexual exploitation of children are more like the “nice guy” acquaintances who groom the children *inside* the school house than the “evil predator” strangers who lure them *outside* from the school yard.

* Portions of this chapter are adapted from *Child Molester: A Behavioral Analysis*, Kenneth V. Lanning, 4th edition, 2001. From the National Center for Missing and Exploited children. With permission.

Overview

Many individuals with a sexual interest in children appear to be drawn to computers and the Internet because the technology provides them with added convenience and perceived anonymity, another method of access to children, an easier way to obtain and exchange child pornography, and the most effective method ever invented to locate and communicate with others who share and will validate these interests.

A “friend” with whom a child regularly communicates on the Internet but may see for the first time only when they finally meet in person should be viewed as an acquaintance offender, not a stranger. Like most acquaintance molesters, individuals attempting to sexually exploit children through the use of computer online services or the Internet tend to gradually seduce their targets through the use of attention, affection, kindness, and gifts. They are often willing to devote time, money, and energy to this process. They will listen to and empathize with the problems of children. They may be aware of the music, hobbies, and interests of children. Unless the victims are already engaged in sexually explicit computer conversations and activity, offenders will usually lower any inhibitions by gradually introducing the sexual context and content. Some offenders use the computer primarily to collect and trade child pornography; others also seek online contact with other offenders and children, and some do all of these things.

Children, especially adolescents, are often interested in and curious about sexuality and sexually explicit material and interaction. They will sometimes use their online access to actively seek out such material and contacts. They are moving away from the total control of parents and trying to establish new relationships outside the family. Sex offenders targeting children will use and exploit these characteristics and needs. Children also furnish false information and lie during their online activity. Adolescent children may also be attracted to and lured by online offenders closer to their age who, although not technically pedophiles, may be exploitive or dangerous.

Illegal Sexual Activity

Computer-related sexual exploitation of children has come to the attention of law enforcement as a result of citizen and victim complaints, referrals from commercial service providers, and inadvertent discovery during other investigations. Increasingly, cases are proactively identified as a result of undercover investigations that target high-risk computer sites or utilize other specialized investigative techniques. Sexual activity involving the use of computers and the Internet that is usually illegal and therefore the focus of law enforcement investigations includes the following:

1. Producing or possessing child pornography
2. Uploading and downloading child pornography
3. Soliciting sex with “children”

Child pornography can generally be legally defined as the sexually explicit (lascivious intent) visual depiction (photographs, negatives, slides, magazines, movies, videotapes, or computer disks) of a minor (<18 years of age). In the vernacular of computer exploitation investigators, those who traffic in online child pornography are known as “traders” and those who solicit sex with children are known as “travelers.” Using the computer to solicit

sex with children could include communicating with actual children as well as with law enforcement officers taking a proactive investigative approach and pretending to be children or pretending to be adults with access to children. After using the computer to make contact with the "child," other related illegal activity could involve traveling to meet the child or having the child travel to engage in sexual activity.

Although the focus of this chapter is the online sexual exploitation of children, investigators must understand that any offender may molest children or collect child pornography and may do either or both with or without a computer or the Internet. In 1984, I first published an article that discussed a child molester utilizing a stand-alone computer to store information and details about his sexual victimization of boys. From that time forward, during training programs I have attempted to convince investigators to search for, seize, and analyze computers they might come across in child sexual abuse cases. In the early to mid-1990s, cases involving the use of computers and the Internet in the sexual exploitation of children eventually exploded and received significant media attention. Now the problem seems to be convincing investigators to look beyond the located computer and consider and search for evidence, child pornography, and victim information not on the computer. The sexual victimization of children, not the computer, should be the focus of any investigation.

Cases involving adolescents using the computer to solicit sex with other adolescents and to traffic in child pornography that portrays pubescent "children" are a problem area for the criminal justice system, especially the federal system. For purposes of illegal sexual activity and child pornography, the federal statutes and many local statutes define children or minors as individuals who have not yet reached their 16th or 18th birthdays. Therefore, such behavior may be technically illegal, but may not be sexually deviant. Pubescent children might be of sexual interest to many individuals who are not diagnostically pedophiles.

Legal Sexual Activity

Sexual activity involving the use of computers that is usually legal includes the following:

1. Validating sexually deviant behavior and interests;
2. Reinforcing deviant arousal patterns;
3. Storing and sharing narratives of sexual fantasies;
4. Lying about your age and identity;
5. Collecting adult pornography that is not obscene;
6. Disseminating "indecent" material, talking dirty, "cyber sex," providing sex instructions, etc.; and
7. Injecting yourself into the "problem" of computer exploitation of children to rationalize your interests.

Although many might find much of this activity offensive and repulsive and special circumstances and specific laws might even criminalize some of it, it is for the most part legal activity. Illegal or not, this activity may still be of concern to parents and the rest of society.

Understanding Behavior

As stated, the investigation of child sexual exploitation cases involving computers requires knowledge of the *technical*, *legal*, and *behavioral* aspects of computer use. However, because each of these areas is so complex, investigators must also identify experts and resources available to assist in these cases. Exploitation cases involving computers present many investigative challenges, but they also present the opportunity to obtain a great deal of corroborative evidence and investigative intelligence. This discussion will focus primarily on the dynamics of offender and victim behavior in cases of computer or online sexual exploitation of children.

Paraphilias and Sexual Ritual Behavior

Paraphilias are psychosexual disorders defined for clinical and research purposes in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th edition, Text Revision (*DSM-IV-TR*; American Psychiatric Association 2000). They are defined there as recurrent, intense, *and* sexually arousing fantasies, urges, *or* behaviors that generally involve (1) nonhuman objects, (2) the suffering or humiliation of oneself or one's partner, *or* (3) children or other nonconsenting persons, *and* that occur over a period of at least 6 months. Better known and more common paraphilias include exhibitionism (exposure), fetishism (objects), frotteurism (rubbing), pedophilia (child), sexual masochism (self-pain), sexual sadism (partner pain), and voyeurism (looking). Less known and less common paraphilias include scatologia (talk), necrophilia (corpses), partialism (body parts), zoophilia (animals), coprophilia (feces), klismaphilia (enemas), urophilia (urine), infantilism (baby), hebephilia (female youth), ephebophilia (male youth), and theoretically many others.

In the real world, each of the paraphilias typically has (1) slang names (e.g., "big baby," "golden showers," "S&M"); (2) an industry that sells related paraphernalia and props (e.g., restraining devices, dolls, adult size baby clothing); (3) a support network (e.g., North American Man/Boy Love Association [NAMBLA], Diaper Pail Fraternity, Internet newsgroups and chat rooms); and (4) a body of literature (e.g., pornography, newsletters). In fact the paraphilias are the organizational framework or the Dewey decimal system of pornography, obscenity, adult bookstores, and Internet sex chat rooms.

Individuals can and frequently do have more than one of these paraphilias. Paraphilias are psychosexual disorders and not types of sex crimes. They may or may not involve criminal activity. Individuals suffering from one or more of these paraphilias may just engage in fantasy and masturbate or they may act out their fantasies legally (e.g., consenting adult partners, objects) or illegally (e.g., nonconsenting partners, underage partners). It is their choice. In addition, not everyone committing a sex offense has a paraphilia. The behavior patterns may be criminal but not fit the specific diagnostic criteria for a paraphilia.

Although any of the paraphilias could become elements of a computer child sexual exploitation case, pedophilia is the most obvious and best known to investigators dealing with these cases. It is important for investigators to understand that the *DSM-IV-TR* diagnostic criteria for pedophilia require that there be recurrent, intense, and sexually arousing fantasies, urges, or behaviors involving *prepubescent* children, generally *age 13 or younger*. The absence of any of the key criteria could technically eliminate the diagnosis. For example, an individual who has a strong preference for and repeatedly engages in sex

with large numbers of 14-year-olds could correctly be evaluated by a mental-health professional as not being a pedophile. In spite of these criteria, some mental-health professionals apply the term to those with a sexual preference for pubescent teenagers. In addition reaching puberty is a complex process that does not occur overnight or during everyone's 13th year.

The terms *hebephilia* and *ephebophilia* (i.e., sexual preference for pubescent children) are not specifically mentioned in the *DSM-IV-TR* and are used far less often, even by mental-health professionals. They are, however, being increasingly used in forensic evaluations submitted to the court by defendants attempting to minimize their sexual behavior with teenagers. If you can be a hebephile, then you can have a mental disorder but not be a pedophile, and you may be able to confuse the court. Although sexual attraction to pubescent children by adults has the obvious potential for criminal activity, it does not necessarily constitute a sexual perversion as defined by psychiatry.

On an investigative level, the presence of paraphilias often means highly repetitive and predictable behavior focused on specific sexual interests that go well beyond a *method of operation* (MO). The concept of MO—something done by an offender because it works and will help him get away with the crime—is well known to most investigators. An MO is fueled by thought and deliberation. Most offenders change and improve their MO over time and with experience.

The repetitive patterns of behavior of some sex offenders can and do involve some MO, but are more likely to also involve the less known concept of sexual *ritual*. Sexual ritual is the repeated engaging in an act or series of acts in a certain manner because of a sexual need; that is, in order to become aroused and/or gratified, a person must engage in the act in a certain way. If repeated often enough during sexual activity, some aspects of the MO of sex offenders can, through behavioral conditioning, become part of the sexual ritual. Other types of ritual behavior can be motivated by psychological, cultural, or spiritual needs or some combination thereof. Unlike an MO, ritual is necessary to the offender but not to the successful commission of the crime. In fact, instead of facilitating the crime, ritual often increases the odds of identification, apprehension, and conviction because it contributes to the offender's making need-driven mistakes.

Sexual ritual and its resultant behavior are determined by erotic imagery, are fueled by fantasy, and can often be bizarre in nature. Most important to investigators, offenders find it difficult to change and modify ritual, even when their experience tells them they should or when they suspect law enforcement scrutiny. The ritual patterns of many sex offenders have far more significance as prior and subsequent like acts than the MO of other types of offenders. Understanding sexual ritual is one key to investigating certain sex offenders. The courts in this country have, however, been slow to recognize and understand the difference between MO and ritual.

"Pedophiles" and Child Molesters

There is still confusion, even among professionals, with regard to use of the terms *child molester* and *pedophile*. The general public, the media, and many child-abuse professionals frequently use the terms interchangeably and simplistically refer to all those who sexually victimize children as pedophiles. There is no single or uniform definition for the term *pedophile*.

As previously stated, for mental-health professionals, it is a diagnosis with specific criteria. Technically, pedophilia is a psychiatric diagnosis that can only be made by qualified

professionals such as psychologists or psychiatrists. Therefore, for some, the word is a diagnostic term, not a legal one. For most, however, the term *pedophile* is just a fancy word for a child molester. Although being increasingly replaced by the term *predator*, the term *pedophile* is used by law enforcement and prosecutors, including in cases involving the use of computers. It has even entered their slang usage, with some talking about investigating a “pedo case” or being assigned to a “pedo squad.” Although people in the United States most often pronounce the “ped” in “pedophilia” with a short “e” (as in “pedestrian,” from the Latin for foot), the correct pronunciation is “ped” with a long “e” (as in “pediatrician”), from the Greek for child.

For me, not all pedophiles are child molesters. A person suffering from any paraphilia can legally engage in it simply by fantasizing and masturbating. A child molester is an individual who sexually molests children. A pedophile might have a sexual preference for children and fantasize about having sex with them, but if he does not act on that preference or those fantasies, he is not a child molester. Whether or not a person acts on deviant sexual fantasies and urges may be influenced by other factors, such as personality traits, the severity of psychosocial stressors, personal inhibitions, substance abuse, or opportunities. Inhibiting factors such as guilt, moral beliefs, or fear of discovery may limit or reduce the sexual activity with children. For many of them their problem is not only the nature or quality of the sex drive (attraction to children) but also the quantity (need for frequent and repeated sex with children).

Some pedophiles might act out their fantasies in legal ways by simply talking to or watching children and later masturbating. Some might have sex with dolls and mannequins that resemble children. Some pedophiles might act out their fantasies in legal ways by engaging in sexual activity with adults who *look* (small stature, flat chested, no body hair), *dress* (children’s underwear, school uniform), or *act* (immature, baby talk) like young children. Others may act out child fantasy games with adult prostitutes or online partners. A difficult problem to detect and address is that of individuals who act out their sexual fantasies by socially interacting with children (i.e., in person or via an online computer) or by interjecting themselves into the child sexual abuse or exploitation “problem” as overzealous child advocates (i.e., cyber vigilantes). It is almost impossible to estimate how many pedophiles who have never molested a child exist. What society can or should do with such individuals is an interesting area for discussion but beyond the role of investigators or prosecutors. People cannot be arrested and prosecuted just for their fantasies.

In addition, not all child molesters are pedophiles. A pedophile is an individual who prefers to have sex with children. A person who prefers to have sex with an adult partner may, for any number of reasons, decide to have sex with a child. Such reasons might include simple availability, opportunity, curiosity, or a desire to hurt a loved one of the molested child. The erotic imagery and sexual fantasies of such individuals are not necessarily recurrent, intense, and focused on children; therefore, these people are not pedophiles.

Is everyone using a computer to facilitate having sex with children or trafficking in child pornography a pedophile? Is an individual who has both child and adult pornography on his computer a pedophile? Is an adult who has sexually explicit images of pubescent 16-year-olds on his computer a pedophile? Is an adult traveling to have sex with adolescents he met online a pedophile? Is a 19-year-old dating a 14-year-old online a pedophile? Many child molesters are, in fact, pedophiles, and many pedophiles are child molesters. But they are not necessarily one and the same. Often it may be unclear whether the term is being applied with its diagnostic or some other definition. Most investigators are not qualified

to apply the term with its diagnostic meaning. In addition, labeling all child molesters as pedophiles is potentially confusing. Not everyone using a computer to facilitate having sex with children or trafficking in child pornography is a pedophile. To avoid confusion with a mental health diagnosis and possible challenges in court, use of the term *pedophile* by law enforcement and prosecutors should be kept to a minimum.

For the purposes of this discussion, the term *pedophile* when used will be defined as a significantly older individual who *prefers* to have sex with individuals legally considered to be children. Pedophiles are individuals whose erotic imagery and sexual fantasies focus primarily on children. They do not settle for child victims, but, in fact, prefer to have sex with children. As will be discussed, a pedophile is just one example or subcategory of what I refer to as a "preferential sex offender." This term is merely a descriptive label used only to identify, for investigative and prosecutive purposes, a certain type of offender. The term does not appear in the *DSM-IV-TR* and it is *not* intended to imply or to be used for clinical diagnosis.

To determine who is a child for criminal investigative purposes, investigators and prosecutors must look to the law. The law, not puberty, determines who is a child or minor. But they must still deal with their own perceptions as well as those of the jury and society as a whole. In general a child will be defined here as someone who has not yet reached his or her 18th birthday. One of the problems in using this broad, but sentimentally appealing, definition of a child is that it lumps together individuals who may be more unlike than alike. In fact 16-year-olds may be socially and physically more like 26-year-old young adults than 6-year-old children.

It is important to realize that to refer to someone as a pedophile is to say only that the individual has a sexual preference for children. It says little or nothing about the other aspects of his character and personality. To assume that someone is not a pedophile simply because he is nice, goes to church, works hard, is kind to animals, helps abused children, reports finding child pornography on the Internet to law enforcement, and/or searches for missing children is absurd. Pedophiles span the full spectrum from saints to monsters. In spite of this fact, over and over again pedophiles are not recognized, investigated, charged, convicted, or sent to prison simply because they are "nice guys." One of the best indicators of the continuing lack of understanding of the nature of pedophilia is that the media and society still view as a contradiction the fact that someone could be a caring, dedicated teacher (or clergy member, coach, therapist, doctor, children's volunteer) and sexually victimize a child in his care. The vast majority of dedicated schoolteachers are not pedophiles, but many pedophiles who become schoolteachers are dedicated teachers.

Typology

When distinctions between types of offenders need to be made, I recommend the use of a descriptive typology developed for criminal justice purposes. This discussion will set forth such a typology.

My original typology of child molesters was developed in the mid-1980s and published and widely disseminated by the National Center for Missing & Exploited Children (NCMEC) in a monograph titled *Child Molesters: A Behavioral Analysis* (Lanning 1986). It was revised in April 1987 (Lanning 1987) and again in December 1992 (Lanning 1992). It divided child molesters into two categories (situational or preferential) and into seven patterns of behavior.

Although still useful, several limitations in this old typology gradually became evident to me. I realized that complex human behavior did not easily fit into neat little boxes. I therefore slowly began to revise it, and it has been updated by the typology presented in Table 20.1. This newer typology places all sex offenders, not just child molesters, along a motivational continuum (situational to preferential) instead of into one of two discrete categories. It is a continuum, not a choice between two categories. Offenders are placed along the continuum based on the totality of known facts. Motivation is most often evaluated and determined by behavior patterns as well as other indicators and evidence. A more detailed discussion of this newer typology was published by the NCMEC in September 2001 (Lanning 2001).

At one end of the continuum are the more “situational” sex offenders. They tend to be less intelligent and are over-represented in lower socioeconomic groups. Their criminal sexual behavior tends to be in the service of basic sexual needs or nonsexual needs such as power and anger. Their behavior is often opportunistic and impulsive, but primarily thought driven. They are more likely to consider the risks involved in their behavior, but often make stupid or sloppy mistakes. If they collect pornography, it is often violent in nature, reflecting their power and anger needs. Their patterns of behavior are more likely to involve the previously discussed concept of method of operation (MO).

Situational type sex offenders victimizing children do not have a true sexual preference for children. They may molest them, however, for a wide variety of situational reasons. They are more likely to view and be aroused by adult pornography, but might engage in sex with children in certain situations. Situational sex offenders frequently molest readily available children such as their own or any others living with them. Pubescent teenagers are high-risk, viable sexual targets. Younger children may also be targeted because they are weak, vulnerable, or available. Psychopathic situational offenders may select children, especially adolescents, simply because they have the opportunity and think they can get away with it. Social misfits may select children out of insecurity and curiosity. Others may have low self-esteem and use children as substitutes for preferred adults.

At the other end of the motivation continuum are the more “preferential” sex offenders. They tend to be more intelligent and are over-represented in higher socioeconomic groups. Their criminal sexual behavior tends to be in the service of deviant sexual needs known as paraphilias. This behavior is often scripted and compulsive and is primarily fantasy driven. Repeated fantasy creates need. They are more likely to consider their needs and therefore make “needy” mistakes that often seem almost stupid. When they collect pornography and related paraphernalia, it usually focuses on the themes of their paraphilic preferences. Their patterns of behavior are more likely to involve the previously discussed concept of ritual.

As this descriptive term implies, preferential type sex offenders have specific sexual preferences or paraphilias. Those with a preference for children could be called “pedophiles.” Those with a preference for peeping could be called “voyeurs,” those with a preference for suffering could be called “sadists,” etc. But one of the purposes of this typology is to avoid these diagnostic terms. Preferential type sex offenders are more likely to view, be aroused by, and collect pornography with specific themes. Some preferential sex offenders without a preference for children do molest children in order to carry out their peculiar sexual fantasies and preferences with young, less threatening, less judgmental, and highly vulnerable victims. Some of these offenders’ sexual activities with children may involve acts that they are embarrassed or ashamed to request or do with a preferred adult partner.

Table 20.1 Sex Offender Typology

Motivation Continuum	
Biological/Physiological Sexual Needs (not one or the other, but a continuum)	Psychosexual/Deviant
Power/Anger Nonsexual Needs	Sexual Needs
<p>Situational Sex Offender</p> <p>More likely:</p> <p>Less intelligent</p> <p>Lower socioeconomic status</p> <p>Personality disorders such as</p> <ul style="list-style-type: none"> • Antisocial/psychopathy • Narcissistic • Schizoid <p>Varied criminal behavior</p> <p>Violent pornography</p> <p>Impulsive</p> <p>Considers risk</p> <p>Sloppy mistakes</p> <p>Thought driven</p> <p>Spontaneous or planned</p> <ul style="list-style-type: none"> • Availability • Opportunity • Tools • Learning <p>MO patterns of behavior</p> <ul style="list-style-type: none"> • Works • Dynamic 	<p>Preferential Sex Offender</p> <p>More likely:</p> <p>More intelligent</p> <p>Higher socioeconomic status</p> <p>Paraphilias such as</p> <ul style="list-style-type: none"> • Pedophilia • Voyeurism • Sadism <p>Focused criminal behavior</p> <p>Theme pornography</p> <p>Compulsive</p> <p>Considers need</p> <p>Needy mistakes</p> <p>Fantasy driven</p> <p>Script</p> <ul style="list-style-type: none"> • Audition • Rehearsal • Props • Critique <p>Ritual patterns of behavior</p> <ul style="list-style-type: none"> • Need • Static

Such offenders, even if they do not have a sexual preference for children, would still be preferential sex offenders and therefore engage in similar patterns of need-driven behavior.

There are many advantages to the use of this descriptive, nonclinical typology. If there is a need to distinguish a certain type of sex offender, this typology provides a name or label instead of just calling them "these guys." The label is professional in contrast to referring to them as "predator," "pervert," "sicko," or worse. Because the terms used in the typology are descriptive, not diagnostic, and probative, not prejudicial, they may be more acceptable in reports, search warrants, and testimony by criminal justice professionals.

The continuum concept also better addresses the complexity of and changes in human behavior. Using the term *preferential sex offender* instead of *preferential child molester*

addresses the issue of applying it to offenders who collect child pornography without physically molesting children. The one term, *preferential sex offender*, eliminates the need for investigators and prosecutors to distinguish between child pornography collectors and child molesters, between pedophiles and hebephiles, and among numerous other paraphilias in applying certain patterns of behavior. How to recognize and identify such offenders will be discussed shortly.

Under the Federal Rules of Evidence, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice. Terms such as *pervert* and *predator* are very prejudicial and of little probative value; terms such as *collector*, *child molester*, and *sex offender* are less prejudicial but still of limited probative value. Terminology based on a *situational* to *preferential sex offender* continuum is, in my opinion, less prejudicial and of greater probative value. This continuum is more probative because it allows for the recognition and understanding of significant variations in offender behavior.

Investigators or prosecutors might argue that it is their job to investigate or prosecute individuals who violate the law and that whether that offender is a pedophile or a preferential sex offender is of little importance to them. There is no legal requirement to determine that a subject or suspect in a case is a pedophile or preferential sex offender. Often it is irrelevant to the investigation or prosecution. There are, however, clear differences between the types of individuals who sexually victimize children, and investigators handling these cases sometimes need to make such distinctions. The amount, type, nature, and significance of corroborative and collateral evidence you are likely to find are often related to the type of offender you are investigating. Although there is not a profile that will determine if someone is a child molester, preferential sex offenders tend to engage in highly predictable and recognizable behavior patterns. The potential evidence available as a result of the long-term, persistent, and ritualized behavior patterns of many sexual exploiters of children makes these cases almost heaven for investigators.

Need-driven behavior leads to bewildering mistakes. Why would a reasonably intelligent individual use his computer at work to download child pornography, deliver his computer filled with child pornography to be repaired, send his film with child pornography on it to a store to be developed using his correct name and address, appear in child pornography images he is making, discuss engaging in serious criminal activity with a "stranger" he met for the first time on the Internet, transmit identifiable photographs of himself to such an individual, maintain incriminating evidence knowing that investigators might soon search his home or computer, give investigators permission to law enforcement to search his home or computer knowing that they contain incriminating evidence, agree to be interviewed without his attorney, or confess to additional crimes not yet identified? Which offenders with child pornography on their computer are more likely to be molesting children? Which online offenders are more likely to have multiple victims? Which are more likely to respond to a "knock and talk" approach? All sex offenders are not equally likely to engage in these behaviors or respond to certain investigative techniques.

Defense attorneys might even argue that some of this behavior indicates that their clients are innocent, lack criminal intent, or are not criminally responsible. Why else would an intelligent individual do something so obviously stupid? Such behavior does not necessarily mean the offender is insane or not criminally responsible. Another explanation is far more probable: It is need driven. The fantasy- or need-driven behavior of preferential sex offenders has little to do with thinking. It is more a matter of the "little head" telling the "big head" what to do. It is what makes preferential sex offenders so vulnerable to proactive

investigations even though the techniques used have been well publicized. If necessary, an expert could be used to educate the court concerning certain patterns of behavior. The use of such an expert was upheld in *United States v. Romero* (1999).

Investigators and prosecutors should be aware of a "Cautionary Statement" that appears in the *DSM-IV-TR* that reads in part:

It is to be understood that inclusion here, for clinical and research purposes, of a diagnostic category such as *Pathological Gambling or Pedophilia* [emphasis added] does not imply that the condition meets legal or other non-medical criteria for what constitutes mental disease, mental disorder, or mental disability. The clinical and scientific considerations involved in categorization of these conditions as mental disorders may not be wholly relevant to legal judgments, for example, that take into account such issues as individual responsibility, disability determination, and competency. (2000, p. xxxvii)

Computer Offenders

The National Juvenile Online Victimization (N-JOV) Study that looked at an estimated 2,577 arrests by law enforcement for Internet sex crimes against minors during the 12-month period starting July 1, 2000 (Wolak, Mitchell, and Finkelhor 2003) found that the vast majority of offenders were non-Hispanic white males, older than 25, acting alone. In my experience, offenders using computers to sexually exploit children usually fall into three broad categories:

1. Situational offenders include:

"Normal" adolescent/adult. Usually a typical adolescent searching online for pornography and sex or an impulsive/curious adult with newly found access to a wide range of pornography and sexual opportunities.

Morally indiscriminate. Usually a power/anger-motivated sex offender with a history of varied criminal offenses. Parents, especially mothers, who make their children available for sex with individuals on the Internet would also most likely fit in this pattern.

Profiteers. With the lowered risk of identification and increased potential for profit, the criminal just trying to make easy money has returned to trafficking in child pornography.

When situational-type offenders break the law, they can obviously be investigated and prosecuted, but their behavior is not as long term, persistent, and predictable as that of preferential offenders. Behaviorally they are a more varied group.

2. Preferential offenders include:

Pedophile. Offender, as previously discussed, with a definite preference for individuals legally defined as children or minors.

Diverse. Offender with a wide variety of paraphilic or deviant sexual interests, but no strong sexual preference for children. This offender was previously referred to in my original typology as the *sexually indiscriminate* or "try-sexual"—willing to try anything sexual.

Latent. Individuals with potentially illegal, but previously latent, sexual preferences who have more recently begun to criminally act out when their inhibitions are

weakened after their arousal patterns are fueled and validated through online computer communication.

Preferential sex offenders are usually quick to gravitate to the use of new technology. They tend to be serial offenders who prey on children through the operation of child sex rings and/or the collection, creation, or distribution of child pornography. Using a computer to fuel and validate interests and behavior, to facilitate interacting with child victims, or to possess and traffic in child pornography usually requires the above average intelligence and economic means more typical of preferential sex offenders. The computer sex offenders tend to be from a middle class or higher socioeconomic background and more intelligent. As computers have become more commonplace, however, this is increasingly changing and there are growing numbers of the more situational sex offenders.

The essential difference between the pedophile type and the diverse type of preferential offender is the strength of his *sexual* preference for children. As previously stated, the pedophile type is primarily interested in sex with children that might, in some cases, involve other sexual deviations or paraphilias. The diverse type is primarily interested in a variety of sexual deviations that might, in some cases, involve children. For example, the pornography and erotica collection of the diverse preferential offender will be more varied, usually with a focus on his particular sexual preferences or paraphilias and sometimes involving children, whereas a pedophile's collection will focus predominantly on children and sometimes involve other paraphilias. Searching a computer for adult-theme pornography can sometimes be justified if it helps identify the person using the computer or is linked to and helps explain the victimization of children. If children are directly molested, the diverse offender is more likely to victimize pubescent children. More naive prepubescent children, however, are sometimes selected by the diverse offender to minimize confronting possible challenges to or embarrassment over their deviant or "weird" sexual interests.

With an absence of prior criminal sexual activity, latent offenders present problems concerning what prosecution and sentence is appropriate. Sometimes an investigation identifies such an online offender with no apparent history of a sexual interest in children that predates his current use of the Internet. Such cases have less jury appeal or are more likely to result in defense claims of conditions such as "Internet addiction syndrome." A thorough investigation and good forensic psychological evaluation, possibly aided by the use of the polygraph or other deception-assessment devices, are helpful in evaluating such apparent "latent" offenders.

3. Miscellaneous "offenders" include:

Media reporters. Individuals who erroneously believe they can go online and traffic in child pornography and arrange meetings with suspected child molesters as part of authorized and valid news exposés.

Pranksters. Individuals who disseminate false or incriminating information to embarrass the targets of their "dirty tricks."

Older "boyfriends." Individuals in their late teens or early 20s attempting to sexually interact with adolescent girls or boys.

Overzealous civilians. Members of society who go overboard doing their own private investigations into this problem. As will be discussed, investigators must be cautious of all overzealous civilians who offer their services in these cases.

Although these miscellaneous "offenders" may be breaking the law, they are obviously less likely to be prosecuted. This category includes media reporters breaking the law as part of a bona fide news story. It does *not* include reporters, or any other professionals, who engage in such activity to hide or rationalize the fact that they have a personal interest in it. They would be situational or preferential offenders. Media reporters frequently do not notify law enforcement of their "undercover" activity until it reaches a crisis point and then they want law enforcement to respond immediately. Overzealous civilians could also include sex-offender therapists and researchers engaging in this type of activity. The test for those claiming professional use of child pornography should be twofold: Do they have a professional use for the material and were they using it professionally? Both standards must be met in order to seriously consider the claim.

What about "Predators?"

For a variety of reasons, the term *predator* appears to have increasingly become the term of choice for the American public, the media, politicians, child advocates, and law enforcement when referring to sex offenders against children. A 1998 Federal Crime Bill addressing this problem was called the Protection of Children from Sexual Predators Act. The popularity of the NBC Dateline program *To Catch a Predator* has added to this trend. In December 2006, as part of their "Portable Guides to Investigating Child Abuse" series, the U.S. Department of Justice (USDOJ) published a second edition of *Use of Computers in the Sexual Exploitation of Children*. In this guide for law enforcement officers responding to such cases, the term recommended and used to refer to all "sexual offenders who act on their sexual interest directed toward children" is *child predator* (Armagh and Battaglia 2006). It would be hard to objectively justify calling an individual a "predator" who sits in his house and uses his computer to download pre-existing child pornography from the Internet for his sexual gratification. The behavior would, however, constitute a serious violation of the law and the individual would still be a sex offender.

Many sex offenders are certainly predatory in their behavior, but the widespread and indiscriminant use of this term is unfortunate and counterproductive for two main reasons. First, the term has little probative value. Referring to all offenders by the same name makes it harder to recognize and address variations in their behavior. As previously discussed, all sex offenders are not the same. Distinctions among the behavior patterns of different types of sex offenders can have important and valuable implications for the investigation of sexual exploitation of children. Second, the term is extremely prejudicial. Although the term is nonclinical and can be used by anyone, its use might be restricted or even considered too prejudicial for court testimony. The term has a very negative connotation and conjures up an image of evil in disguise and inevitable violence. Many offenders who repeatedly sexually victimize children appear to be "nice" because they actually are nice and rarely, if ever, use violence as it is traditionally defined. The N-JOV Study indicated that online offenders used violence in only 5% of the episodes (Wolak, Finkelhor, and Mitchell 2004).

When used in prevention programs, the term *predator* will often be inconsistent with the perceptions of potential child victims. If the term is used, any discussion should clearly include the possibility that such "predators" may regularly go to church, work hard, be kind to neighbors, love animals, and help children. As with the term *pedophile*, I recommend that the use of the term *predator* by law enforcement and prosecutors should be carefully considered and kept to a minimum.

Recognizing Preferential Sex Offenders

An important step in investigating sexual exploitation of children is to recognize and utilize, if present, the highly predictable sexual behavior patterns of these preferential sex offenders. If the investigation identifies enough of these patterns, many of the remaining ones can be assumed. However, no particular number constitutes “enough.” A few may be enough if they are especially significant. Most of these indicators mean little by themselves, but as they are identified and accumulated through investigation, they can constitute reason to believe a suspect is a preferential sex offender.

The investigator must have complete, detailed, and accurate information before determining the type of offender. The investigator must understand that doing a background investigation on a suspect means more than obtaining the date and place of birth and credit and criminal checks. School, juvenile, military, medical, driving, employment, bank, sex offender and child abuse registry, sex offender assessment, computer, and prior investigative records can all be valuable sources of information about an offender.

A preferential sex offender can usually be identified by the following behaviors:

1. Long-term and persistent pattern of behavior
 - a. Begins pattern in early adolescence
 - b. Is willing to commit time, money, and energy
 - c. Commits multiple offenses
 - d. Makes ritual- or need-driven mistakes
2. Specific sexual interests
 - a. Manifests paraphilic preferences (may be multiple)
 - b. Focuses on defined sexual interests and victim characteristics
 - c. Centers life around preferences
 - d. Rationalizes sexual interests
3. Well-developed techniques
 - a. Evaluates experiences
 - b. Lies and manipulates, often skillfully
 - c. Has method of access to victims
 - d. Is quick to use modern technology (e.g., computer, video) for sexual needs and purposes
4. Fantasy-driven behavior
 - a. Collects theme pornography
 - b. Collects paraphernalia, souvenirs, videotapes
 - c. Records fantasies
 - d. Acts to turn fantasy into reality

Investigators must not over- or under-react to reported allegations. They must understand that not all computer offenders are stereotypical pedophiles who fit some common profile. Keeping an open mind and objectively attempting to determine the type of offender involved can be useful in minimizing embarrassing errors in judgment and developing appropriate interview, investigative, and prosecutive strategies. For example, the fact that preferential offenders, as part of sexual ritual, are more likely to commit similar multiple

offenses, make need-driven mistakes, and compulsively collect pornography and other offense-related paraphernalia can be used to build a stronger case.

In computer cases, especially those involving proactive investigative techniques, it is often easier to determine the type of offender than in other kinds of child sexual exploitation cases. When attempting to make this determination, it is important to evaluate all available background information. The following information from the online computer activity can be valuable in this assessment. This information can often be ascertained from the online service provider and through undercover communication, pretext contacts, informants, record checks, and other investigative techniques (e.g., mail cover, pen register, trash run, surveillance):

- Screen name and profile
- Accuracy of profile
- Length of time active
- Amount of time spent online
- Number of transmissions
- Number of files
- Number of files originated
- Number of files forwarded
- Number of files received
- Number of recipients
- Site of communication
- Theme of messages and chat
- Theme of pornography
- Percent of child pornography

A common problem in these cases is that it is often easier to determine that a computer is being used than to determine who is using the computer. It is obviously harder to do a background investigation when multiple people have access to the computer. Pretext phone calls can be very useful in such situations.

Exaggerated Example

An investigation determines that a suspect is a 50-year-old single male who does volunteer work with troubled boys; has two prior convictions for sexually molesting young boys in 1974 and 1986; has an expensive state-of-the-art home computer; has a main screen name of "Boylover" and one screen profile that describes him as a 14-year-old; has, for the last 5 years, daily spent many hours online in chat rooms and the "alt.sex.preteen" newsgroup justifying and graphically describing his sexual preference for and involvement with young boys; and brags about his extensive pornography collection while uploading hundreds of child pornography files, all focusing on preteen boys in bondage, to dozens of individuals all over the world. If such a determination were relevant to the case, these facts would constitute more than enough probable cause to believe this suspect is a preferential sex offender.

Knowing the kind of offender with whom one is dealing can go a long way in determining investigative strategy. For example, it might be useful in the following:

- Anticipating and understanding need-driven mistakes;
- Comparing consistency of victim allegations and alleged offender's traits;
- Developing offender and victim interview strategies;
- Determining the existence, age, and number of victims;
- Recognizing where and what kind of corroborative evidence might be found;
- Evaluating the likelihood of possessing child pornography or using a computer;

- Utilizing an expert search warrant;
- Addressing staleness;
- Evaluating and proving intent;
- Determining appropriate charging and sentencing;
- Assessing the admissibility of prior and subsequent similar acts;
- Evaluating dangerousness at a bond hearing, etc.;
- Explaining behavior patterns to a jury;
- Determining suitability for treatment options; and
- Notifying the community.

With any of the preferential types of computer offenders, the characteristics, dynamics, and techniques previously discussed concerning preferential sex offenders should be considered.

“Concerned” Civilians

Many individuals who report information to the authorities about deviant sexual activity they have discovered on the Internet must invent clever excuses for how and why they came upon such material. They often start out pursuing their own sexual/deviant interests, but then decide to report to the police either because they went too far, because they are afraid they might have been monitored by authorities, or because they need to rationalize their perversions as having some higher purpose or value. Rather than honestly admitting their own deviant interests, they make up elaborate explanations to justify finding the material. Some claim to be journalists, researchers, or outraged, concerned citizens trying to protect a child or help the police. In any case, what they find may still have to be investigated.

Investigators must consider the true motivations of these “concerned civilians” who report such activity. They may be individuals who, among other things, have

1. Embellished and falsified an elaborate tale of perversion and criminal activity on the Internet based on their need to rationalize or deny their own deviant sexual interests;
2. Uncovered other people using the Internet to validate and reinforce bizarre, perverted sexual fantasies and interests (a common occurrence), but these other people are not engaged in criminal activity; or
3. Uncovered other people involved in criminal activity.

One especially sensitive area for investigators is the preferential sex offender who presents himself as a concerned citizen reporting what he inadvertently “discovered” in cyberspace or requesting to work with law enforcement to search for child pornography and to protect children. Other than the obvious benefit of legal justification for their past or future activity, most do this as part of their need to rationalize their behavior as worthwhile and to gain access to children. When these offenders are caught, instead of recognizing this activity as part of their preferential pattern of behavior, the courts sometimes give them leniency because of their “good deeds.” Preferential sex offenders who are also law enforcement officers sometimes claim their activity was part of some well-intentioned, but unauthorized investigation.

In the best-case scenario, concerned civilians can be well-intentioned, overzealous, and poorly trained individuals who are therefore more likely to make mistakes and errors in judgment that may jeopardize a potential prosecution. In the worst-case scenario

concerned civilians can be sex offenders attempting to justify and get legal permission for their deviant sexual interests. In any case, investigators should *never* sanction or encourage civilians to engage in proactive investigation in these cases. Investigators should always encourage civilians to immediately and honestly report any criminal activity they inadvertently discover online.

Female Offenders

Where do female child molesters fit into all of this? Although certainly a minority of cases, I believe that the sexual victimization of children by females is far more prevalent than most people believe.

Many people view sex between an older woman and acquaintance adolescent boy not as molestation but a rite of passage. There are cases in which females actively participate in the sexual victimization of children with an adult male accomplice. Sometimes the female assumes the role of "teaching" the child victim about sexual activity. In other cases, the female appears to be more motivated by serious emotional and psychological problems. Generally speaking, females appear to be less interested in pornography than males. They also appear to be more interested in intimate, romantic, ongoing relationships with one partner at a time. Anonymity and promiscuity seem to be less appealing to female offenders.

Although I have not seen a large number of computer- and Internet-related cases involving female offenders, such technology can play a role in their sexual relationships. I have consulted on numerous cases involving females whose romantic online communication with men included providing these men with sexually explicit images of their children or making their children sexually available to them. In other cases, females have used a computer to send love notes and pornography to groom and arouse adolescent children.

It is rare to find a case, however, in which a female offender fits the dynamics of the preferential-type child molester. This may be due to the fact that preferential molesting (i.e., multiple victims, paraphilias, and collections of theme pornography) has been defined from a male sexual behavior perspective. This is an area that still needs additional research and study.

Use of Computers

The great appeal of a computer becomes obvious when sex offenders, especially the preferential sex offenders, are understood. Whether it is a system at work, at a library, at a cyber café, or at home, the computer provides preferential sex offenders with an ideal means of filling their needs.

The sex offender using a computer or the Internet is not a new type of criminal or cyber pedophile. It is simply a matter of modern technology catching up with long-known, well-documented behavioral needs. In the past they were probably among the first to obtain and use, for their sexual needs, any new inventions and technology. Because of their traits and needs, they are willing to spend whatever time, money, and energy it takes to obtain, learn about, and use this technology. Computer technology may be more significant and pervasive, but the underlying offender needs are the same.

The most criminally significant sexually exploitive uses of the computer and the Internet are to produce and collect child pornography and to interact with and solicit sex with children. Because of their importance and complexity, they will be discussed in more detail.

Organization

Offenders use computers to organize their collections, correspondence, and fantasy material. Many preferential sex offenders in particular seem to be compulsive record keepers. A computer makes it much easier to store and retrieve names and addresses of victims and individuals with similar interests. Innumerable characteristics of victims and sexual acts can be easily recorded and analyzed. An extensive pornography collection can be cataloged by subject matter. Even fantasy writings and other narrative descriptions can be stored and retrieved for future use. Such detailed records can be useful in determining the ages of children in pornography images, identifying additional victims, and proving intent.

One problem the computer creates for law enforcement is determining whether computer texts describing sexual assaults are fictional stories, sexual fantasies, diaries of past activity, plans for future activity, or current threats. This problem can be compounded by the fact that there are individuals who believe that cyberspace is a new frontier where the old rules of society should not apply. They do not want this freedom scrutinized and investigated. For general guidance in evaluating this material, in texts that are just fantasy, everything seems to go as planned or scripted with no major problems. Reality rarely works out so well. There is, however, no easy solution to this problem. Meticulous analysis, documentation, and investigation are the only answers.

Communicate, Fuel, and Validate

Many offenders are drawn to online computers to communicate and validate their interests and behavior. This validation is actually the most important and compelling reason that draws preferential sex offenders to the online computer. In addition to physical contact and putting a stamp on a letter or package, they can use their computer to exchange information and validation. Through the Internet, offenders can use their computers to locate individuals with similar interests. Like advertisements in "swinger magazines," computer online services are used to identify individuals of mutual interests concerning age, gender, and sexual preference.

The computer may enable them to obtain active validation (i.e., from living humans) with less risk of identification or discovery. The great appeal of this type of communication is perceived anonymity and immediate feedback. They feel protected as when using the mail, but get immediate response as when meeting face to face. The ease with which individuals with a sexual interest in children can now get validation through the Internet has made validation support groups such as NAMBLA far less relevant.

In addition to adults with similar interests, offenders can sometimes get validation from the children with whom they communicate online. Children needing attention and affection may respond to an offender in positive ways. They may tell the offender he is a "great guy" and that they are grateful for his interest in them. In communicating with children and, in a few cases with adults, offenders can assume the identities of one or more children.

Validation is also obtained from the fact that they are utilizing the same cutting-edge technology used by the most intelligent and creative people in society. In their minds, the time, technology, and talent it takes to engage in this activity are proof of its value and legitimacy. Because of this validation process and the fueling of sexual fantasy with online pornography, I believe that some individuals with potentially illegal but previously latent sexual preferences have begun to criminally act out. Their inhibitions are weakened after their arousal patterns are fueled and validated (not created) through online computer communication.

The need for validation is not some abstract psychological concept of little significance to investigators. Offenders' needs for validation are the foundation on which proactive investigative techniques (e.g., stings, undercover operations, proactive investigations) are built and the primary reason they work so often. Although their brains may tell them not to send child pornography to, reveal details of past or planned criminal acts to, or travel to meet a stranger with whom they communicated only online, their need for validation often compels them to do so. Playing to this need is also the key to the most effective interrogation strategy that results in confessions.

Maintenance of Business or Financial Records

Offenders who have turned their child pornography into a profit-making business use computers the same way any business uses them. Lists of customers, dollar amounts of transactions, credit card information, descriptions of inventory, and so on can all be recorded on the computer. Because trafficking in child pornography by computer lowers the risks and increases access to potential customers, there has been an increase in profit-motivated distribution. It could be argued that those who use computers and the Internet to facilitate the sexual exploitation of children for profit-only reasons are not real sex offenders. It is my experience, however, that even those offenders with a significant profit incentive may also have some sexual motive for their activity.

Child Pornography

The N-JOV Study of reported law enforcement cases found that 67% of offenders who committed any of the types of Internet sex crimes against minors possessed child pornography (Wolak et al. 2003). The N-JOV Study also found that of an estimated 1,713 arrests during the 12 months beginning July 1, 2000, by law enforcement for Internet-related crimes involving possession of child pornography, 40% were "dual offenders" who sexually victimized children and possessed child pornography (Wolak, Finkelhor, and Mitchell 2005). An additional 15% attempted to sexually victimize children by soliciting undercover investigators who posed online as minors. More than one in three (39%) had at least one video with moving images of child pornography. Although reliable estimates about the percentage of all child pornography collectors who also molest children vary, it is generally agreed that the percentage is significant—but not 100%. The possibility should always be investigated. The N-JOV Study found that one in six investigations of child pornography possession discovered dual offenders (Wolak et al. 2005).

Obviously, an offender's motivation to produce, collect, and disseminate child pornography can be influenced separately or in combination by sex, power, or money. Child pornography should always be viewed as both a violation of the law and as possible corroboration of child sexual victimization. Preferential sex offenders in general almost always

collect theme pornography and paraphernalia related to their sexual preferences (Lanning 2001). Preferential sex offenders with a sexual preference for children (pedophiles) almost always collect child pornography or child erotica. Preferential sex offenders without a sexual preference for children can also have extensive collections. Such offenders often collect images and paraphernalia focusing primarily on their particular sexual preferences or paraphilias rather than predominantly on children. Child pornography will usually be a smaller portion of their potentially large and varied collection, with the children often portrayed in their paraphilic interests. Situational-type sex offenders might also collect pornography but not with the high degree of predictability of the preferential sex offender, and they might not save the same material year after year.

Factors that formerly seemed to influence the size of an offender's child pornography collection included *socioeconomic status*, *living arrangements*, and *age*. Better educated and more affluent offenders tended to have larger collections. Offenders whose living or working arrangements gave them a high degree of privacy tended to have larger collections. Because collections are accumulated over time, older offenders tended to have larger collections. Today, however, the computer and the Internet have changed all of this. Almost anyone with an online computer can, in a relatively short time and at minimal expense, have a large collection of theme pornography, especially child pornography. A short time ago it would have taken years and great expense to accumulate such a collection. In a computer the collection can also be easily hidden from family and friends. With an online computer, a 20-year-old blue-collar worker living with his parents can have a collection as large as a 55-year-old executive living alone in a mansion. The older, more affluent offender, however, is more likely to have more of his collection not on the computer. Because of online computers, child pornography is now more readily available in the United States than it has been since the late 1970s. Child pornography is so readily available on the Internet that one could almost store a collection in cyberspace and view it when one needed it.

An offender can use a computer to transfer, manipulate, and even create child pornography. Some child pornography is self-produced by the children in the images and disseminated online. Still images can easily be digitally stored, transferred from print or videotape, and transmitted, with each copy as good as the original. Visual images can be digitally stored in a variety of ways (e.g., hard drives, external drives, memory cards, flash drives, CDs, or DVDs). Some of this activity can be conducted without a traditional computer, using handheld devices, personal digital assistants, and cell phones with digital cameras. Similar things can now be done with moving images. Video cameras and recorders can be easily integrated with computer systems. High-speed Internet connections and file sharing now make it possible to even transfer the most preferred child pornography format—high-quality, lengthy moving images (e.g., videotape, films). Real-time video images, multimedia images with motion and sound, and virtual reality programs can provide added dimension to pornography. The data that are stored and transmitted information can be encrypted to deter detection. Files can now be transferred and printed wirelessly.

The ability to more easily manipulate digital visual images may make it difficult to determine the ages of persons in them. With computer graphics programs, digital images can be easily changed or "morphed." In an attempt to deal with this problem, the Child Pornography Prevention Act of 1996 was passed and for the first time the federal law used the specific term *child pornography* and not just its functional equivalent (i.e., a visual depiction of a minor engaged in sexually explicit conduct). This statute then defined the term to include any visual depiction of what *appeared* to be a minor engaging in sexually

explicit conduct, even if no actual minor was used in the production of the image. Although this law made prosecution of cases involving manipulated computer images easier, it also meant that it was no longer possible in every case to argue that child pornography is the permanent record of the abuse or exploitation of an actual child. This portion of the statute was determined to be unconstitutional by the U.S. Supreme Court in *Ashcroft v. Free Speech Coalition* (2002).

In another attempt to address this problem, The Prosecutorial Remedies and Other Tools to End the Exploitation of Children Today Act of 2003 (PROTECT Act) was passed. Under this federal law the term *child pornography* is redefined to include "a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct or such visual depiction that has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct." An *identifiable minor* is defined as a person "who was a minor at the time the visual depiction was created" or "whose image as a minor was used" and "who is recognizable as an actual person." Readers should seek advice from qualified attorneys to interpret the precise meanings of these legal definitions under federal law and their application to child sexual exploitation cases involving computers and the Internet. State laws defining child pornography obviously also vary.

Computers can sometimes make evaluating questionable child pornography much easier. Rarely is the context of its possession and distribution (i.e., how it was produced, saved, and used) as well documented as in cases involving computers. With a computer, investigators and prosecutors can usually evaluate and consider

- Sources of the images
- How they were traded
- Other material transmitted with the image
- Amount of material sent and/or received
- Overall themes of the images
- Use of zip files
- Directory and file names assigned by suspect
- Messages with the images
- Content of related chat (by far the most valuable)
- Manipulation of images

An offender's collection is the single best indicator of what he *wants* to do. It is not necessarily the best indicator of what he *has* done or *will* do. Not all collectors of child pornography physically molest children, and not all molesters of children collect child pornography. Not all children depicted in child pornography have been sexually abused. For example, some have been surreptitiously photographed while undressing and others have been manipulated into posing nude. Depending on the use of the material, however, all can be considered exploited.

Even those who "just" receive or collect child pornography produced by others play a role in the sexual exploitation of children, even if they have not physically molested a child. Collecting child pornography validates the behavior of and provides incentive for those who produce it. The number of "hits" on a site almost always measures status and success on the Internet. Every time individuals download child pornography on the Internet, they are leaving an implied message behind that the material has value and they will be back to

get more. Since there is a limited amount of existing material, at some point someone has to produce new images. Children in these images must deal with the permanency, longevity, and circulation of such a record of their sexual exploitation.

Computer offenders who “just” traffic in child pornography are committing serious violations of the law that do not necessarily require proving that they are also child molesters. If it is relevant and the facts support it, such individuals can be considered preferential sex offenders because such behavior is a criminal offense. Some offenders who traffic in child pornography, especially the diverse preferential sex offender, may have significant collections of adult pornography as well. In some cases they may even have far more adult pornography than child pornography. Such offenders may not be “pedophiles,” but they can still be preferential sex offenders with many similar behavior patterns.

Interaction with and Soliciting Sex with Children

The second Youth Internet Safety Survey (YISS-2) conducted in 2005 of children ages 10–17 indicated that 13% of them reported receiving unwanted sexual solicitations online (Wolak, Mitchell, and Finkelhor 2006). In addition, 4% reported close online relationships with adults they had met online, and of those, 29% had had face-to-face meetings with the adults they had met online. The N-JOV Study of reported law enforcement cases (Wolak et al. 2003) found that in 49% of the arrests for Internet sex crimes against identified minors, the offender was a family member or prior acquaintance of the victim. The Internet was not used to initiate the relationship.

Offenders can use the computer to troll for and communicate with potential victims with minimal risk of being identified. The use of a vast, loosely knit network such as the Internet can sometimes make identifying the actual perpetrator difficult. On the computer, the offender can assume any identity or characteristics he wants or needs. Although children from dysfunctional families and families with poor communication might be at higher risk for seduction, all children are vulnerable. Older children are obviously at greater risk than younger children. Adolescent boys confused over their sexual orientation are at particularly high risk of such contacts.

By no reasonable definition should an individual with whom a child has regularly communicated online for months be considered a “stranger,” even if that individual has lied about his true identity. In the world of the Internet, someone you have never met in person is not a stranger and can even be a bff (best friend forever). Many offenders are in fact reasonably honest about their identity and some even send recognizable photographs of themselves. They spend hours, days, weeks, and months communicating (including a lot of listening) with children. The child can be indirectly “victimized” through conversation (e-mail, chat, instant messages, blogs, cyber sex) and the transfer of sexually explicit information and material. The child can also be evaluated for future face-to-face contact and direct victimization. Technology even allows for real-time group participation in child molestation by digital teleconferencing.

Investigators must recognize that many of the children lured from their homes after online computer conversations are not innocents who were duped while doing their homework. Most are normal, curious, rebellious, or troubled adolescents seeking sexual information or contact. Society has to stop focusing on the naive belief that teenagers are “accidentally” getting involved. Many adolescent children go online to deliberately find pornography. Investigation will sometimes discover significant amounts of adult and child

pornography and other sexually explicit material on the computer of the child victim. Investigation can also sometimes uncover that the child victim has made as many misrepresentations as those of the offender, if not more. Most of them have been seduced and manipulated by a clever offender and usually do not fully understand or recognize what they were getting into. The child victim may believe that the offender is a "true love" or rescuer with whom he or she wants to have sex. Even if the victim does fully understand, the law is still supposed to protect him or her from adult sexual partners. Consent should not be an issue with child victims even if they are "compliant" (Lanning 2005).

Investigators must recognize and deal with these dynamics when interviewing these online child victims. Identified victims, even those whose abuse did not involve a computer, should be interviewed about their knowledge of the offender's use of a computer. In particular, they may know details such as the offender's passwords.

Investigators and prosecutors must understand and learn to deal with the incomplete and contradictory statements of many compliant child victims. The dynamics of their victimization must be considered. They might be embarrassed and ashamed of their behavior and rightfully believe that society will not understand their victimization. Many adolescent victims are most concerned about the response of their peers. Investigators must be especially careful in computer cases where easily recovered chat logs, records of communication, and visual images may directly contradict the socially acceptable version of events that the victim is now giving. When a compliant child victim discloses sexual exploitation and abuse, the victim may furnish a version of victimization that he or she swears is true. Subsequent investigation, however, uncovers additional victims, child pornography, or other records that directly conflict with this account. The child was victimized, but just not in the way now being described. Unless this tendency is recognized and addressed, the victim's credibility is potentially damaged.

Investigators who have a stereotyped concept of child sexual abuse victims or who are accustomed to interviewing younger children molested within their family or kidnapped by strangers will have a difficult time interviewing adolescents molested after online seduction. Many of these victims will be troubled, even delinquent children from dysfunctional homes. Many do not want to be rescued and do not believe they are victims. Before a recovered child victim is returned home, careful evaluation must be given to why the child left so readily with an Internet offender.

Although applicable statutes and investigative or prosecutive priorities may vary, officers investigating computer exploitation cases must generally start from the premise that the sexual activity is not the fault of the victim even if the child

- Did not say no
- Did not fight
- Actively cooperated
- Initiated the contact
- Did not tell
- Accepted gifts or money
- Enjoyed the sexual activity

Investigators must also remember that many children, especially those victimized through the seduction process, often

- Trade sex for attention, affection, or gifts
- Are confused over their sexuality and feelings
- Are embarrassed and guilt ridden over their activity
- Describe their victimization in more socially acceptable ways
- Minimize their responsibility and maximize the offender's
- Deny or exaggerate their victimization

All these things do not mean the child is not a victim. What they do mean is that children are human beings with human needs and not necessarily "innocent angels God sent us from heaven." Sympathy for victims is inversely proportional to their age.

Comments Concerning Prevention

Reality about documented cases and child development should be incorporated into awareness and prevention programs intended to keep children safer on the Internet. The reason we protect children and limit their accountability is because they are developmentally immature, not because they are innocent. Children are human. They learn to manipulate their environment from birth. Adolescent children are interested in sex and often engage in high-risk behavior. Generally speaking, children less than 12 years of age tend to listen to adults, but do not fully understand what they are saying (e.g., "Why can I talk to this stranger but not this other stranger?"); children over 12 years of age tend to better understand, but no longer listen. Many adolescent children believe that "rules are made to be broken."

The N-JOV Study found that the prevalent image of Internet sex crimes against minors as strangers who are pedophiles and who deceive and lure unsuspecting children into situations where they can be forcibly abducted or sexually assaulted is not accurate. Most offenders in these Internet cases did not deceive their victims about the fact that they were adults who were interested in sexual relationships. The victims in these cases were young adolescents, with 99% aged 13–17 and none younger than 12. Most victims met and had sex with the adults on more than one occasion and half the victims were described as being in love with or feeling close bonds with the offender. The study also found that, because in most cases the offenders had communicated extensively with victims both on- and offline before they actually met in person, it would be misleading to characterize them as strangers to their victims (Wolak et al., 2004).

Many children have developed and use online shorthand. Abbreviations such as P911 (my parents are coming), PAW (parents are watching), POS (parent over shoulder), and PIR (parent in room) are used to let people with whom they are communicating online know that their parents are around. This type of behavior should help remind us of the obvious: Children often do things that they want to do but their parents do not want them to do. That is what it means to be a teenager!

It is easier to prevent things that both parent and child do not want to happen (e.g., forced sex with an evil predator met online). It is harder to prevent things that the parent does not want to happen, but the child does (e.g., romantic sex or a good time with an exciting adult friend met online). Public service announcements warning about online dangers occasionally appear on television. Commercials for online sites where you can find the love of your life or your soul mate, however, run all day long. Parents also recognize the problem of asking children to "do as I say, not as I do." It is hard to expect children to

abide by rules for online safety when parents download pornography and disclose private information, exchange e-mail photographs, and travel to meet online "strangers."

Simplistic or unrealistic advice based on the belief that teenagers only accidentally or inadvertently find sexually explicit images online, recommending putting the family computer in the middle of the family room, or asking adolescent children to tell their parents if something or someone online makes them feel uncomfortable is unlikely to have significant impact on the problem. With the computer in the family room, many children will simply use another computer or some portable high-tech device to engage in their high-risk behavior. It makes no sense to ask children to tell parents only about "unwanted" sexual contacts. They are children. Sexual activity with adults is a problem whether or not it is wanted.

Warning children about online "predators," can communicate a false impression of the nature of the danger. From the potential child victim's perspective, the typical online offender is less like the weirdo stranger at the playground and more like the nice acquaintance who lives in the neighborhood. Making children safer online should rely less on hardware, software, and dire warnings about online predators and more about involvement in their lives, communication, and love.

Proactive Investigations

When law enforcement officers are pretending to be children as part of authorized and approved proactive investigations, they must remember that the number of potential offenders is proportional and the "appeal" of the case is inversely proportional to the age of the victim. Because there are far more potential offenders interested in older children, pretending to be a 15- or 16-year-old will result in a larger online response. The resulting case, however, will have far less jury appeal. Pretending to be a 5- or 6-year-old is unrealistic. Most online undercover investigators claim to be 12–15 years old. If you can effectively pretend to be a 12-year-old, it makes less sense to pretend to be a 13- or 14-year-old. One alternative used by some investigators is to pretend to be an adult with access to young children. Investigators must also remember that when pretending to be a boy online, the "relationship" usually moves a lot faster, and they must be prepared to take appropriate action faster.

After developing a relationship online, offenders who are arrested attempting to meet with children (or individuals they believe to be children) to engage in illegal sexual activity often claim that they were not really going to have sex. They claim the discussed sex was just a fantasy or cyber sex, part of their own undercover investigation, or a means of communicating with and helping a troubled child. Some claim that because of their vast online experience they always knew that the person they were communicating with was really not a child. This is highly unlikely for a need-driven offender. The so-called "fantasy defense" is popular among better educated, wealthier defendants. There are mental health experts who claim to know how to distinguish real "pedophiles" from the "fantasy user" and will so testify.

In a variation of this type of defense, some offenders claim to be suffering from "Internet addiction syndrome." This might be of some relevance if they were being charged with the "crime" of spending too much time on the Internet. Their sexual activity is supposed to be more about escaping stress and less about sexual gratification. It is hard to

understand why the forbidden activity they are drawn to involves sex with children. Because it is often claimed that this condition is like “pathological gambling,” the cautionary statement from the *DSM-IV-TR* about claims of pathological gambling might be useful.

In addressing these issues of intent, motivation, or knowledge, investigators must objectively weigh all of the offender’s behavior (i.e., past history, honesty about identity, collection of pornography or erotica, nature of communications, who was notified about activity, overt actions taken, items brought to a meeting). The idea that all communication about sex on the Internet is just fantasy or cyber sex is absurd and not consistent with the reality of many Internet relationships. Ultimately, a judge or jury will decide this question of fact.

To suggest that such responses to proactive investigations are not or should not be crimes because no real child is involved or harmed is ridiculous. In addition, in spite of their current popularity and the cooperation of some law enforcement agencies, proactive investigations should never be conducted by citizen groups or the media. *Only* law-enforcement officers as part of official, authorized investigations should be conducting proactive investigation or downloading child pornography on a computer. No one should be uploading child pornography.

Staleness of Probable Cause

Because of delays in communicating details from proactive investigations, staleness is a common problem in computer exploitation cases. It may take weeks or months for the details learned from an undercover Internet investigation in one part of the country to be disseminated to investigators with jurisdiction over the target computer in another part of the country. The informational basis for a search warrant may constitute probable cause, but it may be so old that it is now considered stale.

Obviously, the best way to address the staleness of probable cause is to freshen it up with current investigation and information. Staleness of probable cause can also be addressed with an “expert” search warrant setting forth an opinion that certain types of offenders may be an exception to the staleness doctrine. It has been my experience that true preferential sex offenders will rarely destroy their collections, even if they believe they are under investigation (Lanning 2001). Before utilizing this technique, investigators and prosecutors should do legal research and be aware of appellate decisions that support or deny this approach.

Another way to address staleness is to recognize that the information in question may not be stale. It is a matter of differing opinion as to when the informational basis for probable cause in a computer case becomes stale. Some prosecutors say in days. Others say weeks, and most say months. I believe that this time interval varies based on the type of information and evidence. Because of characteristics of technology and human behavior, in my opinion, probable cause about evidence on a computer should not even be considered stale for at least 1 year. It is not easy to effectively delete the data and files on a computer even when you try. Furthermore, most people do not delete the material on a regular basis. Such editing of a computer is likely to occur less often than cleaning out the garage or basement. Because this is a common human characteristic, it should not require the opinion of an expert.

Investigators who believe or accept any data or research indicating that child pornography collectors are highly likely to also be involved in actively molesting children must also

address another aspect of this staleness dilemma. Knowing that children were at high risk of being sexually victimized, they must be prepared to explain why the probable cause about the child pornography activity was allowed to get stale before appropriate action was taken.

Summary

Investigators must be alert to the fact that any offender with the intelligence, economic means, or employment access might be using a computer in any or all of the preceding ways, but preferential sex offenders are more likely to do so. As computers continue to become less expensive, more sophisticated, and easier to operate, the potential for abuse will grow rapidly with a more diverse population of offenders increasingly using them to exploit children. Although child exploitation cases present many investigative and prosecutive problems and obstacles, suspects using computers increase the likelihood that large amounts of corroborative evidence will be uncovered by investigators. Need-driven behavior is the good news of many cases of sexual exploitation of children involving computers and the Internet.

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The Sexual Crimes of Juveniles 21

JOHN A. HUNTER

Introduction

Juveniles (typically defined as those under 18) accounted for 15% of the arrests for forcible rape and 18% of the arrests for other sex crimes (excluding prostitution) in the United States in 2005 (UCR 2005). Consistent with overall trends in youth-perpetrated violence, juvenile sexual crime peaked in the early 1990s and has declined since that time (UCR). Statistics do show that juvenile arrests for forcible rape have decreased more dramatically than arrests for other sex offenses, and that in recent years there has been an increase in the number of juvenile females who have been arrested and brought before the court for sex crimes (excluding forcible rape; Snyder and Sickmund 2006). While the arrests of juvenile females for sex crimes has increased since the mid-1990s, it should be kept in perspective that juvenile females account for only about 2% of juvenile arrests for forcible rape and 9% of juvenile arrests for other sex offenses (Snyder and Sickmund). Hence, data continue to suggest that adolescent males account for the preponderance of cases of juvenile sexual offending.

Public and professional concern about juvenile sexual perpetration rose in the 1990s in response to the referenced rise in juvenile violent crime and retrospective studies suggesting that juvenile sexual offending potentially portended more chronic and insidious patterns of sexual aggression. With regard to the latter, interviews of incarcerated adult sex offenders indicated that 40–50% reported a juvenile onset to their deviant sexual interests and behavior (Marshall, Barbaree, and Eccles 1991). Furthermore, in many cases such behavior appeared to grow progressively more invasive and serious over time (Abel, Osburn, and Twigg 1993). While these retrospective studies helped bring needed attention to the problem of juvenile sexual offending, the cited data may have led to an exaggeration of the likelihood that sexual aggression in childhood and adolescence leads to adult offending. At issue are problems associated with retrospective data and sampling biases. As more adolescent sexual offenders were treated and prospectively tracked into adulthood, this impression of the continuity of juvenile and adult sexual offending began to change.

Treatment program outcome data suggest that sexual recidivism rates are relatively low (5–15%) in adolescent males, and that these youths are, in fact, more likely to commit nonsexual than sexual crimes after release from institutional programs (Becker 1990; Kahn and Chambers 1991). However, there is increasing evidence that juvenile sexual offenders are a heterogeneous population with observed differences in patterns of sexual offending (e.g., victim sex and age), underlying determinants of the behavior, amenability to treatment, and risk of sexual and nonsexual recidivism. Thus, some youths appear more difficult to treat and at higher risk to sexually re-offend than others. The differential characteristics of subgroups of these youths and related typology research are reviewed in this chapter.

Developmental Issues

An understanding of juvenile sexual offending necessitates attention to its underlying causes or etiology. One developmental factor that has received considerable professional attention is a preceding history of *child maltreatment—including both sexual and physical abuse*. The incidence of sexual victimization in adolescent male sexual offenders ranges from 40–80% across studied samples (Hunter et al. 2003). Sexual victimization rates appear to be even higher in sexually abusive prepubescent and female youths (Mathews, Hunter, and Vuz 1997). Hunter and Figueredo (2000) found that sexually abused male children who went on to sexually offend as adolescents could be differentiated from their similarly victimized, but nonoffending counterparts on four variables:

1. They were younger at the time of the initial sexual victimization.
2. They reported a higher number of incidents of abuse.
3. They reported that they waited a longer period of time to report their abuse.
4. Upon reporting, they experienced their families as being less supportive of them.

These results are consistent with the belief that the earlier and more intense the developmental trauma is, the more debilitating its effects are. The findings also point to the importance of familial and social support in coping with and overcoming the effects of trauma.

Consistent with high rates of childhood sexual victimization, approximately two thirds of adolescent male sexual offenders report a history of physical abuse by a father or stepfather (Hunter et al. 2003). Such reported histories can be linked to higher measured levels of depression and anxiety in adolescent male sex offenders (Hunter et al. 2003). Also prevalent in samples of these youths are reported histories of exposure to violence against females and male-modeled antisocial behavior; a preadolescent onset to pornography and substance use is associated with such exposure. Research suggests that early and prolonged exposure to interpersonal violence is particularly detrimental when it occurs in the absence of counterbalancing prosocial experiences. Many juveniles who engage in delinquency and sexual aggression not only have been exposed to violence, but also have not had close relationships with healthy male and female role models. Thus, they may be more vulnerable to the internalization of antisocial values.

Research suggests that aggressive and delinquent youths often harbor the belief that aggression is an acceptable and effective means of resolving interpersonal conflict and achieving goals (Lochman and Dodge 1994). Frequently coupled with a belief in the utility of aggression are demonstrated deficits in self-efficacy and social competency (Zigler, Taussig, and Black 1992). Therefore, these youths not only believe that aggression will lead to interpersonal success, but also perceive themselves as likely to fail if they employ alternative problem-solving strategies. Childhood exposure to violence against females has been linked to lower levels of emotional empathy in adolescent male sexual offenders and exposure to antisocial males to higher reported levels of emergent delinquent behavior during adolescence (Hunter, Figueredo, et al. 2007).

While most juveniles who engage in sexual and other forms of delinquency appear to desist from engagement in such behavior as they enter adulthood, in some cases these behavioral patterns may reflect a downward-spiraling developmental trajectory. Studied differences among subgroups of these youths are summarized in the following discussion.

Typology Research

The observed heterogeneity of adolescent male sexual offenders has complicated legal and clinical decision making and led to efforts to develop an empirically sound typology and decision-support tools. The author's initial typology research suggested that a meaningful differentiation could be made between those youths that sexually offend against younger children (5 or more years younger) and those that target peers and adults. In one of the first studies to explore this dichotomy, Hunter, Hazelwood, and Slesinger (2000a) compared 62 offenders against children with 64 offenders of peers and adults. Comparisons were made on victim selection and crime modus operandi using police investigative records.

"Peer/adult" offenders were found to be more likely to have a female victim (93.7 vs. 67.7%) and to have selected a victim who was either a stranger or an acquaintance (84.4 vs. 59.7%). They were also more likely to have committed their offense in a public area (e.g., park; 28.1 vs. <10%) and to have acted in concert with other offenders (28.1 vs. 6.5%). This group of juvenile sex offenders was also more likely to commit the sex crime in association with other criminal activity (23.8 vs. 4.8%) and displayed higher levels of aggression and violence in commission of the offense. In this regard, 27% of the peer/adult offenders displayed moderate or greater physical force during the assault in contrast to 8.3% of the offenders against children. Similarly, 26.2% of the peer/adult offenders used a weapon, in contrast to 16.1% of the offenders of children. Finally, within the small subset of juvenile sex offenders that murdered their victim, 85.7% were offenders of peers and adults.

In a follow-up study of 182 adolescent male sex offenders in institutional treatment programs, Hunter et al. (2003) further researched this dichotomy. As predicted, juveniles that sexually offended against pubescent females employed more force in the commission of their reference sexual offense and were more likely to use a weapon and be under the influence of alcohol or drugs at the time of the offense. They could also be differentiated from offenders of prepubescent children in that they were less likely to be related to their victim and commit the offense in the victim's home or their own residence, as opposed to another setting. These youths were also more likely to have a prior arrest history for a non-sexual crime and, upon personality assessment, demonstrated less anxiety and depression and fewer pronounced social self-esteem deficits.

In more recent typology research, Hunter and colleagues have explored the presence of three major, prototypic subtypes of adolescent male sexual offenders using Knight and Prentky's (1990; Prentky and Knight 1991) combined "deductive-rational" and "inductive-empirical" research strategies: using theory and existent research to formulate the prototypic subtypes and then conducting empirical studies to validate and refine them. The three theoretically formulated subtypes are (1) life-course persistent (LCP) youths, (2) adolescent nonparaphilic youths, and (3) early adolescent-onset, paraphilic youths. The first two subtypes were informed by Moffitt's theory of youth-perpetrated delinquency. Specifically, it was hypothesized that LCP youths are those who manifest long-standing patterns of delinquent and aggressive behavior and show evidence of underlying psychopathy in their personality makeup (i.e., superficial relationships, impulsivity, callousness, etc.; Moffitt et al. 1996). In addition to their being relatively psychopathic, it was hypothesized that they tend to aggressively seek dominance interpersonally and manifest specific hostility toward females. The latter construct (i.e., hostile masculinity) has been studied by Malamuth et al.

(1995) as a predictor of sexual aggression in adult males. It involves viewing females in a negative and pejorative manner, including the endorsement of rape myths.

Similar to Moffitt's second subtype of delinquent youths (i.e., adolescent-onset), adolescent-onset, nonparaphilic sexual perpetrators were hypothesized to engage in transient sexual offending—either as a form of adolescent experimentation or in compensation for psychosocial deficits that impair their ability to form and maintain healthy peer relationships. The third group of youths, early adolescent-onset, paraphilic, is believed to represent cases of early-onset pedophilia. As such, they are similar to one of Knight and Prentky's adult child molester subtypes in that they are hypothesized to be primarily motivated in their sexual offending by deviant sexual interests.

Cluster analysis was applied to data from a national sample of 256 adolescent male sexual offenders receiving sex offender treatment in an institutional or community-based setting. Initial results (Hunter, Conaway, et al. 2007) suggest the presence of five subgroups of these youths: (1) life-course persistent–antisocial, (2) adolescent-onset–experimenters, (3) socially impaired–anxious and depressed, (4) pedophilic interests/antisocial, and (5) pedophilic interests/nonantisocial. In brief, both the life-course persistent–antisocial and pedophilic interests/nonantisocial subgroups evidence lengthy childhood histories of exposure to violence and an early developmental onset to the viewing of pornography and drug/alcohol use. The primary difference is that the former group appears more inclined to sexually offend against peer and adult females than the latter.

Of the five prototypic subtypes, the life-course persistent–antisocial subgroup has the highest rate of arrests for nonsexual crimes and appears to have the highest reported rate of childhood exposure to violence. Adolescent-onset–experimenters appear less psychosocially and psychosexually disturbed than other subgroups and report less childhood exposure to violence and less preadolescent pornography/substance use than either the life-course persistent–antisocial subgroup or the pedophilic interests/antisocial subgroup. They also appear to have the lowest average number of victims of the five subgroups; however, in their victim choice and adolescent-manifest pattern of alcohol and drug use, they more closely resemble life-course persistent–antisocial youth than either socially impaired–anxious and depressed youth or those in the pedophilic interests/nonantisocial subgroup. The latter two subgroups appear to sexually offend predominantly against children. The author's current research involves the longitudinal tracking of these subgroups through treatment in an effort to further test hypotheses about subgroup differences in treatment amenability and response. These results will be published as new data are gathered and analyzed.

Modus Operandi

Hunter et al. (2000a) examined the modus operandi of juvenile sex offenders, including where the crimes were committed and how the offender gained control over the victim. Juveniles that offended against children most frequently committed their sexual offenses in the victim's residence (63.9%), followed by the perpetrator's residence (when other than the victim's residence; 13.1%). Fewer than 10% committed their offenses in a public area. Most of these juvenile perpetrators approached the victim without explanation or use of threat or force (over 40%), or they used trickery or guile to gain victim compliance (about 25%). Threat to the victim or victim's family was evidenced in only 16% of the cases and physical force or coercion in 12.5%.

Threat, intimidation, and coercion appeared to play a more prominent role in how offenders against children maintained control over the victim and maintained victim silence. Approximately one third of these adolescents used intimidation and 17.6% used physical force to maintain control; 29% threatened harm to the victim or his family if he revealed the sexual assault. Although the majority of the offenders against children did not display high levels of violence, their sexual assaults were quite invasive. Penis–vaginal rape was reported in 69% of the assaults of female children and penis–anal rape in 46.45% of the assaults of younger males.

Juvenile offenders against peers and adults committed their offenses in both the victim's residence (45.3%) and public areas (28.1%). Most frequently (40.4%), they would lie in wait for the victim and "surprise" him or her. A "blitz" attack, wherein there was the immediate use of injurious force, was evidenced in 12.8% of the cases. Intimidation and force were commonly displayed as means of maintaining control over peer and adult sexual assault victims. Intimidation was used in close to one half of the cases, a weapon in 29.2%, and injurious force (other than with a weapon) in 16.7%. Over one fourth of these victims were threatened with violence if the assault were to be revealed. The majority of the sexual assaults (63.5%) involved penis–vaginal rape; penis–anal rape was evident in 19% of the cases.

Violent Juvenile Sex Offenders

While the majority of juvenile sex offenders do not appear to be highly aggressive or violent, a subset of these youths engages in instrumental or gratuitous violence. As previously noted, these youth are more likely to be those who target peers or adults than those who offend against children. However, even within the subpopulation that targets children, there are those youths that seriously injure or kill their victims.

Violence in juveniles has been studied as a function of personality and family characteristics. Youths low in social competency and those viewing aggression as an effective means of achieving interpersonal goals display higher levels of interpersonal violence than other youths. Similarly, those youths with long-standing difficulties with impulse control and affect modulation manifest higher levels of delinquency and aggression throughout childhood and adolescence (Caspi et al. 1995; Block 1995).

A number of violent youths also appear to score high on measures of risk taking and novelty seeking (Sigvardsson, Bohman, and Cloninger 1987; Krueger et al. 1994). These traits may be related to psychopathy, a strong predictor of violence in adults (Harpur and Hare 1994). Psychopathic adults have been described as shallow, callous, and lacking in remorse, and they often lead unstable and antisocial lives. Psychopathy may be manifest in childhood and displayed in the form of impulsivity, insensitivity, and problem externalization (Lynam 1998; Frick et al. 1994). Finally, a number of family factors have been found to be associated with violence in youth, including parental criminality, harsh parental discipline, and authoritarian child-rearing attitudes (Farrington 1989).

Aggression in juvenile sex offenders has also been studied in relationship to crime scene characteristics. Hunter et al. (2000a) found that "victim difficulty" better predicted level of violence than indices of "environmental risk" (risk of detection), alcohol/drug use during the crime, or "degree of planning/control." Victim difficulty was computed for analytic purposes to reflect effort required in gaining control over the victim based on the victim's gender, age, and level of resistance to the attack. The product of being a male

victim, of an age representing greater physical prowess, and offering greater resistance to the assault predicted higher levels of perpetrator violence. In this study, both child and peer/adult victim resistance tended to result in a response of physical force from the adolescent perpetrator.

Hunter, Hazelwood, and Slesinger (2000b) extensively analyzed seven cases wherein the juvenile perpetrator murdered the victim. A peer/adult offender committed six of these homicides. Only one of these victims (a 9-year-old boy) was a male and none were related to the offender. The scene of the crime varied. Three of the victims were murdered in their homes, one in the home of the perpetrator, one in a convenience store, and two in outdoor locations. Based on review of police interrogation reports, it was concluded that in only two cases did the assailant immediately display violence. In the remaining cases, there was an escalation of violence. The perpetrator used a weapon in six of the seven cases. The weapon was a knife in two cases, a gun in one case, and a blunt object in the remainder. In two cases, it was apparent that the victim had been intentionally tortured. The sexual assault involved penis–vaginal rape in three cases, penetration with a foreign object in two cases, cunnilingus in one case, and apparent penis–anal rape in another. In three of the seven cases, there was evidence suggesting that the victim had been raped postmortem. Three of the victims died of strangulation, two as a result of stabbing, one by gunshot, and one from massive internal bleeding. In two cases, there was evidence of “overkill” (i.e., much more violence than needed to end life).

Case No. 1

A 15-year-old Caucasian female was repeatedly bludgeoned with a large rock and assaulted with a wooden stick by a 15-year-old Hispanic male. The victim knew the assailant and had been seen leaving a party with him prior to the offense. According to the offender, he was engaging in consensual sexual intercourse with the victim when he experienced impotence and was subsequently ridiculed by her. The assailant stated, “I went nuts,” and described beating the victim with his hands and then a rock. The victim was found with a sharp 11-inch wooden stick penetrating her vagina. The victim had died as a result of multiple cranial and internal injuries, including a perforated bladder. The assailant had no previous sexual or nonsexual arrest record.

Case No. 2

A 54-year-old white female was strangled, then raped postmortem by a 15-year-old black male in her home. The assailant was an acquaintance of the victim and lived on the same street. The victim had allowed the adolescent to enter her home after he requested to use her dryer. The youth confessed to having pretended to leave the victim’s home, only to hide and attack the victim by surprise. He reportedly strangled her with a telephone cord before raping her and fleeing with about \$2.25 in change and the victim’s car keys. The youthful murderer was apprehended four days later at his high school, where he had been keeping the victim’s car.

Among violent juvenile sex offenders are isolated cases of emerging or fully developed sexual sadism. Sexual sadism is a paraphilia that involves sexual excitement and arousal to the psychological or physical pain, suffering, or humiliation of others. It is by nature

chronic and persistent. Although seemingly rare, these cases reflect the potential for a pattern of violent and very dangerous sexual offending. The following case is presented to illustrate how sexual sadism can have an early developmental onset and portend a pattern of progressively more serious and violent sexual offending.

Case No. 3

“A” was 10 years old when he was first referred for residential treatment by his home state’s Department of Social Services. This referral was made with the support of his biological mother and stepfather following revelation that he had vaginally and anally raped his 4-year-old brother and 2-year-old sister. Notably, the younger brother had also been burned with an iron by the perpetrator. The local juvenile court had been notified of the assaults, but had chosen not to become formally involved due to the perpetrator’s age and familiarity with the family.

“A”’s initial presentation was unremarkable. Like the majority of pre-pubescent youth engaging in sexual offending, he had a prior history of sexual victimization. He related that the adolescent male son of his babysitter had anally sodomized him when he was approximately 4 years old. This apparently happened on several occasions when he was spending the night at the babysitter’s house while his mother was working. “A” related in therapy sessions that he always believed that his mother knew about his victimization but chose to do nothing about it. However, he freely admitted that he did not tell anyone about the abuse until much later and therefore there was no obvious reason why she should have known.

“A” did not seem different than other young children in the residential program and was judged to be responding well to treatment. He was generally compliant with therapeutic directives, was not a major behavior problem, and did reasonably well in school. His parents, although out of state, remained in close contact with “A” and participated in telephonic and “face-to-face” family therapy sessions. He verbalized a strong desire to not repeat his behavior, expressed remorse for the sexual offending, and demonstrated competence in taught self-control skills.

“A” was discharged after approximately 13 months of residential treatment to the custody of his mother. The discharge plan called for him to spend nights with his maternal grandparents to reduce the risk of sexual offending. The grandparents lived in the same neighborhood with the mother and the plan permitted “A” to be able to fully participate in family functions under adult supervision. Arrangements were also made for him to see a juvenile sex offender treatment specialist in a nearby town. However, the mother later admitted that she did not follow through on this recommendation.

“A”’s mother re-contacted the residential treatment center approximately one year after his discharge and requested that he be re-hospitalized. She was quite distraught while revealing that “A” had sexually re-offended against his younger sister, and in an even more serious manner than previously. “A” presented for treatment the second time as a more surly, non-remorseful, and less compliant 13-year-old. Several months of intensive clinical work and case investigation were necessary before he revealed the full extent and motivations for his sexual re-offending. “A” eventually revealed that he had deliberately tortured his then 4-year-old sister on numerous occasions by slapping and choking her, vaginally and anally raping her, pouring a caustic

cleaning agent into her vagina, and forcing her to eat molded food and drink his urine. He reported that he had deliberately sabotaged the placement at his grandparents by non-compliance with rules so that he would be returned home and have access to his siblings.

"A" reported that his mother, in an attempt to keep him away from the younger children, would lock him in his room at night and have the grandmother stay in the bedroom of the younger siblings. "A" confided that he had stolen his mother's house key when she was away and gone to a local hardware store where he had a duplicate made. At night, while his mother and step-father were away working, he would crawl out of his bedroom window (his door was locked from the outside) and enter the house through the front door (using his new key). He would then quietly wait until his grandmother fell asleep, whereupon he would enter his sister's bedroom, put his hand over her mouth, and carry her to his room. Once in his room, he would gag her with a "t-shirt" so that her screams could not be heard, begin his nightly ritual of rape, sodomy, and torture. Following his abuse of his sister, he would return her to her bedroom unbeknownst to the still sleeping grandmother. He would then re-lock his bedroom door, exit the house through the front door, and re-enter the house through his bedroom window. This behavior continued nightly until the younger sister, previously too afraid to report the abuse because she had been threatened with death, finally in desperation confided to her mother what was happening.

"A" eventually revealed in therapy that he was sexually aroused to his sister's screams of pain and terror, and frequently masturbated to these thoughts. He stated that these urges had been present during his first residential stay, but that he had not reported them to his therapist or the staff because he knew that this would prevent him from being returned to his mother and thus the opportunity to re-offend. He stated that he had left the treatment center the first time with every intention of re-offending and had not taken his treatment seriously. He stated that he had targeted his sister because she was younger and less capable of verbalizing the abuse than his brother. He calmly described how he had planned and fully intended to kill his sister and family before being caught. The plan called for him to kill his sister by choking her. He then was going to set the house on fire and crawl out of his bedroom window, making it look like he and the family had perished in the fire.

Investigative Issues

Detection

The author's clinical experience and available relevant research suggest that juveniles are often not apprehended and brought to the attention of the police until after they have committed several sexual offenses. There are numerous reasons for this delay in detection. Victims are often young and may not report the offense out of fear, confusion, or embarrassment. Parents of sibling victims may be hesitant to report the crime because of concern as to what may happen to the youthful perpetrator or family if external authorities become involved. Many adult and peer victims do not report their victimizations out of concern about potentially embarrassing and difficult social and legal consequences. Other victims may not know the assailant and can offer police only limited identifying information.

Because of the difficulty in detecting juvenile sexual offending, criminal investigators are likely to encounter juveniles who have been engaging in sexual offending (whether or not the offending is limited to one victim) for some time. This may be even more likely if the offender is intelligent, socially skilled, and from a “protective” family system (Prentky and Knight 1993). Obtaining a full and accurate report of the youth’s history of offending is typically a significant challenge. This may be even more so today than it was 15 years ago, given the more severe legal repercussions that youths potentially face when acknowledging criminal sexual behavior.

Guidelines for Interviewing Juvenile Sex Offenders

The investigator should expect that the juvenile will be resistant to acknowledging his sexual offenses. Aside from fear of legal consequences, many of the youths apprehended for the first time are embarrassed and confused about their sexual offending and its meaning. Even though the problem may have been present for some time, it is unlikely they have previously talked to anyone about it or spent much time attempting to understand it. For those with previous criminal justice experience, they may see acknowledgment of further criminal activity as a guarantee of correctional placement and hence are poorly motivated to cooperate.

It is generally prudent to interview alleged offenders following the interviewing of the victim, the victim’s family (in the case of child victims), and the offender’s family (when the victim and offender are living within the same family system). Victims, including young children (see Goodman and Saywitz 1994) and their families, can provide valuable crime information that can subsequently be used in the interrogation of the juvenile perpetrator. The absence of investigator knowledge of crime detail enhances the likelihood that the offender will completely deny the allegations or minimize the seriousness and extent of the sexual offending.

Hunter, Hazelwood, and Slesinger (unpublished data) found that offender and victim reports of juvenile sexual crimes are frequently discrepant. These report discrepancies traverse both the nature of the assault and the *modus operandi* of the assailant. For example, in nearly 32% of the cases where the victim stated that vaginal intercourse had been attempted or completed, the adolescent perpetrator denied it. In 75% of the cases wherein the victim stated that force was used by the perpetrator, the perpetrator denied it. Similarly, 45% of the juvenile perpetrators denied the use of a weapon when the victim had reported that one had been used. These data illustrate the importance of thorough interviewing of victims and their families in the investigation of juvenile sexual crimes and the filing of charges.

Effective interviewing of juveniles is a skill that requires attention to both *process* and *content* issues. The following guidelines are offered:

- Interviews are more productive when the youth fully understands the nature of the inquiry and how the information that he provides will be used. In particular, to the extent that he sees cooperation with the investigation as helping portray him in a more favorable light and potentially making him eligible for less severe legal dispositions, he will be more likely to cooperate. Therefore, investigators should be as familiar as possible with how juvenile sexual offenders are processed and disposed by the local courts and share this information with the youth and his family. Especially helpful is

the sharing of information about the opportunity for motivated youths and supportive families to receive specialized treatment services in lieu of correctional placement.

- Youths need to understand the seriousness of the inquiry, and confrontation may be necessary at times. However, interviews are generally more productive when conducted in a positive and even-handed manner. Investigators should convey an attitude of confidence and the expectation that the youth will cooperate because it is in his best interest to do so.
- Questions should be posed in a straightforward manner, using language that the youth understands. Pedantic, esoteric, and legalistic terminology should be avoided. Such language is not only incomprehensible to most of these youths, but also apt to increase their anxiety and resistance.
- Investigations should include a focus on how and why the victim was *selected*, the method of gaining *access* to the victim, the means by which the perpetrator gained and maintained *control* over the victim, and whether and how he attempted to maintain *victim silence*. Questions should be specifically directed at determining whether intimidation or force was used and whether a weapon was employed.
- In investigating sexual crimes, it is generally wise to first focus on the *behavioral* aspects of the crime. What did the perpetrator say and do and how, in turn, did the victim respond? Secondly, questions can be directed at the *thinking patterns* or *cognitions* of the perpetrator. What was he thinking about before, during, and after the crime? Lastly, questions can be directed at how the perpetrator *felt* (his emotions) before, during, and after the crime. The reverse of this order of questioning may result in social embarrassment and inhibit the youth from further revelations.
- The investigator should attempt to develop a chronological sequencing of the sexual crimes of the youth. How old was the youth when he first began offending? Is there evidence of a consistent pattern to the offending as it relates to victim age, gender, and type of sexual perpetration? Is there evidence of a progression in the nature and seriousness of the offending over time? Particularly important is the determination of whether the behavior has become more violent over time. Also of legal and clinical disposition relevance is whether there is evidence that the sexual perpetrations reflect sexual compulsivity and paraphilic interests.

Mental Health Evaluations

Juveniles arrested for sexual crimes are often referred for mental health evaluations. Sometimes these referrals are made prior to adjudication in an attempt to help determine whether the youth is a sex offender or whether the problem is serious enough to warrant formal legal processing. The author cautions against such pre-adjudication mental health evaluations for the following reasons.

Mental health providers, including those with special training and experience in working with juvenile sexual offenders, enter into a realm of clinical and legal complexity when they attempt to conduct pre-adjudication evaluations. As discussed by Hunter and Lexier (1998), youths facing prosecution are placed in a position of double jeopardy when referred for these evaluations. Their conversations with the mental health evaluator are not confidential to the extent that they reveal information about the abuse of children or danger to self or others. If the youth in the course of a mental health evaluation reveals an

unknown sexual crime or previously unknown details of sexual crimes of which he has been accused, he could be prosecuted on the basis of the divulged information. On the other hand, if the youth refuses to talk to the clinician about such matters, he may be construed as uncooperative and unmotivated for treatment. In the latter case, the court may use this information in support of the need for prosecution or perceive the youth as a poor candidate for community-based treatment.

Criminal justice professionals should be aware that there are no psychological or psychophysiological tests, including the plethysmograph, that are valid for determining whether an individual (juvenile or adult) is a sex offender or has committed a particular sexual crime. Therefore, mental health evaluators have no other way of determining the guilt of an individual accused of a sexual crime short of that individual's confessing to the crime. The author notes that the polygraph, though not typically considered a "mental health" evaluation tool, also has limitations for this type of inquiry. Aside from the issue of admissibility in court, its reliability and validity are potentially affected by a number of issues, including the subject's age, his mental status, his level of intelligence, and the examiner's level of training and experience in its administration and interpretation.

This author therefore recommends that mental health and other forensic evaluations be conducted after adjudication and before sentencing. Mental health evaluations should be directed at helping determine the *nature of the sexual behavior problem* underlying the sexual crime, the individual's *level of dangerousness* and *risk for re-offending*, his *intervention needs*, and his *amenability to treatment*. This information should be submitted to the court prior to sentencing to aid in disposition decision making.

Disposition Decision Making and Management

Courts are faced with critical decisions about what to do with convicted juvenile sex offenders. Should they be committed to corrections or placed in a treatment program? Should treatment and management take place at the level of the community or is institutionalization necessary to maintain community safety and adequately address the youth's needs?

These are obviously difficult questions that require careful consideration of statute guidelines and precedents, public opinion and community resources, and a thorough understanding of the youthful offender and his family. It is with regard to the latter that mental health, probation and parole, and social services professionals can make a contribution. Professionals tasked with making recommendations to the court may want to take into consideration the following:

- The *type of offending* the youth has displayed. Juveniles that offend against peers and adults are generally more predatory and violent. Many are not appropriate for community-based care.
- The youth's level of *denial and accountability* regarding his sexual offending. Research (see Hunter and Figueredo 1999) supports the relevance of these attitudes at the time of clinical assessment. Youths steeped in denial and those blaming the victim or others for the sexual assault generally perform poorly in community-based treatment programs.
- The individual's past *criminal record* for sexual and nonsexual offenses and his sexual offense history. Those youths with more extensive criminal records and offending histories are at higher risk for re-offending. It should be remembered that nonsexual

recidivism rates generally exceed sexual recidivism rates for juvenile and adult sex offenders.

- Assessment of the presence of *paraphilic interests and arousal* and *psychopathy*. Deviant sexual arousal and psychopathy are two of the most robust predictors of sexual recidivism in adults. Although more rare in juveniles, their detection should alert the evaluator to an increased risk for program failure and recidivism. Individuals high in sexual deviance and/or psychopathy are generally poor candidates for community-based treatment.
- The extent to which the youth has *multiple psychological problems* and manifests problem behaviors in a variety of environments (e.g., home, school, community). Youths reflecting pervasive problems require more intensive services and supervision.
- The level of *family support* for the youth and his effective management and treatment. The living environment of the youth is very important in shaping his attitudes toward treatment and willingness to comply with legal and therapeutic directives. Successful community-based management requires the cooperation and support of responsible caretakers. Caretakers must perform critical monitoring functions and be willing to work toward necessary systemic change.
- The *identifications and peer affiliations* of the youth. Youths with antisocial and delinquent affiliations are believed to be at higher risk for further criminal behavior.
- The available *community resources*. As discussed in the following section, effective community-based management requires comprehensive programming reflecting well-integrated criminal justice, mental health, and social services management efforts.

Effective Community Programming

The author is of the opinion that the majority of juveniles that offend against children can be safely and effectively managed within the community. However, successful community management depends not only on the careful screening of referred youths, but also on the development of a comprehensive system of care and management.

Programming for juvenile sex offenders should be conceptualized as a community-wide effort. Key stakeholders should have a voice in both the design and implementation of the program. This includes, but is not limited to, the following: the juvenile and adult courts, the prosecutor's office, the public defender's office, the local schools, social services, and public and private mental health service providers. It may also include representatives from victim advocacy groups and parents of victims and offenders. All of these groups need to work together to ensure that the program fully responds to the needs of the community and operates in accordance with community safety standards.

It is particularly important that an effective interface be achieved between the criminal justice and mental health service delivery systems. In order to fully benefit from treatment, the juvenile must be willing to confront his problems and assume responsibility for his past and future behavior. Treatment requires the willingness of the youth to comply with therapeutic directives and sustain therapeutic diligence. Adjudication and ongoing court supervision and monitoring help ensure that the youth remains accountable for his behavior and fully committed to his rehabilitation plan.

One particularly effective strategy for motivating youths to fully avail themselves of the opportunity to receive help for their problems is to adjudicate and sentence them, then

suspend the sentence contingent on successful completion of treatment. Under such arrangements, the court assumes a monitoring role and hearings can be scheduled on a regular basis to review the youth's progress in achieving treatment goals. Recalcitrant youths or uncooperative families can be warned of the consequences of noncompliance and probation can be revoked when necessary.

Probation and parole officers provide an important evaluative and supervisory function within the previously described framework. They help assess whether the youth and family are fully complying with therapeutic and court guidelines and whether the intervention plan seems to be working. They serve as an important conduit of information between the court and service providers and can assist in the identification of needed resources for the youth and family.

The author supports *social-ecological* models of intervention for juveniles with sexual behavior problems. These models (see Henggeler 1999) are premised on the assumption that delinquent behavior is a product of the individual's interaction with the multiple social environments in which he functions, and interventions should therefore be multi-systemic in design and focus. Consistent with this model, interventions for juvenile sexual offenders should reflect an understanding of systemic influences (e.g., family, school, peer group) on the likelihood that the youth will sexually re-offend. Therapists working from this model seek to strategically involve a variety of important caretakers of the youth (e.g., parents, extended family members, teachers) in the implementation and evaluation of the treatment plan.

Hunter and colleagues (2004) describe two model community-based treatment programs for juvenile sexual offenders that adhere to the previously outlined principles. The first is operated by Wraparound Milwaukee and the second by the Norfolk, Virginia, juvenile court. The latter program involves an assessment and intervention team that consists of trained probation/parole officers and mental health providers. Each program has broad community support and a high level of interagency cooperation. While both programs have produced low sexual recidivism rates (under 10%) and demonstrated fiscal efficiency, the longer standing Milwaukee program has demonstrated a reduced utilization of corrections and residential placement for adjudicated juvenile sex offenders. Details about these programs can be found in the referenced publication.

Treatment Focuses

The treatment of juvenile sex offenders should reflect an understanding of skills necessary for maintenance of control over sexual behavior and the formation of healthy interpersonal relationships. Therefore, therapeutic attention to the following is advised:

- The enhancement of *social competencies*. Rehabilitation is dependent on having the skills to form and maintain healthy interpersonal relationships. Most juvenile sex offenders can benefit from social skills and anger management training.
- The fostering of *self-efficacy and self-esteem*. Youths need to believe in their capacity to make positive life changes.
- Improvement of *impulse control and judgment*. Juvenile sex offenders can benefit from interventions designed to help them understand the thoughts, feelings, and events that led up to their sexual offending and how to control urges to act out.

Cognitive-behavioral methodologies designed to improve impulse control and judgment can be useful in helping them deal with both sexual and nonsexual (e.g., substance abuse tendencies) impulse control problems.

- *Male mentoring* and the instilling of a healthy sense of masculinity. Mentoring by older, healthier, and successful males is important to the resocialization of juveniles that have engaged in sexual offending.
- Education in *healthy sexuality*.
- *Victim empathy*. Youths need to understand and fully appreciate the impact that their behavior had on the victim and the victim's family.
- *Relapse prevention*. Each youth and his or her caretakers should have a comprehensive and well-conceived plan for preventing future sexual offending.

Treatment Outcomes

Largely because of a dearth of federal funding, very few randomized clinical studies have been conducted on the treatment of juvenile sex offenders. Extant studies were largely conducted by practitioners of multisystemic therapy (MST; see Borduin and Schaeffer 2001). However, there are quite a few noncontrolled outcome studies that suggest that the majority of treated juvenile sex offenders do not go on to sexually re-offend or become adult sex offenders. For example, Waite et al. (2005) found that less than 5% of 261 male juvenile sex offenders treated in a state-corrections juvenile sex offender program sexually re-offended over a 2- to 11-year follow-up period. Alexander (1999) reviewed 79 treatment outcome studies and found that the sexual recidivism rate for treated juvenile sex offenders was approximately 7%. Furthermore, there is evidence that treated juvenile sex offenders have lower sexual recidivism rates than those who do not receive treatment. Worling and Curwen (2000) found that 5.17% of treated versus 17.8% of nontreated youths sexually re-offended over 2–10 years. Walker and colleagues' (2004) meta-analysis supported the effectiveness of treatment for juvenile sex offenders ($r = .37$) and suggested that cognitive-behavioral approaches were the most effective form of treatment.

The author has published three studies (Hunter and Santos 1990; Hunter and Goodwin 1992; Hunter, Ram, and Ryback 2008) that suggest that specialized cognitive-behavioral methodologies (e.g., satiation therapy) are effective in reducing paraphilic (i.e., "deviant") sexual interests in adolescent male sex offenders. In the Hunter and Santos study, 20 treated youths achieved a 39.3% reduction in phallometrically measured arousal to male pedophilic cues over a 2-month treatment period and a 33.5% reduction in arousal to female pedophilic cues. In the most recent study (Hunter et al. in press), a 19-year-old pedophilic youth who participated in satiation therapy (note: this study utilized an "A-B-A-B" quasi-experimental research design) showed significant reduction to self-reported sexual interest in male children over the course of treatment. Whereas arousal to young males was 96%—the magnitude of arousal to same-age males upon treatment inception, it was only 24% at study termination.

The last case example illustrates how even severely sexually disturbed youths, with extensive psychiatric comorbidity and limited intellectual capacity, can benefit from intensive intervention when motivation is sustained.

Case No. 4

“E” presented for treatment as a 16-year-old bi-racial male with a history of attempted rape, school failure, and out-of-control behavior within the home. Prior to admission, he had approached a female clerk in a clothing store with a knife and directed her to a back room where he intended to rape her. The assault was prevented by a customer entering the store and calling for help. “E” later confided to his therapist that he frequently fantasized of stalking women and violently raping them. His potential for sexual aggression had been in evidence for approximately one year prior to the attempted rape. He had attempted to fondle a female teacher providing him with home-bound instruction and had aggressively grabbed a female technician who had entered his room at the state psychiatric hospital where he initially had been placed for observation.

In addition to having a sexual behavior disorder, “E” was diagnosed in the residential sex offender program as suffering from paranoid schizophrenia, depression, and mild mental retardation. He verbalized feelings that women laughed and made fun of him, and required a very high level of supervision to prevent aggression toward female staff. He was observed as being challenging of male authority as well, and was prone toward physical and verbal outbursts when frustrated. He frequently stated that he felt that his condition was hopeless and that he was destined to sexually re-offend and consequently spend the remainder of his life in prison.

An African-American family had adopted “E” at birth. His adoptive parents divorced when he was approximately 4 years old following a lengthy history of paternal alcoholism and spousal abuse. “E” vividly described numerous incidents when he was a young child where he had witnessed his father verbally abuse and physically beat his mother. He verbalized having wanted to rescue his mother from his father’s abuse during these times, but being afraid of incurring his father’s wrath and subsequently losing his affection if he attempted to intervene on her behalf.

“E”’s mother stated that he first displayed aggression toward her following an incident wherein he was reprimanded for running about the house in a boisterous and out-of-control fashion. He was wearing his father’s denim jacket at the time. When he refused to obey her, she threatened to spank him. At that point, he picked up her broom and threatened to hit her with it.

“E”’s mother stated that he progressively became more difficult to manage in and out of the home as he got older. He reportedly had difficulty making friends as a child and became increasingly socially isolated over time. He ultimately had to be removed from school and placed in “home-bound” instruction after a long history of disobedience and behavioral disruption in the classroom.

While in residential placement, “E” was aggressively treated with a combination of anti-psychotic, anti-depressant, and anti-androgen medications. He also received individual, group, and family therapies. “E” formed a very positive alliance with his male therapist and talked extensively of his uneasiness around females, his underlying sense of inadequacy and hopelessness, and his confused feelings about his father.

An attempt was made to involve his father in “father-son” therapy sessions. Upon arriving for the first such session, the father commented to the therapist (in the presence of his son) that he didn’t see how boys in the program could be expected to make any changes in their sexual behavior when they were surrounded by so many scantily

clad and sexually tempting females. (It is noted that the females in the program were housed on different units, carefully supervised at all times, and subject to strict dress codes.)

These sessions came to an abrupt halt after “E” unsuccessfully attempted to process with his father how the early childhood witnessing of fights between his mother and father had frightened and confused him. The father immediately stood up, informed “E” that if he wanted to “feel sorry” for anyone that it should be for him, his father, not his mother. He angrily asserted that “E”’s mother was a strong and aggressive person and that she had been the one who had inflicted injury on him, not the other way around. This assertion was made in spite of the fact that the father was approximately 6 feet, 3 inches tall and weighed 250 lbs, the mother was of average height and weight, and there was never the suggestion in “E”’s reports that the mother had ever initiated any of these incidents. Much to the distress of “E” (and the therapist), the father stormed out of the session, never to return. According to “E”’s mother, the father drove to her home to confront her on putting these ideas in his head, and said that he was going to “punish” “E” for telling the therapist about these events by not coming back to see him anymore.

“E” became progressively more attached to his individual therapist over time and began to verbalize that he saw him as a “father” figure. Although he episodically became distraught and pessimistic that he could prevail in learning to control his aggressive sexual urges, aggressive outbursts became less frequent and intense over time. Anti-androgen medication appeared to be helpful in diminishing, and eventually eliminating, fantasies of wanting to attack and rape women. Anti-psychotic medication appeared effective in improving the quality of his thinking and judgment, and anti-depressant medication in helping improve his mood. “E” also responded well to special education and vocational training.

Due to the severity and clinical complexity of his problems, “E” required residential placement over a period of 5 years. The treatment plan included his very slow and progressive re-introduction into therapeutic environments that included females.

Ultimately, he was able to interact with female staff and residents in a variety of therapeutic settings without displays of behavioral aggression or volatility, and go on supervised community and family (with mother) outings. He was also able to form a number of important and “emotionally corrective” relationships with female peers. Prior to discharge, he was placed in a transitional living environment within the residential program (i.e., group home-like setting). Discharge was not effected until he demonstrated behavioral and emotional stability for an extended period of time (24 months).

Discharge planning involved the careful coordination of services with his mother and his home community. He was ultimately placed in a group home for the chronically mentally ill in his home town operated by the publicly funded community services board. During the day, he attended a day treatment program that included ample opportunity for social and recreational and vocational pursuits. He was able to visit with his family on weekends and holidays. A physician administered and monitored his medications and he was provided with supportive counseling. At last contact with his therapist from the residential program, there had been no episodes of sexual aggression in the two years since his discharge from residential care.

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Patterns of Female Sexual Offending and Their Investigatory Significance to Law Enforcement and Child Protective Services

22

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Introduction

The motivational factors that contribute to female sex offending and the crime scene behavior that defines it are still relatively unexplored. While there is no doubt that sexual crimes by women occur less often than sexual crimes perpetrated by men, the hidden nature of many aspects of female sexual offending are slowly beginning to surface and to prompt more careful examination and study. The intimacy with which women provide physical care to children, combined with the popular stereotypes of males as sexual aggressors, often makes detection of these crimes difficult. However, the emergence of sexual registration laws across the country has helped to document the different patterns of offending by women. This is particularly true among those who come to the attention of the criminal justice system, and such laws also help identify the need for formal research. Investigatory experience with women identified by child protective services and those referred into voluntary or compulsory treatment further broaden our understanding of the ways that women offend sexually against others. The current chapter is devoted to a review of this information along with a discussion of the investigation significance of this evolving area of inquiry to law enforcement and child protective investigators.

Historical Perspective

Early attempts to scientifically study sexual deviancy were formalized by Krafft-Ebing in his publication of *Psychopathia Sexualis* in 1886. His work represented the first medical text that sought to describe and classify the full range of deviant sexuality observed by the medical profession and used case studies to introduce various etiological conjectures. The majority of his text was devoted to sexually deviant behavior observed in men, although he did reference certain behavior that he reported occurring not infrequently among women.

Coining the term *masochism* after the writings of Sacher-Masoch, Krafft-Ebing referred to this behavior as “the association of passively endured cruelty and violence with lust.” He observed that cases of this type were frequent enough in women but that custom tended to repress their manifestation and reporting. He went on to describe two cases he had experienced directly and one that he had heard about from a physician at the General Hospital of Vienna. He made reference to instances of “periodic insanity,” in which female

patients experienced “an abnormal intensity or a noticeable prominence of the sexual sphere.” A condition he termed *hermaphroditism* or *viraginity* involved females who experienced themselves sexually to be male. When reflecting on sexual behavior with children, Krafft-Ebing identified patterns observed in nymphomania and satyriasis in which sexual contact was sought with males of all ages including children. He presented four cases of pedophilia, all involving men, but mentioned the case of one woman who sent her two daughters away, fearing that she might sexually molest them. He also referenced two case studies in a psychiatric textbook of the time that described two women who became sexually excited by children as young as 5 years of age.

Some years later, Chideckel (1935) completed his work on female sexual perversion describing from historical accounts and case studies instances of tribadism, masochism, sadism, nymphomania, transvestism, bestiality, and exhibitionism. In his writing, he referred to kleptomania as a form of female sexual perversion and reflected on the mental life of the prostitute, suggesting that her experience of inferiority motivated her wish to remain immersed in the life of the brothel. He used a cross-cultural perspective to develop his thesis that female perversions reflected various forms of mental disease that had been manifest throughout history and could be found in civilizations reflecting all levels of cultural advancement. Around the same time, Wulffen (1934) explored sexual deviance among women, observing that some women were “sexual criminals” who engaged in exploitative and illegal sexual behavior, including several cases of sexual abuse against children.

The incestuous longing reflecting the oedipal complex of psychoanalytic theory became a central therapeutic construct in the first half of the twentieth century as Sigmund Freud began to describe the “family romance” that he believed characterized the feeling of all developing children. When first beginning the practice of psychoanalysis, Freud believed the reports of incest that he began to hear from his patients were true and that the rate of sexual abuse involving children was extraordinarily high. However, as his experience grew he came to perceive that in many instances what he was hearing was the expression of unconscious fantasies that expressed the child’s eroticized love of the parent. This realization helped to define his description of the unconscious mind and the oedipal complex—central psychodynamic constructs that continued to influence psychoanalytic treatment and theory for the next 100 years. During this time period, concerns also developed as some child advocates came to believe that actual cases of incest were being misinterpreted as unconscious fantasies of psychological rather than of legal or moral significance. This controversy continued to plague the field for the next 50 years and contributed for many years to the confusion that surrounded the acceptance and investigation of allegations of childhood abuse—in particular, those cases that involved the abuse of a child by a woman. In 1997, Rosencrans presented nine cases of grown men who had in fact been sexually abused by their mothers for many years as they were growing up. These men consistently reported telling no one of their ongoing sexual involvement with their mothers and referred to it as the most hidden aspect of their lives.

Starting in the 1970s, efforts to understand patterns of sexual offending began to move away from psychodynamic interpretations and to focus on the offenders’ motivations as expressed in their crime scene behavior. Groth and Burgess (1977) differentiated the fixated from the regressed offender, while the work of the FBI in investigating sexual crimes against children culminated in Lanning’s multicategorical paradigm of various types of situational and preferential offenders (Lanning 1985). These efforts were followed by empirically derived paradigms that sought to integrate developmental antecedents with

crime scene behavior and general levels of life competence to describe various types of child molesters and rapists (Knight 1988; Prentky 1985). Later research sought to extend this paradigm to information derived only from the crime scene. This was to better inform law enforcement in investigating sexual crimes prior to the identification of the perpetrator (Knight 1998). The data used in the development of these paradigms came from a male-only treatment population and therefore could not be applied to the sexual behavior of female offenders.

Around this time, research on adult victims and perpetrators began to suggest rates of sexual abuse by females that exceeded those reflected in formal crime statistics or reports. Groth (1979) reported on a retrospective study of 348 male sexual offenders that indicated that, as children, 8.3% had been sexually abused by a female adult and 4.3% by a somewhat older female peer. In their re-examination of data collected as part of the American Humane Association (AHA) and National Incidence (National Clearinghouse on Child Abuse and Neglect) studies, Finkelhor and Russell (1984) found that 6% of female victims and 14% of male victims were abused by a female adult during childhood. Risin and Koss (1987) identified 216 college males who reported having been sexually abused in childhood. Almost four fifths of this sample indicated that they did not tell anyone about the sexual abuse while it was occurring and over half of these young men reported that their childhood sexual abuse had been perpetrated by a female. Rosencrans (1997) reported on 93 females who had been sexually abused by their mothers as children. As with the men, 95% of the women reported that they had not told anyone about the abuse while it was occurring. Over two thirds of these women reported being sexually abused by more than one adult, confirming the growing literature that documents the revictimization of sexually abused children both prior to and after reaching adulthood.

Empirical Typologies of Female Offenders

One of the first typologies that focused exclusively on female sex offenders was presented by Mathews, Mathews, and Speltz in 1989. It was based upon their interviews with 16 women undergoing treatment for sexual offending. Based upon clinical interviews augmented by a variety of psychological tests, they identified three primary types of female offenders: the teacher/lovers, the predisposed offenders, and the male-coerced group. The first group, the teacher/lovers, tended to deny the criminal aspects of their behavior. A woman in this group described herself as motivated by what she believed to be mutual feelings of romantic love. The second group, the predisposed offenders, was found to offend most often in the context of their own families during periods of isolation from other adults. This abuse tended to occur after chronic histories of sexual abuse during their own childhoods, often involving multiple members of their extended families. The male-coerced group was described as passive and powerless in their interpersonal relationships and increasingly acquiescent to the aggressive and exploitive demands of their partners or husbands.

Some year later, Vandiver and Kercher (2004) compiled information that had been garnered from the sexual registry in Texas, a list that included 471 women who had been convicted of a sexually violent crime. They identified six distinct groups and differentiated between heterosexual and homosexual patterns of offending. These groups included the following:

- The *heterosexual nurturer* group was made up of women in their early 30s who tended to become involved with adolescent boys who were just entering puberty. The offenders described a lack of intimacy in their adult relationships and reported seeking compensatory emotional gratification with their adolescent victims/lovers.
- The *noncriminal homosexual* group was found to have no prior criminal record. Offenders became involved with young women who were also entering puberty; again experiencing the relationships as mutually satisfying.
- The *female sexual predators* were found to be slightly younger and tended to behave in a manner that suggested a sexual preference for male victims who were slightly under the age of puberty. They were found to have a fairly high rate of re-arrest for crimes that were similar in nature to the one that led to their registration.
- The *young adult child exploiters* were found to be in their mid- to late 20s and offended against both male and female victims who were, on average, 7 years of age. These offenders tended to have a pre-existent and ongoing relationship with their victim and were thought to be mothers who were sexually abusing their own children.
- The *homosexual criminals* were described as being in their mid-30s and targeting females that were similar to them in age. They had multiple arrest histories, displayed a variety of antisocial behaviors, and often forced their female victims into prostitution, which they used as a source of support.
- The *aggressive homosexual offender* group was made up of older female offenders who assaulted other women in the context of violent domestic relationships.

Sandler and Freeman (2007) sought to replicate the Texas research using 346 women registered in New York, a group that represented 2% of the sexual offenders identified by the registry since its inception in 1996. Using cluster analyses and hierarchical log linear modeling, they identified six offender groups that were differentiated using their choice of victim and level of risk for re-offense:

- The *criminally limited hebephile* group (158 offenders) was made up of women in their early 30s who preferred adolescent victims around the age of 14 years. They offended against both male (70%) and female (30%) victims and appeared to have a relationship that they considered romantic with their victims. These offenders were found to have a low rate of re-arrest, with only 9% being arrested for any type of subsequent crime.
- The *criminally prone hebephile* group members (105 offenders) were found to select a similar type of victim as members of the first group but differed significantly from this group in terms of their criminal histories and past antisocial behaviors. This group was found to have higher rates of re-arrest (58%); more prior arrests (9%); and more incarceration terms (52%), drug arrests (18%), and supervision failures (42%). Offenders in this group also selected male victims in approximately two thirds of the reported crimes.
- The *young adult child molesters* group (27 offenders) was found to offend against male and female victims who were on average 4 years of age. They had few drug arrests (7%) and low rates of prior crime (1%). They had no prior supervision failures and these offenders chose male victims in 48% of their registration crimes.
- The *high-risk chronic offenders* group (25 offenders) abused children who were on average 5 years of age. They tended to have chronic criminal histories (a mean of 15 prior convictions), high rates of re-arrest (76%), consistent incarceration terms (72%),

and the highest rate of supervision failures (64%). This group included the greatest number of minority offenders (38%) and selected female victims for half of their registration offenses.

- The *older nonhabitual offender* group (20 offenders) had members who were on average 50 years of age and became involved with victims who were on average 12 years of age. As a group, they had little prior criminal contact (mean of two prior arrests) and no prior involvement with drug arrests, re-arrests, or supervision failures.
- The *homosexual child molester* group (11 offenders) was found to exclusively target female victims who were on average 5 years of age. Offenders in this group had modest levels of prior arrests (4%), low rates of re-arrest (18%) combined with high rates of drug arrests (27%) and high rates of incarceration (36%).

These studies represent a major and highly significant step forward in our empirical understanding of the criminal sexual offending behavior of women. They confirm that sexual offending by women is not uncommon and suggest that the motivations for this type of criminal behavior are as diverse as if not more so than those found among male offenders. Embedded in these motivational types are varying degrees of romantic involvement with the chosen victim combined with differing degrees of antisocial behavior and distinct patterns of sexual orientation.

Of particular interest in these classifications are the women with limited antisocial backgrounds who offended against children who are on average 5 years of age. This group could not be explored further with the available data but could be indicative of a sexual preference for children among both the heterosexual and homosexual female offenders. This may also reflect their use of these children for other purposes possibly involving mature adult partners. A second limiting aspect of these data lies in the fact that they are reflective only of women who have been arrested for and convicted of a sexual offense that requires registration according to the various state laws. This has been estimated with men to represent 2–5% of the sex crimes that actually occur and might be expected to reflect an even smaller proportion of the sex crimes committed by women. Finally, such data by definition fail to identify the motivations, themes, and crime scene behaviors that are of greatest interest to clinicians and criminal investigators alike.

In an attempt to add to the richness of these extant studies and offer a crime scene perspective that might be of use to police and child-protective investigators, we will seek to integrate this empirical, clinical, and treatment literature into a motivational paradigm that captures some of the experience and perceptions of these varied female offenders. It is hoped that these will help to inform research while providing a basis for discriminating some of the behavior that may be encapsulated in unsolved sexual crimes against children.

Motivational Typology of Female Sex Offenders

The Forbidden Lover: Secrets Are Seductive

The female seducer/lover directs her sexual interest toward a particular adolescent and becomes romantically and often passionately involved with this young man or woman in a manner that is often enticingly provocative and yet dangerously disruptive of their adult lives. The older woman often experiences the relationship as a love affair with all the

consuming feelings that are associated with this type of intimacy and will describe a sweetly alluring form of innocence in the feelings that she has for her younger lover. Closer inspection, however, will often display heavy feelings of weariness experienced by the woman with the many responsibilities of her adult life. These responsibilities often involve biological children of her own. She often has a rather superficial and immature assessment of her own internal reasons for pursuing a relationship that is based on an illusionary assessment of shared experiences and feelings. Prior exposure to incestuous experiences in childhood might also contribute to the appeal of this type of sexual boundary crossing and may be enacted with victims of the same age that the woman was when she was abused. The erotic and hidden nature of the passions ignited in the relationships also keeps the relationship from developing into one based upon shared experiences and allows both the adult and the adolescent to experience a taboo form of sexuality devoid of the restrictions intrinsic to the more public and conforming patterns of intimacy.

Issues of consent can be difficult to disentangle in this type of relationship. While the behavior is clearly illegal and obviously exploitive because of the younger age and relative inexperience of the victim, the surface experience of the relationship can often seem mutually satisfying and appealing. In some instances, the young man or woman is not sexually naïve and the boundary crossing can be experienced as a power-enhancing conquest of the slowly emerging adult sexuality. In others, the full expanse of the sexual experiences that emerge can be profoundly satisfying, leading to quandaries of guilt, confusion, and exhilaration when compared with the more limited sexual experience of same-age companions.

One case, highly publicized in the media, involved a teacher who not only became involved with a 13-year-old sixth grade student but also gave birth to his children in the course of the relationship. This woman was married and the mother of four children when this series of encounters occurred. She was charged and convicted for her sexual relationship with the underage boy and was sentenced to several years in prison. While serving time, she divorced her husband, continued in her relationship with the young man, and married him within days of being released from prison. This particular woman had experienced an incestuous relationship with her brother while growing up. Her father, who sired children with another woman, denied paternity of them, allowing each of them to be placed in an orphanage.

From the perspective of the young victim, Lanning (personal correspondence) has offered a compelling commentary on the experience of these youths and the distortions and imprecision that can inadvertently be introduced into the exploration of these and other types of sexual crimes by adults who are responsible for investigating them. He refers to these adolescent victims as *compliant victims*. He uses the term to signify the obligation felt by many to minimize the sexual gratification they have experienced as part of the relationship as well as the procurement of drugs, alcohol, and money that may have accompanied it. In identifying this dynamic, Lanning seeks to inform the interviewing and investigatory stance that is used in this type of crime so as not to exaggerate or further confound the free reporting of these underage victims.

A less romantic variant of this same theme can be found in the cases of single women who find solace in promiscuous sexual encounters with multiple young men, often living in a single community. Occurring in places where the young men can drink alcohol, use drugs, and be assured of easy, reciprocal sexual encounters, these encounters often become distorted and abusive as the young men are introduced to sexual variety that they often lack the maturity to integrate and manage. In a case evaluation conducted by one of the

authors, a 13-year-old boy told of providing a friend's mother with crack cocaine in return for which she allowed him to perpetrate sadistic sexual acts upon her, including urination, hair pulling, and various forms of assault. As his sexual fantasies continued to expand to include increasingly sadistic content, this behavior became disturbed enough to require a prolonged period of psychiatric hospitalization.

In some instances, these love affairs can occur with the youth's own mother. Faller (1987) described several cases in which single-parent females who lacked ongoing relationships with adult men placed the oldest child in the role of surrogate partner with adult responsibilities, including sexual contact. Faller noted that in many of these cases the women were not married to the child's father and had children with multiple partners. As reported in a case study by de Young (1982), one young man experienced his incestuous relationship with his mother as both special and private while also recognizing that she was mentally ill.

The Facilitator: Engaging in the Sexual Fantasy of Another

The *facilitator* is a woman who, over time, comes to assist a man in the procurement of a victim and enactment of his sexual fantasy. This entering into or accepting the sexual request of the male partner may be motivated by a variety of different feeling states ranging from extreme dependency and a frantic fear of abandonment to a daring wish to approach the forbidden and not be excluded from a sexual encounter that is perceived to be inevitably about to occur. Wolfe (1985) described the case of a woman who sexually abused with a partner: The woman had initially refused to participate and was shocked by her partner with a cattle prod. Similarly, in earlier work involving the consensual partners of sadistic offenders, women were found to aid their partners in various forms of sexual assault and murder. In these instances the women did not appear to be the initiators of the ideas, but over the course of time and in the context of a relationship with a sadistic offender, they began to engage in this behavior, obviously gaining erotic pleasure from it and at times taking a lead role in sexual behaviors that were a prelude to murder.

A case encountered by one of the authors involved a woman who was sexually abused by both parents and offered up to others, some of whom used the child to make child pornography. The mother was an alcoholic who continued to sexually abuse the child into adulthood after the death of her husband, who was the father of the abused child. As an adult, this particular woman developed extreme experiences of dissociation that continued over many years of treatment.

While it has been argued that these women are motivated by a physical fear for their own safety or the psychological fear of losing what has become an intense interpersonal bond, it can also be observed that they are often in physical proximity to or included in the sexual activity that ultimately occurs. The consistency of this element in these offenses suggests that the fantasy of the man has become imbued with sexual stimulation for the woman. Through this shared experience, the female partner becomes introduced into an eroticized sense of dominance and control, an experience that seems in some cases to transform earlier experience of timidity and dependency on the man.

The Instigator: Expressing Control and Dominance

The *instigating partner* is a woman who wishes to sexually offend against a child, adolescent, or adult—often for aggressive and retaliatory reasons—and does so either alone or

with a female or male partner. Saradjian and Hanks (1996) described a case in which a woman pressured her husband until he procured and raped a 14-year-old girl, allowing her to watch the sexual assault as an enactment of her own sexual fantasy. Kaufman and his colleagues (1995) examined the behavior of 53 female offenders and found that almost a quarter had offended sexually while accompanied by another adolescent or an adult peer. These instances commonly involved adolescent girls sexually offending against younger boys while babysitting, homosexual gangs raping other women as a sign of their revenge or dominance (Lane 1991, personal report to author), and group sexual violence perpetrated by multiple women against a single male as a form of retaliation for some prior crime against one of the group members (Sarrel and Masters 1982).

Larson and Maison's (1987) description of their prison sample included one woman who recruited men to gang rape a woman who had made reciprocated sexual advances to her boyfriend. She inserted a coke bottle into her vagina during the encounter. Another participant had initiated a sexual relationship with her 11-year-old son to avenge her husband's sexual interest in their daughter. Emerging research on prison rape and sexual coercion also indicates that sexual assaults can be perpetrated in prisons, often in retaliation for one inmate stealing the lover of another (Warren, personal reports). One of the authors evaluated a female inmate who had been charged with murder following the sexual abuse and murder of another woman. She was accompanied by other members of her homosexual gang. The victim had become involved with the partner of one of the homosexual gang members and her beating, which was intended to involve only sexual assault, over time escalated into murder.

In her research, Girshick (2002) described violent lesbian relationships in which sexual assault was part of a general pattern of violence within the relationship. One woman described being tied to a bed while a broom handle was inserted into her vagina. Another told of having her clothes torn off by her partner, after which a variety of objects were forced inside her.

Taken together, these cases reflect a tendency toward violence that is expressed through the use of aggressive sexuality often expressed in the company of other females. The intent is clearly not erotic but rather a use of sexual violence as an expression of dominance and control of others. These women in particular appear to be more psychopathic in their motivation and behavior and to use sexuality as yet another means of expressing their exploitative and manipulative intent against others.

The Psychotic: There Was a Demon in Her

In addition to the women described earlier, there are women who are severely mentally ill and, in the midst of distorted and compromised reality testing, perpetrate aggressive and, at times, deadly sexual crimes against their own children (Faller 1987; Saradjian and Hanks 1996). One case reviewed by one of the authors involved a woman who became noncompliant with her medication. As she descended into a gravely psychotic state, she became convinced that her 8-year-old daughter was trying to seduce her boyfriend. As her anger escalated over this distorted assessment of their family situation, she also came to believe that the little girl was possessed by a spirit that had been the cause inexplicably of both her father's and mother's deaths. During her evaluation she described to a police interviewer how she came to understand there was "demon in her" and in an effort to assist her, her dead father advised her to "go for her privates." Going to the kitchen, she got a sharp knife

and a hammer and placing the knife as the entry of her daughter's vagina, she hit it with full force with the hammer until blood began to pour out of the child's mouth. Only then was she convinced that she had avenged the death of her parents and protected both the dead child and her younger sister from the demon that had taken possession of her.

These cases can be misconstrued as expressing some form of sadistic or ritualistic violence and this assumption, based only upon the crime scene, can limit the collection of the evidence that might be related to the psychiatric disorder that was contributory to the behavior at the time of the offense. This can occur in particular with cases involving partial medication compliance or a recent halt in medication use. Other indications of adaptive functioning may not be suggestive of distorted thinking and behavior immediately preceding the crime. For example, the crime might occur in a fairly organized home—a home with indications of adequate care of the children and ongoing relationships with others that were not highly disrupted by the re-emergence of the mental disorder. Some cases can also involve severe states of depression that may or may not reach psychotic proportion but that influence the sense of the child being doomed or evil in some aspect of his or her behavior.

One component of this motivational type gained considerable notoriety in the early 1990s as parents and communities became concerned about satanic ritualistic abuse. Such abuse allegedly exposed children to horrific and repeated forms of sexual abuse by multiple adults, who were often in responsible and senior positions in the community. These allegations often involved primitive claims of sex with children paired with torture and cruelty, murder, cannibalistic consumption of infants, and sex acts paired with urine, feces, and other noxious substances. The assertions and the emotional fervor that accompanied them began in North America and circumnavigated the world before the fantasy-based nature of these hysterical ideas began to be recognized and take hold culturally. This change was spurred by court cases against therapists who had induced these ideas, often through the use of hypnosis, accompanied by the diagnosis of multiple personality disorder. These cases differ from those of the acutely psychotic individuals, as the fantastical nature of these beliefs could often be eradicated by clear boundary setting and the identification of the implausibility and lack of forensic evidence for any of the ideas or events that were being purported.

Munchausen by Proxy: "But I Am Only Trying to Protect My Child!"

In certain custody cases and disputed child-protective service investigations, a more subtle form of abuse can be encountered that reflects, in many ways, the patterns of behavior observed in cases of Munchausen by proxy. Formally associated with instances in which a parent invokes illness in the child to obtain some type of psychological satisfaction from the encounter with the medical system, this pattern finds expression in unassailable convictions that a child is being sexually abused even when the preponderance of the evidence suggests that he or she is not. Based upon this irrefutable belief system, the adult, who tends to be the mother, subjects the child to increasingly intrusive physical examinations and psychological assessments, claiming that new or yet undiscovered information makes further investigation necessary.

These cases tend to share four common characteristics. First, they occur in the context of a divorce or custody dispute with the first allegations growing out of vague comments made by the child, possibly about snakes or dragons. These comments are unaccompanied by any information that would be indicative of sexual contact (for example, a description of

ejaculation). Second, the allegation is reported first to the mother after the child has been away from the home and in the exclusive care of the father. Third, the report is made public through various means; the outcome of any physical examination is negative—a finding that does not serve to reassure the mother even slightly or temporarily and simply serves as an impetus for further inquiry and investigation by an ever widening group of professionals. Fourth, the case begins to create strident and emotionally laden reactions among the professionals who are evaluating the child physically or psychologically. It extends itself out over months and years as the child-protective services workers, attorneys, and judges find themselves immersed in a case with often minimal physical evidence and little apparent dysfunction in the behavior of the child. As with the allegations of ritualistic satanic sex abuse in the early 1990s, the apparent sincerity of the accusatory parent, combined with the inarticulate and easily molded statements of younger children, can create allegations that cannot be refuted 100%, thus leading to chronic instability and strife for not only the divorcing parents but also the child.

These indirect forms of abuse are perpetrated by a parent who is outwardly trying to protect the safety and well-being of the child. They must be differentiated from the instances in which a woman puts her child at risk through her involvement with a pedophilic or psychopathic man. Such a woman may find it difficult to protect her child because of her wish to continue the relationship with the abusive man. A review of the evaluation reports involving the child, a reconstruction of the man's prior criminal history combined with his personality style and sexual orientation, and a very detailed review of all professional contacts that have been initiated (or not) and by whom make it possible to sort out the condition of the child and the most likely nature of the sexual allegations. In these instances it is imperative that the professionals express and articulate their opinions carefully and with a full command of all the relevant information. Such an opinion must be expressed vigorously without being undermined by the assertion, often raised in these cases, that the lack of abuse cannot be proved absolutely. Yielding to this assertion is a tautological error that can inadvertently cause ongoing harm to the child and to the family in which he or she is tentatively attempting to grow into adulthood.

Contributory Factors in Female Sex Offending

The cause of sexual offending in women is still largely unexplored, with no clear answers concerning whether women can experience a relatively exclusive pedophilic interest in children. Cooper et al. (1990) offered one case description of a 20-year-old woman, suggesting that she was a pedophile based upon a clinical assessment combined with psychological, psychometric, and physiological testing. The case report, however, suggested that the woman also suffered from borderline personality disorder with polymorphous eroticism colored by sadistic, masochistic, and pedophilic elements. Bouchard (1994) described the case of one woman whom she categorized as a fixated pedophile, on the basis of psychological testing and assessment. By her account, the woman was egocentric and lacking in emotional development, with little concern for others. She was described as being sexually attracted to children but the case review failed to document whether she experienced comparable levels of arousal to adults of either sex.

Hindman (2000) most recently reported on 21 women who were evaluated using photoplethysmography after being charged with a sexual offense against a child. The results

indicated that only a small number of the subjects demonstrated sexual arousal to prepubescent bodies and, when this did occur, the women also showed indications of arousal to either male or female adults. Larson and Maison (1987) also described pansexual behavior among a group of women who were being treated for having sexually offended against children. They described the group as coming from families in which language was laden with sexual innuendo, clothing was designed to be sexually provocative, and continual touching of the sexual areas occurred. One woman in this group had been sexual with her adult children, their spouses, and her grandchildren. Another one of the women had offended against a number of different children, including a 2-year-old boy.

As noted earlier the studies that examine sex offense registry data do include both heterosexual and homosexual offenders who offend against very young children, a pattern that could be indicative of a sexual interest in the body image of this age child. The nonclinical nature of these data, however, limits our ability to use them for a more in-depth examination of the relative intensity of this possible arousal pattern in relationship to other sexual preferences among these two groups of women.

Re-Enactment and Early Trauma

Women who sexually abuse children have often been found to have grown up in chaotic families characterized by various forms of sexual and physical abuse perpetrated, in many instances, by multiple offenders (Allen 1991; Cooper and Cormier 1990; Cooper et al. 1990; de Young 1982; Freel 1995; Higgs, Canavan, and Meyer 1992; Hislop 1999; Korbin 1986; Marvasti 1986; Miccio-Fonseca 2000; Nathan and Ward 2002; Nelson 2003; O'Connor 1987; Sheldrick 1991; Travin, Cullen, and Protter 1990). Fromuth and Conn (1997) surveyed college women and found that 22% acknowledged having had sexual contact with much younger children, usually when they were children or adolescents. None of these young women had ever come to the attention of the police or a mental health counselor, and yet 77% of these undetected offenders reported having been sexually abused prior to their experience with younger children. Hislop (1999) found that when sexual abuse was experienced in the childhood of women who had molested children, it was generally severe in nature. Of the 43 female sexual offenders in her study, 32 reported a history of childhood sexual abuse beginning, on average, at 7 years of age. The abuse that did occur was also found to continue on average for 8 years.

Personality Disorders

Often combined with early trauma, chaotic families, and a genetic loading that contributes to patterns of behavioral dysregulation, sexual offending by women, as with men, is often associated with various types of personality disorders. Green and Kaplan (1994) reported on a small sample of 11 incarcerated female child molesters. Based upon structured diagnostic interviews, they found that on average these women suffered from 3.6 different personality disorders. The most common diagnoses were avoidant personality disorder (seven cases), dependent personality disorder (five cases), and borderline personality disorder (five cases). Hislop found in her study that 16 of the 43 women met criteria for dependent personality disorder. They described or reported a neediness in their intimate relationships and a desire to be taken care of, combined with an exaggerated fear of abandonment or being alone. Miccio-Fonseca (2000) assessed the family dynamics of 18

female sex offenders and found that 56% described a family member who had seriously hurt or killed another person, and 50% had a family history of suicide attempts. Constantine (2003) studied adolescent girls who had been sexually abused and were living in residential treatment, comparing those who had been committed a sexual offense with those who had been sexually abused but were not offenders. She found that the sexual offending cohort was more depressed, more anxious, more suicidal, and more prone to eating disorders than the other abused adolescents.

Mental Illness and Substance Abuse Disorders

Various mental disorders are associated with sexual offending by women. Lawson (1984) described the case of a 50-year-old woman with bipolar disorder who ran naked on the beach during a manic episode. She shouted obscene remarks to young men along the way, suggesting that they were not “up to the mark” for failing to have intercourse with her. Green and Kaplan (1994) reported on a sample of 11 incarcerated female child molesters, observing that 73% met full diagnostic criteria for post-traumatic stress disorder. Faller (1995) examined the substance-abuse patterns of 72 female child molesters and found that alcohol was abused by more than half of the women. Similarly, Allen (1991) studied 65 women who had been charged with a sexual offense and found that 17% self-identified themselves as alcoholics, while 26% reported that they had used drugs relatively often at some time in the past. In her study of 72 offenders, Faller also found that 22% of her sample was developmentally disabled and met criteria for at least mild mental retardation.

Investigatory Significance of the Paradigm

This emerging area of research underscores the different patterns of sexual offending that can be found among women and the varying degrees of association that these patterns have with prior criminality and the risk for future offending. While it is not uncommon to portray male offenders as pedophiles or rapists, with the connotation of chronicity being associated with diagnosis or crime classification, there is a tendency to portray women as victims who are inadvertently enticed into offending by past experience or their relationships with a dominating male. While these influences may be operative and powerful with women, they also tend to mask the more chronic aspect of the personality style and/or lifestyle that can contribute to a risk for re-offense involving children or other forms of criminal offense. This risk becomes difficult to manage given the ability of women to have children despite their past offense history. The caseloads of social service agencies are replete with instances of women losing custody of one set of children only to go on to have more, often with other partners who reflect a similarly high level of risk for harming the children through physical or sexual abuse or chronic patterns of neglect and abandonment. These situations tend to place the blame on the men who perpetrate the abuse rather than on the women who give them access to their children, often with little or no ongoing supervision.

Certain high-profile cases have begun to underscore the role that women can play in various kinds of sadistic serial crime. This type of partnering can be a pivotal part of the police investigation, as it creates the dyad that can be used to entice the one offender to provide information against the other, either based upon fear for his or her own safety or as part of a plea bargain once the couple has been apprehended. The possible role of women

in the planning and/or executing of these crimes is often the missing link that explains the ability of the couple to acquire low-risk victims and transport them considerable distances without any apparent signs of struggle or resistance.

A failure to identify the role of women and female children in the perpetration of sexual crimes against other children can also delay the nature of the reporting that does occur and the nature of the investigation that follows it. All too often when a female child has been found to be the victim of sexual abuse, the investigation stops and does not complete a full review of the cycle that could involve the victim's sexual contact with other children. It is not uncommon to discover that when one child is being sexually abused in a family, foster home, or residential setting, other children are also involved in sexual activity with each other and the entire system has become dysfunctional, with each child protecting the other from reporting to adults. While there may be a cursory attempt to question other children in a home, the significance of this type of incidence as a risk factor for all the children in the home has yet to be adequately identified and addressed as part of social service investigations. When attempts are made to inquire further into these types of situations, there is also a tendency to assume that young males are the most likely perpetrators, thus missing the proximity of the child to other female children who may be abusing them.

Finally, the growing number of lawsuits being initiated by men following their founded complaints of child abuse is forcing social service agencies to review their practices in cases in which the evidence is less than conclusive. These cases, if not handled skillfully, can result in the helping professionals collusion of in the continued abuse of the child through repeated and unauthorized examinations. This set of circumstances often arises because of a failure of the professionals to identify the psychological splitting that is contributing to the chronic acrimony and intense affect of all those involved in the case. This can lead to professional ill will that is destructive and disruptive to the best interest of the child. Embedded in these cases is the tendency to maintain a suspicious attitude toward the male caretaker while failing to discern the boundary crossing determination of the female caretaker and to continue an investigation no matter how consistent and informed the professional opinions that surround it are.

In terms of prevention, the research on female sex offenders only serves to underscore the importance of timely interventions and treatment of children who are sexually abused or exploited. There is no longer any doubt that early abuse serves as a significant risk marker for abuse against others in adulthood. In particular, we need to identify the vulnerability of young men regardless of their implied level of consent. This is necessary to ensure that hidden forms of sexual abuse can be identified and investigated without the distortion implied with our old and outdated definitions of victimization and abuse. With antisocial women, we need to add to our repertoire of crime types their ability to exploit children sexually for their own sexual purposes and for the use of others. We also need to understand fully the role they can play in both seducing and using children in ways that are directly and indirectly sexual.

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Drug-Facilitated Sex Assault

23

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Introduction

For experts in sexual assault and its investigation, drug-facilitated sexual assault (DFSA) turns many preconceived generalizations about crimes and offenders upside down. DFSA is defined as the use of an agent, legal or illegal, to maneuver an unsuspecting and otherwise nonconsenting person to sex or to an otherwise psychosexually gratifying act. Not all drug-facilitated sex assaults end in rape; the person manipulated, however, is unmistakably victimized by a person who absolutely exploits and calculatedly so.

Such manipulation may inspire the idea that those who engage in DFSA are the more sophisticated and more deliberate, cunning personalities. In many instances, that is the case. However, beyond their veneer and *modus operandi*, not all perpetrators of DFSA are cool and collected (Welner 2001a). Force is not required to subdue victims of DFSA; struggle only happens, if at all, when the sedated victim awakens sooner than expected from a drug that has worn off.

Furthermore, DFSA is perpetrated by offenders for whom elimination of toxicological evidence is essential to the selection of the drug they employ. As such, DFSA is specifically adapted to overcome current potentials of forensic investigation. DFSA allows the exploitive and hypersexually self-indulgent to cross boundaries once limited to the violent who sexually assault.

DFSA thus differs dramatically from many rapes in that it is not typically a crime of physical violence (Welner 2001b); it is a crime of sexual hedonism and entitlement. Not surprisingly, the gratuitous battering and mutilation carried out by the enraged and sadistic are not seen in DFSA. Were physical marks left behind, the perpetrator would defeat one essential purpose of DFSA: to sexually exploit without the victim's or investigator's detection.

Investigators should be aware that perpetrators over age 60 have been found. DFSA enables sexual assault by older offenders whose criminal career would have otherwise passed because of their inability to forcefully contain a victim, especially one much younger and more able.

Tracing the History of DFSA

DFSA charted its earliest territory in public awareness with the unsuspecting victim who was exploited in a business or professional setting and was clearly divorced from any sexual context. These exploitations would occur in the workplace when a drink would be given to the victim in circumstances that appeared to be celebratory (congratulations on a hiring or an achievement within the business). Furthermore, the employer had not been necessarily inappropriate prior to the attack.

The earliest notorious cases of *sexual* exploitation through drugs and alcohol involved supervisors and employees, or doctors and patients (Welner 2001a). DFSA in social settings inspired less sympathy for the victim as attitudes of many others at that time reflected the feeling that the victim should have known better. Today, DFSA in social settings assuredly represents the seizure of a nonconsenting victim through non-confrontational means.

DFSA is honed by personal preferences and the evolution of cultural mores, including the inextricable linkage of drugs, alcohol, and sex. Contemporary claims of DFSA most commonly originate in settings where alcohol or drugs are readily consumed. Therefore, many DFSA claims struggle over issues of consent, rather than the use of drugs. Feminism was responsible for promoting sensitivity to date rape, the notion that forced sex can and does occur in settings that begin with a social relationship and different objectives for the encounter.

The dynamics of DFSA, namely a perpetrator exploiting a cognitively impaired person for sexual gratification, have long been recognized for their association with alcohol. Years before serious discussion of DFSA began, alcohol was the original date rape agent. Alcohol contributes to the misinterpretation of interpersonal cues as sexual invitation and is associated with decreased coping and inability to defend against an attack (Rickert and Weimann 1998).

For all of the reasons that alcohol is exempt from the restrictions placed on other drugs, investigators and policymakers have talked around alcohol and its use in sexual exploitation. Medical studies on alcohol and victimization have, nevertheless, cautioned of the linkage between alcohol and victimization.

DFSA drew more specific focus when it became clear to law enforcement that there were specific drugs being promoted among the underground drug culture for their immobilizing and memory-erasing effects on unsuspecting targets. Rohypnol and gamma-hydroxybutyrate, the drugs that drew earliest attention as DFSA agents in the late 1990s, were so effective that victims would not even know they had been victimized. DFSA consequently evolved into crimes of *no complaint* or *no evidence*, or events in which nothing apparently had happened. The frightening prospect of the perfect sexual crime spurred serious study of this area and creative initiatives for law enforcement and prosecution. A leader among these trailblazers was Robert Lipman, a Justice Department prosecutor who single-handedly promoted widespread awareness among law enforcement and who inspired the first authors' sense of urgency to develop a typology of DFSA perpetrators.

More recent years have distinguished a variety of factors that clearly complicate the identification and investigation of DFSA cases and their prosecution. Manhood is increasingly promoted, especially among younger men, with the capacity to capture as many sexual partners as possible. Today marks a post-AIDS sexual revolution in which casual sexual encounters are accepted and encouraged by peers, particularly among those who go to clubs, where DFSA-applicable drugs may be readily available. At the same time, today's empowerment of females who make claims of sexual assault facilitates their undoing a regretted encounter while intoxicated with a false allegation that exaggerates the degree of their incapacitation during the encounter. Because these women are not victims, an already ambiguous crime becomes all the more inscrutable.

Presumptions of promiscuity as a universal gay trait contribute to a response to male victims' complaints with skepticism and indifference, although it is that same sexual preoccupation that emboldens entitled homosexual hunters to prey through DFSA (Welner 2001b).

The DFSA Perpetrator

Law enforcement is in the uneasy middle—often focusing on quarry whose guilt is dangerously ascertained by no more than a hunch. The first author had consulted on a number of cases of drug-facilitated sexual assaults, both for prosecutors and for defense attorneys this experience left him with the conclusion that drug-facilitated sexual assault is more widespread than identified and that confirmed offenders are most often identified as repeat perpetrators. That does not even account for the percentage of those who were apprehended after their first offense and before they could invariably recidivate. DFSA prevalence is unclear, but its perpetrators have every potential for recidivism until stopped and incarcerated.

Perpetrators of DFSA recognize that what they are doing is illegal; however, they do not feel it is wrong by their own morality. Pathological narcissism (Kernberg 1989), exemplified by the exploitative abuse of power and control (Price 1994), reflects the most clinically viable designation of the DFSA offender's personality. Pathological narcissists may be quite law-abiding otherwise, but they are so self-absorbed and motivated by entitlement as to trample over the boundaries of others (American Psychiatric Association 1994) when they can.

DFSA is to its perpetrators a mode of acquiring immobilized sex partners. If sexual encounters with completely immobilized partners are charged elements of a perpetrator's fantasy life, that offender should be viewed with the risk for recidivism as would be an inveterate pedophile who hones and deftly carries out his *modus operandi* (Welner 2001a, 2001b).

Unlike some compulsive offenders, DFSA offenders do not experience regret or show later empathy for their victims. They deny the crime and deny the victimization of their prey. Unlike many sexually deviant offenders, DFSA perpetrators offend only when opportunity presents itself. They strike when access, setting, and crime concealment are guaranteed.

DFSA perpetrators may be single or married. The same forethought and calculation that enables perpetrators to exploit victims enables them to maintain appearances of fidelity and happiness to unsuspecting spouses. This remorseless brazenness, reminiscent of psychopathy and pathological narcissism, speaks to people with no criminal record or history of violence who can nonetheless employ contradicting morality to successfully perpetrate DFSA. Witness the following case example:

The defendant's wife testified that until mid-1996, she believed they had a strong marriage and she became pregnant with the couple's second child in July 1996. She testified that he was "thrilled" with the news. But, by early 1997 she and the defendant had separated. She went to their house (she was living in an apartment at the time) to get their video camera to record an upcoming family event. She viewed the videotape in the camera and saw the defendant having sex with three women, including her own younger sister.

In my professional opinion, DFSA perpetrators carry out their attacks in order to be able to do the same again. They are, therefore, an ongoing public health and safety risk and that is reason alone to prevent opportunity to offend and to stop labeling them with no more than *bad social judgment*.

DFSA requires familiarity with toxicology and behavioral science. For that reason, this chapter focuses on what investigators should know in order to guide their pursuit of drug-facilitated sexual assault cases: understanding the drugs involved, how victims are affected, challenges to the detection of given drugs, the perpetrators and their *modus*

operandi, and strategies for investigation and for the successful prosecution of true perpetrators.

What Makes the DFSA an Agent of DRSA?

To understand the “D” (drug) in DFSA, one must also focus on the “F” (facilitated). Drugs are chosen and utilized based upon their capacity to sedate and, if possible, to physically immobilize the intended victim. Moreover, agents that impair the formation of new memories also impact the victim’s ability to identify details of an assault. The more sophisticated perpetrators of DFSA will choose agents that quickly metabolize to undetectable levels.

Rohypnol, or flunitrazepam (known by street names such as “roofies,” “roche,” “forget-me pill,” “circles,” “Mexican valium,” “roopies,” “roaches”; Welner 1997), is the most recognized drug used in DFSA. A benzodiazepine, Rohypnol is a member of the same family as the more readily prescribed Valium, Librium, and Ativan and causes muscle relaxation and amnesia independent of its powerful and rapid (within 20 minutes) sedating effects. Once odorless and tasteless, the pharmaceutical firm Hoffman–Laroche modified its composition to include a blue dye that would make Rohypnol more difficult to conceal in beverages into which it is dropped. Rohypnol is not legally available in the United States and its import is banned (National Institute on Drug Abuse 2006). (See Welner 1997, for a more detailed review of the role Hoffman–La Roche played in the controversy over Rohypnol.)

Dizziness, visual disturbances, and urinary retention are among its side effects (Britt and McCance-Katz 2005). Rohypnol may not be detectable in urine after approximately 72 hours, although detection methods have become increasingly sensitive (Pope and Shoul-dice 2001).

GHB, a powder or liquid that has a variety of uses and misuses, is known to produce sedation, increase libido, impair memory, and most importantly, rapidly clear from the system. GHB is even harder to trace before being completely metabolized than Rohypnol. It is cheap, more readily available, and popular on college campuses (Hensley 2002). With as little as a teaspoon dissolved into a drink, GHB can exert effects within 15 minutes. GHB has emerged as the current dominant DFSA drug. Tremors, seizure activity, bowel and bladder incontinence, and dizziness for as long as 2 weeks are side effects of GHB; history of these side effects may be the best evidence of such a medicine’s being inappropriately given to a victim.

GBL, or gamma butyrolactone, relates closely in structure and effects to GHB. But unlike GHB, GBL is not subject to the regulatory barriers now in place to prevent GHB misuse. GBL may be found in a variety of more innocuous articles, such as liquid soap, super glue, or nail polish remover and is readily available online.

Chloral hydrate is an alcohol derivative that induces sedation rapidly. It does not provide the same muscle relaxation effects as those previously mentioned and is toxic in overdose. Chloral hydrate is even more toxic in interaction with other drugs, most dramatically demonstrated in the unexpected deaths of Marilyn Monroe and Anna Nicole Smith. However, chloral hydrate is easier to trace through toxicology than GHB or Rohypnol.

Those DFSA perpetrators unable to obtain the preceding drugs or who may have other drugs at their disposal may use high-potency benzodiazepines, such as Valium, known for their rapid onset. While Valium enhances muscle relaxation, sedation, and memory impairment, it remains in the system for so long that an unsuspecting victim would

reflect Valium in his or her body for some time afterward. Less potent benzodiazepines do not begin to act with the speed for which an assailant would aim and therefore are not utilized.

DFSA, when most effectively perpetrated, is a crime in which victims are unable to recall the elements of the assault against them. In one such case, the victim continued to trust the perpetrator, and he drugged and raped her a second time.

A victim may recall becoming very sleepy and weak, but remembers nothing until awakening, either while being attacked or even while being redressed after the assault. More than weakness, some drugs engender a feeling of paralysis that prevents victims from fighting an assailant even when they are aware of being assaulted.

After reviving, the victim may remain confused and have difficulty articulating his or her attack to responsible parties. Drug effects may persist beyond the sleep-inducing properties. Benzodiazepines, from Rohypnol to Valium, may leave their signatures through the victim's slurred speech after he or she awakens.

The sedating effects of GHB and Rohypnol can be abrupt and powerful (Greenblatt, Miller, and Shader 1990; Welner 1997, 2001a). Once the victim has ingested a spiked drink, he or she may soon be too sedated to walk. For this reason, many perpetrators try to drug their victims in settings within their complete control, where they can immediately carry out their attack. This avoids the risks involved in moving a victim who is unable to walk.

Victims do not expect to be incapacitated, but sometimes do expect to be affected by what they ingest. While perpetrators may use water, coffee, or other nonalcoholic beverages, an additional drug is commonly concealed in alcoholic beverages.

In those instances, the victim generally knows he or she is ingesting one central nervous system (CNS) depressant—alcohol—but does not realize that he or she, in fact, is ingesting a second CNS depressant (for example, GHB). The victim can account for an expected response to alcohol, but nothing more.

In other cases, the perpetrator may offer the intended victim a drug and encourage the victim to ingest it by telling her, "It will make you relax," "It will make you feel better," or "It will get you high." The victim may voluntarily ingest the tablet, but will not fully appreciate the contents or effects of the tablet—specifically, its ability to render her unconscious. Nor does he or she recognize the agenda of the perpetrator to carry out a sexual assault.

The perpetrator uses what he can obtain. Consequently, not all DFSAs are so artfully carried out as to physically and mentally immobilize long enough or strongly enough. Yet, there are identified cases of sedatives added to alcohol whose synergistic depressant effect on respiratory centers of the central nervous system unintentionally killed the victim. Such rare cases make for peculiar autopsy findings of evidence of consensual intercourse and polypharmacy on postmortem toxicology screening.

Some drugs may be associated with sexual exploitation, though they do not produce sedation. Crushed and then added to a drink, ecstasy or MDMA (also known as "XTC," "X," "E," "Adam," "clarity," and "lover's speed") enhances personal responsiveness and closeness and may affect a target with unimpaired consciousness. For this reason, MDMA was once considered a drug with the potential to enhance psychotherapy, until it was banned in 1985. The person experiencing increased sexual responsiveness does not necessarily regret events in retrospect and will not feel the same sense of violation as someone rendered unconscious.

Ketamine, a powder dissolved in drink, produces a sense of dissociation rather than sedation to unconsciousness and may also affect memory. While it is implicated in DFSA and listed in literature as a drug associated with assault, case reports have been scarce.

Modus Operandi

Variations within modus operandi reflect the perpetrator's occupation, social skills, and the setting (Welner 2001a, 2001b). For most, delivery of the drug through alcohol or another drink is easiest, particularly if that drug is undetectable to the naked eye. One perpetrator was a celebrated chef–restaurateur who spiked a food dish he prepared for a waitress and her friend. This man, as did others, exploited the vulnerability in a relationship he had with the victims to gain trust and access to them. The victims would, of course, be more likely not to question an offer of food from him than an offer of a drink.

The perpetrator may be emboldened to incapacitate and sexually assault a victim even when others are nearby, as long as circumstances enable isolation of the victim. In one such case, a woman and the two men who accompanied her to a party were all given spiked drinks and incapacitated, after which she was raped.

As DFSA involves nonviolent isolation and then capture of victims, the perpetrator must use cunning and guile. In an effort to cover his tracks, the perpetrator may, after the rape, dress the victim while he or she is still under the influence of the drug. Reportedly, some victims first become suspicious that they were raped when, after gaining consciousness, they realize that their underwear is on backwards or that their clothes feel out of place.

The perpetrator often uses highly developed verbal and social skills to gain sufficient trust of a prospective victim to facilitate his or her isolation in order to commit the crime. After the crime, the offender may again rely upon social and verbal agility to persuade the victim, if he or she confronts him, that nothing happened or that the victim was a willing sexual partner or even an intoxicated aggressor. Another possibility—that the victim was raped while unconscious—may be so disturbing that the victim employs protective denial and may accept the perpetrator's explanation.

The criminal's manipulation may include reminding the victim that he or she was drinking alcoholic beverages or voluntarily using illicit drugs, suggesting: "You got drunk [or were using marijuana, cocaine, etc.]—no one will believe you."

In some cases the perpetrator's modus operandi may include efforts to both enhance the vulnerability of the victim and destroy his or her potential credibility as a prosecution witness. For example, the criminal may offer the intended victim an illicit drug (cocaine, ecstasy, etc.) and also surreptitiously spike the victim's drink with a CNS depressant (such as a sedative). A victim may be particularly reluctant to report the crime because his or her willing illicit drug use might be revealed publicly at a trial. Even if the victim reports the crime, prosecutors may be reluctant to bring charges because a jury may be hesitant to believe a victim who, at the time of the incident, may have been under the influence of an illicit drug that he or she took voluntarily.

With the same obstacles in mind, a perpetrator may surreptitiously spike the victim's drink with both a sedative and some illicit drug (or otherwise cause the victim to unknowingly ingest an illicit drug, such as cocaine). In the event the victim reports the DFSA and urine testing is performed, both drugs might be detected and the drug profile would

create the false impression that the victim is a drug abuser. The perpetrator's goal may be to destroy the credibility of the prosecution's most important witness: the victim.

Components of the DFSA Modus Operandi

A perpetrator's modus operandi generally has four components (Welner 2001a):

1. *Means*: access to sedating drugs and knowledge about their effects on a victim's consciousness, resistance, and memory;
2. *Setting*: an occupation, a residence, or other circumstance in which the perpetrator controls the environment to the extent that he can execute a plan in that environment without interruption or unexpected discovery;
3. *Opportunity*: the capacity to orchestrate a setting where the intended victim is alone and the crime will not be impeded, which generally requires establishing a degree of trust by the victim; and
4. *A plan to avoid arrest and prosecution*: includes exiting the premises before the victim awakens, redressing the victim, or creating alternate scenarios of the evening for the victim. When that is not possible because the victim has awakened prematurely, perpetrators commonly insist to the victim that consensual sex—or even no sexual contact—took place, to dissuade the victim from reporting the crime.

A Typology of DFSA

Settings

Perpetrators invariably use creativity and cunning to prevent the crime's discovery and DFSA is intended to be an opportunistic, nonconfrontational crime, no matter the setting. The drugs used to exploit the victim necessarily depend on what drugs the perpetrator can access. Therefore, a typology of DFSA is best distinguished by *settings* in which the attack takes place. Workplaces, medical facilities, and social encounters have all been used by perpetrators to exploit victims.

Workplace Settings

The more familiar scenario is that of an employer who takes a newly hired employee to dinner and a sexual assault occurs after the boss drugs the employee. Key to these settings is the inherent power differential that enables bosses to control an applicant or employee. The power differential is even more acute with an undocumented alien or another person who clearly needs to keep her job. The manipulative DFSA boss may provide financial or other incentives to promote obedience. Even when testing boundaries, there is established precedent for that victim following instructions and a willingness to go along with authority.

The dynamics of DFSA perpetrated by dominant landlords resemble those of the workplace. The key ingredient is again a power differential in the relationship that the landlord exploits in order to isolate and establish physical control over the victim.

A perpetrator who runs a business from his home maintains the ideal atmosphere for the crime. Drugs can be readily stored in unremarkable refrigerators and medicine

cabinets, and beverages, which can be spiked, are handy. Victims can be positioned in such a way as not to witness tampering of a drink and so that the perpetrator may be alone with her or him. In such situations, even a perpetrator without significant social skills can isolate, drug, and sexually assault an intended victim who is there because he or she is at much needed work.

Not all workplace DFSAs involve employers and employees. In one reported case, a 48-year-old married man, while operating his housecleaning business, spiked the non-alcoholic drinks (tea, coffee, etc.) of his elderly clients. Once they were incapacitated, he would take sexually graphic photos of them and steal locks of their hair, nylon stockings, or tampons. Though this case has unusual aspects, its core features echo other DFSAs. The perpetrator targeted victims who needed him, he exploited them while they were drugged, and he acted in such a way as to avoid discovery and enable recidivism (Welner 2001b).

Healthcare Settings

Physicians and paraprofessionals have also been implicated in drug-facilitated sexual crimes in distinctive, if familiar, fact patterns. Crimes involving doctors and dentists have characteristically taken place in private offices where the perpetrator/healthcare provider was in charge of the premises.

In these cases, perpetrators sedate and sexually assault patients while treating them. Such offenders may act professionally with most of their patients but carefully select others to victimize. In one case, for example, the victim was a new patient and the doctor arranged to be alone with her for an extended period in his office.

A healthcare provider who commits drug-facilitated sexual crimes may enjoy considerable respect in his neighborhood and among his colleagues, and he may also maintain an intact nuclear family. Patients and others in the community may be willing to attest to his professional skills and good character. The healthcare provider is therefore an example of how stature may insulate from prosecution for a considerable period of time.

Healthcare providers, especially those who perform procedures, are able to medically justify incapacitating their patients. Physicians and other healthcare professionals utilize the drugs they prescribe or administer in clinical practice, so nothing appears out of the ordinary—on the surface. Patients are administered sedatives during a consensual procedure and are sexually abused while sedated.

Depending on the circumstances, the defense would be expected to argue that the defendant, acting in the regular course of his practice, sedated the victim. The defense may further argue that, while sedated, the victim probably had a dream and, perhaps as a result of reaction to the drug, now innocently mistakes the dream for reality. This latter point is not entirely unfounded, for a DFSA victim's memory of the incident may resemble the fragmented recollection of a dream.

Notwithstanding the preceding obstacles, in some cases law enforcement authorities have been able to identify several victims and successfully prosecute the healthcare provider.

Social Settings

Many perpetrators use social encounters to ensnare victims. Bars, clubs, parties, and dates are all effective staging areas to drug and incapacitate the victim. Drugs useful for DFSA are readily available in many clubs and bars.

Some offenders in social settings are unable to seclude their victims before drugging them. In bars and clubs, these perpetrators may guide the intended victim away from the scene as quickly as possible. Consequently, security personnel can play an important crime prevention role. When a patron who is physically incapacitated is being removed by an apparently concerned and physically dominant person, responsible parties should query how well the two individuals know each other. Some suspicion and concern should follow that “Good Samaritan” who appears to be hurrying a person he just met out of a drinking establishment. Vigilance should be further heightened when the victim has difficulty walking and describes feelings of exceptional mental disorientation, a quick change in mental status, or physical incapacity to paralysis. These effects, while certainly representative of alcohol intoxication, are exceptional enough to prompt questions about whether more than alcohol is involved. Sending that impaired person home with more established friends is a safer directive because security in the club or bar may be the last responsible authority who can intervene before an attack takes place.

Accomplices and Conspiracies

More than one perpetrator may collaborate and conspire to commit DFSA. Confirmed cases, invariably occurring in social settings, have involved friends, a male and female couple, and even brothers as co-conspirators.

A perpetrator may use an accomplice who does not actually participate in the assault. For example, a female accomplice may be deployed to gain the trust of an intended female victim and engender in her a false sense of security and safety. The male who then orchestrates the con and primarily draws gratification from the ensuing attack is the dominant figure in the accomplice cases with male and female offenders.

Cases involving an accomplice or a co-conspirator evidence an exceptionally manipulative primary offender with an ingenious and elaborate modus operandi. Not surprisingly, such couples may victimize high numbers of women. The primary offender is remarkable for having the capacity to inspire an accomplice to engage in such outlandish activity when DFSA is not interesting or meaningful to the accomplice. The capacity to inspire the otherwise uninvolved to perverse crime is an identified element of a depraved crime.

Most male–female teams have histories notable for the use of recreational drugs (cocaine or ecstasy) and many have direct or indirect links to the pornography industry. As such, DFSA involving accomplices has been most frequently identified in Southern California and South Florida and other places where the industry flourishes.

Intrafamilial DFSA

It is hardly surprising that many intrafamilial DFSAs go unreported. Because the perpetrator may be the head of the house, each of the constraints confronting incest victims (threatened loss of family integrity, confusion over an act of aggression, vulnerability to psychological manipulation, self-blame, fear of eviction, lack of support of other family members) must be appreciated for its impact in lowering the reporting rate. Just as manipulative perpetrators can convince nonfamilial victims to remain silent from confusion and shame, similar dynamics are all the more powerful for the unique pressures confronting a child or other powerless victim of intrafamilial DFSA inside the home.

Male-on-Male Offenses

Cases in which a male perpetrator used drugs to sexually exploit another male have occurred almost exclusively in social or school encounters, rather than healthcare or workplaces. Power differentials may be a component of the exploitation and access, especially when the DFSA is perpetrated by an adult male against a child, an adolescent, or an economically vulnerable target.

Confirmed perpetrators of such male-on-male assaults have also included foster fathers and even men picking up hitchhikers. The latter are especially problematic to public health because the transient nature of the encounter makes it harder to identify an assaulter, especially when the DFSA perpetrator leaves the victim in an isolated area after the attack. Additional risk arises from a victim being abandoned while still under the influence of a DFSA drug. One such victim, abandoned by a road while still under the influence of the drug, was struck by a car and killed.

DFSA has generally not been described in crimes committed by heterosexual killers. However, sadomasochistic homosexual killers have employed DFSA as part of a homicidal agenda (Silvestrini 2007). Jeffrey Dahmer and John Wayne Gacy, the notorious serial killers, verbally manipulated and then immobilized male victims through sedation before their sexual assaults. Dahmer used the benzodiazepine derivative Halcion (triazolam) and other drugs (Everything₂ 2001), and Gacy used chloroform (Bell and Bardsley 2007).

Dahmer and Gacy, as with a number of nonmurderous homosexual DFSA perpetrators, harbored strongly conflicted feelings about their private homosexuality (Stone 1989). The preference for sex with a heavily sedated or essentially inanimate victim may, for some homosexual perpetrators, reflect continued conflicted feelings about relating to the same sex in a manner that conveys intimacy. Gacy was married, a local businessman, and politically and socially active in a conservative community (Bell and Bardsley 2007). As with a number of the perpetrators described earlier, Gacy lured victims with the promise of a job; he attacked the males in his home after he persuasively drew them there under false pretenses (Bell and Bardsley). Murder as an endpoint may also, for Dahmer and Gacy, have resolved conflict and self-loathing relating to their homosexuality.

Sexual Deviance or Sexual Hunters

Earlier references to sexual preferences of the perpetrator are worth noting. DFSA offenders appear to distinguish themselves into two groups of sexuality: those who are incompetent at finding sexual partners yet maintain a high degree of sexual interest; and those with sexual fantasies of complete domination and control of a partner.

The distribution of these groups crosses the socioeconomic, age, and educational spectrum, although DFSA offenders have been primarily male. In certain respects, particularly when examining someone's fantasy life, it is required to look beyond superficial or demographic details into the recesses of a person's private life if it is accessible. As previously mentioned, DFSA perpetrators may be personable, attractive, charming or not, and married or not. Those who have strong social and psychosexual skills may be manifesting, through their DFSA activity, the hypersexual stimulation seeking of psychopathy.

The possible link of consumption of Viagra, Cialis, Levitra, and related agents to anti-social and exploitative schemes among those seeking additional or unattainable partners

has not yet been explored. DFSA, as a crime of hedonism and hypersexuality, would not be a factor in those with physiologically diminished sex drive.

What Distinguishes DFSA Offenders from Other Sexual Criminals?

DFSA perpetrators are distinguished from rapists as a group by generally well-developed communications and social skills (Scott et al. 1984; Welner 2001a). This glibness assists the perpetrator to gain access to the victim and engender a sense of comfort. By contrast, many coercive rapists have numerous verbal neuropsychological abnormalities and more poorly developed social skills. Those poorly developed and isolating limitations are linked to problems in anger management that often contribute to violence as expressed through coercive rape (Hall et al. 1993).

Communications skills differ from social skills. A perpetrator armed with vocabulary could not effectively inspire potential victims to trust him. Social skills, on the other hand, enable one to persuade—to lure a potential victim to an isolated setting, to trick even a cautious person to accept a drink, to convince a woman who has been drugged and raped that, in fact, no rape occurred.

DFSA may not allow for some elements of what makes sexual assaults appealing to rapists. Certainly DFSA does enable the fantasies of those who desire complete control and domination over a victim.

The capacity to establish workplace or landlord control over a victim underscores how DFSA offenders are *not* suffering from psychotic illness at the time of the assault. In these and social settings, bizarre behavior would frighten potential victims away from those offering them drinks or sedation. Forcible rape, by contrast, may be committed by someone especially irrational or responding to hallucinations (Smith and Taylor 1999).

One rare example of a psychotic DFSA offender involved a 55-year-old clergyman–writer who placed want ads for assistance at his home office. He attempted to commit DFSAs on women who responded to the ads when he was experiencing a manic episode of his bipolar illness and even when his mood stabilized. He could never have qualified for an insanity defense, as he appreciated the wrongfulness of his actions, but when ill he was driven by the heightened sexual preoccupation of his mania.

Forcible rape affected by severe psychiatric distress is more likely to be impulsive (Phillips et al. 1999). DFSA is opportunistic, but is perpetrated through a *modus operandi* that involves planning the setting where the victim is to be drugged and assaulted.

Different DFSA perpetrators are not incapable of committing coercive rape any more than sex offenders may break the law in various ways. Cases have occurred of rapists who subsequently offended by DFSA when released from incarceration for their rapes. Violence is traditionally at the root of rape, but rapists released from custody modify their *modus operandi* to reduce the likelihood of being re-arrested. Furthermore, rapists who act impulsively earlier in life may have better impulse control (Welner 2001a), yet the same antisocial or rape proclivities, at a more advanced age.

What Makes a Sound Investigation?

Because successful DFSA also includes impairing the victim's recall, many DFSAs remain unreported. Reporting is further dissuaded by the perpetrators themselves and the daunting prospects of the victim's role in criminal prosecutions.

Investigation of DFSA is enhanced by immediate reporting because blood toxicology testing can then be undertaken to ascertain the presence of a DFSA agent in the victim. Delays in toxicology testing or mishandling of urine test samples routinely disadvantage DFSA investigations. GHB is not routinely tested in toxicology panels; when GHB intoxication is suspected, a urine sample should be taken. If the drug employed is Rohypnol or GHB, for example, testing the afternoon following an alleged DFSA may be fruitless.

Investigators do well to memorize the side effects of the DFSA drugs; questioning witnesses about such effects they may have seen in the victim provides an indirect source of evidence for ingestion. Referencing GHB, for example, there are not many drugs to which bladder or bowel incontinence can be attributed; Rohypnol, by contrast, produces the opposite: urinary retention, if anything.

Interviewers of the victim need to be mindful of the same obstacles confronting other rape victims, such as shame and guilt. However, no systematic study has compared DFSA victims with other sexual assault victims for specific vulnerabilities and potentials in the investigative phase. A victim may encounter poor support from her close associates but the responsiveness of a crisis counselor may facilitate an open communication of details relevant to solving the case.

The DFSA victim whose memory has been impaired to the point of erasure may not necessarily experience her assault in the same way as a person who consciously witnessed an assault to her body integrity. Resolving those questions, however, is yet to be done beyond the theoretical.

Agencies are well served by educating higher risk groups (such as students who socialize heavily around drinking and drugs) to seek assistance as quickly as possible and to ensure that toxicology testing is done during the window of drug detection.

Traditional techniques of sexual assault investigation—even seductive interviewing techniques such as minimizing the offense, joining the offender's vantage point, or blaming the victim—may not work. DFSA perpetrators are cunning, are often invested in jobs or lives in the community, and invariably never volunteer to the victim or to law enforcement that something unseemly—especially involving a secretly administered drug—has taken place. Appeals to their conscience do not work either.

Creative approaches for eliciting a confession may thus be necessary. Some law enforcement agencies convince a victim to contact the perpetrator on a pretext and to secure an admission to the drugging while police monitor the conversation. Also, investigators should be familiar with the different packaging and presentation of GBL before searching the offender's residence, office, or other property. Anything from "nail polish remover" to "car alloy cleaner" may warrant testing for the presence of GBL (Calman 2006).

Profiling may be of limited benefit because of the diversity of perpetrators and variations in psychosexual motivation. Workplace and landlord DFSA perpetrators are characteristically inept socially and often live alone, with poorly established intimacy with others. Such perpetrators exploit power differentials because they do not have the social skills for successful sexual attachment. For those with undeveloped capacity for intimacy,

the opportunity to have sex with something (rather than someone) impersonal, compliant, and ephemeral may have been all they are emotionally capable of.

The existence of an internal drive to sexually conquer as much as possible demonstrates a narcissistic preoccupation with omnipotence, rather than the satisfaction of a compulsive or forbidden sexual need. In one case where male twins collaborated in numerous drug-facilitated rapes, the brothers would mug for the videotapes they took. One brother would brag to the other, "We have fucked more women than anybody." Despite the fact that some of their unsuspecting victims found them to be attractive, the brothers appeared to have had a greater interest in hunting new targets than in being with women they had already violated.

However, many confirmed DFSA perpetrators have well-developed intimate relationships. This speaks to gratifying forbidden sexual proclivities or frank sexual opportunism. Neither of these occurs exclusive of the capacity of intimacy. This is why perpetrators from social and healthcare settings and in male-on-male attacks may be adequately socially integrated.

Physical violence is less a part of DFSA offender histories than with other rapists, and DFSA offenders likewise do not carry out secondary robbery or destruction of property. Given the lack of even circumstantial links of evidence with which to work, DFSAs that lack toxicology evidence resemble probes of abuse allegations whose viability derives almost entirely from the complainant's credibility. Because DFSA offenders are so diverse, behavioral profiling alone may not resolve the competing later accounts of predation of the victim versus the complainant's potential secondary gain.

Consequently, DFSA investigation routinely requires creative, ambitious approaches. Some prosecutors or law enforcement officers may find elaborate stings or unorthodox approaches cumbersome and an unjustified use of resources, particularly when rape investigations do not routinely warrant such manpower or they even risk complaints of police harassment. Because DFSA perpetrators are a high risk to recidivate, however, public safety implications justify resourceful tenacity.

Healthcare providers suspected of DFSA may best be caught by undercover patients, in order to overcome arguments that sedatives are administered in the natural course of a procedure and that a patient's complaints of sexual assault reflect her confusion in emerging from sedation.

In one high-profile case, police obtained a court order authorizing them to place a hidden video camera in a dentist's treatment room. Then, the police recruited an undercover officer to pose as a patient. Like the three patients who had reported incidents to police, the undercover officer was young and female. During her appointment, the dentist sedated the officer and removed an abscessed tooth. He then lifted her blouse and began moving his hands across the upper part of her back and around toward her breasts. Officers who were monitoring the videotape in the basement signaled other officers to arrest the dentist. When one investigator first opened the door he observed that the dentist's thumbs were massaging the nipples of the victim's breasts. After the police officers entered the room, the dentist placed the "patient" back in the chair and asserted, "She's in respiratory distress—I was just trying to help her breathe and ventilate."

Employer and landlord perpetrators have the wherewithal to offend in different offices, businesses, and even across state lines. Investigations should solicit the input of former employees or tenants, who may have had unusual experiences or learned of them.

Today's generation of collegiate and young adults, who are increasingly connected through Internet chat rooms, instant messaging, Myspace, and Facebook, is far more open

about sexuality than generations past. Locker room talk has advanced to the electronic media. It is far easier for investigators to cultivate relationships with a person of interest and to draw him or her into a discussion of sexuality and personal history. Because perpetrators of DFSA have far less willingness to experience their actions as wrong, investigators benefit from far easier accessibility of DFSA perpetrators who have an affinity for the electronic media, especially those who offend in social settings.

DFSA offenders who are otherwise sexually incompetent may also immerse themselves in the parallel universe of message boards and chat rooms, where trust and friendships ignite with the same speed and openness of romance. In the authors' professional opinions, DFSA is one example of how cyberspace is to criminal investigation what cyberdating sites are to romance.

Networks of pedophiles, human traffickers, and other sex offenders have been exposed through their Web-based networking. No evidence has yet emerged that such networking exists among DFSA perpetrators. However, underground sites promoting creative uses of drugs and pharmacology attract open-minded posters seeking to share and to refine their own uses of different agents for different purposes. These communities are appropriate pools in which to prospect and ferret out DFSA perpetrators, especially those fine-tuning their modus operandi.

Few DFSA offenders reflect evidence for an *uncontrollable* urge, although DFSA offenders rarely submit candid self-disclosure in their legal proceedings either. Nonetheless, some perpetrators of DFSA repeat the offense with astonishing frequency; therefore, any investigation should explore the possibility of compulsive behavior relating to deviant sexual fantasy (paraphilia) contributing to the offending behavior.

In some cases, once the drug has rendered the victim unconscious, the perpetrator may exploit his control over the victim by acting out sexual fantasies. For example, he may violate the victim anally, shave her genital areas, or ejaculate on her face. Far more frequently, though, the perpetrator endeavors to conceal all signs of the crime.

Some perpetrators of DFSA reflect a persistent fantasy in their modus operandi. For example, in cases where the perpetrator prowled for victims who were either hitchhiking or in public places, or repeatedly telephoned prospective targets, the drive to offend appeared to be relentless in comparison with other cases. Further study is needed to determine the basis of exceptional drive to locate victims. DFSA perpetrators who organize their life's activities around victim acquisition, a quality observed in locked-in pedophiles, have not yet been described.

The perpetrator with the fantasy of sex with an immobilized victim may videotape the attack in order to relive the fantasy in later masturbation. Videotaping of drugged partners may also reflect narcissistic expression, especially likely when the perpetrator casts himself in the starring role of his own porn film. Consistent with this, one videotaping rapist had a history of cosmetic surgeries, including liposuction.

Cases involving a victim to whom the perpetrator has ready access, such as a roommate, may involve multiple assaults over time, even videotaping. A victimized girlfriend, who would have already been sexually available to the perpetrator, speaks to a perpetrator's DFSA as the fulfillment of sexual fantasy.

The ease with which images can be captured and digitally stored, with relatively low technology, practically makes searching for recording equipment and image files mandatory. Backup hard drives, extra computers, and even flash drives are perfect places for perpetrators to preserve fantasy material. A victimized roommate will better inform

investigators whether and where videotaping and image collection (through pasted pictures, saved DVDs, and flash drives) are likely to be found.

Accomplices to DFSA are often involved through the social persuasion of the dominant offender and are not fueling a personal fantasy. The accomplice may be key to solving a DFSA or multiple DFSAs. Because accomplices are themselves often under the influence of substances when the crime is committed, their conscience may be more accessible when sober. Approaching accomplices requires patience. This is especially true because the accomplice may be the significant other of the dominant offender.

Alternatively, after a homicide, e-mail and other electronic communications may represent the best evidence trail. Even though perpetrators of DFSA feel entitled to take advantage of their victims, death is unexpected and the stress may provoke incriminating correspondence.

A perpetrator may retain personal effects of victims to add to the intensity of a relived fantasy. Unlike videotapes, trophies or souvenirs only suggest that sexual contact may have taken place, not that sex happened with an incapacitated person. Trophies or souvenirs are more important for linking seemingly unrelated individuals—a situation in which a perpetrator might otherwise deny previous attacks.

It is easier to investigate the DFSA that occurs in a professional, vocational, or residential (landlord) setting. The perpetrator may be older, more socially isolated, and far more guarded. However, his mode of victim acquisition is distinct (e.g., want ads for employees who desperately need work) and may be exploited by investigators acting undercover.

Some perpetrators may use sedatives, muscle relaxants, or pain relievers for which they have a prescription or which they have purchased illicitly either from drug dealers or via the Internet from overseas distributors. Despite surprisingly well-integrated functioning in many DFSA perpetrators, one must remember that such offenders frequently obtain prescriptions the old-fashioned way: from doctors who treat them with sedatives characteristically prescribed for symptoms of anxiety or insomnia. Tracing the prescriptions may reveal a suspect who was specifically seeking a drug that had capacities more suited to DFSA than mere sedation. For example, suspicion is warranted for those who continue to fill and to use prescriptions without any evidence of insomnia.

Finally, there is a high probability that identifying the perpetrator's other victims will significantly enhance both the outcome of the prosecution and the sentence imposed.

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The Criminal Sexual Sadist*

24

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Introduction

Any investigator who has taken a statement from a tortured victim or who has worked the crime scene of a sexually sadistic homicide will never forget the experience. Human cruelty reveals itself in many kinds of offenses, but seldom more starkly than in the crimes of sexual sadists.

This chapter describes the more commonly encountered actions of sexual sadists and differentiates sexual sadism from other cruel acts. It also describes the common characteristics of sexually sadistic crimes and offers investigators suggestions that they should follow when confronted with the crimes of the sexually sadistic offender.

What Is Sexual Sadism?

Sexual sadism is a persistent pattern of becoming sexually excited in response to another's suffering. Granted, sexual excitement can occur at odd times even in normal people. But to the sexually sadistic offender, it is the suffering of the victim that is sexually arousing.

The writings of two sexual sadists graphically convey their desires. One wrote:

... the most important radical aim is to make her suffer since there is no greater power over another person than that of inflicting pain on her to force her to undergo suffering without her being able to defend herself. The pleasure in the complete domination over another person is the very essence of the sadistic drive.

Of his sexually sadistic activities with a victim he killed, another offender wrote:

... she was writhering [*sic*] in pain and I loved it. I was now combining my sexual high of rape and my power high of fear to make a total sum that is now beyond explaining ... I was alive for the sole purpose of causing pain and receiving sexual gratification ... I was relishing the pain just as much as the sex

Each offender's account confirms that it is the suffering of the victim, not the infliction of physical or psychological pain, that is sexually arousing. In fact, one of these men resuscitated his victim from unconsciousness so that he could continue to savor her suffering. Inflicting pain is a means to create suffering and to elicit the desired responses of obedience, submission, humiliation, fear, and terror.

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Physical and Psychological Suffering

Specific findings uncovered during an investigation determine if the crime committed involves sexual sadism. The critical issues are whether the victim suffered, whether the suffering was intentionally elicited, and whether the suffering sexually aroused the offender. This is why neither sexual nor cruel acts committed on an unconscious or dead victim are necessarily evidence of sexual sadism; such a victim cannot experience suffering. For this reason, postmortem injuries alone do not indicate sexual sadism.

Rapists cause their victims to suffer, but only sexual sadists intentionally inflict that suffering, whether physical or psychological, to enhance their own arousal. Neither the severity of an offender's cruelty nor the extent of a victim's suffering is evidence of sexual sadism. Acts of extreme cruelty or those that cause great suffering are often performed for nonsexual purposes, even during sexual assaults.

Sexually Sadistic Behavior

The behavior of sexual sadists, like that of other sexual deviants, extends along a wide spectrum. Sexual sadists can be law-abiding citizens who fantasize but do not act or who fulfill these fantasies with freely consenting partners. Only when sexual sadists commit crimes do their fantasies become relevant to law enforcement.

Sadistic Fantasy

All sexual acts and sexual crimes begin with fantasy. However, in contrast to normal sexual fantasies, those of the sexual sadist center on domination, control, humiliation, pain, injury, and violence, or a combination of these themes, as a means to elicit suffering. As the fantasies of the sexual sadist vary, so does the degree of violence.

The fantasies discerned from the personal records of offenders are complex, elaborate, and involve detailed scenarios that include specific methods of capture and control, location, scripts to be followed by the victim, sequence of sexual acts, and desired victim responses. Sexual sadists dwell frequently on these fantasies, which often involve multiple victims and sometimes include partners.

Case No. 1

One offender, who is believed to have kidnapped, tortured, and murdered more than 20 women and young girls, wrote extensively about his sexually sadistic fantasies involving women. These writings included descriptions of his victims' capture, torment, and death by hanging. At the time of his arrest, photographs were found depicting the subject in female attire and participating in autoerotic asphyxia. The offender had apparently acted out his fantasies on both himself and others.

Sadism toward Symbols

Some individuals act out their sadistic desires against inanimate objects, most often dolls, pictures, and clothing, but sometimes corpses. As in the case of fantasy, the suffering in such activity is imagined. (See chapter 4 for a more complete discussion.)

Case No. 2

A female doll was found hanging outside an emergency room of a hospital. Around its neck was a hangman's noose, and its hands were bound behind its back. Needles penetrated one eye and one ear. Burn marks were present on the doll, and cotton protruded from its mouth. Drawn on the chest of the doll were what appeared to be sutures. An incision had been made between the legs, creating an orifice to which hair had been glued and into which a pencil had been inserted. Nothing indicated that a crime had occurred.

Although it is commonly believed that sexual sadists are cruel toward animals, it has not been determined that such cruelty is related to sexual sadism. Violent men were often cruel to animals during childhood, but without sexual excitement. Cruel acts toward animals may reflect nonsexual aggressive and sadistic motives or may be sacrifices demanded by religious rituals or delusional beliefs. Someone who is sexually excited by an animal's suffering is probably both a sexual sadist and a zoophile (one attracted to animals).

Consenting or Paid Partners

Sexual sadism may also be acted out with freely consenting or paid partners (i.e., prostitutes who specialize in role-playing the "submissive" for sexually sadistic clients). The nature of the acts varies from simulations of discomfort to actions that result in severe injury. A consenting partner turns into a victim when her withdrawal of consent goes unheeded or when an act results in unexpected injury or death. This is when such acts come to the attention of law enforcement.

Some sexual sadists cultivate "compliant victims" (Hazelwood, Dietz, and Warren 1993; Warren and Hazelwood, 2002)—that is, those who enter into a voluntary relationship but are manipulated into sadomasochistic activities for an extended time. These victims are wives or girlfriends who have undergone extreme emotional, physical, and sexual abuse over months or years of a relationship that began as an ordinary courtship. In these instances, the offenders shaped the behavior of the women into gradual acceptance of progressively deviant sexual acts and then, through social isolation and repeated abuse, battered their self-images until the women believed they deserved the punishments meted out by their "lovers."

Case No. 3

A woman in her thirties advised authorities that she had been coerced into an emotionally, physically, and sexually abusive relationship over an 18-month period. At

first, she considered the offender to be the most loving and caring man she had ever known, and she fell deeply in love. Having occasionally used cocaine in the past, she was receptive to his suggestion that they use cocaine to enhance their sexual relations. Eventually, she became addicted. After 6 months together, he began to abuse her sexually. This abuse included forced anal sex, whipping, painful sexual bondage, anal rape by other males, and the insertion of large objects into her rectum. This abusive behavior continued for a full year before she made her initial complaint to the police.

These cases pose special problems to investigators because it appears as though the complainant “consented” to the abuse. However, the transformation of the vulnerable partner into a compliant victim resembles the process by which other abusive men intimidate and control battered women into remaining with their abusers. (See chapter 25 for a more complete discussion.)

Behavior Patterns Confused with Sexual Sadism

Many crimes involve the intentional infliction of physical and psychological suffering. Sexual sadism is only one of the several motives for such crimes. To avoid misinterpretation, investigators should be aware of those behavior patterns that appear to be sexually sadistic, but that, in fact, arise from different motives and contexts.

Sadistic Personality

Persons with this condition usually exhibit cruel, demeaning, and aggressive behavior in both social and work situations, most often toward subordinates. They tend to establish dominance in interpersonal relationships and convey a lack of respect or empathy for others. Such individuals are often fascinated by violence; take pleasure in demeaning, humiliating, and frightening others; and may enjoy inflicting physical or psychological abuse. In this condition, the purpose of these behaviors is not that of becoming aroused.

Case No. 4

A woman left her husband because of his verbal abuse, control over her relations with family members, intimidating behavior, and violent outbursts when drinking. Vengeful that she left him, he lured her back to the apartment under the pretext of dividing their possessions. He then attempted to tie her to the bed, beside which he had arranged a variety of torture instruments. In the ensuing struggle, he told her of his plans to kill her as he stabbed her repeatedly. She eventually persuaded him that she wanted to reconcile and convinced him to summon medical assistance, whereupon he was arrested.

The husband did not have a history of sexual offenses or deviations and he did not show evidence of sexual sadism during the psychiatric examination. He denied any sexual arousal

in response to the suffering or any sexually sadistic fantasies. Although it is possible that the husband was a sexual sadist who only showed this tendency when he attacked his wife, the absence of evidence noting a persistent pattern of sexual arousal in response to suffering precluded this diagnosis.

Cruelty during Crime

While many crimes contain elements of cruelty, the acts are not necessarily sexually sadistic in nature.

Case No. 5

Two men, who recently escaped from a state prison, captured a young couple and took them to an isolated area. After repeatedly raping the woman, they severely beat the couple and locked them in the trunk of their car. They then set the car on fire and left the couple to burn to death.

Although these men intentionally inflicted physical and psychological suffering on their victims, there was no indication they did so for sexual excitement. They beat the couple after the rape and left as the victims were screaming and begging for mercy. Sexual sadists would have been sexually stimulated by the victims' torment and would have remained at the scene until the suffering ended.

Pathological Group Behavior

Cruelty often arises in offenses committed as a group, even where the individuals have no history of cruelty.

Case No. 6

A group of adolescents attacked a mother of six as she walked through her neighborhood. They dragged her into a shed where they beat her and repeatedly inserted a long steel rod into her rectum, causing her death. Some of her attackers were friends of her children.

Most likely, the participants in this attack tried to prove themselves to the others by intensifying the acts of cruelty.

Sanctioned Cruelty

History is replete with reigns of terror during which powerful institutions sanctioned atrocious behaviors. Consider the rape and plunder of defeated populations during the Crusades of the Middle Ages or the execution of women during the Salem witch hunts in colonial America. One of the most notorious times of cruelty occurred in the twentieth century, when millions of people fell victim to the Nazis.

Case No. 7

Commandant Koch, who headed the concentration camp at Buchenwald, punished a man who tried to escape by confining him in a wooden box so small he could only crouch. He then ordered that small nails be driven through its walls so that he could not move without being pierced. This man was kept on public display without food for two days and three nights until his screams ceased to sound human (Manvell and Fraenkel 1967).

In all likelihood, sexual sadists volunteered to perform such deeds, but the widespread deployment of such tactics was politically and racially motivated.

Revenge-Motivated Cruelty

Cruelty is often evident during acts that are inspired by an obsessional desire for revenge, either real or imagined.

Case No. 8

A physician married a show girl and came to believe that she was being unfaithful, even though there was no evidence to substantiate this. Eventually, his obsession overcame his logic, and he decided to ensure that no man would ever take her away from him. After lashing her to a table, he poured sulfuric acid over her body and face. She survived for 84 days in agony before succumbing to her injuries.

The offender in this case wanted to punish his wife and make sure that she would not be desirable to any man. His act was not designed to gratify him sexually.

Interrogative Cruelty

Torture during interrogation may involve sexual areas of the body and is sometimes misinterpreted as being sexually sadistic in nature.

Case No. 9

A government agent was captured in another country. During his months in captivity, he was continually subjected to physical torture, including beatings with clubs and electrical shocks to all parts of his body, including his genitals.

The victim was tortured in this manner to obtain information concerning his government's activities in that country, not to enhance sexual arousal.

Postmortem Mutilation

The intentional mutilation of a victim after death is often mistakenly attributed to sexual sadism. However, in a majority of these cases, the offender kills the victim quickly and does not try to prolong suffering, which is in total contrast to the actions of the sexual sadist.

Case No. 10

A father bludgeoned his adult daughter to death. After her death, he attempted to dispose of the body. On the day of his arrest, he bought a food processor. Investigators found portions of her remains in the bathtub, the kitchen sink, in pots boiling on the stove, and in the refrigerator.

The man killed his daughter either in self-defense or because of his frustration over her disruptive and hostile behavior caused by her chronic mental illness. His actions were not intended to provide sexual satisfaction in seeing his daughter suffer.

Study Conducted

The authors studied 30 sexually sadistic criminals, 22 of whom were responsible for at least 187 murders (Dietz, Hazelwood, and Warren 1990). Most of these cases had been submitted to the FBI's National Center for the Analysis of Violent Crime (NCAVC). Sources of information for the study included police reports, crime scene photographs, victim statements, statements by family members, confessions, psychiatric reports, trial transcripts, pre-sentence reports, and prison records. The authors also reviewed evidence created by the offenders themselves (i.e., diaries, photographs, sketches, audio tapes, videos, calendars, and letters). These materials, which recorded their fantasies and represented memorabilia of their crimes, provided windows into the minds of sexually sadistic offenders.

In addition, 5 of the 30 offenders were interviewed by the authors. When interviewed, these men revealed less about their sexual desires than they had in their writings and recordings of the offenses. This is consistent with our experience when interviewing subjects during ongoing investigations; that is, offenders speak much more readily about their violent acts than about their sexual acts or fantasies.

The 30 sexual sadists studied all intentionally tortured their victims. Their methods of physical torture included the use of such instruments as hammers, pliers, and electric cattle prods, and such actions as biting, whipping, burning, insertion of foreign objects into the rectum or vagina, bondage, amputation, asphyxiation to the point of unconsciousness, and insertion of glass rods in the male urethra, to name a few.

Some offenders used a particular means of torture repeatedly. Such actions could constitute an offender's signature, which shows that certain crimes are the work of a single offender. However, the absence of a common feature among crimes does not eliminate the possibility of a single serial offender, for he may be experimenting with various techniques in search of the perfect scenario or may be attempting to mislead investigators.

The 30 sexual sadists studied also inflicted psychological suffering on their victims. Binding, blindfolding, gagging, and holding a victim captive all produce psychological suffering, even if they are not physically painful. Other psychological tactics used included threats or other forms of verbal abuse; forcing the victim to beg, plead, or describe sexual acts; telling the victim in precise detail what was intended; having the victim choose between slavery or death; and offering the victim a choice of means by which to die.

Offender Characteristics

All 30 of the sexual sadists in the study were men and only one was nonwhite. Fewer than one half were educated beyond high school. One half used alcohol or other drugs, and one third served in the Armed Forces. Forty-three percent were married at the time of the offense.

Sexual deviations are often associated with other sexual abnormalities, and this study confirmed this for sexual sadism. Fifty percent of the men participated in homosexual activity as adults, 20% engaged in cross-dressing, and 20% committed other sexual offenses, such as peeping, obscene phone calls, and indecent exposure.

Case No. 11

As a teenager, one sexual sadist “peeped” throughout his neighborhood, masturbating as he watched women undress or have sex. At home, he masturbated repeatedly to fantasies in which he incorporated what he had seen while peeping. As a young adult, he made obscene telephone calls, which led to his first arrest when he agreed to meet a victim who had informed the police.

He later exposed himself to a series of victims, which he eventually explained was for the purpose of eliciting their “shock and fear.” He followed women home from shopping malls, determined how much cover was available for peeping and entering the residence, and eventually raped a series of women. In his early rapes, he depended on weapons of opportunity, but later carried with him a rape kit, which consisted of adhesive tape, handcuffs, pre-cut lengths of rope, and a .45 caliber handgun. He became progressively violent in his sexual assaults, torturing his victims by beating, burning, and pulling their breasts. His violence escalated to the point that he so severely pummeled one victim that she lost both breasts. He forcibly raped more than 50 women and was contemplating murder when he was finally apprehended.

Investigators should not be misled by the fact that the sexual sadist may have been involved in what are commonly referred to as “nuisance” sexual offenses. A history of such activity is common, but not universal, among sex offenders of all types. It is a myth that individuals who engage in nuisance offenses do not have a propensity for violence (Hazelwood and Warren 1989).

Crime Characteristics

Careful planning epitomizes the crimes of the sexual sadist, who devotes considerable time and effort to the offense. Many demonstrate cunning and methodical planning. The capture of the victim, the selection and preparation of equipment, and the methodical elicitation of suffering often reflect meticulous attention to detail.

The overwhelming majority of offenders studied by the authors used a pretext or ruse to first make contact with the victims. The sexual sadist would offer or request assistance, pretend to be a police officer, respond to a classified advertisement, meet a realtor at an isolated property, or otherwise gain the confidence of the victim.

Almost invariably, the victims were taken to locations selected in advance that offered solitude and safety for the sadist and little opportunity of escape or rescue for the victim.

Such locations included the offender's residence, isolated forests, and even elaborately constructed facilities designed for captivity.

Case No. 12

A white male entered a respected modeling agency and advised that he was filming a documentary on drug abuse among pre-adolescents. He made arrangements to hire two young girls from the agency, and two elderly matrons accompanied them as chaperons. He drove to his trailer and, at gunpoint, bound the women and placed the girls in a plywood cell he had constructed in the trailer. The cell contained beds and additional mattresses for soundproofing. He murdered the women, placing their bodies in garbage bags. He terrorized the girls for more than 2 days before they were rescued.

Twenty-three (77%) of the offenders used sexual bondage on their victims, often tying them with elaborate and excessive materials, using neat and symmetrical bindings, and restraining them in a variety of positions. Eighteen (60%) held their victims in captivity for more than 24 hours.

The most common sexual activity was anal rape (22 offenders), followed in frequency by forced fellatio, vaginal rape, and penetration with foreign objects. Two thirds of the men subjected their victims to at least three of these four acts.

Sixty percent of the offenders beat their victims. Of the men, 22 murdered a total of 187 victims; 17 of them killed 3 or more people. The manner in which they killed varied.

Case No. 13

Two men, who offended as a team, used a variety of methods to kill a series of victims. One victim was strangled during sex. Another was injected in the neck with a caustic substance, electrocuted, and gassed in an oven. A third victim was shot.

Twenty-nine of the thirty men selected only white victims. Eighty-three percent of the victims were strangers to the offender. While the majority of the men selected female victims, one fourth attacked males exclusively. Sixteen percent of the men assaulted child victims only, and 26% attacked both children and adults.

Evidence of Crime

These offenders retained a wealth of incriminating evidence. More than half of the offenders in the study kept records of their offenses, including calendars, maps, diaries, drawings, letters, manuscripts, photographs, audio tapes, video tapes, and media accounts of their crimes. For the most part, these secret and prized possessions were hidden in their homes, offices, or vehicles; kept in rental storage space; or buried in containers.

Forty percent of the men took and kept personal items belonging to their victims. These items, which included driver's licenses, jewelry, clothing, and photographs, served as mementos of the offense, and some of the offenders referred to them as "trophies" of their

conquests. However, none of the offenders retained parts of their victims' bodies, though some kept the entire corpse temporarily or permanently.

Investigating Crimes of the Sexual Sadist

The law enforcement community's legitimate concern rests with the criminal sexual sadist, who can be a noteworthy adversary. The sexual sadist is cunning and accomplished at deception. He rationalizes his actions, feels no remorse or guilt, and is not moved by compassion. He considers himself superior to society in general and law enforcement in particular. While he envies the power and authority associated with the police, he does not respect them.

Sources

Invaluable sources of information about suspects in sexual offenses are their former spouses and/or girlfriends. As noted previously, sexual sadists sometimes force sexual partners to become compliant victims (Hazelwood et al. 1993; Warren and Hazelwood 2002). However, because of the embarrassing nature of the sexual acts involved, these individuals are often reluctant to divulge information.

Search Warrants

Because offenders retain incriminating evidence and crime paraphernalia, these items should be listed in search warrant applications. This would include the records and mementos described previously, as well as photographic equipment, tape recorders, reverse telephone directories, and weapons or other instruments used to elicit suffering. Pornography, detective and mercenary magazines, bondage paraphernalia, women's undergarments, and sexual devices are other materials commonly collected by sexual sadists.

Interviewing the Sexual Sadist

Sexual sadists are masters of manipulation. Therefore, the investigator must be well prepared before conducting the interview. The investigator must know the suspect intimately and be aware of his strengths and weaknesses. Premature interviews of primary suspects often fail.

Despite their seeming sophistication, sexual sadists are likely to consent to interview, even after being advised of their rights. These offenders often have an exaggerated self-image and consider themselves intellectually superior to the police. They believe they are in no danger of divulging detrimental information about themselves. More importantly, they expect to learn more information from the officer than they provide during the interview. From the questions asked, they hope to determine how much the investigator knows and the current status of the investigation.

The interviewer should be of detective status or above, preferably older than the suspect, and superior to him in physical stature, personality, and intelligence. The interviewer must appear confident, relaxed, and at least as calm as the suspect. Any personal feelings about the crime or the suspect must be suppressed. The interviewer should not attempt to become “friends” with the suspect, as this will cause him to lose respect for the interviewer and provide him with an opportunity to manipulate the conversation. Instead, the interview should be conducted in a formal and professional manner.

Because these offenders enjoy attention, the interviewer should be prepared for an exhausting and lengthy interview. Questions should be thought out in advance and structured in such a way that the offender cannot evade a line of questioning with a simple “no” answer. For example, rather than asking the suspect if he likes to torture women, it is preferable to ask him his favorite instruments for torturing women. Posing questions in this manner reflects the interviewer’s knowledge, does not provide additional information to the suspect, and may facilitate incriminating disclosures by the subject.

Above all, the suspect must not be allowed to provoke anger. In all likelihood, he will probably attempt to shock or antagonize the interviewer, and if the interviewer yields to human emotion, the suspect will score a significant victory.

Summary

Sexually sadistic offenders commit well-planned and carefully concealed crimes. Their crimes are repetitive, serious, and shocking, and they take special steps to prevent detection. The harm that these men wreak is so devastating and their techniques so sophisticated that those who attempt to apprehend and convict them must be armed with uncommon insight, extensive knowledge, and sophisticated investigative resources.

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Sexual Sadists: Their Wives and Girlfriends

25

ROBERT R. HAZELWOOD

Introduction

Marie, a beautiful college woman, began dating a young man during her freshman year. No one could understand why they were dating. He was younger than she and certainly less attractive physically. She was a cheerleader and very popular, while he was a rather quiet person who participated in practically none of the school's activities. He had pursued her relentlessly since they were both in high school and she had repeatedly rejected him. The young man came from a wealthy family and he unsuccessfully tried to use his wealth to influence the woman. Eventually however, she became impressed with his singular dedication to her and consented to a date, beginning what would become four years of apparent happiness and love—with one notable exception. One evening they went to a party and for the first time in their relationship, he became intoxicated. When they returned to his apartment, he insisted on sex and forced himself on her after she complained about his intoxicated state. However, because it was the only time in their relationship that he had exhibited such behavior, she accepted his apology.

They married after she graduated and his parents provided them with a very large and expensive home on a lake about 150 miles from her family and friends. Within 3 days of their marriage, their entire relationship changed. He became infrequently interested in “normal” activities and instead, would force her to undress, beat her vagina with his fists and masturbate onto her face and body. He would berate her verbally, using profanity and sexual slang to describe her and to express his fantasy of having her raped by several of his friends while he watched. A year later, she had a child. After 2½ years of marriage, he brought his girlfriend home and wanted Marie to engage in sex with both of them—this was the final straw and she left him.

The author interviewed Marie after being introduced to her by her treating psychologist. She had obtained a divorce and was in counseling in an attempt to cope with the residual emotional trauma. She was interested in obtaining answers to the questions, “What was wrong with me?” “How could I have allowed this to happen?” “Were there any warning signs that I was oblivious to during the dating relationship?” Fortunately, this young mother was being counseled by a woman who not only had experience in dealing with battered spouses, but, more importantly, also was familiar with paraphilias in general and sexual sadism in particular. Furthermore, she was knowledgeable with the current research on sexually sadistic men and their relationships with wives and girlfriends (Dietz, Hazelwood, and Warren 1990; Hazelwood, Dietz, and Warren 1992, 1993; Warren, Hazelwood, and Dietz 1996; Warren and Hazelwood 2002).

Genesis of the Research

In 1990, the author attended a presentation by Ms. Christine McGuire and Dr. Chris Hatcher on a crime that was recounted in the excellent book *Perfect Victim* (McGuire and Norton 1988). The case involved a married couple by the name of Cameron and Janice Hooker, who captured a hitchhiking college student named Coleen Stans and kept her in sexual slavery for 7 years. Ms. McGuire, a career California prosecutor, tried the case and retained Chris Hatcher, a noted forensic psychologist (since deceased), as an expert witness.

Ms. McGuire and Dr. Hatcher narrated the terrifying story of Ms. Stans's confinement in a box kept beneath the couple's bed. They described physical torture by Cameron Hooker, Ms. Stans being forced to sign a "slave contract," and how she eventually became attached to and even dependent upon her captors. Needless to say, the audience was completely silent. Following the presentation, an attendee asked the author if he would like to interview Ms. Stans. The author responded that he would rather interview the wife, Janice Hooker. He wanted to learn about what kind of person she was, what kind of person her husband was, what the nature of their relationship was, and why she had participated in such aberrant behavior. As a result of this conversation, the author recognized an opportunity to learn much more about sexual sadism from a group that had not been queried before: the former wives and girlfriends of the sadistic men.

In 1991, the author, together with Dr. Park Dietz and Dr. Janet Warren, began the research that would study the relational patterns of sexually sadistic men and their spouses and/or girlfriends. This research would eventually result in the author's interview of 20 women, including the beautiful and unfortunate Marie. These were women who had lived and been intimate with the most cruel, intelligent, and, in many cases, criminally sophisticated offenders confronting the sexual crimes investigator.

Methodology

The research team developed an interview protocol more than 70 pages in length that included more than 450 questions. The protocol was designed to capture information about the woman's development from childhood, what she knew about the childhood and development of her sadistic mate, the development and continuation of their relationship, and the termination of that relationship. The interviews were unstructured and conducted by the author and at least one additional FBI agent. All interviews were recorded by audio-tape, but none were videotaped.

Eighteen of the participants were identified for the author by law enforcement or mental health professionals who were aware of the ongoing research; the remaining two women, who were incarcerated at the time, sought out the author for inclusion in the project. A statement of confidentiality was executed prior to beginning the interviews. The interviews ranged in length from 4½ to 15 hours. They were transcribed and the data from the protocols were analyzed.

The Women

It is important to note that while these women have been referred to as compliant victims (Hazelwood et al. 1993), the term is meant to reflect the acquiescence of the women in their own victimization and, in some cases, the victimization of others at the hands of their male partner's. The use of this term is not intended to excuse the criminal behavior of the women in the study (Warren and Hazelwood 2002).

As stated, 20 women were extensively interviewed and of that number, only 3 had been arrested prior to meeting the sadistic man. Each of those arrests involved minor theft (typewriter, check, tube of lipstick). Four of the women had some contact with mental health professionals prior to becoming involved with the sadistic males, but since leaving the men, all but one have been in therapy.

Nine of the women had been sexually abused as children and six had been physically abused. The formal education of these women ranged from 11 to 18 years and they were employed in a variety of occupations, including professional (elementary school teacher, fire system engineer), skilled (secretary), and unskilled (waitress) positions. Only two used drugs before meeting the men.

Their Relationships with the Men

Thirteen of the women married the men and the remaining seven dated them exclusively for a period of time. While with the men, 18 of the women were physically abused and all were emotionally and sexually battered. The men were able to convince the women to engage in a variety of deviant sexual practices, including bestiality, sex with other men and women, whipping, bondage, and hanging. The reader should note that if proper rapport is established with the woman, one can expect to be informed of painful and horrendous behaviors she has been subjected to by the sexual sadist. It is imperative that the interviewer not express either judgment or shock at the revelations.

Seven of the men killed at least 19 people and four of their wives were present during at least some of the murders. All four of the women were charged with crimes against persons.

Case No. 2

Stephanie dated a sexually sadistic male for a number of years, even while he was dating other women. She continued dating the man even though he became engaged to a woman named Lucy. Her devotion was so complete that Stephanie agreed to assist him in Lucy's "sex therapy class" and subsequently her murder. He brought Lucy to Stephanie's home and after forcing her to disrobe and engage in multiple sexual acts which Stephanie photographed, he killed her using chloroform. Together, they buried Lucy's body in Stephanie's back yard and her homicide was not solved for 2 years.

In another case, one of the women interviewed by the author was charged with being a co-conspirator in the murder of her husband.

Case No. 3

Sally had been married for more than 10 years to a sadistic male who had battered her physically, emotionally, and sexually. He forced her to have sex with the family dog on several occasions and she had been raped twice by different men who had been hiding in her home when she returned from shopping. Both times the rapists informed her they had been hired by her husband to commit the crime. On each occasion she called her husband to tell him of the assault and he only laughed and told her not to call the police. On the evenings of both occasions, her husband forced her to masturbate him while recounting the details of the rape.

After several years of abuse, Sally confided in a female friend who convinced her to retaliate by allowing the friend to enlist male acquaintances to beat up her husband. Sally agreed and one evening three men kidnapped the husband as he returned home from work and severely beat him with baseball bats. They then poured gasoline over the unconscious man and set him afire. He died and Sally was convicted of being a co-conspirator in his murder.

The women reported leaving the men for two primary reasons: fear for their lives and/or fear for their children's welfare.

Case No. 4

Clarissa, who was married to a sexual sadist for 7 years, was forced to dress in a manner that sexually exposed her body. He took her to swinger clubs and forced her to approach and proposition men and women for sex. Her husband had a fantasy of torturing and murdering women and she was forced to participate in the fantasy as the victim. After 6 years of marriage, she had a baby and he allowed her five days to physically recuperate before he resumed sexually abusing her. One day he was beating her with his fists and their child, who was lying on a couch, began crying. She picked the baby up and attempted to comfort her. The husband grabbed the 1½-year-old girl by the arm and threw her back on the couch, stating, "That fucking kid isn't going to help you." A short time later, he was eating breakfast and she got a shotgun from the closet, held it a short distance from his head and considered shooting him. She put the gun quietly away after considering the probable consequence of going to prison and having her baby taken from her.

When he left for work, she took her child and went to an underground battered spouse shelter where she remained for 3 months. She has since obtained a college degree and remains in contact with the author.

The Transformation of the Women

How is it that apparently normal women become involved with sexually sadistic men and are convinced to participate in sexual activities well outside the range of their experience and, in some instances, in violent criminal behavior against others at the man's urging?

It is important to understand that the ritualistic and heterosexual sexual sadist inherently believes that all women are evil—that they are all bitches, whores, and sluts.

Consequently, if and when they attempt to prove this hypothesis, they do not select prostitutes or drug addicts to become their wives or girlfriends, as such women have already proven the theory. Instead they select nice, apparently normal middle-class women.

As the research interviews were accomplished, the team studied the results and noted a patterned method used by the men in transforming the women into becoming compliant victims. This process consisted of five identifiable steps: (1) identification of the vulnerable woman, (2) seduction, (3) reshaping of the sexual norms, (4) social isolation, and (5) punishment (Hazelwood et al. 1993).

Selection of a Vulnerable Woman

Extrapolating from the behavior described by the women, it appears that the sexual sadists had developed an ability to identify a naive, passive, and vulnerable woman. The majority of the women reported feeling bad about themselves at the time they were approached by the sadist. These feelings were either due to situational factors such as the breakup of a relationship or as a result of more chronic problems with self-esteem. The sexual sadists seemed able to assess this vulnerability and exploit it to manipulate these women toward interpersonal scenarios that would meet the men's needs for dominance, control, and sadistic sexual behavior. It seems likely that these men had attempted such activities with other women and failed.

Seduction of the Woman

The women reported that their partners were initially charming, considerate, daring, unselfish, and attentive. They gave the women gifts unexpectedly and were constantly attentive to their desires. As one woman said, "He couldn't do enough for me." Another woman, who was experiencing marital problems, advised that the man she became involved with was available to her for advice day or night, or just to listen. The women were seduced by the men in a relatively quick period of time, even though they recognized a sinister side to them. The men related to the women in a romantic, seductive manner that was the antithesis of their eventual degradation and abuse. Like the pedophile, the sadist continued in this phase until he was confident in his ability to manipulate and use the woman in ways that were degrading to her and sexually gratifying to him. He cultivated the woman's affection for him before initiating the next step.

Reshaping the Sexual Norms

The time devoted to the reshaping of the woman's sexual behavior depended on her vulnerability and susceptibility. Typically, the sexual sadist initially persuaded the woman to engage in a sexual activity that was just beyond her normal sexual repertoire. Once she had participated in such an act, the sadist then used positive reinforcement (gratitude, compliments, or attention) or negative reinforcement (pouting, ignoring, or rejection) techniques to obtain her compliance for progressively deviant activities. Over time, what began as atypical sexual behavior became the routine. Eventually, the men relied on threats and violence to maintain compliance of the women.

Social Isolation

Having shaped the women's sexual behavior, the sadists moved into the fourth phase of socially isolating the women from friends, family, and relatives. The men gradually became overly possessive and jealous of any activity that did not center around them, and they alienated those acquaintances who were not their own friends. Restrictive measures were used so that the world of these women became increasingly circumscribed and their circle of confidants greatly diminished. Eventually, there was no one left in the woman's world except the sadistic male.

Punishment

The fifth and final step in the transformation process involved physical and psychological punishment. Having met, seduced, and transformed a normal woman into a sexually compliant and dependent individual, the sadist has validated his theory of women. The woman is now a subservient, inferior being who *allowed* herself to be re-created sexually and is now participating in sexual acts in which no decent woman would engage, thereby confirming his theory that she is a bitch and deserving of punishment. The woman's self esteem is such that she has begun to believe that she is deserving of the punishment. It is worth noting that *evil* was the most common word that these men wrote on the women's bodies with marking pens.

Investigative Significance of the Research

Prior to the author's becoming involved in a research project, a question must be answered to his satisfaction: Will the research be of practical value to law enforcement? If it will not help law enforcement in better understanding, investigating, interviewing, or prosecuting the criminal, then the author has no interest in participating. This philosophy has proven beneficial over the years and hopefully has resulted in some benefit to the criminal justice professional. Having said that, it is appropriate to inform the reader how this research can be of practical value to the criminal investigator. The answer lies in the fact that it makes the investigator aware of an often overlooked source of information and prepares him or her to effectively interact with the compliant victim.

Any experienced investigator will agree that there are three primary sources of information about a criminal: the offender himself, those who know him, and his crime behavior.

Crime Behavior

It is the author's opinion that the best source of information about an offender is his criminal behavior! Behavior simply does not lie. If the investigator is trained to recognize and capture significant behavior, he or she is well on the way to a true understanding of the sexual criminal. Trying to understand the offender without analyzing his criminal interaction with the victim is like asking a student to write a report on Thomas Harris's excellent book, *The Silence of the Lambs*, but not allowing that student to read the book or obtain any information about it.

In chapter 7, it was discussed that what an offender says to a victim, the type and sequence of sexual acts, and the amount of physical force the offender employs are very good indicators of what fantasies and motivations are operative in the mind of the man. Simply stated, the sexual offender is going to say and do those things that are sexually exciting to him.

The Criminal

When lecturing on sexually violent offenders, the author often begins by asking the audience what the *least* reliable source of information about an offender is. The answer, of course, is self-reported information—information provided by the criminal himself. It is a well-known fact that criminals lie, they *exaggerate* their accomplishments, they *minimize* their criminal behavior, they *deny* responsibility, they *project* blame for their failures, and then they *rationalize* their lies. In other words, they engage in the five defense mechanisms to protect themselves. Yet, some professionals, including mental health professionals, social workers, researchers, and even law enforcement, depend solely on what the *criminal* tells them in order to arrive at opinions about the *criminal*!

Invariably the author will be asked, either in a classroom or by an opposing attorney, whether he *ever* believes a criminal. The answer is “yes”—with qualification. If what the offender says can be validated with evidence, reliable witnesses, or his own criminal behavior, the author will believe him (Hazelwood 2001).

Former Wives and Girlfriends

The former wife or girlfriend is an often overlooked, yet excellent, source of information. While the information provided by this source may not be as reliable as that learned from the behavior of the offender, these women can nevertheless prove to be extremely valuable to the criminal investigator and the researcher.

It is to be remembered that the author is specifically referring to women *formerly* in a relationship with the men. Legal ramifications aside, the *current* wife and/or girlfriend will probably be averse to speaking with investigators. Also, while former sexual partners are much more likely to participate in an interview, investigators should be on guard against exaggerations or even lies on the part of the woman in order to obtain revenge for wrongs suffered while with the sadistic male. The potential for lying or exaggerating can be minimized if the investigator thoroughly prepares for and remains alert to indications of anger or hostility during the interview.

Perseverance is the key word in dealing with these women. They have information that deals with the most private, and potentially damaging, behaviors of the sexual criminal: his own sexual life. A former sexual partner can tell the investigator about the fantasies of the offender; his paraphilic interests; type and location of collections; record keeping habits; paraphernalia for use in crime; what makes him happy, sad, or fearful; what threatens him; what his strengths and weaknesses are; where he hides things; where and how he might travel while a fugitive; the type of investigative personality with whom he would most likely cooperate; and when (during the day or night) he is most vulnerable to interrogation.

Summary

Twenty former wives and girlfriends of sexually sadistic men were identified and extensive interviews of the women were conducted. Three of these women had committed minor thefts and four had some contact with the mental health community prior to meeting the men. Four of these women assisted their husbands in committing murder and one additional woman was convicted of conspiracy in the murder of her husband. All of the women were sexually and emotionally battered and were convinced to engage in a variety of deviant and often criminal activities.

The sexually sadistic men engaged in a patterned method to transform these apparently normal women into becoming compliant victims. This transformation process involved selection, seduction, reshaping of sexual norms, social isolation, and physical and emotional punishment of the women.

There are three primary sources of information about an offender: the criminal, his former wife or girlfriend, and his behavior. The woman who was intimately involved in the life of the offender can be an excellent source of information for the investigator and it is vital to learn as much as possible about that woman to better enable effective interaction with her.

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Elder Sexual Abuse Victims*

26

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Introduction

Investigation and prosecution of an elder sexual crime present unique challenges to victims, the providers, and the criminal justice system. Medical, legal, and humanitarian costs of such crimes are immeasurable. It has been anecdotally reported that victims often had serious complications or even died from being sexually assaulted, perhaps even more so than a younger cohort. It is believed that older adult sexual assault crimes result in an increased need for more costly health care such as in a nursing home or hospital. Certainly, the personal suffering of the victims and their families must be considered along with a higher cost burden.

When criminal conduct occurs, prompt detection, documentation, and referral are critical to permit effective development of cases. After an occurrence of the crime, all necessary elements must be proved beyond a reasonable doubt. Also, the perpetrator must be identified beyond a reasonable doubt. Finally, the competency of the victim to provide evidence must be determined. These issues are very important with the older adult victim who has physical or mental impairment. A reliable and valid national source of data about the sexual abuse of elders is essential to set standards from which prosecutors can base assumptions to secure the prosecution of offenders.

Understanding how intentional sexual injuries are inflicted on older adults is a growing concern as the population over age 65 increases. This chapter contributes critical information to guide the identification of physical and psychological markers of elder sexual abuse to be integrated by law enforcement and providers. It reviews the scope of the problem, identifies issues that were derived from a study of elder victims of sexual abuse, outlines interviewing techniques with seniors, and suggests interventions for victimized elders.

Scope of the Problem

The definition of elder sexual abuse includes cases of persons age 60 and older where there is a physical sexual relationship without the elder's informed consent and including sexual assaults by strangers. A *physical sexual relationship* refers not only to intercourse but also to other forms of intimate sexual contact, such as touching the genital area or breasts when not associated with a defined nursing care plan.

* Sections reprinted with permission from Burgess, A. W., and Morgenbesser, L. I. 2005. Sexual trauma and seniors. *Brief Treatment and Crisis Intervention*, 5(2): 193-202.

Literature on Elder Sexual Abuse

There are no reliable estimates of the incidence or prevalence of elder sexual abuse in the community or in facilities (Lachs et al. 1998); however, for over 30 years statistics have been reported on sexual abuse of older individuals. Statistics from early studies on sexual assault victims seen in hospital emergency rooms and rape crisis centers were reviewed. MacDonald (1971) reported that 7% of 200 sexual assault victims in Denver were aged 50 and older. Amir (1971) reported that 3.6% of rape victims in Philadelphia were over aged 50. Fletcher (1978) found that 5.2% of victims referred to a Syracuse rape crisis center were over 55 years of age. Victims over 61 years composed 2.1% of the 1,162 cases seen during the first 19 months of operation of the Miami rape crisis center (Hicks 1976) and 5.8% were ages 41–60. Cartwright and Moore (1989) found that 2.7% of sexual assault victims treated at an inner city hospital were 60 years and older, and a Texas study found that 2.2% of the reported sexual assault victims were women over 50 (Ramin et al. 1992).

Data from cases reported to Adult Protective Services (APS) were another source of information about elder abuse. In 1991, Ramsey-Klawnsnik surveyed APS case workers in Massachusetts and identified 28 cases of women believed to have been sexually assaulted in the home, primarily by family members including adult sons and husbands. In a similar study drawing on Ramsey-Klawnsnik's work, Holt (1993) reported 90 suspected elder sexual assault victims in England, 86% of whom were female. The majority was over the age of 85, had dementia, and was frail. Most abuse occurred in the elder's domicile and 90% of the offenders were males upon whom the victim was dependent.

Nursing homes are not immune from elder sexual abuse as both staff and other residents have been identified as perpetrators. Teaster and colleagues (2000) reported 42 Virginia APS cases of sexual abuse in both domestic and institutional settings. They found that 75% of the identified offenders were residents in the same nursing home as the victims. Facility staff members were also identified as offenders. In a study of 20 cases of 18 women and two men referred for civil litigation, Burgess, Dowdell, and Prentky (2000) identified three methods of reporting an assault: informing a family member, sexual abuse that was witnessed, and clues detected by staff or family. In 10 cases, sexual assault examinations were not conducted due to delayed reporting, elder resistance, difficulty communicating with the elder, and difficulty obtaining accurate information. Of the 10 cases that had an examination, 6 revealed positive evidence. Elder response was identified in terms of expressions of fear and/or avoidance of male staff, change in behavior to withdrawal or lying in a fetal position, and development of new behaviors. All but three perpetrators were identified. Nursing home victims generally had documented symptoms of compounded and silent rape trauma (Burgess and Holmstrom 1974).

In a study of forensic markers in 125 elder female sexual abuse cases, Burgess, Hanrahan, and Baker (2005) reported that the offender's hand was the primary mechanism of physical injury to the nongenital area of the elder's body and the offender's hands, fingers, mouth, penis, or foreign object were cause of injury to the genital area. Over half of the elderly victims had at least one part of their body injured and nearly half had signs of vaginal injury. Of the 46 cases with forensic results from a rape examination, 35% had positive evidence for the presence of sperm in the vagina, anus, or mouth.

How does the forensic marker study compare with two national surveys of violence against women (see Table 26.1)? The National Women's Study (NWS) is a longitudinal

Table 26.1 Comparison of Studies of Older Women Sexually Victimized

	Forensic markers study ^a	National Crime Victimization Study ^b	The National Women's Study ^c
	<i>N</i> = 125	<i>N</i> = 8,642	<i>N</i> = 549
Victims			
Mean/SD age	78.4	72.2	67.67
Female (%)	100	74.6	100.00
Caucasians (%)	83.1	73.0	83.83
Black (%)	11.9	12.3	8.5.5
Setting			
Domestic (%)	42.5	40	ND
Institutional (%)	38	ND	ND
Other (%)	19.5	ND	ND
Male perpetrators (%)	92.4	100	ND
Forced vaginal rape	78	ND	5.3
Forced oral rape	13.4	ND	.5
Forced anal rape	23.9	ND	.2
Forced digital rape	11.6	ND	2.2
Physical assault with weapon	15.7	00	3.5
Physical assault without a weapon	84.3	100	2.6
Perpetrator known to the victim	58.3	52.3	9.1
Rape reported to authorities	96.7	44	9.1
Charges made	55.2	50	ND

^a Forensic marker study based on contributed cases by experts.

^b National Crime Victimization Study (NCVS) is a weighted sample from 1992–2002 of women 60 years and older who were sexually abused or assaulted.

^c The National Women's Study (NWS) is a subgroup of 549 women over age 55 from the larger sample of 4,009.

survey with a probability sample of 4,009 American women of which 549 were 55 years or older. The purpose of the NWS was to identify risk factors for rape, physical assault, and post-traumatic stress disorder. The National Crime Victimization Study (NCVS) data from 1992 to 2002 were used to study female sexual assault victims over 55 (*n* = 8,642, weighted) using the National Archive of Criminal Justice online access forum. The NCVS is the most commonly referenced database on the prevalence of rates and types of violent crime in the United States. The forensic marker (FM) study (*n* = 125) had an older sample and higher percentages in terms of recorded intentional injury, forced sex acts, use of weapons, perpetrator known to victim, rape reported to authority, and prosecution success. While the average age of subjects in the FM was slightly older than that in the other studies, basic demographic information is comparable with the NWS and NCVS. The most important observation is the lack of detailed data available at the national level on the sexual

victimization of elders. While these differences may be due to sampling bias in the forensic marker study and/or the undersampling of the NCVS and NWS, there is an obvious need to expand the national database to include details of forced intentional sexual injury of elders.

Forensic evidence was lacking in the forensic marker study for several reasons. Some jurisdictions did not process rape kits because a suspect was not identified, standard protocol for the collection of forensic evidence was ignored, or state-of-the-art forensic equipment was not used in the forensic examination. In many cases, no pharyngeal or anal tests were performed, vaginal tests were performed in only about one in four victims, and testing for sexually transmitted disease was rarely performed.

Barriers in Investigating Elder Sexual Abuse Cases

Intentional versus Unintentional Injury

Assessing injury in the older adult as intentional or unintentional is the first step in the critical assessment of allegations. Often the events are not witnessed and accidental explanations are offered. The scenario is further complicated when there is more than one caregiver spanning the period that injuries might have occurred. Additionally, there can be conflicting opinions between various health care specialties regarding the nature of the injury. All of these factors combined make the detection and substantiation of elder sexual abuse extremely difficult.

Nursing homes do not promptly report allegations of sexual or physical abuse, which results in delays in the investigation (Burgess et al. 2000). Often, evidence has been compromised and investigations delayed, which results in a reduced likelihood of a successful prosecution (U.S. General Accounting Office [USGAO] 2002). Reasons for untimely reporting of allegations include (1) residents may fear retribution if they report the abuse, (2) family members are troubled with having to find a new place because the nursing home may ask the resident to leave, (3) staff do not report abuse promptly for fear of losing their jobs or recrimination from coworkers and management, and (4) nursing homes want to avoid negative publicity and sanctions from the state.

Older Adult Victim Unable to Communicate

There are situations in which sexual injury is suspected but there is no outcry, witness, or forensic evidence to make a legal determination. However, in equivocal cases, measures should be taken to provide safety for the elder until a determination can be made as to whether (or not) abuse occurred.

Signs and Symptoms of Abuse

As previously noted, the elderly may bruise easily and physical signs are misinterpreted as the consequence of aging. Similarly, emotional symptoms of anxiety and depression with accompanying feelings of fear and confusion are not uncommon complaints of the elderly. The cause of the distress may not be known and the elder is treated for the symptom. A sexual assault, either acute or chronic, may be missed.

Inadequate Evidentiary Examination

Elder victims of sexual assault are less likely to have a complete sexual assault examination, including the collection of an evidence kit, an internal exam, and tests for sexually transmitted diseases. Part of the difficulty may be in the examination of the elder or because there is delayed reporting of the abuse.

Resident-on-Resident Sexual Abuse

The issue of elder sexual activity is sometimes addressed in policy manuals of nursing homes with a section on the sexual rights of the elderly. There is an attitude that sexual activity should even be encouraged among elderly residents. However, the part about consent between the two elders is less clear. In fact, sexual harassment, fondling, and even intercourse are often viewed as “no big deal” and certainly not harmful to the elder. In some nursing homes, nursing home staff are said to ignore the pleas for help by resident females. The cases in this category all involved elderly women who tried to reject the sexual advances of elderly males who, in most cases, preyed on many elderly victims. There was no history of a developing relationship, but rather a predatory style to the act.

Case No. 1

Fingerprints lifted from a vase led police to a 47-year-old convicted sex offender who was subsequently arrested and charged in 2004 with sexually abusing two women in their beds at a New York medical center after delivering flowers for an Upper East Side florist. The man entered the room of the first patient, a 58-year-old woman recovering from surgery, lifted her gown and fled when she woke up. The man then entered a second room, where he pulled down the diaper of a 93-year-old patient and got in bed with her. A hospital nurse spotted the man atop the patient and he fled. After the incidents, the police tracked the man through fingerprints left on the vase he brought to the room of the first patient. The man was working as a fill-in deliveryman and was living at a church shelter for the homeless. Five years previously, the man had been convicted of first-degree sexual abuse after a similar incident at another medical center in the area. He had completed the parole supervision period from the first sentence on August 1, 2000—about 1 year before this attack of August 18, 2001. For the first attack, he had been sentenced to serve 0–4 years and was released to parole on April 3, 2000, with only about 4 months of maximum parole supervision (expiring August 1, 2000). Hence, he was free (not under parole supervision) for about a year prior to the August 18, 2001, attacks on two patients. All victims of this rapist suffered significant distress both at the time of the assault and afterwards.

This case illustrates several facts about sexual abuse of the elderly: (1) The elderly are targeted as victims, (2) the location for an assault can be in a populated area, (3) the offender can be a repeat rapist, and (4) the assault is traumatic and the recovery difficult for the senior.

Although sexual abuse is well established as a major social and health problem with significant physical and psychological consequences for its victims under age 60, the literature has neglected addressing the impact of sexual abuse on persons over age 60. While

prevention programs are making a difference in child sexual abuse, there is no prototype in the elder sexual abuse arena for several reasons:

1. Anecdotal and research data are scarce as to the efficacy of treatment programs in the area of elder sexual abuse.
2. There is a history of discrimination against the elderly as well as misperceptions and stereotypes against older adults that has put elders at an increased risk for sexual assault.
3. Barriers to effective health care interventions include delayed reporting of the sexual abuse that results in failure to obtain a timely forensic evidentiary examination and treatment for injuries and infection.
4. There are few resources available for educating seniors and others about the prevention of sexual abuse.
5. There is little information on the motivation of offenders who sexually assault the elderly to provide direction for early detection to reduce offending behavior.

The goal of the next section is to provide investigators with ideas, practices, and solutions to the issues presented when helping older rape victims. The issues with seniors are quite varied and include helping persons with cognitive and physical disabilities and elders who have specific belief systems about sex and sexual violence in general.

Early Recognition and Detection

Early recognition and detection of abuse and reporting of cases means knowing the physical and behavioral indicators of sexual abuse in the elderly and being able to ask the right questions of the elder and to report all suspected cases to the proper agency (e.g., law enforcement, protective services, and/or hospital for forensic services). Two major barriers that mitigate against reporting elder sexual abuse include the victim's reluctance to report and disbelief in elder sexual abuse. In the case of victim reluctance, the senior may be frightened or embarrassed to report or the offender may be a domestic partner, a situation often noted in domestic violence cases. In such situations, the elder may fear being sent to a nursing home and losing his or her independence and/or financial base from the partner. In such a case, a plan needs to be worked out with the elder that will not jeopardize home security by identifying the resources and social support available to help the elder remain in the home. This may require talking with law enforcement and/or the prosecutor regarding charges that can be brought against the offending partner.

The second barrier in reporting elder sexual abuse is that of disbelief. Caregivers, staff, and family may believe the elder is fantasizing or in a cognitive disorganized state or making up a story. As with all ages of victims, staff need to take seriously all reports of sexual abuse. It will be up to experts in the area of elder sexual abuse to determine the credibility of the allegation and up to the prosecutor as to the viability of the case in the criminal justice system. Even if the prosecutor does not find adequate evidence to make the case, the elder should be respected and receive brief therapy services.

Interviewing Elder Victims of Sexual Abuse

The following therapeutic tasks are important to develop trust with the elder in order to do an accurate assessment of the complaint of sexual abuse:

Tell the senior what to expect. Talk slowly and clearly. Advise victims they will be going to a hospital for an examination and for the collection of evidence.

Assess the victim's sensory system. Can she or he hear and see people? A quiet and well-lighted area should be used and the investigator or staff person's face should be well in line of vision of the elder. If there are sensory problems, learn how the elder adjusts to the deficit by asking him or her or the family or caregivers.

Observe the victim's demeanor. Is she or he quiet, crying, angry, in distress? Ask how the victim is feeling and if he or she has any questions about what is going to happen. Allow adequate time for the elder to express his or her emotions.

Signs of physical trauma include observable objective evidence of injury such as bruises, abrasions, lacerations, and/or bleeding. The elder and accompanying family members need to be told that a comprehensive physical assessment will be conducted by the forensic examiner observing injury to the elder's general body condition and a separate genital examination will be conducted. Evidence of intentional injury is sought by asking the question as to how the injury occurred. Accidental injury needs to be ruled out. For example, nursing home staff have described genital bleeding as the result of "rough peri-care." This may or may not be accidental and needs further investigation.

Symptoms of physical trauma include an indication of trauma provided by the elder. For example, the elder may say she was slapped or held by her throat but no observable injury can be noted. The symptom would be noted as part of the forensic record.

Signs of emotional trauma include observable signs such as crying, rocking, hands shaking, flushed appearance, signs of perspiration. Elders may try to hide their feelings by being very quiet, guarded, or controlled in their demeanor.

Symptoms of emotional trauma include reports by the elder of what was done to him or her. The record might state that the assailant covered the victim's eyes, held a knife to his or her throat, or pinned the elder to the floor. One victim said that she feared the assailant would try to smother her with pillows that were on her bed.

Case No. 2

The sister of a 72-year-old resident was outraged when she learned the administrator had not told her of her sister's two separate complaints of rape. She watched her sister deteriorate after the assaults. The sister began using a walker, developed burning on urination, exhibited anxiety, and was hospitalized for fever secondary to pneumonia. One month later she evidenced a diminished level of consciousness and alertness and was transferred to a hospital and diagnosed with urosepsis. Her condition continued to deteriorate when she returned to the nursing home until she was no longer independent, ambulatory, or able to wheel herself. Her sister took her into her home. After

moving into her sister's home, the victim feared that the offender would come to the house and asked her sister to tell him that she lived elsewhere. Despite diagnoses of coronary arteriosclerosis, senile dementia, and mental retardation, the sister gave a consistent account of the rape.

Case No. 3

A male resident whose assault was observed by staff refused to remove his clothes at night, instead wearing two and three layers of clothing. The resident persistently would ask to go home and on at least three occasions escaped from the nursing home. Over time, the resident became reclusive, verbally aggressive, and told family members not to visit.

Case No. 4

A 73-year-old man acted ashamed and embarrassed, cried at night, said it hurt between his legs, and that he wanted to talk to a judge. He would resist going with staff for his bath, jumped when someone came into the room, and showed rapid mental deterioration.

Forensic Services

The reporting of a suspected case of recent elder sexual abuse requires that forensic evidence be collected. The goal of the forensic examination is the systematic and comprehensive collection of evidence from the victim that has been transferred from the perpetrator. It is conducted in a psychologically supportive manner by explaining and requesting consent for each step in the process. Often a family member will be with the elder to help in this process, especially if it is a nursing home case. Photographs will need to be taken; clothing worn during the assault will be collected and slow, careful examination of the victim's body for any transfer of evidence will be conducted. Saliva and semen will be of prime importance. Hairs and fabrics must be collected and placed on paper for folding. Fingernail scrapings and hairs may be collected. Evidence will be collected from body orifices. The use of a high-intensity light or colposcope will be used and photographs taken. A standard rape kit will be used and all evidence will be air dried and submitted to a police crime laboratory for analysis.

Evidence collection may be different in the elderly than in the adult victim. Assistance may be required for supporting the elder's legs during the inspection. Legs that are contracted from muscle atrophy require gentle pressure for abduction from assistants. Severe contractures may require the legs being held upwards toward the ceiling in order to accomplish external visualization. The fragility of skin and the lack of estrogenized vaginal tissues require very careful handling of the elder's body. Also, a small pediatric speculum is recommended for the internal examination.

Types of Interventions

Individual Counseling

Law enforcement needs to have a list of counselors who have experience with elderly victims for purposes of referral. The impact of a sexual assault on an elder includes considering the advanced age, general health status, and the diminished cognitive processing. The latter explains why behavioral symptoms may be delayed and prolonged in the elderly. The following behavioral signs and symptoms have been documented in elders in terms of rape trauma syndrome and post-trauma symptoms. Investigators need to remember that some of the symptoms are muted in the elderly due to their declining ability to report problems.

Victimized elders have been noted to exhibit rape-related trauma symptoms of becoming fearful of the location of the rape (e.g., bathrooms, showers), becoming fearful of males and male caregivers if assaulted in a nursing home, experiencing flashbacks (e.g., there is a boy in the closet), and being easily startled (e.g., hyperarousal symptoms). They also will exhibit general symptoms of traumatic stress (e.g., fear, confusion, hypersomnia, lack of appetite, withdrawal) and an exacerbation of symptoms related to existing physical and prior mental conditions. Elders with the presence of a preexisting cognitive deficit, such as a dementia, may have delay in information processing and impaired communication that potentially compound the trauma of the sexual assault. The vulnerability of an elder due to physical and emotional fragility places victims at unusually high risk for severe traumatic reactions to assault. Elder victims simply are not equipped physically, constitutionally, or psychologically to defend against and cope with the proximal effects of sexual assault. One 87-year-old nursing home resident with severe dementia, raped by an attendant, cried constantly for weeks following the assault. Only her daughter's presence helped to relieve the sobbing.

Rape trauma syndrome, which includes both acute and long-term symptom responses to traumatic sexual assault, has two distinct variations: compounded rape trauma and silent rape trauma. In compounded rape trauma, victims have a past and/or current history of psychiatric, psychosocial problems that compound the effects of the sexual assault. In silent rape trauma, expression of assault-related symptomatology is muted, undetected, or absent. Elder sexual abuse victims are subject to both compounded and silent rape trauma. A 77-year-old victim of the Belmont Shore, California, rapist, who was a cancer survivor with a colostomy bag, testified that she was sleeping in her easy chair when she awoke suddenly to someone grabbing the crown of her head. She thought it might be an animal and tried to squirm around only to note the hand got tighter. He led her into the bedroom and raped her and told her to relax and enjoy it. The victim testified that the rapist spoke kindly, asked her about her life, offered her a glass of water at one point, and tucked her in before he left. Two weeks later the rapist returned and raped her in her bed. He had disconnected her motion-detecting lights as well as her phone lines. The victim did not report the first rape due to fear and shame, but did report the second rape. The jury acquitted the defendant for the first assault, claiming no DNA, but convicted for the second rape where there was DNA to match to the rapist. This serial offender was charged and convicted of the rape of 14 women, ages 39–77, over a 5-year period.

Group Counseling

As with younger victims of sexual assault, the agency should have a list of counselors skilled in conducting group work with victims. Elder victims living in the community often join groups with younger victims. The deciding factor is the choice of the elder and whether or not he or she wishes to join.

Music Therapy

Advocates visiting elder victims in an institution can use the technique of music therapy. It requires having a tape recorder and tape of music selected by the elder. The goal of the therapy is to help the victim learn to reduce the anxiety experienced during the assault and in the activation of rape trauma aftermath symptoms.

Living Situations of Elderly Victims

Independent Living

Seniors living independently include those living with their families and/or partners as well as those living alone. If the senior who is raped is alert and verbal, and has minimal memory deficits, the clinician generally follows the same protocols for support services as those for adult victims in general. That is, the clinician meets with the senior, assesses social network support, and provides crisis counseling. The following cases are examples of victims in independent living situations.

Case No. 5

A 68-year-old woman was raped and robbed of \$80 by an intruder who kicked down her door. The offender managed to get into the apartment building lobby and past a locked front door. The woman had just returned home and left the apartment door ajar. The man walked up to the woman's apartment and asked if he could use her phone. The woman answered that he could not and shut the door but he kicked open the door, pulled out a knife, and ordered her not to scream. An hour later the woman's husband returned home, found his wife in shock, and called 911. The husband's support and the encouragement provided by the therapist and prosecutor enabled the victim to testify in court and help to win a conviction.

Case No. 6

In another case, a 73-year-old woman's door window was broken early one morning and when she opened her door, a 25-year-old man jumped inside, grabbed her, covered her mouth, and forced her to promise not to call the police. They spoke different languages, but after they both calmed down, she showed him family pictures, they shared stories, and she offered him food.

The intruder fell asleep, awoke, and went to the bathroom, got undressed, exposed himself to her, and then fell back asleep. The woman barricaded herself in her bathroom with a telephone and called her daughter who called the police. Police found

the man's clothing strewn around the house; he wore sweat pants with a condom in his pocket but claimed he was intending to steal jewelry. He had worked at the woman's home as a gardener. He was charged with two counts of residential burglary, one count of home imprisonment of an elder, and one count of elder abuse. One of the two burglary charges arose from another woman, a 78-year-old, who contacted authorities after learning of the incident, saying this man also landscaped her yard earlier that month and when he used the bathroom exposed himself to her.

A jury found the intruder guilty and he was sentenced to 11.3 years in state prison. The charges included elder abuse, which in California statutorily includes stranger victimization of an elder (where the perpetrator reasonably should have known the victim's age).

It was very important in this case that no one (professional or friend) questioned the victim's interactions with the perpetrator. While some individuals unfamiliar with victimizations might find the interactions paradoxical (and wonder why the victim did not fight off the offender), clearly victims of sexual abuse utilize individualized methodologies to cope with criminal violence such as being imprisoned in one's own home with an exhibitionist.

In cases of elderly victims, professionals may also sometimes view elders as weak, helpless or powerless, and incapable of defending themselves from harm. Instead, professionals need to be impressed with some of the creative coping strategies used by elders, other than physically based strategies, when faced with a frightening situation. Clearly, the victim needs to feel that those around him or her see the actions as appropriate, thus reducing the chances that the victim will doubt or question himself or herself.

Assisted Living

An elder living in assisted living generally infers there is a protected environment that has safety features in place. That is, different shifts of staff check on residents over 24-hour periods, and meals and cleaning services are often provided.

When an elder is sexually assaulted in a perceived safe environment, such as assisted living or an institution, it causes additional trauma because staff have been trusted and there is a breach in safety and security. Very often, the family feels guilty for not keeping the elder at home. The intervention for the elder needs to focus on verbal and nonverbal signs of stress, behavioral disorganization, aggression, functional ability, and health status. The traumatized elder needs careful observation and a good description of pre-assault behavior from family and staff members for a baseline against which to assess changes.

Case No. 7

A 41-year-old man entered the unsecured door of an assisted living facility and raped an 83-year-old woman in her room. The woman reported she was awakened to the man being in her room and that he stated, "Don't scream or I am going to kill you." She further stated that he held her down and assaulted her, taunting her and ordering her to use profanity. She refused. After the assault, the man ran into a facility employee and asked her to help him find a friend who he said worked at the facility. He then put his hand over her mouth and wrestled her to the ground, grabbing her checkbook. He escaped and the employee called 911. The police arrived at 2:45 A.M.

and found the perpetrator a few blocks away. When shown videos of himself at the facility, he admitted he entered the premises to seek to sexually assault someone. The son reported that his mother's personality changed after the attack. She moved closer to him but remained withdrawn and reclusive, the opposite of her pre-assault lifestyle.

Nursing Home

Three common nursing home sexual abuse victim profiles include (1) physically disabled older resident, (2) cognitively impaired resident, and (3) physically impaired younger resident. The physically disabled older resident has no cognitive or mental impairment but requires assistance with mobility. The assistance may be short term, such as needing rehabilitation following surgery, or long term as in residents with complications from a stroke. The cognitively impaired resident has a primary diagnosis of Alzheimer's disease or other dementia and the physically impaired younger resident may have a physical impairment due to a chronic neuromuscular disorder, such multiple sclerosis or amyotrophic lateral sclerosis (also known as ALS or Lou Gehrig's disease), or an impairment as a result of trauma from a motor vehicle accident or gunshot wound.

Nursing homes are, for the residents, precisely that—a home in which the staff function as the residents' caregivers (in both a literal and figurative sense). The nursing home and its staff are perceived as "safe" and violations represent a more profound betrayal of trust than violations committed outside the sanctity of the nursing home.

The sexual victimization of older adults in nursing homes is under-recognized and under-reported. Even when an incident is identified, reporting is delayed and treatment and post-rape services are often inadequate (USGAO 2002). Furthermore, prosecution of these crimes is fraught with problems related to poor-quality evidence because of delays in reporting. Older adults residing in nursing homes often require assistance with basic activities of daily living such as bathing, dressing, and feeding because of physical and cognitive impairments. These disabilities make an individual dependent upon others and an easy target for a sexual predator (Burgess et al. 2000).

There are approximately 17,000 nursing homes in the nation with 1.5 million older adult residents (USGAO 2002). In a study of 5,297 nursing homes in Pennsylvania, New Jersey, and New York, a quarter of these nursing homes had serious complaints alleging situations that harmed residents or placed them at risk of death or serious injury (USGAO). Concerns about the quality of care have mostly been focused on malnutrition, dehydration, and other forms of neglect. However, there is mounting concern about physical violence—particularly sexual abuse—by those who have been entrusted with their care (Burgess et al. 2000).

In a pilot study of 20 elderly women in nursing homes, the single most profound result of the sexual assaults against these victims was that 11 of the 20 victims died within 12 months of the assault (Burgess et al. 2000). Because more than half of these victims were ages 80–96 at the time of the assault, it obviously cannot be asserted that death was a distal effect of the assault. Although it is not possible to determine in each case whether the assault accelerated death, the fact that more than half of the victims died—not from the assault itself but within months of the assault—is clearly noteworthy, if not alarming.

Intervention for Family Members of Sexually Abused Elders

Family members need help when an elder is sexually abused, whether it happens when the elder is living alone, in assisted living, or in a nursing home. The following case relates to the opening case.

Case No. 8

When a Queens, New York, woman read about a man assaulting two elderly patients in their hospital beds, she reported it was like reliving her own nightmare. She told a friend she thought it was the same man who assaulted her mother, then 79, in her bed at a New York medical center. The man had been taken into the hospital as a patient and admitted to the narcotics unit. Somehow he escaped from his bed and was lost for nearly an hour before hospital officials found him, dressed in scrubs in her mother's room. When her mother attempted to resist his attempts to abuse her, he slapped her face. The woman was quoted in the newspaper as saying, "Maybe when you are younger, you are more resilient, but my mother was never the same after that. She had nightmares three times a week until she died." The woman said her mother was subjected to over a dozen interviews with police, district attorneys, and hospital staff after the assault. The daughter wondered if it hastened her developing senility. She added, "I live with the guilt because I put her in the hospital originally." She also bemoaned the lack of support groups and organizations to address the problem.

It is common for family members to feel guilty when an elder is sexually abused. They often feel responsible for decisions made for the elder, especially if she or he is in a nursing home. The clinician can explore with the family member the decision for the living situation of the elder, whether it is independent, assisted, or dependent living. Sometimes family members feel doubly guilty that the elder is in a nursing home and then the elder is raped. The exploration of this guilt in terms of realistic parameters is best accomplished in a support group setting and is an important part of counseling. There are care provider support groups for people who have to make a decision to put a family member into a nursing home.

Case No. 9

In the following case, a husband of 44 years made the difficult decision to place his 64-year-old wife in a nursing home, as he was unable to care for her due to a developing dementia and her increasing agitation. Three months after her admission, the husband received a telephone call from a discharged employee stating her conscience was bothering her knowing that information was being withheld from him. The former employee went on to relate that the wife had been sexually assaulted by another nursing home resident. When the husband inquired about the incident, the executive director told him that patients are allowed to hug, kiss, and fondle each other, even to the point of sex. When the husband talked directly to the care manager, he learned that his wife and the male resident were both found nude in bed and the male was penetrating his wife. The husband argued it was rape (not consensual sex) given the fact that his wife could not dress or undress herself and could not get into bed

by herself. The husband immediately removed his wife from the nursing home and contacted the state ombudsman's office and police to report the rape. Unfortunately, the case lacked forensic evidence and witnesses for a criminal case, but a civil suit was pursued and a settlement reached against the nursing home.

Outreach by an investigator would be critical to recommend intervention both for the wife in the new nursing home and a family member support group for the husband. There was no service available in his state and arrangements were made for him to talk by telephone to another family member of a resident-on-resident nursing home sexual abuse case.

Prevention of Elder Sexual Abuse

Prevention programs of elder sexual abuse are aimed at public education to help people understand what elder sexual abuse is and how it can be prevented. The programs focus on educating seniors, front line workers, and the public about situations and behaviors indicative of abuse. Case examples from news media provide talking points for discussion. The following case illustrates police working with rape crisis staff to educate seniors.

Case No. 10

In a Georgia case, a man cut the back porch screen of a home and attacked an 80-year-old woman. The woman told police a man with a cloth over his head ripped off her pajamas and raped her. He then took her nightclothes and bed sheets with him. The victim took a shower after the man left. The police had little to work with on this case and thus the news media account published the following:

If you are raped, rape crisis organizations urge you not to take a shower or bathe before you are examined. You may have valuable evidence on you. Don't touch the crime scene if possible. The rapist may have touched a surface and police could get a fingerprint. Save all your clothing from the crime and give them to police. Document any injury you have either by photograph or by showing it to investigators. All of these things will help investigators trying to solve the crime.

Prevention programs for elders living independently in the community, in assisted living facilities, or in nursing homes need to be part of all sexual violence community education programs. The program would include the traditional public education to teach elder safety as well as media ads to raise awareness and to increase reporting of abuse.

The senior safety education component requires an understanding of the level of the elder's independent functioning and the social network support. In addition, there should be emphasis on a safety checklist specifically designed for seniors. It is stressed that prevention is by safety awareness and not by unreasonable fear of attack.

For seniors living alone in a neighborhood, the safety questions are as follows: Does the senior have some connection with neighbors or family? Is there an alert button? Does someone check on him or her each day? Does he or she have good safety locks? Are the outside areas well lighted so that an attacker cannot hide in the yard or bushes? Are ground-level windows secure and routinely examined? Are workmen or handymen known to

family or neighbors? For suspected domestic violence cases, elders should be asked if they have been slapped, hit, or beaten in the last 6 months.

Two case examples illustrate elders living independently who were raped and the relationship of the offenders to them.

Victim of a Stranger

In Texas, a 95-year-old great-grandmother was trimming grass near some railroad tracks outside her home when she was pushed down by a stranger and raped. Her grandson discovered her after the security company telephoned him that his grandmother's alert button had discharged and she was not responding to her telephone. In this case, the elder's alert button saved her life even though it took many hours for her to be found.

Sometimes the offender is a family member in a domestic rape as in the following case.

Domestic Violence Victim

In Florida, a 94-year-old widow called police to report that her 42-year-old grandson (who lived with his wife in his grandmother's home) had raped her. Police found the elder bleeding and badly bruised. The grandson was found drunk and asleep in the grandmother's bed. Forensic evidence linked him to the crime. Subsequently, the victim's health deteriorated. She became wheelchair bound, required oxygen, and was admitted to a nursing home 3 months after the attack.

Suggested Approaches to Elder Victims in Nursing Homes

Crisis Intervention

Intervention services are much more difficult to provide for the physically handicapped and/or cognitively compromised patient. The critical first step to a traumatized elder in a nursing home is to try to establish contact and trust using a soothing approach and voice.

Talking therapy is usually not the treatment of choice. Expressive therapies, including music therapy and drawing, may be more useful to calm a frightened and anxious elderly resident. The elder's favorite music tapes played on a cassette can be soothing and calming during a 30-minute session with an elder victim. Just sitting quietly with the elder shows safety, compassion, and concern.

Do not avoid expressing that you know something happened to the elder. Even if the victim has serious cognitive deficits, such as through a stroke, do not assume that he or she does not understand. Staff sometimes fail to try to understand the avenues of communication in people with cognitive problems because they assume the elder does not understand.

Develop a system of communication whereby the elder can answer "yes" or "no." Once established, one can try to work with the victim. Use comforting measures such as positioning pillows and adjusting covers. Talk in a soft, soothing voice but be sure the elder can hear. Avoidance of what happened is not a comfort. It is not necessary to dwell on it but do address it. Suggestions are to say, "I know something happened to you and that you were hurt on your body. Can you show me or tell me about it?" It is critical to emphasize the

person who hurt the victim has been taken away and that he or she is now safe. The sensory link is important to establish. One might say, "I want to try to understand and talk with you the best way you can. Squeeze my hand if you understand. Nod or blink your eyes to let me know you understand."

Consistency of visits is important. Try to schedule the visit to the nursing home at a consistent time each visit. Short, frequent visits are most therapeutic. Try to visit when the elder is not receiving nursing or other services. Avoid nap times. If no one is available on staff to visit a victim in a nursing home, refer to a visiting nurse association, which can provide a geropsychiatric nurse specialist for consultation and guidance.

Elder victims may have preexisting areas of weakness or vulnerability, primarily physical and cognitive, which serve to complicate or mute the assault symptom presentation. Observe behavior carefully for symptoms of trauma.

Nursing Home Staff

A thorough physical, cognitive, and psychosocial assessment should be completed by professional staff at the time of admission to the nursing home. These assessments provide nursing staff and other caregivers with a baseline from which to judge behavioral changes. They need training to detect noteworthy changes in baseline behavior in victims who are likely to exhibit symptoms in a muted or "silent" fashion.

All nursing home personnel should be trained rigorously to identify signs and symptoms of assault-related trauma and to be vigilant about suspicious, pre-assault behaviors, including the same grooming and manipulation observed with most sex offenders. Nursing home staff need to be sensitized to the gravity of the assaults on residents. Stereotypes exist, from cynical disbelief that anyone would sexually assault an elderly individual to what can be described as a perverse sense of amusement.

In conclusion, the elderly victim of sexual violence represents a vulnerable and poorly understood population of victims. Elders may be sexually assaulted in their homes or the community, in an assisted living facility, or in a nursing home environment. Offenders can be strangers, domestic partners, family members, another nursing home resident, or a caregiver.

As with all victims, the primary goal of prevention and intervention is safety for the senior. Special adjustments need to be made for the interview and forensic examination process due to the elder's physical and emotional health status. Trauma symptoms will be filtered through any cognitive deficits that are present and adjustments need to be made for any short-term memory issues.

The prosecution of offenders of elderly victims is critical to decreasing abuse to additional victims. Law enforcement, sexual assault nurse examiners, medical and mental health staff, social service providers, and prosecutors all need to work together as a team. Most importantly, agencies need to add elder sexual abuse to their community education programs, train their staff in detecting and reporting elder sexual abuse, and recruit staff who will provide crisis intervention services to traumatized elderly victims.

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Introduction

Over the past decade, the diversity of the expression of sexually coercive and aggressive behavior has been recognized in numerous studies that have focused on many subgroups of sex offenders, including abuse reactive children (Elliott and Butler 1994; Greenfield 1996; Loar 1994; Barbaree, Marshall, and Hudson 1993), juvenile sexual offenders (Pithers et al. 1998), female sexual offenders (Adshead, Howett, and Mason 1994; Anderson and Struckman-Johnson 1998; Elliott 1993; Larson and Maison 1995), “impaired professionals” (Abel, Barrett, and Gardos 1992; Haywood et al. 1996; Loftus and Camargo 1993), and even such specific subgroups as stalkers (Meloy 1996; Burgess et al. 1997).

The one remarkable omission has been any empirical focus on the rape of the elderly. These highly vulnerable, often incapacitated individuals appear to represent yet another category of “hidden” victims of sexual assault. Although there are no reliable incidence data on the sexual assault of the elderly, prevailing educated opinion is that “underreporting is significantly higher in this age group compared to other groups” (Hicks and Moon 1984, 195–196). The only published article that we identified that looked at offenders who sexually assaulted elderly women was a 1988 study by Pollack, who compared five sex offenders who assaulted women aged 60 or older with seven offenders who assaulted younger women. By and large, the five men who assaulted older victims were more violent, more brutal, and more sadistic. Indeed, three of the victims were murdered or thought to be dead, and in the other two cases the victims were badly mutilated. Pollack concluded, moreover, that the greater evidence of psychotic features among those who assaulted the elderly suggested more severe psychopathology in that group. In a larger study that focused on the elderly victims of sexual assault, Muram, Miller, and Cutler (1992) compared 53 victims, aged 55 or older, with 53 victims, aged 18–45. The older victims were far more likely to sustain genital injury than the younger victims (51% vs. 13%, respectively).

The rape or sexual assault of an elder is a felony. In some states, the sentence for the crime carries special sanctions because of the victim’s age. It is a crime reported and investigated by law enforcement and not by Adult Protective Services. A common question raised when describing elder rape victims is, What would motivate someone to commit such an offense? We sought to answer this question by studying 77 convicted rapists of women aged 60 and older and interviewing 25 of them in prison (Burgess et al. 1997). This chapter will report on the characteristics of these men and their crimes, classify them using the Prentky and Knight (1991) MTC:3R typology, and provide case examples of the subtypes.

Background

One of the few contemporary studies published on elder sexual abuse victims was a British study. The project was sponsored in 2000 by the Nuffield Foundation to Professors Olive Stevenson and Katherine Jeary at the Nottingham University School of Sociology and Social Policy. The researchers, over 20 months and using a qualitative research design, studied 52 cases of 54 elder victims and 52 abusers (not of the 54 victims). Two major findings included minimal, if any, services offered to elderly victims with respect to coming to terms with their traumatic experiences, and little information on understanding the motivations of offenders and in identifying interventions to reduce the possibility of their re-offending.

Theories of Offending

Groth (1979) reviewed his clinical files of convicted sex offenders for sexual offenses where the victim was substantially older than the offender. He noted many offenders had difficulties in early adolescent adjustment, came from families with unstable parental relationships, and showed a lack of respect to the mother. The mothers were perceived (by the offenders) as high strung, overprotective, domineering, or provocative.

Pollack's study in 1988 reported just the opposite findings from those of Groth. Pollack, using study and control groups, observed no discernable differences in demographic details of marital, employment, psychiatric, or criminal history or in childhood behavior problems or adjustment. However, both Groth and Pollack commented on the offender of an elderly victim being more likely to use brutality or a weapon in the offense.

This view of brutality, however, is not supported in the early descriptive studies on genital trauma of victims. Muram and colleagues (1992) reviewed 53 elder cases compared with 53 younger victim cases. More injuries were found in the elder group (51%) compared with 13% of the younger group ($p < 0.003$). There was no observed significant difference found between the two groups in regard to type of assault or violence used during the assault. The authors concluded that the genital injury that was greater in the elderly women was due to the postmenopausal status of the genital anatomy rather than any offender-associated factors.

Genital trauma is stated to be more evident in the postmenopausal sexually assaulted woman than it is in her younger counterparts (Cartwright 1987). However, as with those 65 and younger, rape may occur without obvious injury (Cartwright and Moore 1989; Tyra 1993). In one comparative study, medical and forensic records were reviewed between 1986 and 1991 from 129 women 50 years or older and 129 women from a comparison group ages 14–49 (Ramin et al. 1992). Trauma, in general, occurred in 67% of the older group and 71% of the younger group. Genital trauma was more common in older than younger victims (66% vs. 49%). Although forensic findings were similar in both groups, in the older group motile spermatozoa were seen only in those examined within 6 hours of the assault.

Ball (2005) identifies two conceptual models emerging from the literature attempting to explain the motivation behind sexual abuse of the elderly. The first theory is based on sexual intent. In essence, the perpetrator is viewed as sexually deviant and the term *geronophilia* is suggested. However, there has been no empirical study to support the view that most or even a significant number of offenders have a sexual preference for elders. Neither

the studies by Groth (1978) nor those by Pollack (1988) reported on the sexual preferences of their samples. Nevertheless, two of the six cases presented by Ball et al. (1992) did demonstrate gerontophilic tendencies.

A second model of sexual offending of the elderly is a variation of a psychodynamic interpretation of rape. Groth referred to this variation as "anger rape." In this type of rape, the offender offends as a way to direct feelings of rage onto the victim. The offense is not primarily a sexual act, but rather one that occurs within a sexual context in which emotions of anger and control are put onto the victim. Groth continued to suggest that the object of the rage, the victim, represented an authority person who needed to be controlled, hurt, and degraded. Pollack's (1988) study supports this view in that the offender is acting out motives of rage and sadistic intent rather than motives of sexual desire. Lanyon (1991) has suggested that the victim becomes a substitute for the original source of the offender's anger, often noted to be the offender's mother.

As reported in chapter 2, clinical studies of elder sexual abuse cases range between 2 and 7% of all reported sexual assaults. It is not uncommon for a woman over 60 to become a victim. Sexual offending against the elderly is not a new phenomenon as it has been recognized in psychiatry since Kraft-Ebbing's writings. However, any link with a specific paraphilia remains unclear and poorly understood. A substantial amount of work is necessary to provide theoretical explanations for offender motivation.

In continuing her study of adult protective services data, Ramsey-Klawnsnik (1995) identified five types of elder sexual abuse: stranger or acquaintance assault, abuse by unrelated care providers, incestuous abuse, marital or partner abuse, and resident-to-resident assault in elder-care settings. She further delineated subtypes of marital and incestuous abuse (2003). Three patterns of marital abuse seen in clinical samples are (1) long-term domestic violence, (2) recent onset of sexual abuse within a long-term marriage, and (3) sexual victimization within a new marriage. Incestuous elder abuse involves cases perpetrated by adult children, other relatives, and quasi-relatives. Resident-to-resident sexual abuse has been substantiated in nursing homes, assisted-living facilities, board and care homes, and other settings that care for elderly people (Ramsey-Klawnsnik 1995).

Dynamics of the Offense

Victimology

Victims, in general, may be categorized as low, moderate, or high risk in relation to their exposure to crime-threatening situations. Low-risk victims are not normally exposed to predator danger and are usually sought out by the offender. In contrast, high-risk victims' lifestyles or employment consistently exposes them to danger from criminal elements.

The majority of elderly victims residing in nursing homes or long-term care facilities were highly vulnerable by virtue of incapacitation, dementia, and fragility. They were residing in a 24-hour care facility and few were able to ambulate without assistance. It was thus not surprising that many of the assaults occurred in the resident's own bed (despite having roommates). Other assault locations included the victim's wheelchair, a bathroom, an empty classroom, and a closet. Two residents were taken off a secure unit to another part of the nursing home.

For nursing home victims, one could argue that risk level should vary depending on the number of staff available. The nursing homes all operated on three shifts, with the day shift employing the largest number of nurses and nursing aides. For those cases where the time of the assaults was known, the offenses occurred during either the evening or the night shift and before the day shift arrived.

Style of Approach

Offenders can be categorized by the method of approach and control exerted on the intended victim. Three approach styles have been described: (1) con: verbal manipulation or coercion to gain the victim's confidence; (2) blitz: injurious force used to physically control the victim; and (3) surprise: threats but no force, in which the intended victim is typically approached when incapacitated or unsuspecting (Hazelwood, this volume). The confidence method was used only in cases where the victim was ambulatory ("Let's go for a walk." "It's time for your bath." "We're going to a party."). In cases with extensive physical injury, a blitz style assault was noted. There were also surprise style approaches where there was no physical force and the victim was sleeping or incapacitated.

Control of Victim

The manner in which the offender maintains control of his victim may occur in a variety of ways: mere presence, verbal threats, display of a weapon, and use of physical force. Mere presence was often the primary method of control exercised by offenders of elders. Given the frailty of the victims, control strategies employing greater force would have been unnecessary. Some victims, however, reported having been threatened with a knife as well as tied at the wrists.

Victim Resistance

The victim, when confronted with the offender, may either comply or resist. When there is resistance, the offender may cease his demand, ignore the resistance, compromise, flee, or use additional force. Residents in nursing homes were overheard telling the offender to stop.

Multiple Assaults

In a few cases, there was verification of multiple assaults on the same victim. Verification was derived from either the offender himself or the victim. In additional cases, multiple assaults were suspected (where HPV was detected). One 33-year-old woman, semicomatose from a gunshot wound to the head when she was 19, was found to be 6 months pregnant. An investigation of this case revealed that six male aides were having routine "sex parties" in her room. DNA revealed the father of her baby.

Types of Sexual Acts

Although the type and nature of the sexual acts performed in an assault are often critical in attempting to understand motivation, obtaining this information was difficult given that many of the victims suffered from dementia and were unable to communicate what had

happened. Despite the almost uniform lack of reliable self-report data, physical evidence clearly indicated the nature of the physical and sexual abuse in many cases.

In some cases, it was possible to reliably code the presence of preexisting sexual fantasy, suggesting degree of planning and premeditation. For example, a 31-year-old nursing aide was observed at 4 a.m. by another nursing aide at the bedside of a 95-year-old resident. The aide had his pants down and his penis exposed. He admitted that he was attempting sexual intercourse. He said that when he changed the victim she asked to have her back scratched or her legs rubbed and that she would moan and that would sexually arouse him. In another case involving fondling, a male resident was observed in the dining hall to have his hand inside the top part of the nightgown of another resident.

Classifying Sex Offenders of the Elderly

Using the MTC:3R, the sex offenders in this study were classified (see chapter 18).

Typology and Examples

Opportunistic

Opportunistic motive refers to an impulsive rapist type who shows little planning or preparation. He usually has a history of unsocialized behavior and the rape serves as an example of the degree to which he lacks interpersonal awareness. These rapists show no concern for the welfare or comfort of their victims. The rape is for immediate sexual gratification rather than the enactment of a highly developed fantasy or sexualized ritual. The rape is in the service of dominance and power. The opportunistic offender in this elder sample differed from other rapists with this classification in that 8 of the 10 offenders claimed not to have penetrated the elder, but rather to have committed acts of fondling, kissing, and molestation. This classification is similar in the nature of the sexual act to some child molester acts.

Case No. 1

An 83-year-old female resident was observed being led off of a locked Alzheimer's Unit by MO, a 42-year-old maintenance employee. A search ensued, and the resident was located in an area far removed from her unit. She was fatigued, nonverbal, disoriented, barefoot, and disheveled (e.g., clothes unbuttoned). She was taken for a sexual assault examination.

MO said the resident asked him to take her for a walk but that she had to go to the bathroom, so he helped her remove her pants. MO said she started giving him a "sob story" that she appreciated his taking care of her, how her husband had died, and how she didn't feel whole. She didn't feel like she would have time "to play" a last time before she died; she felt she was a nobody. MO said he kept trying to wrestle with her to get her clothes back on, but she kept on kissing him. He got her up and then "It just happened; we had intercourse. I had to. I couldn't control it. I didn't ejaculate. I left her and she got up and she was satisfied. She grabbed me by the arm and she walked back pretending that it wasn't nothing. I unlocked the door and let her in. She

said she hoped I'd come by to see her tomorrow." DNA evidence matched MO to the victim.

After identifying his real name, it was revealed that MO had a lengthy criminal history and that he was on probation at the time of being hired. MO told police that he was angry at his girlfriend, that he had been to her house and asked for sex but she would not give it to him because she had a yeast infection. She drove him to work and "kicked him out of the car." MO's girlfriend, who also worked at the nursing home, told police that she saw MO (on her unit) later that afternoon holding the hand of a blonde haired woman wearing a purple outfit. MO was classified as a Type 2 (opportunistic, low social competence).

Pervasive Anger

A second classification in the MTC:R3 typology is termed *pervasive anger*. The degree of force used in this type of assault is excessive and gratuitous. The violence is an integrated component of the behavior even when the victim is compliant. Resistance from the victim is likely to increase the aggression and serious injury or death may occur. The rage is not sexualized, suggesting that the assault is not fantasy driven. The violence is a lifestyle characteristic that is directed toward males and females alike. The rape is but one feature in a history of unsocialized aggressive behavior noted across various social settings.

Case No. 2

CW, an 83-year-old resident of a nursing home, was observed closing the door after following a 76-year-old Alzheimer resident into her room. Two nursing aides watched CW digitally penetrate the victim, lie on top of her, and put his face into the woman's genital area while the woman cried, "Stop. It hurts."

CW told the police that he "went into the lady's room, because an aide told me she had a room to herself and wanted to show it to me." He was just helping her take down her pants when she grabbed his private area and pulled him down on her and was grinding. She told him that he was hurting her leg so he got off her, inserted his finger into her vagina because he thought she wanted him to (she was saying "help me"). He asked her if she climaxed, and she said she did. He also claimed he was not aware of what was going to happen when he entered the room and that he thinks he was set up.

The police report indicated that a physician said CW had no prostate, implying that he was impotent. The police report also noted that CW used a walker or wheelchair to get around, and that his mind was in good working order for his age. Although CW was known to be angry much of the time and to aggress and hit other residents, he was allowed free access to most areas of the facility.

Sexualization

Sexualization in the MTC:R3 typology essentially refers to a high degree of preoccupation with gratifying one's sexual needs. Sexual preoccupation is typically evidenced by highly intrusive, recurrent sexual and rape fantasies, frequent use of pornography, reports of frequent uncontrollable sexual urges, use of a variety of alternative outlets for gratifying

sexual needs (e.g., massage parlors, X-rated movies, sex clubs, strip bars), and engaging in other deviant sexual behaviors (paraphilias), such as voyeurism, exhibitionism, or fetishism. The sexual assaults of these offenders are often well planned, as evidenced by a clear, scripted sequence of events, possession of assault-related paraphernalia, and an apparent plan to procure the victim and elude apprehension after the assault.

Case No. 3

A nursing aide walked into a resident's room and observed nursing aide TM with his penis exposed and making humping movements on an 82-year-old woman. The woman was lying across the bed without underwear. TM stated to the police that, "I went into the woman's room to change her brief, and I thought of having sex with her. Then I unzipped my pants and began having sex and someone walked into the room." His statement to the nursing assistant who caught him with his pants down was that he was looking for a bed sore.

Records on TM, a 16-year-old youth, noted that in elementary school, a family doctor diagnosed him with attention deficit disorder, prescribed Pamelor, and said his problems were due to depression. At age 13, he became sexually active with a 16-year-old girl who was living with his family and raising her 1-year-old child. The girl became pregnant by TM who testified that he was working 50–60 hours a week to pay child support as well as attending high school. Cognitive testing revealed an average IQ (107).

The records also revealed sexual abuse by a male cousin when he was age 5. At the time of the assault he lived in a trailer with his parents and four younger siblings. His father had frequent charges of DWI. He had no prior criminal record. The nursing home had received complaints of his using frequent sexualized language but there had been no reprimand. TM was convicted and sentenced to 7 years for the rape, although he continued to deny the act. TM was classified as a Type 7 (sexual, nonsadistic, low social competence).

The sexualization type is further subdivided into sadistic and nonsadistic subtypes. Both of the sadistic types show evidence of poor differentiation between sexual and aggressive drives, and a frequent co-occurrence of sexual and aggressive thoughts and fantasies. To be classified as an overt sadistic rapist, an offender's behavior must reflect his intention to inflict fear or pain on the victim and to manifest a high level of aggression. Moreover, because the defining feature of sadism is the synergistic relationship between sexual arousal and feelings of anger, there must be some evidence that the aggression either contributed to sexual arousal or at least did not inhibit such arousal. Because each of the two feelings (sexual arousal and anger) have equal ability to enhance or increase the other, the sexual acts may precede aggression or the aggression may precede the sexual acts. The cardinal feature, in either case, is the intertwining or "fusing" of the two feelings such that increases in one lead to increases in the other. As a group, overt sadistic rapists appear to be angry, belligerent people, who, except for their sadism and the greater planning of their sexual assaults, look very similar to the pervasive anger rapists. There were three cases classified as sadistic types.

Case No. 4

Joe, at age 19, broke into a woman's house (that he had been watching). The 62-year-old woman awoke to a light turned on, a small pocketknife placed to her throat, and a hand covering her mouth. Joe pulled down her pajamas and "shoved his hand into her vagina in a violent way." He grabbed her breasts and pinched the nipples telling her they were nice titties. He hit her on the right breast and she cried. He then raped her vaginally, anally, and then orally. He also inserted the barrel of a gun into her rectum. He was arrested after fingerprints were linked to him. This was his first arrest for a sexual offense. As a juvenile, he had a record for shoplifting, theft, robbery, and assault. He admitted to sadistic rape fantasies of both men and women. He described feeling "over-sexed." He was aroused by watching people urinate and by being around children. He was sentenced to 15 years.

To be classified as a muted sadistic rapist, there must be evidence that the victim's fear or discomfort, or the fantasy of violence, contributed to the offender's sexual arousal (or did not inhibit such arousal), and that the amount of physical force in the sexual assault did not exceed what was necessary to gain victim compliance. Symbolic expressions of sadistic fantasy characterize these offenders, who may employ various forms of bondage or restraint, noninjurious insertion of foreign objects, and other sexual "aids" such as vaseline or shaving cream. What is absent is the high level of expressive aggression that is clearly manifest in overt sadism. In general, muted sadistic offenders, except for their sadistic fantasies and their slightly higher lifestyle impulsivity, resemble the high social competence, nonsadistic rapists.

Case No. 5

A 55-year-old married mother diagnosed with amyotrophic lateral sclerosis reported, using a communication board, that a short, fat, bearded man came to treat her. He pulled the privacy curtains around her bed. He lifted up her hospital gown, touched her breasts, twisted her nipples, spread her legs apart and inserted two fingers into her vagina. She was unable to scream, cry out for help, or fight him off due to her paralyzed condition. This happened two days in a row. The offender, a respiratory therapist, consistently denied that anything had happened. He had no prior criminal record. He pled *nolo contendere* in the criminal case and at the Department of Public Health Services hearing, which handled licensing issues, he received several restrictions on his license. The respiratory therapist was classified as a Type 5 (muted sadistic).

Nonsadistic Types

For the nonsadistic sexualized rapists, the thoughts and fantasies that are associated with their sexual assaults are devoid of the synergistic relationship between sex and aggression that characterizes the sadistic types. Indeed, these rapist types are hypothesized to manifest less aggression than any of the other rapist types. If confronted with victim resistance, these offenders may flee rather than force the victim to comply. Their fantasies and behaviors are hypothesized to reflect sexual arousal, distorted "male" cognitions about women

and sexuality, feelings of social and sexual inadequacy, and masculine self-image concerns. Compared with the other rapist types, these offenders have relatively few problems with impulse control in domains outside sexual aggression.

Case No. 6

A 45-year-old man, dubbed the “Naked Burglar,” wore a mask and no clothes when breaking into the homes of elderly women. He would cut the screen, cut the phone wires, and unlock the door. He forced oral and vaginal penetration on his victims. One 91-year-old victim testified that he asked her if she was “enjoying it” and that he bet she “hadn’t had it for a while.” Before he left, the man took the bed sheets, but the elder took a washcloth, scrubbed her face and vaginal area and went to a nearby store to phone the police. The man had been previously arrested for peeping on a couple in their hot tub. Evidence on the man included a mask, gloves, a video camera, and house and car keys. His earlier victim was 89. He was sentenced to life.

Vindictive Motivation

The core feature and primary driving force for the vindictive types is anger at women. Unlike the pervasive anger rapist, women are the central and exclusive focus of the vindictive rapist’s anger. Their sexual assaults are marked by behaviors that are physically injurious and appear to be intended to degrade, demean, and humiliate their victims. The misogynistic anger evident in these assaults runs the gamut from verbal abuse to brutal murder. As noted, these offenders differ from pervasive anger rapists in that they show little or no evidence of anger at men (e.g., instigating fights with or assaulting men).

Although there is a sexual component to their assaults, there is no evidence that their aggression is eroticized, as it is for the sadistic types, and no evidence that they are preoccupied with sadistic fantasies. Indeed, the aggression in the sexual assault is often instrumental in achieving the primary aim of demeaning or humiliating the victim (e.g., forcing the victim to fellate the offender). Vindictive rapists also differ from both the pervasive anger and overt sadistic offenders in their relatively lower level of lifestyle impulsivity (i.e., they have relatively fewer problems with impulse control in other areas of their lives).

Case No. 7

JG, a 33-year-old, six-foot, 200-pound man with a criminal felony history and an outstanding health warrant for gonorrhea, applied to be a nurse’s aide. Under state law, the facility was required to request a criminal history check, which it did, mistakenly classifying him as a female. A state record check of a female by the name of JG revealed no criminal history. Three weeks after he was hired, he was fired by the assistant director of nurses for repeatedly slapping a frail and helpless 87-year-old female resident.

After some period of time out of state, JG returned and applied to another facility within the same nursing home system. The required criminal check was done, but the facility submitted a form with JG’s name written by hand. His last name apparently looked like a “C” instead of a “G.” Again, the incorrect name came up clear of any criminal record and he was hired. The offense that came to staff

attention occurred about a month after he was hired. While in a shower stall, JG raped a 63-year-old semi-paralyzed woman, then returned her to her bed. Two nursing aides were alerted to a substance appearing to look and smell like semen and they reported their findings to the nursing supervisor. The resident was taken to the hospital emergency room where a sexual assault examination revealed bruising to her left thigh and vaginal area, which was tender to the touch and included a brown mucous discharge. According to the victim, she was assaulted several times and was told by the offender to shut up when she screamed and that he would kill her if she told anyone. JG told the detective that he and the resident-victim “were close.” JG said that he discussed his personal problems with her, that he called her “mama,” and that he was sorry he could not make his penis bigger. He admitted that he digitally penetrated her and inserted a shower head.

JG was classified as a Type 8 (vindictive, low social competence).

Discussion

Taxonomic Heterogeneity

Although clearly it is impossible to draw any conclusions about the taxonomic characteristics of men who sexually assault elderly women based on the small convenience sample of incarcerated offenders examined in this study, several observations are noteworthy.

First and most importantly, based on this sample, the age of predator and motive for sexual assault of the elderly are varied. Second, many offenders in our sample had long histories of criminal offenses, a few had a prior history of sexual assault, and several offenders were hired by the nursing homes despite criminal checks. Third, prior employment history was not always checked. In one case, out of 10 nursing home employments, the offender had been fired from 7. Fourth, if there were any commonalties among the offenders, they fell into two categories: (1) many of the offenders were classified as low in social competence, and (2) all of the offenders exploited victims who were frail and defenseless.

There are two principal areas of concern that are beginning to emerge from our initial inquiry into nursing home sexual assault. The first area concerns victimology and the second area concerns liability. Victimology was addressed in greater detail in the chapter on victims of elder sexual abuse. In brief, the victims of these crimes are, not surprisingly, quite advanced in age and suffering from some degree of dementia. As a result, not only is the examination and assessment process quite difficult—often conducted in the absence of coherent victim report and in the presence of victim resistance (i.e., out of confusion and fear victims resist routine physical examinations after rape)—but the treatment and recovery process is also immeasurably more difficult. Indeed, in a review of just 20 nursing home cases, 11 of the 20 victims died within 12 months of the rape—not from physical injuries associated with the assault but from the impact of the trauma on a very frail constitution. The unique examination and recovery problems associated with these elderly victims were discussed in detail by Hicks and Moon (1984). It is imperative that alternative methods for examining and treating these elderly, often frail victims be developed; that nursing home policies and procedures incorporate these new methods; that all caregivers employed by nursing homes be properly trained in identifying and responding to cases of

sexual assault; and that the medical personnel that respond to these victims be properly trained in more effective, humane methods of examination.

The second principal area of concern involves first- and third-party liability. Over the past two decades, an increasing number of suits have been brought by rape victims or their families against employers and property owners whose negligence in the face of foreseeable risks may have contributed to a sexual assault (Loggans 1985). Liability may be imposed for punitive damages when it has been determined that the defendant acted with “utter indifference” or “conscious disregard” for the safety and welfare of the plaintiff (Loggans 1985). In sum, “third-party liability for rape and sexual assault is clearly based upon the fact that such crimes are frequently caused or encouraged by the failure to protect against a known and identifiable risk of harm” (Loggans 1985, p. 54).

Policy and Investigative Implications

A practical question is how this classification of rapists of elders and the predictors of the severity of such crimes can be useful to investigators and policy makers in the criminal justice field. There are two answers that will be discussed below: (1) motive in the escalation of rapists to sexual homicide and severity of crimes and (2) the forensic utility of classification of rapists of the elderly.

Motive and Escalation in Serial Sexual Homicide

FBI agents at the Behavioral Analysis Unit have conducted further work on serial sexual murderers, in particular those who prey on elderly women. Myers et al. (2006) argue that authors who attribute the actions of serial sexual murderers to *anger* actually may have meant to use the terms *aggression* or *violence*. These two terms are not synonymous with anger. Certainly the behaviors of serial sexual murderers toward their victims can be considered aggressive or violent. However, the commission of aggressive acts does not mean the offender was angry.

Controversy exists in the literature and society regarding what motivates serial sexual killers to commit their crimes. Hypotheses range from the seeking of sexual gratification, to the achievement of power and control, to the expression of anger. Myers et al. (2006) argue that serial sexual murderers commit their crimes in pursuit of sadistic pleasure. The seeking of power and control over victims is believed to serve the two secondary purposes of heightening sexual arousal and ensuring victim presence for the crime. Anger is not considered a key component of these offenders' motivation due to its inhibitory physiological effect on sexual functioning. On the contrary, criminal investigations into serial sexual killings consistently reveal erotically charged crimes, with sexual motivation expressed either overtly or symbolically. While anger may be correlated with serial sexual homicide offenders, as it is with criminal offenders in general, it is not causative.

Investigative Profiling and Risk Assessment

The utility of classification for forensic examiners is in two important domains: investigative profiling and risk assessment.

Investigative Criminal Analysis. The taxonomic “profiling” of sex offenders essentially started with a deductive methodology using the systems first developed by Cohen and Groth in the 1960s and 1970s. The rapist system developed by Cohen and Seghorn, which was conceptually very similar to Groth's system, was put to empirical test by researchers

at the Massachusetts Treatment Center in the 1980s. The current system for classifying rapists (MTC:R3) is the second major revision of the original Cohen/Seghorn system (cf. Knight and Prentky 1990). MTC:R3 is the only known system to date that has been examined empirically with regard to efficacy in crime scene analysis.

An offender's motive is the purpose or intent for his committing the crime. The motive of a crime, including a violent crime or series of crimes, is more objective and may be inferred from a crime scene. Offenders can have multiple motives for a single offense and in serial offenses motives can evolve over time (Myers et al. 2006; Safarik, Jarvis, and Nussbaum 2000). Motive, however, is not synonymous with the offender's affective or emotional state. Affective state—what the offender is feeling at the time of the crime—is much more difficult to discern. Despite this significant distinction, emotions are frequently identified as motives for crimes, particularly in violent crimes in which there is a great deal of violence and physical damage to the victim. In crimes involving extreme reactive violence, strong emotions, such as anger, rage, hatred, and hurt, likely underpin or fuel the offender's behavior (Safarik 2006).

Informing Criminal Justice System Decisions. A parallel in elder abuse may exist between research findings in assessing child molesters and the strength of sexual preoccupation with children. On interview, many of the offenders described their sexual interest in an elder. Although there are various nonactuarial ways of assessing this variable (e.g., using penile plethysmography [PPG]), the most common method is to examine the strength or intensity of an offender's preoccupation with a specific age group as sexual objects (i.e., "fixation"). Strength of sexual preoccupation with children is repeatedly identified as a critical predictor of sexual recidivism (e.g., Hanson and Bussiere 1998; Proulx et al. 1997). As noted, an offender's degree of preoccupation with children as sexual objects has often been measured using phallometry (PPG) to assess behaviorally the offender's sexual arousal to depictions of children of various ages. Although such a direct measure is appealing and sexual arousal patterns have been shown to predict sexual recidivism, it has its drawbacks, including the logistical problems of obtaining phallometric data, the cost of the assessment procedure, the invasiveness of the procedure, and the increased likelihood in forensic contexts that dissimulation may compromise the validity of the assessment.

Conclusion

In conclusion, this descriptive study of offender motivation in the rape of the elderly provides a beginning point on which to classify offenders. More research will be necessary to provide discussion as to whether such offenders constitute a new type of paraphilia. Regardless of the motive, however, investigators need to carefully interview the elder victim and the offender and to collect evidence that will assist in the successful prosecution of the case.

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Educator Sexual Misconduct: Grooming Patterns and Female Offenders

28

JAMES KNOLL

Introduction

Teachers have a profound effect on the lives of their students. The student–teacher connection can create positive, transforming possibilities for the student (Gillespie 2005). Unfortunately, this powerful relationship may also be abused, resulting in long-term trauma for the student. This is particularly the case for some sex offenders who use the profession of teaching to target victims (Sullivan and Beech 2002). The topic of sexual abuse of students by their teachers has slowly been receiving increasing scrutiny. Most notably, there has been increased media focus on female teachers who have had sexual relationships with their students.

The case of Mary Kay Letourneau captured national attention when she was convicted of second degree child rape for having sex with her sixth grade student, Vili Fualaau, when he was 12 years old. Letourneau, who was 35 years old at the time, pleaded guilty and received a 7½ year sentence, which was suspended contingent on her completion of sex offender treatment and an 80-day jail sentence. At the time of her conviction in 1997, she had already given birth to Fualaau's daughter. In 1998, she was given prison time for violating her conditional release by having contact with Fualaau. Letourneau subsequently had another child by her former student and eventually married him when she was released from prison.

High-profile cases such as this have led to public outrage and inquiries into school credentialing procedures and termination practices for teachers (Schultz 2005). In addition, the subject has fueled public debate over whether female teacher sex offenders receive more lenient sentences than their male equivalents (Saletan 2006). While there is no clear answer to this question at present, some have noted a distinct difference in how the female teacher sex offender's crimes are described when compared with sex offender crimes committed by male teachers. For example, it has been reported that the female offender's actions are commonly described as a "well-meaning," harmless initiation into sexuality (Denove 2001). In a study of college students, men reported viewing female teacher–male student sexual relationships more positively than male teacher–female student sexual relationships (Fromuth, Holt, and Parker 2001). Thus, there would appear to be some strong sociocultural biases at play in how such sexually abusive relationships are perceived.

To date there are extremely few national level studies of educator sexual abuse. This is in spite of the No Child Left Behind Act of 2001, which called for a national study of sexual abuse in schools. At present, most data on educator sexual abuse have come from newspaper reports. Shakeshaft (2003) performed a secondary analysis of data collected for the American Association of University Women (AAUW). These data were drawn from a list of 80,000 schools surveyed in the fall of 2000 (AAUW 2001). The secondary analysis revealed

that 9.6% of all students in grades 8–11 reported educator sexual abuse. It is interesting to consider the possible global nature of the problem, as 8% of secondary school students in Israel reported being sexually maltreated by school staff (Khoury-Kassabri 2006).

In her extensive synthesis of existing literature, Shakeshaft (2004) used the Ontario College of Teachers' (2002, 1) definition of educator sexual misconduct: "any behavior of a sexual nature which may constitute professional misconduct." Perpetrators of educator sexual abuse have been described as generally falling into two distinct patterns: (1) abusers with victims younger than seventh-grade level, and (2) abusers with victims in late middle and high school (Shakeshaft 2003). The abusers of children younger than seventh-grade level have a distinctly different public persona and *modus operandi* than those who abuse older children.

Educators targeting elementary school children are often high achievers in the profession who have been recognized with awards for their teaching efforts. The popularity and trust evoked by these educators perplexes school officials and community members when allegations of sexual misconduct are made. The teacher's professional reputation may result in a tendency to dismiss or ignore allegations.

Thus, this class of abuser works at being recognized as a good teacher to secure trust and an irreproachable reputation to further the goal of sexual misconduct. In Texas, a well-regarded band director was convicted of sexual misconduct with a student. It was found that he kept decades worth of pictures and notes as trophies (Henry, Griffith, and Goulas 2006). In contrast, educators who teach at the late middle and high school levels target victims in this age range. They might be outstanding teachers, although they may also be mediocre (Shakeshaft 2003). Sexual abuse at this level may be less premeditated and planned and more often a result of bad judgment.

The largest group of educators who abuse are classroom teachers (18%). The next most common abusers are coaches (15%; Shakeshaft 2003). Most sexual abuse of students by adults occurs in the school in empty classrooms, hallways, and offices. It is common for teachers to target vulnerable or marginal students who feel especially gratified by the extra attention.

Female Perpetrators

Most attention has focused on male teachers as the primary perpetrators; however, the scenario of female teachers sexually abusing their students is receiving increasing recognition (Thomas 1999). In a study of 471 female offenders in Texas, most (88%) were Caucasian (Vandiver and Kercher 2004). Authors reported finding six separate types of female sex offenders. The most common type was the "heterosexual nurturer," who was least likely to have an arrest for sexual assault. Another study followed up on this proposed typology by examining 390 female sex offenders registered in New York State. Analysis of the data lent support to the six types of female sex offender. It was concluded that female sex offenders on the whole are a heterogeneous group (Sandler and Freeman 2007). A typology of "teacher/lover" has been proposed for the adult female who views herself as emotionally equal to her teenage male victim (or female if the perpetrator is homosexual; Matthews, Matthews, and Speltz 1991). The victim of this type of offender is most commonly a troubled or needy adolescent seeking attention. The perpetrator conceptualizes the behavior as a "consensual" love affair and often has difficulty seeing her actions as inappropriate.

General Sex Offender Grooming Patterns

Grooming is a term used to describe the process by which sex offenders carefully initiate and maintain sexually abusive relationships with children. Grooming is a conscious, deliberate, and carefully orchestrated approach used by the offender. The goal of grooming is to permit a sexual encounter and keep it a secret. The grooming process encompasses a variety of methods used by the offender during the preparatory stage of sexual abuse (Mcalindon 2006). In addition, the methods help maintain the abusive relationship by ensuring the complicity and secrecy of the victim.

Offenders carefully groom victims by systematically separating them from family and peers (Lawson 2003). Once isolated, victims are more easily exploited and manipulated into sexual relationships. Researchers interviewed 91 sex offenders of children, who were not educators, about how they selected and maintained their victims (Elliot, Browne, and Kilcoyne 1995). Offenders reported using a variety of methods to select a victim and to establish and maintain the sexual relationship. Victims were often selected because the offender perceived them as vulnerable, isolated, and/or emotionally needy. Table 28.1 provides a list of sex offenders' common grooming strategies.

Many sex offenders of children believed that a "special relationship" was vital to obtaining victim compliance. For example, one offender stated, "I have to feel as if I am

Table 28.1 Sex Offender Grooming Strategies

Targeting

- Vulnerable (e.g., low self-confidence, low self-esteem)
- Less parental oversight
- Socially isolated or emotionally needy

Strategies

- Caretaking (e.g., babysitting, teaching, tutoring)
- Form "special relationship"
- Become welcome in home; gain trust of parents
- Gifts, games, special times
- Isolate
- Seize on feelings of being unloved or unappreciated
- Emotional bonding and trust building
- Desensitize to sex (e.g., talking, pictures, pornographic videos)
- Use pretense ("teaching," "exploring," "closeness")
- Exploit victim's natural sexual curiosity or uncertainty

Maintenance

- Bribes, gifts to ensure continued compliance
- Threaten dire consequences to ensure secrecy
- Threaten to blame victim
- Threaten loss of "loving" relationship

Source: Elliot, M. et al. 1995. *Child Abuse & Neglect*, 19(5): 579–594.

important and special to the child and giving the child the love she needs and isn't getting" (Elliott et al. 1995, 579). Once a trusting or special relationship is created, the offender may carefully test the victim's reaction to sex. This may be done by bringing up sexual matters in discussion, leaving sexually oriented materials out where the victim can see them, and by subtly increasing sexual touching. In this way, the offender attempts to "normalize" sex and desensitize the victim.

During the maintenance phase, the offender may use a variety of strategies to ensure secrecy. For example, one offender stated, "Secrecy and blame were my best weapons. Most kids worry that they are to blame for the abuse and that they should keep it a secret" (Elliott et al. 1995, 579). Offenders may also rely on a victim's natural sexual curiosity or feed into a victim's feeling of being unloved or unappreciated. A study of 97 sex offenders of children, who were not educators, revealed that the grooming process relies heavily on the offender's gaining the trust of the victim (Bennell et al. 2001). This often involves the offender exploiting the adult-child power imbalance in a variety of ways.

Educator Sexual Abuse Grooming Patterns

One of the central ethical themes of educator sexual abuse is the violation of professional boundaries. Research suggests that teachers generally recognize the importance of student-teacher boundary violations. In a study of teachers' opinions on ethical standards, teachers rated boundary violations as the single most serious ethical violation (Barrett et al. 2006). For educator sexual abusers, the process of grooming begins when an abuser selects a victim and subsequently employs a series of methods designed to seduce the student (Robins 2000). Victim selection in educator sexual abuse is influenced by the compliance of the student and the likelihood of secrecy (Shakeshaft 2003). Offenders tend to target students that they can control. The sexual and psychological exploitation occurs within the perpetrator's subtle agenda of grooming and enticement. Most children respond to positive attention from an educator, and the praise of teachers can be quite influential (Nicaise et al. 2007). However, students who are estranged from their parents or who are experiencing some type of emotional difficulty are often targeted not only because they might be responsive, but also because they may be more likely to maintain silence (Shakeshaft 2003).

The teacher may begin grooming by giving the student special attention, support, or rewards. The power of such rewards to affect the student should not be underestimated. Rewards from a teacher may have a crucial impact on the student's motivation and cognitions. Students' reward history is significantly related to their future motivation and performance (Davis, Winsler, and Middleton 2006). Rewarding for the purposes of grooming may take place in the context of providing the student with additional help, mentoring, advice on a project, or opportunities for overnight outings. As this takes place, the teacher is slowly introducing and increasing sexually related discourse. Next, the amount of touching and physical contact is gradually increased. The purpose of grooming is to test the child's ability to maintain secrecy and to desensitize the child through progressive sexual behaviors.

The teacher may strive to provide the student with experiences that are valuable so that the student will be reticent to lose the relationship. Grooming may also involve the parents of the victim so that the offender can better gain their approval and trust. This will allow the offender to have greater access to the victim and enhanced ability to isolate the victim on outings. It is not uncommon for parents to be appreciative of the extra attention

from the teacher, whom they perceive as a positive authority figure and role model to their child. Grooming patterns must be better understood if educator sexual misconduct is to be prevented or detected (Shakeshaft 2003). Table 28.2 provides a list of some potential warning signs of educator sexual misconduct.

Effects of Educator Sexual Abuse

There is a large body of research on the adverse effects of childhood sexual abuse, yet there has been little focus on the long-term results of sexual abuse by educators. Findings that childhood sexual abuse is a strong predictor of suicidality (Moskowitz 2001), depression, and low self-esteem (Griffing et al. 2006) would seem to hold for victims of educator abuse as well. Some have observed that educator sexual abuse has dynamics similar to incest, and the abuse results in a loss of trust in adults and authority figures (Finkelhor and Hashimma 2001). Victims also have difficulty forming future intimate relationships and suffer from a sense of betrayal and shame. Some abused students report that the abuse was particularly harmful because their trust was betrayed by someone whom they admired, saw as an authority figure, and felt comfortable confiding in.

In some cases, the victim may not be a student in the abusing teacher's class. The victim may simply be a student at the school where the educator holds a position of trust and responsibility (Shakeshaft 2003). Within schools, teachers and school staff have power over students. Students are taught to trust teachers. Schools are places where teachers are more often believed than students, and where there is a power and status differential that privileges teachers (Shakeshaft 2003).

The abuse of power theory emphasizes that the power hierarchy puts supervisors in a position to misuse their authority. A study focusing on this theory compared similarities and disparities between sexual harassment of students perpetrated by teachers and that by peers (Timmerman 2003). The study involved 2,808 randomly selected adolescents at 22

Table 28.2 Potential Warning Signs of Educator Sexual Misconduct

- Obvious or inappropriate preferential treatment of a student
 - Excessive time spent alone with a student
 - Excessive time spent with student outside class
 - Repeated time spent in private spaces with a student
 - Driving a student to or from school
 - Befriending parents and making visits to their home
 - Acting as a particular student's confidante
 - Giving small gifts, cards, letters to a student
 - Inappropriate calls or e-mails to a student
 - Overly affectionate behavior with student
 - Flirtatious behavior or off-color remarks around a student
 - Other students suspect, make jokes or references
-

Sources: Shakeshaft, C. 2004. U.S. Department of Education Document No. 2004-09; Sutton, L. 2004. *School Business Affairs*, December: 9–10, retrieved from <http://www.asbointl.org>; *Educator's Guide to Controlling Sexual Harassment*, 2006, 14(2): 2, 5.

secondary schools from two regions in the Netherlands. The study found that students felt less comfortable and reported more psychosomatic health problems when harassed by a teacher.

Teachers play an important role in transmitting cultural norms and values to students and are expected to have a pedagogical relationship with their students. Thus, teachers serve as important behavioral models. In particular, they serve as models for acceptable social interactions. There is the risk that sexual misconduct by teachers will imply to students that this behavior is normative or acceptable. Even if not directly abused, there is the possibility that the student, having “learned his lesson,” will carry this attitude into the adult work force.

Dilemmas

According to an article in the *New York Post*, sexual abuse in New York City public schools cost taxpayers approximate \$18.7 million over a 5-year period (Campanile and Montero 2001). Still active in 2001 were 110 cases. Few students tell adults and authorities about the abuse (Shakeshaft and Cohan 1994). Only about 6% of students report sexual abuse by a teacher or other staff member to someone who can do something about it (Denove 2001).

In a study of 225 cases of educator sexual abuse in New York, none of the abusers were reported to authorities, and only 1% lost their licenses to teach (Shakeshaft and Cohan 1995). While all 225 accused individuals admitted to physical sexual abuse of a student, only 35% suffered any negative consequences—15% were terminated, 20% received a formal reprimand or suspension—and 25% received no consequence or were spoken to informally. Approximately 39% chose to leave the district. Most of these individuals left with retirement packages or positive recommendations. Of the 54% who were terminated or retired, 16% were teaching in other schools. While the status of the other 84% was unknown, it has been observed that teachers who sexually abuse students may go on to abuse again (Zernel and Twedt 1999).

One of the serious difficulties in combating educator sexual abuse is that there is no clear central authority for tracking teachers accused of sexual misconduct. Thus, they may leave one jurisdiction, only to resume teaching in another. A national bulletin board run by the National Association of State Directors of Teacher Education and Certification lists teachers whose licenses have been revoked or suspended; however, reporting is inconsistent (Schemo 2002). One Internet news site has an extensive list of over 90 female teachers who have been accused or convicted of sexual misconduct with students (www.worldnetdaily.com).

Disciplinary actions against teachers often take lengthy periods of time. Educators accused of sexual misconduct may use defamation suits as a threat against employers. Teacher background checks typically go through the FBI and cover only felonies. These background checks will miss many sexual abuse charges that are reduced to misdemeanors through plea bargains or other negotiations. Offending teachers are able to retain their teaching certification and abilities as they go through the appeal process. This allows them to move to another state and use their certificates to get new teaching jobs and begin the cycle again.

When charges of sexual abuse cannot be clearly established, school officials sometimes conclude that there was an “improper relationship” between the educator and student. However, this important information may not be passed on or may be intentionally

withheld. Even in cases where sexual misconduct was clearly established, school districts often rid themselves of the problem by agreeing to keep quiet if the teacher moves on, sometimes even offering him or her a financial settlement (Moskowitz 2001). This practice has been called “passing the trash” and avoids the difficulties of criminal prosecution or protracted disciplinary proceedings. The districts that have subsequently hired the abusers have begun suing the original districts for civil damages when the teacher abuses again. Victims in the new districts have begun filing suits as well.

In states with serious teacher shortages, school districts experience pressure to quickly provide credentials to teachers. When this occurs, important warning signs or employment records may not be adequately scrutinized. In a case from New York, a man was sentenced to a minimum of 14 years for molesting two brothers, 8 and 10 years old, in their home. The Connecticut School District, which had fired him over sexual abuse accusations, had given him excellent recommendations to the New York School District (Moskowitz 2001).

Case Example and Discussion

The following vignette describes the case of a female teacher sex offender who targeted a 15-year-old girl in her class.

Ms. T was a 35-year-old high school physical education teacher. When not teaching physical education or coaching the girls’ basketball team, Ms. T would supervise a 10th grade study hall period. Ms. T’s sexual orientation was lesbian although she was not open about this with her teaching peers.

Ms. S was a 15-year-old student who played on the girls’ basketball team and was also in Ms. T’s study hall. Ms. S’s parents had been divorced for 2 years, and Ms. S had struggled emotionally since that time. Ms. S suffered from feelings of sadness and worthlessness and felt neglected by her mother, who had been actively dating. Although she had interest in dating boys her age, her low self-esteem caused her to shy away from going to social events where she would be likely to meet them.

One day after basketball practice, Ms. T struck up a conversation with Ms. S during which Ms. T was very complimentary of Ms. S’s athletic ability. The conversation lasted several hours, and touched on a variety of other topics such as Ms. S’s plans after high school. The conversation eventually led to a discussion of how Ms. S was coping with her parents’ divorce. The following week, Ms. T gave Ms. S permission to leave study hall and go to a nearby coffeehouse so that she could bring back coffee and pastries for Ms. T. Over the following months, their after-practice conversations became routine, as did the special permission to leave study hall.

Ms. T and Ms. S began meeting on the weekends for extra technique and strength training at a local gym. This progressed to regular lunches afterward. Ms. S told her mother that Ms. T believed she could win a basketball scholarship to college, but it would require more intensive, private training. Ms. S’s mother was happy and relieved to see her daughter’s self-esteem and mood improving, and she encouraged her daughter to invite Ms. T over for dinner one evening. After meeting Ms. T, Ms. S’s mother began to view her as a welcome friend and tutor to her daughter.

Ms. T next invited Ms. S to a sports training seminar that was out of town and required an overnight stay. Ms. S’s mother was not at all concerned when she learned

that her daughter and Ms. T would be sharing a hotel room. The following week, Ms. S came home with a brand new “iPhone” that Ms. T had given her as a gift. This puzzled Ms. S’s mother, who then called Ms. T, mostly with concerns that she should offer to repay Ms. T for giving her daughter such an expensive gift. Ms. T explained that no payment was necessary, as she had obtained the phone at half price through a college female basketball recruiter she knew.

Ms. T and Ms. S continued to spend increasing amounts of time together outside school hours. Ms. S’s mother finally became quite concerned when a friend informed her that her daughter had seen Ms. T and Ms. S embracing each other in an empty classroom. When Ms. S’s mother confronted her about this news, Ms. S became highly upset. After a lengthy, volatile argument, Ms. S openly proclaimed that she was “in love” with Ms. T, and wanted to live with her after graduating from high school.

Ms. S’s mother complained to the school principal and threatened legal action if the school did not take steps to remedy the situation. The school immediately began an investigation, in cooperation with school-district attorneys. The investigation uncovered evidence suggesting that Ms. T had victimized at least two other female students over the past 5 years. Initially, Ms. T told the principal that she and Ms. S had been involved in a “mutually consenting relationship” and that no one was “harm.” When the principal began speaking in terms of her termination, Ms. T recanted and said that there was never any sexual activity between her and Ms. S. Subsequently, Ms. T hired an attorney and made known her intentions to sue the school district for defamation and wrongful termination should they decide to fire her.

This case presents some common themes observed in cases of educator sexual misconduct. Ms. T selected a student who suffered from low self-esteem and relatively less parental oversight than other students. In the wake of her parents’ divorce and her mother’s new focus on dating, Ms. S was highly vulnerable to Ms. T’s efforts to make her feel special. Ms. T skillfully negotiated extra time with Ms. S and began to win her trust and affection with gifts and praise. Ms. T was able to groom Ms. S’s mother by assuring her that she was a trustworthy adult who was interested in her daughter’s future. Given her current situation, Ms. S’s mother was only too happy to have an additional adult role model for her daughter.

Ms. T successfully isolated Ms. S on an overnight outing and likely took advantage of Ms. S’s natural sexual curiosity and uncertainty. Once Ms. T had established her relationship with Ms. S, Ms. S was vehemently opposed to giving up what she perceived as a “loving” relationship that had made her feel worthwhile. Thus, it is likely that Ms. S would refuse to testify or otherwise report the truth to authorities if it meant an adverse outcome for Ms. T. The long-term consequences of this type of sexual abuse for Ms. S will be difficult to predict and will likely depend on factors such as her pre-abuse psychological vulnerabilities, as well as her post-abuse emotional support system. There will certainly be the risk that Ms. S might develop symptoms of depression and anxiety. She may also encounter difficulties trusting authority figures and problems with sexual intimacy in her future relationships.

Besides the legal complexities presented by this situation, there is also the issue of the risk Ms. T may pose to future students. If Ms. T continues to teach, yet is unable to see her relationship with Ms. S as a violation of professional boundaries, her risk of repeating the behavior is likely to persist. Ms. T will continue to have a lack of insight into how she abused the power imbalance and trust inherent in her teacher role. Thus, as long as Ms. T views her

behavior as a “consensual” love affair, her risk will remain unmitigated. There is also the possibility that Ms. T does have some insight into the inappropriateness of the relationship, but simply chooses to pursue it anyway. This type of mind set suggests the presence of at least some psychopathic traits, which would also serve as a risk-enhancing factor.

Toward Prevention

The acts of public school teachers within the course of their employment are considered to fall within in the “color of law” coverage of Title 42 USC §1983 (Valente 1990). In cases of teacher sexual misconduct, the abuse may be argued as amounting to a deprivation of the student’s constitutional right to bodily security. Thus, school districts and supervisors may be found liable for the sexual misconduct of teachers. Most plaintiffs cite Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any organization that receives federal funding (Sutton 2004). In *Doe v. Warren Consolidated Schools* (2003), a school district was held liable under *both* §1983 and Title IX because administrators were found to have been aware of the teacher’s long history of sexual misconduct, yet had failed to act preventively. Therefore, school districts have a legal duty to safeguard students from educator sexual misconduct.

School districts should consider developing and implementing sound measures to prevent educator sexual misconduct. In particular, Title IX regulations require schools to publish policies on sexual discrimination and proper grievance procedures. District and individual school policies should explicitly define and prohibit educator sexual misconduct. Regular training and in-service programs should be established to educate staff, parents, and students about behaviors that are unacceptable, as well as potential signs of educator sexual misconduct. The details of mandatory reporting should be made explicit. School districts should carefully review and standardize employee screening and hiring practices. Table 28.3 provides a list of suggested prevention efforts to be considered by school districts, but it should not be taken as exhaustive.

Table 28.3 Recommended Prevention Strategies

- District- and school-level policies prohibiting educator sexual misconduct
 - Standardized hiring practices
 - Standardized screening methods and criminal background checks
 - Standardized investigative practices in response to allegations
 - Development of a centralized reporting agency and registry
 - Reporting of all allegations to law enforcement and child protective services
 - Regular training on educator sexual misconduct and prevention
 - Enact state statutes on educator sexual misconduct and prevention
-

Sources: Shakeshaft, C. 2004. U.S. Department of Education Document No. 2004-09; Sutton, L. 2004. *School Business Affairs*, December: 9–10, retrieved from <http://www.asbointl.org>; Fauske, J., Mullen, C., and Sutton, L. 2006. *University Council for Educational Administration Conference Proceedings for Convention 2006*, November, San Antonio, Texas.

Conclusions

Teaching is perhaps one of the most noble and time-honored professions. As such, a substantial amount of trust is granted to the profession. For the majority of their children's waking hours, parents hand over primary responsibility for shaping and modeling the latent potential of young minds. The vast majority of teachers work tirelessly to ensure the education of future generations. There are, however, a select minority who use the power inherent in the teacher role to target vulnerable children for sexual abuse. School districts face serious dilemmas in cases of teachers who sexually abuse students. They often find themselves caught between the need to take decisive action against the offending teacher and the teacher's threats of legal action against the school district. It is hoped that future research and education will lead to improved solutions and greater awareness of early warning signs of grooming by teacher sexual abusers.

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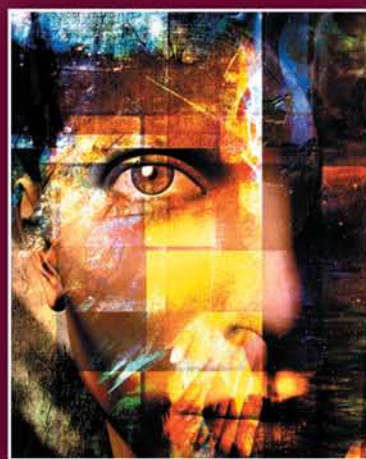
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Fourth Edition



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