

SEX CRIMES

PART 7 SECTION H 49 (2 HOURS)

TOPIC DESCRIPTION

Instruction includes discussion about rape, sodomy and other sex crimes. Inclusion of fundamental techniques for preliminary investigation of sex crimes, from the standpoint of the patrol officer, is required. The impact on the victim's emotions and the importance of preserving physical evidence should be emphasized.

INSTRUCTOR QUALIFICATIONS

Instructors in this topic are generally expected to be those certified by the Municipal Police Training Council. They should be able to document this by producing a current certificate issued by the Council. This certificate should read the person is certified as a general topics instructor. Further, they should possess a background and experience in the topical area, as documented to the school director. This supporting documentation should remain a part of the course file in the academy, available for later inspection or audit.

If a school director believes an individual who is not certified is otherwise qualified for teaching this topic, they may ask in writing for approval for that person to teach. The OPS may, if finding the individual possesses a combination of an advanced degree and unique or qualifying experience, find the individual to be qualified and be approved to instruct. Those that are found qualified, are listed as approved instructors, and will have a letter issued to them indicating what they are approved to instruct in. The school director should keep a copy of the letter in the school file.

School directors should understand the Office of Public Safety can only examine complete applications for instructors that are filed in a timely manner. Generally, this instructor approval often requires time that is in addition to the requirements (45 days by the State Regulation, the Municipal Police Training Council and its Zone Coordinators) for police training approval. This time allows for proper review of curriculum, instructors, and the needs for training in a zone. Complete applications are those which include a properly completed Instructor Personal History Form, and documents supporting the facts contained therein.

TRAINING OBJECTIVES

Upon completion of instruction the student will be able to:

1. Cite five reasons why rape is the most under-reported crime in the United States.
2. Identify four “rape myths.”
3. State general guidelines to be followed by the initial responding officer in the handling of a sex crime incident.
4. Identify the section in the criminal procedure law that sets forth the procedure for requiring a defendant to submit to HIV related testing.
5. Describe procedures a victim of an enumerated sex offense follows to have a defendant tested for HIV.
6. State general guidelines to be followed when interviewing a sex crime victim.
7. State the “web” site of the Sex Offender Registry.
8. List the types of information available on the Registry that are of use to law enforcement investigating possible suspects.

CURRICULUM OUTLINE

- I. Introductory comments.
 - A. General.
 1. Short of homicide, the worst experience a person may undergo is the violation of his or her body.
 2. Investigation of this type of crime requires extreme sensitivity and patience by the officer.
 3. Nationwide experience in sex crimes investigations.
 - a. Reveals that the sex of the investigating officer is not an important factor.
 - (1) Being a female does not, in and of itself, qualify an officer to be successful in this field.
 - (a) Most important requisites.
 - i) Patience.
 - ii) Sensitivity.
 - iii) Compassion.
 4. Rape is the most under-reported crime in the United States.
 - a. Estimates.
 - (1) 10 - 25% women report.
 - b. Reasons.
 - (1) The woman is ashamed of the incident.
 - (2) The woman is afraid she was responsible in some way for the attack.

- (3) The woman is afraid she will be re-victimized by the criminal justice system.
 - (a) Unfortunately, in some cases, that is a correct assessment (e.g., during prosecution of the perpetrator.)
- (4) The woman may be of a certain ethnicity or culture which dictates that those who have had sexual experience out of wedlock are ostracized.
- (5) The woman is afraid that no one will believe her.
 - (a) Usually the case if she knows her attacker personally.

B. Rape myths.

1. General.

a. Factor that may complicate sex crime investigations.

- (1) Some of the myths that pervade our society regarding sex crimes.
 - (a) Investigating officers should be aware of these since they may encounter them at any time in the handling of a sex crime.

2. Rape is a crime of sex and/or passion.

a. False.

b. Rape is a crime of anger and violence.

- (1) Supporting documentation.
 - (a) Forensic mental health studies.

- (b) Federal Bureau of Investigation.
 - i) Psychological profiles of rapists.
 - (c) Some rapists engage in very little sexual activity with their victims.
 - i) Are more likely to be satisfied by their victim's reaction to the physical and/or psychological torture and/or pain.
- 3. Rapists are always strangers.
 - a. False.
 - b. National crime statistics.
 - (1) In approximately 50% of all sex crimes, the victim and attacker are known to each other.
- 4. Rape victims are frequently from one of the following categories:
 - (1) Young, attractive females.
 - (2) Females who dress provocatively.
 - (3) Females in certain professions (e.g., cocktail waitress.)
 - b. False.
 - c. National crime statistics.
 - (1) Females of any age, style of dress and profession can be rape victims.
- 5. Rape victims will show signs of having been badly beaten and will cry hysterically.
 - a. Not necessarily true.

- b. Often the rapist will use threats.
 - (1) Examples.
 - (a) Killing victim's children if she does not submit.
 - (b) May display a weapon.
 - (2) These tactics fulfill the penal law requirement of forcible compulsion.
- c. Not all victims handle trauma by crying.
 - (1) Some may still be in a state of disbelief about what occurred.
 - (a) May act nonchalant or as if in a trance.
 - (2) Others may laugh and giggle.
 - (a) This reaction is not so unusual.
- d. Rape-Trauma Syndrome.
 - (1) General comments.
 - (a) Sex crimes victims suffer certain after effects of the crime known as the Rape Trauma Syndrome.
 - (b) The investigating officer should be aware of the symptoms.
 - i) Will impact the investigation.
 - ii) Manner of interviewing victim.
 - (2) The initial phase.
 - (a) Usually occurs shortly after the attack.

(b) Possible reactions.

i) Emotional.

- Crying.
- Laughing.
- Joking.

ii) Controlled.

- Withdrawn.
- Stoic.
- Nonchalant.

(3) The Long Term Phase.

(a) Victim tries to reorganize her life.

i) May change employment.

ii) May relocate.

iii) May change telephone number.

II. Briefly overview pertinent penal and criminal procedural law sections.

A. Penal Law Article 130 - Sex Offenses.

B. Criminal Procedural Law Article 210.16 - Procedure for defendant HIV testing.

1. Sets forth procedure requiring a defendant who has been indicted for an enumerated “sex offense” as defined in section 130 of the penal law, to submit to HIV related testing.

a. Within six months after the date of the crimes charged when such testing would provide medical or psychological benefit to victim.

b. Defendant must be indicted to compel testing through court order.

2. Victims will no longer have to wait after a defendant has been convicted of an enumerated sex offense to request that a court order a defendant to undergo HIV testing!

Note: To prevent duplicating instructional material and objectives, consult with instructors of Part 5 Section B Community Resources-Victim/Witness Services to ensure material has not already been covered.

III. Initial patrol response - generally.

Note: The information outlined in the following pages provides a comprehensive framework for handling sex crimes. It is important to point out that at any given time during an investigation, investigative officers may assume responsibility for handling the investigation. Generally, this will occur after the initial responding officer confirms that a sex crime has occurred, has obtained preliminary details and has taken action to ensure that evidence is preserved.

The initial responding officer will usually be responsible for requesting that investigative officers be notified to respond to take over the investigation. He or she will also be responsible for ensuring that officers taking over are provided with all information collected during the preliminary investigation.

- A. Ensure the victim of her safety.
 1. Psychological first aid.
- B. Obtain accurate physical description of assailant.
 1. Be aware that the victim may be reluctant if her attacker is known to her.
 - a. 50% of all sex crime cases.
 2. Interview witnesses and suspects, as appropriate.
- C. Advise victim not to perform certain personal acts.
 1. Reason.
 - a. May result in the destruction of physical evidence.

- (1) Necessary for corroborative testimony.
- b. Examples.
 - (1) Washing.
 - (2) Douche.
 - (3) Use of mouthwash.
 - (4) Brushing teeth.
 - (5) Combing hair.
 - (6) Changing clothes.
 - (7) Urinating or defecating.
- D. If immediate apprehension of perpetrator is possible, detain and/or arrest.
 - 1. Check his body and clothing for physical evidence.
 - a. Court order may be necessary to remove.
 - (1) Examples.
 - (a) Scratches.
 - (b) Ripped or torn clothing.
 - (c) Stains.
 - (d) DNA identifiable material.
 - i) Blood.
 - ii) Seminal fluid.
 - iii) Hair with root.

- b. Photograph suspect.
 - (1) Body.
 - (2) Clothing.
 - (3) Evidence.
- E. Accompany victim to hospital.
 - 1. Advise examining medical personnel that patient was a victim of a sex crime.
 - 2. Medical personnel should utilize a sex crime evidence collection kit.
 - 3. No law enforcement personnel are to be in examination room with victim.
 - a. It is a medical examination.
 - b. Will be properly documented by medical staff.
 - c. A victim can ask for your presence, but suggest in a calm way you need not be there.
 - d. If victim insists your presence, accompany them if medical staff agrees.
 - 4. Request victim to allow any clothing she wore to be tested by law enforcement agency forensic personnel.
 - a. May contain valuable physical evidence.
 - 5. Photograph victim.
 - a. With medical personnel present.
 - b. Prior to examination.
 - (1) Injuries.

- c. After examination.
 - (1) Injuries discovered.
- F. Establish crime scene if practical or possible.
 - 1. Particularly if victim was victimized and left outdoors.
 - 2. Necessary to preserve physical evidence (e.g., blood, hair, fibers, semen.)
 - 3. All physical evidence, whether from the crime scene, victim or suspect must be :
 - 1. Preserved.
 - 2. Documented (description, location, etc.)
 - 3. Photographed, if appropriate.
 - 4. Examined.
 - 5. Collected.
 - 6. Inventoried.
 - 7. Forwarded for examination (e.g., law enforcement agencies may forward to the NYSP laboratory for examination), if appropriate.
- G. Explain to victim how case will be processed.
 - 1. Keep in mind that the victim may not have knowledge of the criminal justice system and its workings.
- H. Give the victim a list of agencies which may be of service.
 - 1. Examples.
 - a. Rape crisis centers.

- b. Victim advocacy agencies.
 - c. Hospitals.
 - (1) May have a rape crisis counselor on hand.
 - (a) May prove to be helpful to investigating officer(s) as well.
 - I. Leave victim your business card or other means of professional contact.
 - 1. Provides victim a means of contacting you.
 - a. If she remembers anything more about her case.
 - b. If she relocates.
- IV. Interviewing adult sex crimes victim.
- A. Location.
 - 1. Let victim choose setting in which she feels most comfortable.
 - a. If setting is to be a public safety facility.
 - (1) Must be conducted in private.
 - 2. Recommended.
 - a. Investigating officer interview victim in the presence of another officer.
 - b. Without presence of:
 - (1) Relative.
 - (2) Friend.
 - c. Inclusion of loved one or significant other may tend to make victim hesitant to reveal intimate details of attack.

- B. Administer emotional first aid.
 - 1. Prior to interviewing victim.
 - a. Investigating officer should offer emotional and psychological first aid to victim.
 - (1) Will put her at ease.
 - (2) Will tend to set the tone for the interview.
 - b. Techniques.
 - (1) Emphasize the rape was not her fault.
 - (2) She has every right to be angry and upset.
 - (3) She will survive.
 - (4) Explain that not everyone may be understanding about what happened to her.
 - (a) Advise to, if possible, get away from these people.
 - c. Again, provide listing of service organizations available.
 - (1) Example.
 - (a) Rape Crisis Center.
- C. Guidelines for interviewing.
 - 1. Explain the need to ask detailed questions.
 - a. Necessity of information.
 - (1) To capture perpetrator.
 - (2) To establish all elements of reported crime.

2. Avoid using judgmental language and questions.
 - a. Examples.
 - (1) Preferred.
 - (a) “Can you describe what happened on....?”
 - (2) Avoid.
 - (a) “What were you doing there on....?”
 3. Ascertain assailant’s exact quotes and actions.
 - a. Rapists seldom change their methods of operation.
 - (1) May assist in associating with other unsolved sex crimes.
 4. Be supportive and reassuring.
 5. Ensure that information is recorded accurately, in writing.
- V. Unfounded allegations of rape.
- A. Survey of major police departments in United States indicate false reporting or unfounded allegations of rape.
 1. Average 2 - 3% of all reports.
 - a. Most of those reports.
 - (1) A perpetrator not named.
 - B. Why some women make false allegations.
 1. Crave attention.
 2. To cover for behavioral mishap.
 - a. Late from school.

- b. Pregnancy.
 - 3. Blackmail.
 - C. General characteristics of false allegations.
 - 1. Victim claims perpetrator is a stranger.
 - 2. Vague description of assailant, but will state that he was exceptionally large or powerful.
 - 3. Nothing other than penis-to-vagina contact.
 - 4. Vague accounting for actual rape.
 - 5. If physical injuries present.
 - a. Usually only in range where they could be self-inflicted.
 - b. Not on sensitive areas.
 - (1) Nipples.
 - (2) Genitals.
 - c. Will be nonchalant regarding injuries.
 - 6. Claims to have received threatening calls or letters before and/or after attack.
 - 7. Vague accounting for location of occurrence.
 - 8. Physical evidence may be non-existent or does not corroborate accounting of event.
- VI. Gang rape.
 - A. Definition.

1. Rape involving two or more offenders.
 - B. Estimate.
 1. 25% of all rapes.
 - C. Usually, one offender is predominant or “the leader.”
 - D. Followers.
 1. Seek leader’s recognition and acceptance.
 2. May act more degrading or aggressive towards victim than previous cohort to prove “toughness.”
 - E. Rapists use the victim to interrelate with each other.
 1. Camaraderie is the goal.
 - F. Usually, choose victims of the same age.
 1. College campuses often experience this activity.
 - G. Adults are most often victims.
 - H. Investigative technique.
 1. Important to determine from victim which perpetrator committed what act.
- VII. The NYS Sex Offender Registration Act.
- A. The New York State Sex Offender Registration Act was signed into law in 1995 and took effect in 1996.
 1. It was created to enhance public safety through collecting and maintaining information from sex offenders for the purpose of notifying law enforcement agencies of sex offender whereabouts.
 2. It can provide valuable assistance when conducting sex offense investigations.

- B. The Sex Offender Registry (SOR):
1. Requires sex offenders convicted of certain sex offenses to register with the NYS Division of Criminal Justice Services.
 - a. Offenders required to register are classified as level 1, 2 or 3 offenders, with level 3 being the one with the highest risk of committing additional offenses.
 2. Provides notification to law enforcement agencies regarding sex offender information such as address, risk level, physical descriptions, crime and release information and address changes.
 3. Establishes and publishes the Sex Offender Subdirectory on the DCJS website.
 - a. Go here for information:
<http://www.criminaljustice.state.ny.us/nsor/index.htm>
 - b. Authority in Correction Law Article 6-C (Section 168 et seq.).
- C. Responds to calls from the public through toll free (800) 262-3257 telephone number.
- a. Through this number, the public can call the Sex Offender Registry to inquire whether the name of the person they provide is a convicted sex offender listed in the Registry.
 - b. Database searches can be conducted if the caller provides appropriate information about the named individual.
 - c. If the person is listed in the Registry, the caller will be informed of that fact. Dissemination of additional information about the offender is dependent on the assigned risk level.
2. The Act makes community notification discretionary therefore, a law enforcement agency must decide whether to participate in a community

notification program regarding the presence of sex offenders determined to have either a level 2 or level 3 risk.

- a. Local law enforcement is not authorized to provide community notification regarding level 1 sex offenders.
3. The SOR also offers law enforcement investigation assistance.
- a. If an officer is conducting an investigation, the SOR can provide information from the entire Sex Offender Registry.
 - b. This information includes, but is not limited to:
 - (1) Physical descriptors such as scars, marks, tattoos.
 - (2) Motor vehicle descriptors.
 - (3) Modus operandi.
 - (4) Offense characteristics such as weapon used, force, coercion.
 - (5) Location (city, town, village and county).
 - (6) Type of victim targeted.
 - c. By supplying any or all of this information, a search on the database can be done and a list of suspects will be provided to the requesting officer or agency.
 - (1) Searches can be conducted on any geographic location(s) and can include ranges of specific offender characteristics (e.g., race, sex, age, height - 5'6 -5'10; weight 140 - 170 lbs.).
 - d. The SOR telephone number for law enforcement only is (518) 457-3175.
 - (1) This is not a "public number."

- (2) **Do Not Release** it to victims or public (other governmental) users.