

Sexual Assault Advocate Training Manual

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SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

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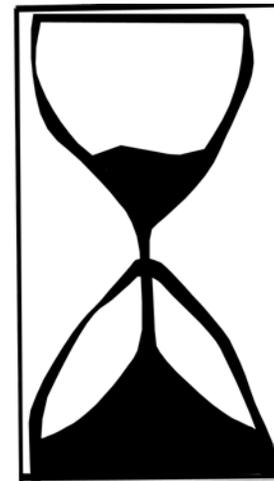
Note: This is the Sixth Revision of this manual. In earlier versions, contributors used varied compositional styles (e.g., the use of personal pronouns or the way they cited references). This version preserved some of those differences when they did not interfere with the most important goal clarity.

BACKGROUND

- ▼ Historical Perspectives of Rape
- ▼ Mythology
- ▼ Socialization

BACKGROUND

Among life's many ironies, one of the most socially damaging is that humankind, with all its so-called intelligence, cannot see the devastating effect rape has on all its members, male and female. Less intelligent life forms are caught up in the wondrous cycles of nature and mate according to its intricate dictates. So, one can only imagine the realizations conceived in the prehistoric minds of the first sexual assault victim and the first rapist. However, after eons, those revelations have not evolved right along with Homo sapiens into knowledge of immense importance and subsequent enlightenment. But based upon the rape statistics of today, the old adage “the only thing you can count on is change” is laughable. The sexual assault survivor of today very likely feels no different than her/his prehistoric sister or brother; the prehistoric rapist and today’s rapist share the same motive: power.



Historical Perspectives of Rape

Our prehistoric sisters learned early on that they could not protect themselves or each other from many dangers. So they sought male protection. Though crucial to survival, the idea of the male protector also may have sprouted the concept that this powerful man could own the women and children. That bent seedling of an idea flourished into a strong tree through the centuries. This great tree has far-reaching limbs under which the societal acceptance of rape has remained protected to this day.

Ancient Babylonian and Mosaic law was codified on tablets centuries after the rise of formal tribal hierarchies and the permanent settlements known as city-states. Slavery, private property and the subjugation of women were facts of life, and the earliest written law that has come down to us reflects this stratified life. The capture of females by force remained perfectly acceptable outside the tribe or city as one of the ready fruits of warfare, but clearly within the social order, such happenstance would lead to chaos. A payment of money to the father of the house was a much more civilized and less dangerous way of acquiring a wife. And so the bride price was codified, at fifty pieces of silver. It was here that the first concept of criminal rape sneaked its tortuous way into man’s definition of law. Criminal rape... was a violation of the new way of doing business. It was, in a phrase, the theft of virginity, an embezzlement of a daughter’s fair price on the market. (Brownmiller, *Against Our Will*, p. 8–9)

The Hammurabi Code, established 4,000 years ago, made it a crime to rape a virgin, thus legitimizing the unstated fact that it was the unruptured hymen that was being sold, a piece of property wholly owned and controlled by the male head of the household. Rape was a

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property crime between men. It was the theft of the hymen and bride price. Perhaps in these ancient times, the myth began of rape being the fault of the survivor. These men of property and unruptured hymens saw it this way: if the virgin was raped within the city walls, she was considered to be as equally guilty as the rapist. After all, they were inside the city walls, and if she had screamed she would have been heard and rescued. If, on the other hand, she was raped outside the city walls, the woman was not punished. She had only to marry the rapist after he had paid full bride price to gain ownership of the damaged goods.

The rape of a married woman was considered a crime committed by both the woman and the rapist. The punishment required throwing both into a river, although the husband could save his wife if he so desired. The king, if he wished, could set the rapist free. It took until 13th century England before it was finally considered a crime to rape a sexually experienced woman. However, it only applied to non-virgins of noble birth. It was legal for a nobleman to rape a “common” woman. The myth held today, that a prostitute or promiscuous woman cannot be raped, had its start here.

RAPE AND WAR

“In modern times, rape is outlawed as a criminal act under the international rules of war.” (Brownmiller, p. 24) Specific prohibition arose because the concept of women and children as property makes them a prime target in disputes among men.

“To the victor belong the spoils,” has applied to women since Helen of Troy, but the sheer property worth of women was replaced in time by a far more subtle system of values. Through the ages, triumph over women by rape became a way to measure victory, part of a soldier’s proof of masculinity and success, a tangible reward for services rendered. Stemming from the days when women were property, access to a woman’s body has been considered an actual reward of war.” (Brownmiller, p. 28) Brownmiller further expounds upon this point. “Defense of women has long been a hallmark of masculine pride, as possession of women has been a hallmark of masculine success. Rape by a conquering soldier destroys all remaining illusions of power and property for men of the defeated side. The body of a raped woman becomes a ceremonial battlefield, a parade ground for the victor’s trooping of the colors. The act that is played out upon her is a message passed between men—vivid proof of victory for one and loss and defeat for the other.” (Brownmiller, p. 31)

RAPE TODAY

“You’ve come a long way, baby,” quips a popular advertising slogan referring to the advancement of women. There can be no doubt that women have made significant progress over the years. There also can be no doubt that there is still a long way to go. “The more things change, the more they stay the same,” applies well to the issue of rape. Rape is a consummate example of the lack of value and respect allotted to the women of our society. It is the only crime where society judges the offense not by the perpetrator, but by the victim. Rapists are practically given permission by our “system” to perpetrate. Our society sends a message to rapists, loud and clear. Consider this: in 1990, 102,555 rapes were reported. Of those, 18,024 (less than one in five) resulted in convictions. The average time served? Less than three years.

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Alice Vachss, a former assistant district attorney specializing in sex crimes, spoke to the collaboration of our society with sexual assault offenders:

Collaboration is a hate crime. When a jury in Florida acquits because the victim was not wearing underpants, when a grand jury in Texas refuses to indict because an AIDS-fearing victim begged the rapist to use a condom, when a judge in Manhattan imposes a lenient sentence because the rape of a retarded, previously victimized teenager wasn't 'violent,' when an appellate defense attorney vilifies a young woman on national TV for the 'crime' of having successfully prosecuted a rape complaint, when a judge in Wisconsin calls a 5-year-old 'seductive'—all that is collaboration, and it is antipathy towards victims so virulent that it subjects us all to risk. (Vachss, *Sex Crimes*)

The question is "How do we stop rape?" As long as each of us lets a sexist comment pass, as long as we smile but say nothing when we observe sexist treatment of another human being, as long as we smirk when someone tells a sexist joke, as long as we accept what we know to be morally wrong, we will have a society that accepts rape. We, as individuals, make up the society in which we live, and we have the ability to influence it.

Stopping rape means challenging not only our own perceptions but those of the people around us. It requires speaking up and taking a stand when it would be easier to remain silent. For as long as we accept the attitudes and behaviors that promote rape, we will have rape. The answer is simple: do not accept the unacceptable. The important things in life are often simple, but do not ever mistake simple for being easy.

REFERENCES

[Against Our Will: Men, Women, and Rape](#), Brownmiller, Susan. Simon and Schuster: October, 1975.

"We Need to Go to War," *Parade Magazine* June 27, 1993, pp. 4-6-. Excerpt from [Sex Crimes](#), Vachss, Alice. Random House, Inc.: 1993.

Mythology

It is very important to look at the many myths surrounding sexual assault and to dispel them with factual information in order to work more effectively with the real issues.

What is a myth? Relevant definitions for this discussion include: "a usually traditional story of ostensibly historical events that serves to unfold part of the world view of a people or explain a practice, belief, or natural phenomenon. 2.a: a popular belief or tradition that has grown up around something or someone, especially: one embodying the ideals and institutions of a society or segment of society. 2.b: an unfounded or false notion. (Merriam-Webster's Collegiate Dictionary)

WHY DO MYTHS ARISE?

Most people find it difficult to deal with the intellectual tension of "I don't know" as an answer to important questions. Mythology relieves that tension with anecdotal information meant to illustrate or support a desired belief. These myths and partial truths are a way to

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make sense out of a question and the discomfort of the unknown. People may even manipulate their perceptions to make answers seem more reasonable. They bend perceptions, to fit the circumstances.

Another way to make sense out of the world, to give it order and stability, is to look for patterns in experiences and observations. These narrowed variables keep people from having to view each new event from a totally new perspective. However, when encountering something totally new, people tend to say, "Ah ha! That's the way it always is." For instance, after interviewing a hysterical victim, a patrolman stated he felt more assured about helping other victims. But when she was totally calm and collected, he wondered whether she had been assaulted, and he was at a loss because he had based his assumptions on one event.

Assumptions, generalizations, and preconceived notions can severely damage advocates' abilities to provide support to survivors and those who work with survivors. Be very careful about expectations and the "way it is supposed to be." To harbor these myths will support you in spending useless time trying to bend your perceptions to fit the expectation, or by overlooking what is actually happening to the detriment of the survivor with whom you are working and your coworkers.

Do you remember the first time you saw a sex offender, drug addict or perhaps a child molester? What happened the first time you observed one such person who did not fit your idea of what he or she was "supposed to look like?" There is an actual account of a child who had been sexually abused by a nice looking man who had picked him up from school. When asked by his mother if she had not told him repeatedly to avoid strangers, the child replied that he had not gone with a stranger. An intuitive crisis advocate then asked the boy to describe what "stranger" means. He said strangers wore "big, black, tall hats and large overcoats...and they looked scary." The child victim had determined this abuser to be non-dangerous because he did not conform to the child's pre-conceived idea of a stranger.

HANDLING MYTHS AND FAULTY ASSUMPTIONS

Dealing effectively with myths involves putting aside assumptions and being open to learning new information. Particularly when dealing with sexual assault situations, it is imperative to learn the truth about faulty beliefs, avoid pre-conceived notions about people and events, use factual general information and deal with each new situation on its own merit.

SEXUAL ASSAULT: MYTHS VS. FACTS

Here are examples of myths about sexual assault that may have impeded sexual assault avoidance and intervention. With each myth are the truths refuting it.

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MYTH	FACT
The primary motive for sexual assault is sexual. People who commit sexual assault do not have any other outlet for their sexual needs.	The major motive for sexual assault is power—to overpower and control another person. Rape is not about sex. It is sexualized violence, not violent sex. Three out of five offenders also are in consenting sexual relationships. The myth can allow shifting blame for sexual assault from the offender to the victim.
The victim provokes sexual assault.	Someone's actions or dress cannot send a message "asking" for sexual assault. In fact, studies demonstrate that 71% of sexual assaults are planned in advance, making irrelevant the survivor's demeanor or apparel at the time of the sexual assault. It is preposterous to believe someone would ask for or enjoy a physical attack involving risks that include venereal disease, pregnancy, injury, or even death.
Sexual assault is an impulsive act.	In 71% of sexual assaults, the offender made a plan to sexually assault a person or a specific person. The offender often takes advantage of a person in a vulnerable situation.
Sexual assault occurs only among strangers.	Over 80% of all sexual assaults involve someone known to the victim. A close personal friend, family member, or family friend is the offender in 50% of cases reported.
Anyone can prevent sexual assault if he/she really wants to.	This myth asserts that no one can be forced to have sex. In fact, since nearly 90% of all sexual assaults involve threats of physical harm or the actual use of physical force, it follows that a person might submit to a sexual assault to prevent more severe bodily injury or death. Vulnerability to assault also increases because most women are not brought up to be physically aggressive, and they are not as strong as most men.

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Offenders are "perverts."	This myth assumes that only "sick" or "insane" people are offenders and, again, that obtaining sex is the primary motive for sexual assault. Believing this myth may cause us to expect the offender to be a marked person with particular characteristics. If the accused appears and acts normal, it is very hard to believe he/she could have committed the crime.
Women frequently make false accusations of sexual assault.	Sexual assault and other felonies have the same false report rate (2 – 4%). Survivors, who are aware that many other people believe the myth, may be afraid to report and may be hesitant to tell anyone, for fear that no one will believe them.
Most women secretly think it would be exciting to be taken “by a man who will show her he is master.”	Much fiction and fantasy writing promotes this idea. Regardless, there is a difference between fiction and real life. In a fantasy, the person fantasizing is in control; in a sexual assault, the survivor is not in control and fears being killed. Few women wish for a situation so terrifying that they will do anything to prevent being beaten and/or killed.
It cannot happen to me.	Anyone may be sexually assaulted. Studies show that victims include 6-month old babies to 99-year-old women, people of color, lesbians/gays, people with disabilities and persons from every racial, ethnic, religious, economic and social background. The National Victims Center says a sexual assault occurs every 6 minutes in the U.S. Approximately 20% of all women will be sexually assaulted and approximately 5% of all men will be victims. Only 18% of sexual assaults are ever reported to law enforcement.
Most sexual assault offenders are African-American.	In 1994, Bureau of Justice estimated that out of 33,800 imprisoned offenders 52.2% were white, 43.7% were black and 4.1% were other.

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Banning pornographic and obscene literature would stop sexual assault.

Although a sex offender might find some pornography sexually stimulating, the motivation for sexually assaultive behavior is fear and anger, not sexual arousal, because offenders act out unresolved personal insecurities. In a study of convicted sex offenders, they were shown films containing both sexually explicit and graphically violent material. The offenders reported experiencing reactions similar to those aroused in assaultive situations. Offenders then viewed sexually explicit films that had no violence, and they reported no increase in the desire to assault. Then offenders saw films containing no erotic material but which did contain violence. The offenders reported a definite identification with the power and anger displayed on film.

Banning all pornographic material will not stop sexual assault. Violence plays a much greater part in motivations for sexual assault than erotic materials do. However, pornography should not be encouraged because some material contributes to the humiliation and degradation of humanity. Child pornography is strictly outlawed and does play a big part in the sexual exploitation of children. However, a child molester may even find children's clothing advertisements stimulating.

Socialization

Sexual socialization is defined as: the set of expectations about attitudes and behaviors that are culturally assigned according to one's gender; the process by which individuals incorporate within themselves the behaviors, attitudes and values of their culture.

Socialization is a root of our identity and behavior patterns. While animals behave instinctively, most human behavior is learned. Socialization strongly influences a person's gender identity in society. Someone born female traditionally learns how to "act like a girl," and a male learns to "act like a man." Eventually, they internalize these teachings. They accept the behaviors, attitudes, and values of the culture as their own. Here are some troublesome attitudes widely held in modern society.

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WHAT BOYS LEARN

- ♂ Boys may learn to view sexual activity as an end in itself, and a "relationship" as a means to that end. By the time they reach college, 55 percent of boys say a good sexual relationship is the most desirable thing in a date, while 79 percent of girls say they most want a good intellectual relationship.
- ♂ Boys tend to view the completion of sexual action, whether a kiss or an orgasm in intercourse, as more important than the process.
- ♂ Boys learn a concept of ownership of females or "male sexual access rights" (Mahoney, 1980) that make them think they have a right to demand sexual "favors" from a girl.
- ♂ Boys learn it is their responsibility to verbally and/or nonverbally initiate every interaction with girls, from asking them for dates to any affectionate touching or sexual activity. This allows them to reinforce their sense of control in dating.
- ♂ Boys learn to see girls as "sexual objects," to be commented upon, discussed, and touched anonymously.

WHAT GIRLS LEARN

- ♀ Girls learn it is important to have a boyfriend.
- ♀ While girls learn a relationship entails more than just sexual interaction, they also learn that boys are probably more interested in sex than they are. So, some girls learn that by submitting easily they can trade sex for a relationship.
- ♀ Girls learn that boys may get angry if they do not get their way. Girls also learn that because of their anger, boys might end the relationship, circulate rumors about them, or hurt them physically.
- ♀ Girls learn to equate these behaviors with the prized label of "feminine."

To help prevent sexual assault, it is important to change, as much as possible, these causal patterns and values.

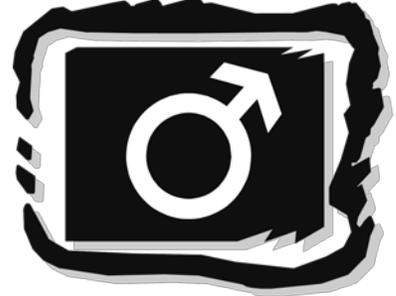
MALE SEXUAL ACCESS RIGHTS

It is "all right if a male holds down a female and physically forces her to engage in intercourse" under some conditions, according to some respondents in a study E.R. Mahoney at Western Washington University, during the winter of 1979-80. Mahoney discussed these results in terms of "male sexual access rights."

He said that many in our society believe men "have sexual access rights to females under varying conditions." This belief, he hypothesized, is supported by social conditioning and learning. Note that generalizations about male and female social conditions will not hold true for the entire population.

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The concept of male sexual access rights simply reflects two things. First, it reflects "normal" male sexual socialization, male sexual gender role learning—that is, how men learn to be males. And second, it shows that sexual assault is nothing more than those components of learning carried to varying extreme degrees. In other words, males learn they need sex, should seek sex, and are supposed to be the initiators. They learn that a good male is aggressive in many areas of life. Males learn that physical violence and physical force are acceptable forms of expression for them. Males learn that if they want something, whether it is a job, a promotion, or sex, they can get it one way or another. The point is to get it. They strive, they fight and they dig, whether working in a major corporation or a sexual relationship.



In relatively normal sex-role socialization, the three components of power, anger and sexuality simply occupy various locations on a continuum. Power, anger and rape are simply parts of the traditional male role, taken to the extreme.

Males in this society learn they have the right to sexual access to females under certain conditions. For example, it is widely known that males can purchase sexual access through prostitutes and the commercial sex industry. This concept has been transformed into the idea of "noncommercial sex:" He spends a lot of money on her and then expects to be compensated with sex.

Four conditions are too often accepted as automatically granting males sexual access. The first is sexual arousal. In other words, males (and evidently numerous females) believe that if the male is sexually aroused, he is then granted the right to complete the arousal through sexual activity...even if that activity is forced. If he is "turned on and can't stop," if she has "led him on," or if she "gets him sexually excited," a fairly high percentage of the respondents believed it is okay for him to have forcible sex with her.

The second condition that seems to mandate sexual access rights is the woman's previous sexual activity. In studies of attribution of responsibility to rape survivors, it is very clear that if by occupation, innuendo, or behavior, the survivor has granted any kind of access rights (such as visual access), then she is perceived to have granted all sexual access rights. Therefore, if a topless dancer becomes a rape survivor, the chances of her succeeding in any legal action are very slim.

The third condition exists if the woman is stoned or drunk. If she has given up her responsibility for the situation by losing control, she also gives up her right to refuse intercourse or to be selective about her role as sexual "gatekeeper" in this society.

The fourth condition exists if the woman grants a male any sexual access rights whatsoever. For example, if she lets him touch her above the waist, 36 percent of men and 12 percent of women responded that he is not in the wrong if he then forces her to have sex. If she granted him some access, she granted him all access.

One important idea in all of these cases is the concept of property, specifically the idea of women as sexual property. This idea has a long tradition throughout history and is one reason why it has been so difficult to convince people marital rape is even possible. In the

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study, 42 percent of males and 16 percent of females approved of sexual intercourse in long-term dating relationships. The farther the relationship moves from marriage, the less automatic is the sanctioning of sexual access rights. For example, if the couple is separated, the numbers drop to 21 percent and 5 percent, respectively; if divorced, 6 percent and zero. Addressing the Real Problem

One of the ways prevention programs can be more effective initially is to sensitize people to the kinds of socialization discussed here. For example, some men's magazines, including some considered respectable, devote significant time to the idea that male sexual access to females is normal and expected. This attitude is such an integral part of our society that it is seen as humorous. Sensitization will help by changing the definition of relationships between men and women. Men and women need to understand that no human being is property to be possessed or used by another.

MALE SEXUAL ACCESS RIGHTS

It is sexual assault for a male to hold down a female and physically force her to engage in sexual intercourse under any condition(s).

- ♣ He spends a lot of money on her = No sexual access rights
- ♣ He is so turned on he (allegedly) cannot stop = No sexual access rights
- ♣ She has had sexual intercourse with others = No sexual access rights
- ♣ She is stoned or drunk = No sexual access rights
- ♣ She let him touch her above the waist = No sexual access rights
- ♣ She is going to have sex with him and then changes her mind = No sexual access rights
- ♣ They have dated for a long time = No sexual access rights
- ♣ She has led him on = No sexual access rights
- ♣ She gets him sexually excited = No sexual access rights
- ♣ They are married to each other = No sexual access rights
- ♣ They are separated from each other = No sexual access rights
- ♣ They are divorced from each other = No sexual access rights

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CONTINUUM OF SEXUAL AGGRESSION

Sexual assault is not an isolated act; it is on a continuum with and related to other common events/activities, both legal and illegal. Offenders may act out the whole continuum, which has a common denominator: lack of respect.

Suggestive looks

Sexist comments, jokes

Verbal harassment

PHYSICAL HARASSMENT

OBSCENE PHONE CALLS

PEEPING

INDECENT EXPOSURE

FROTTAGE

Sexual Assault

Aggravated Sexual Assault

SEXUAL ASSAULT/MURDER

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THE SURVIVOR PROFILE

There are countless examples of survivors of sexual assault. Carolyn Craven describes the subtle ways in which some survivors suffer:

While I may not believe that all men are potential rapists, in fact, I must act as though they are because there's no way I can tell, walking down the street, whether or not that man just walking up the street in a three-piece suit or in blue jeans and a work shirt is a rapist. Therefore, I have to treat all of them as though they are, because I can't tell them apart. All women have to do that.

So, in a sense, all women are victims. All men are victims, too, because they viewed with fear and suspicion. For years, researchers have studied the impact of society on sexual assault and have realized to some extent the culture's collective responsibility for rapists. But is it possible to gauge the impact of sexual assault on society?

How many tears? How many relationships uprooted? How many post-rape suicides? How many social myths and fallacies? How many cases thrown out of court? How many cases never heard in court? How many misdiagnosed conditions? How many weapons, security systems and other forms of self-protection? How many police sex crime personnel? How many workshops, special training seminars and books such as this one? How much rage? How many lives shaken or devastated?

So, who are the victims? We all are. We all hurt. We all fear. We all suspect. We all suffer. We all need support. Women, men, all of us, have become the victims.



Survivor Stories

MARIA

When Maria reached her car, she found her tire had been flattened. She was returning to her apartment when a man shoved her back into the elevator as she was getting out at her floor. Maria recognized him before he ripped off her glasses and held a knife to her throat. She remembered the man (Ralph Lenko) as the stranger who had approached her earlier at the apartment swimming pool.

Lenko forced her from the elevator into a storage room. He cut Maria's throat slightly. Trying to pull the knife away, she cut two of her fingers. He shifted the knife to the back of her neck and cut her again.

The man then forced Maria from the storage room to her apartment where he blindfolded her. Lenko ordered her to disrobe down to her panties, pantyhose and shoes. She heard his zipper. He seated himself next to her on the sofa, yanked Maria to him, pushed her to her knees and forced his penis into her mouth. Maria nearly vomited. He told her to take off the rest of her clothes and ordered her to stand. He inserted his fingers into her vagina; then raped her.

Afterward he asked her if she had a boyfriend, saying, "You better not lie to me. I know everything about you. I know what time you leave work, and I know what time you get home." Then, as though wooing, "I have seen you from afar, and I admired you for a long time."

He then forced his penis into Maria's rectum. She had diarrhea and evacuated her bowels twice. Lenko continued insisting that she "satisfy" him. Despite Maria's gagging and vomiting, he resumed the oral copulation. He attempted to rape her again but did not ejaculate; so while wiping away the vomit, he again forced her to copulate orally.

The rapist finally decided to leave. On his way out, he threatened to kill Maria if she reported the rape to anyone. "It will be embarrassing for you only," he said.

A three year trial and appeal process began; the jury found Lenko guilty of forcible rape, sodomy, oral copulation, first-degree burglary (he took \$60 from Maria's wallet,) and kidnapping. The jury also found him guilty of causing great bodily injury (GBI), which automatically lengthened his minimum prison sentence.

Unfortunately, his sentence was reduced in the California Supreme Court of Appeals. The kidnapping conviction was cleansed because the distance from the elevator to Maria's apartment was said to be "not substantial," and the GBI charge was struck down. The court majority insisted that the lack of "visible injury, laceration or hematoma of the sexual organ or the anus" and the fact that Maria's knife wounds did not need suturing would not "permit" the court to hold the GBI conviction. Ralph Lenko could end up free after serving less than a year. **Maria is a victim.**

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ANN

Ann walked into work with no suspicion of or inclination toward the ensuing events. She changed into working clothes and joined her coworkers in the foyer of the massage parlor.

Ann had been tricking for 4 of her 28 years. Employed for the past 2 years in New Mexico and Las Vegas, she moved to the West Coast in hope of entering law school full-time. She had taken this part-time job to pay her way.

As her peers huddled around the television watching a favorite soap opera, Ann sat on a corner couch studying contract law. A customer dressed in a gray suit stepped through the door in a hurry, as though he had just sprinted from his car.

“Close the door before I freeze my ass!” someone shouted from in front of the television. The customer glared in the direction of the TV and nearly turned on his heels to walk out. Then he noticed the young woman reading quietly in the corner.

The man approached Ann and made fumbling suggestions about going to her room for a “rum.” The couple entered the sparse, windowless room. The trick stood uneasily for a moment, and then disrobed. He sat on the edge of the table and stared at the woman.

“How would you like it?” she asked, in attempt to play the familiar word game.

“How much will it cost me to fuck you from behind?” the customer mumbled. The game playing continued until they agreed on a price. Ann set her clothes on a chair and lay face down on the table as he instructed. The trick's behavior began changing as he paced about the small quarters. Ann was familiar with the rather bizarre actions of some clients, and this seemed like nothing alarming.

The man went to his clothes for a moment. Ann's back was to him as he returned to the table. She felt a cold piece of metal at her temple; he held a loaded blue magnum pistol. “Make a noise, scum, and I'll blast,” he threatened.

Ann's coworkers, unaware of her plight, sat before the blaring television. The man forced the gun in and out of Ann's vagina; then forced her to copulate orally. Twice he struck her in the face with the butt of the pistol when he was unable to ejaculate. As he fled, his business card dropped from his loosened wallet.

Ann was taken to the hospital with multiple lacerations and wounds to the mons veneris, labia majora, perineum, vaginal vault, cervix, neck, and face. She was threatened with arrest for prostitution. No further investigation occurred. **Ann is a victim.**

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

SHELL

Dave, a 38-year-old magazine circulation director, came to the party with one thing in mind. His lover had left him only three days earlier because of Dave's violent outbursts. Now Dave mingled with the younger guests in a reserved manner, scanning the moving bodies as though counting magazine stacks.

Shell, an attractive 22-year-old employee of a telephone company, sat uncomfortably on a couch with three men who were begging for attention. Dave moved toward the couch and spoke quickly, yet firmly, to Shell, "Let's dance."

Shell, not amused by the antics of the trio, jumped up and headed toward the dance floor. The couple appeared awkward, as though they were dancing to entirely different songs. In the middle of the first song, Dave suddenly spun about, walked off the dance floor and headed out the door to his car. Shell, confused by Dave's turnabout, ran out after him.

"So, what's the matter? You don't like disco?" queried Shell. Dave stopped as he rounded the driveway of the large estate.

"I don't like loud music and boys who are forward. Besides, you don't want to dance with me. You just wanted to escape those flirts on the couch," cried Dave.

"You're right about those three, but give me a chance," Shell risked.

"I'll give you a chance," Dave blurted while revealing a snub-nosed revolver. "Do you like blood, dear?"

"Listen, I don't have a cent," Shell continued. "There's nothing you can take from me."

"Get in the car," Dave ordered. He forced Shell to drive the sports car into the hills. On the side of a dirt road, Shell was raped and left for dead – naked with a pen knife still twitching between his lower ribs.

Shell knew the decision to live or die required swift action. It was a long walk to the two-lane highway. Many people drove past the bleeding victim, ignoring Shell's pleas for help. It was not until Shell collapsed that a trucker pulled up to aid the assaulted man.

Since both Dave and Shell were males, Shell received less than sensitive treatment in the investigation phase. He never had contact with sex crimes detail. "Investigating gays assaulting gays doesn't fit in our job description," snarled the officer in charge of that department. **Shell is a victim.**

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

RUSSELL, JEREMY, CARL, THANE, SCOTT AND SUSAN

Every one of the boys in the family had gone through the ordeal except 13-year-old Russell. His brothers Jeremy, 14; Carl, 16; Thane, 17; and Scott, 18, had been forced at gunpoint by their father to engage in sexual relations with an 11-year-old cross-town girl named Susan.

The girl had been picked up as she played outside the home of a sitter and was taken to the abductor's home. The boys pleaded with their father to stop the torture. "I promised your mother I'd make you into men, and that's what I am going to do!" the man shouted. The boys knew their father would act on his drunken threat to shoot. In years past, Jeremy and Thane had been hospitalized with ice-pick puncture wounds. The boys lived in fear of their father; yet they had never reported his violent behavior.

Susan had withdrawn into unconsciousness by the time Russell was forced to undress. "She's dead, Father!" the boy cried. The man fired into the carpeted floor and demanded that the boy proceed.

As the other boys had done, Russell rubbed his flaccid penis against the girl's genitals, faking intercourse. The boys were then ordered from the room. The man fired, into his own head.

Susan, Russell, Jeremy, Carl, Thane and Scott are victims.

JEFF

Mike could identify the prison's homosexual prostitutes, but their availability did not fulfill his need for power and dominance. "Fags who sell their services are less than useless to me. Showing him and the other guys that I can force my cock up his asshole isn't what I'm into. I'm looking for a gal-boy!"

That evening, Mike and a friend approached a young, rather frail convicted pot user named Jeff. "Grab this woman's ass!" Mike ordered his friend. They stuffed an old pair of underwear into Jeff's mouth, threw him from his bunk to the floor and bent him over a toilet seat.

After removing his pants, they forced dark machinery grease up his rectum with the aid of a metal pipe. After inserting the metal pipe, they pushed a rod through the pipe further up the canal. Jeff's muffled cries only heightened Mike's objective. Jeff was then raped anally over and over by three different men.

Fearing for his life, Jeff never told the prison staff what had taken place. Infection set in rapidly, and eventually a colostomy was required to save Jeff's life. Ironically, Mike's freedom came before Jeff's. **Jeff is a victim.**

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

SHARRON

It had been one week since Sharron and Randy had been separated... the longest the two had been away from one another in their eight year marriage.

Randy was staying at a friend's house six blocks away but drove by the house several times each night, watching shadows in the curtains. This evening he was not content to wait any longer. Sharron was asleep when her husband unlocked the front door. She jolted awake when she heard the wooden door slam shut and listened as the man's husky breathing moved toward the bedroom.

"Cut the drama," she shouted as Randy swung through the door.

"Why don't you want me to screw you anymore?" he snapped.

"You know this infection is painful, Randy. The doctor told me to stop for three weeks."

Randy climbed onto the bed and made attempts to pull the covers from Sharron. She resisted. "I told you I'm not interested in you sexually when I'm mad at you. Now just go back to your friend's house and leave me alone."

Randy reared back and slapped Sharron across the face, cutting her.

He jumped from the bed and opened the closet door. He grabbed a free coat hanger, flew back to the bed and forced the hanger over her head. With a quick twist, he yanked the hanger tight around Sharron's neck.

"Come on, bitch!" Holding the hanger tight, he undressed quickly. Randy raped Sharron while simultaneously mocking her cries.

"You...are...going...to...get...it...on!" **Sharron is a victim.**

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

WILMA, JEFFERSON, TANYA AND RANDOLPH

The family was excited about their move from Washington, D.C., to East Los Angeles. They had only been in their home two months when the unexpected event took place.

Wilma was walking home from adult school when a fellow student named Ben offered her a ride to her house. Because he seemed friendly enough and had impressed her with his knowledge of Los Angeles, she accepted, hoping to learn more about the new territory.

Ben said he needed gas and turned up an alley in a deserted industrial park. Half way up the alley he turned his van into an empty garage and revealed a stiletto blade. Ben asked Wilma if she knew what was coming next. She sat petrified. He raped Wilma, then drove her to the doorstep as if nothing had happened. As the door of the van slid closed behind her, she heard the man threaten, "Call the police and your kids will get to know my sharp friend here."

Tanya and Randolph were playing in the living room when the van pulled away. Wilma walked past the children and into the bedroom. Jefferson called to his wife from the kitchen but received no response. He found Wilma staring deep into the bedroom mirror.

Jefferson approached her and softly touched her shoulder. The woman suddenly began to scream and claw wildly at her husband. Randolph and Tanya stopped their play, ran to the room and found their father tightly holding their mother's wrists.

Wilma continued to scream at him to let her go. The children ran to their mother's aid, shouting at their father to let go. They tried to hug their mother, but she kicked at them. Jefferson took the children to their bedroom, where they sat on the edge of their beds, shaking in terror of the unknown. Wilma fell across her bed and pleaded with her husband to take her to the hospital. She refused to reveal the toll of the trauma.

A sitter was located quickly. The couple entered a hospital emergency department. As Wilma and Jefferson sat and waited, Jefferson's suspicions grew. Wilma was on the verge of convulsions. Jefferson asked his wife pointed questions, which she evaded. The hospital took note of the man's building rage.

Wilma was led in an examining room, where she curled into a ball like a child. "Don't tell the police," she cried. Lacking specialized training in post-rape trauma, the personnel were not adequately prepared for Wilma's plight. They suspected her reactions were due to a hallucinogenic drug overdose; so they immediately injected her with a major tranquilizer. Wilma soon lost consciousness.

Jefferson checked in with the sitter. The children had not slept. He could hear them crying in the background. The father felt too confused to speak with them. He hung up the phone and returned to his wife's bedside.

As morning approached, Wilma slowly awakened to her husband's tearful gaze. It took her nearly an hour to reveal the entire story. Jefferson was in a daze. He walked from Wilma's room, not hearing her plea for him to stay with her. Jefferson thought to himself, "How could this happen to me?"

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

Wilma returned home that night to frightened children and an ambivalent husband. Wilma shunned Tanya and Randolph. Jefferson's doubts grew, and his questions came hard and fast.

"Why were you talking to that man? Did you think of your kids before you let him give you a ride? That was a pretty revealing outfit you were wearing! What's the matter ... hadn't our sex been exciting enough for you? That'll teach you about going to school. Why didn't you just go to his apartment?"

The interrogation continued. Randolph and Tanya heard every word.

"Okay, so he had a knife. Where was the blade when he was taking off his pants? Did you ever try to run? Did you get the license plate number or did you even care? Do you think I'll ever have sex with you again now that someone else has had you?"

Jefferson ran from the house with a handful of clothes, shouting, "I'll kill the bastard!" The family car roared down the street with Jefferson in futile search. Wilma recoiled in self-blame and alcohol.

Jefferson did not return home for several weeks. He suffered from severe mood swings at work and self-medicated at his motel room. In anguish over his behavior, he was afraid to call home. He felt pain for his wife, yet was afraid to face her with his shame.

Randolph's grades plummeted, as he became preoccupied with bleak fantasies. Twice he was sent home from school for rough behavior with fellow students. Tanya regressed to bed-wetting, nightmares, and thumb sucking. Her condition resembled autistic absorption.

Wilma's, reactive depression was complicated by her ensuing drinking. Her physical health and social functioning fell to a dangerously low point. She developed a skin disorder and musculoskeletal reaction in which emotional factors played a causative role.

Jefferson eventually received individual counseling with a marriage and family therapist. This opened the door for family therapy. Communication levels were low. Once Jefferson moved back into the home, Wilma and he made some attempts to engage in sexual relations, but Wilma suffered from severe vaginismus during these attempts. It was nearly a year before Wilma felt safe leaving the house. She never returned to school. There are lasting scars.

Wilma, Jefferson, Tanya, and Randolph are victims.

SEX OFFENDERS

▼ General Information and Facts

▼ Sex Offender Treatment

▼ Polygraph

▼ Recidivism

SEX OFFENDERS

General Information and Facts

No other crime other than murder invokes such negative public reaction as sexual crimes. Many sex crimes involve a male offender against a woman or child. Victim vulnerability increases societal perceptions of the dangerousness of these perpetrators as well as popular disdain for them. This imbalance of perceived strength in a period when the rights of victims are taken very serious additionally adds to the disdain (Quinn, 2003).

Sexual offenses result in significant physical, psychological, and/or emotional distress to victims that can last for years and some victim's voices will remain entombed in silence. Thus, any offender's subsequent re-offending is a serious public concern. The prevention of sexual violence is particularly important, given the irrefutable harm that these offenses cause victims and the fear they generate in the community (Bynum, 2001). In the most extreme and rare cases, sex offenders murder their victims (Terry, 2003). During the 1980s and early 1990s, the sexual homicides of Jacob Wetterling, Polly Klaas, and Megan Kanka were catalysts for the majority of sex offender legislation. Due to these homicides, it is not surprising that exceptional policies have been directed toward individuals who have committed such heinous offenses.

The prevalence of sex offenders in the criminal justice system has increased over the past several years. Much of the apparent rise in sex crimes is related to increased reporting rather than increased offending. In addition, enforcement is more aggressive and definitions of sexual offenses are more expansive than ever before. Conduct once tolerated is now criminally prosecuted (Lane, 2003). This gives the appearance of increased criminal sexual offenses when, in reality, much of the discrepancy can be attributed the education of the public by victim advocacy groups, law enforcement, and other professionals.

"The key to preventing sexual abuse is to shift paradigms," wrote Robert E. Freeman-Longo and Gerald Blanchard in their 1998 book, *Sex Abuse in America*. "In addition to viewing sexual abuse as a criminal justice issue, we must also view it as a serious public health problem and preventable social problem." A "cure" for sex offending is no more available than is a "cure" for high blood pressure (English, 1996). But with specialized offense specific treatment by qualified individuals, the majority of sex offenders can learn to manage their behaviors (ATSA Standard, CSOT Standard, Kercher, 1993).

Victim advocates serve the overall needs of the survivor. So why is it imperative for advocates to understand contemporary research regarding sex offenders? Part of the challenge of ending the proliferation of sexual violence is understanding the thoughts, attitudes, and behaviors of sex offenders. This knowledge is critical to performing the advocate's essential

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

functions in serving the needs of the survivor. Advocates must understand the precipitating circumstances of assault, offer the survivor clarification, isolate the survivor's critical issues, and encourage action. In some cases, the advocate will assist the survivor with family reunification.

COMMON MYTHS ABOUT SEX OFFENDERS

As a way to begin to understand what researchers know about sex offenders, this section will address some common myths.

- **Myth:** “Most sexual assaults are committed by strangers”
- **Fact:** Approximately 80% of all sexual assault victims were abused by someone known to the victim.

- **Myth:** “Children who are sexually assaulted will sexually assault others when they grow up.”
- **Fact:** Approximately 70% of all adult sex offenders were not sexually abused as a child.

- **Myth:** “Castration cures a sex offender.”
- **Fact:** Castration is not a cure. Castration only reduces testosterone levels and may be helpful in controlling arousal and libido. Physical or chemical castration should only be utilized as an adjunct to treatment and not in lieu of treatment. It should be remembered that deviant arousal is the physical response to a cognitive process (deviant thoughts). Deviant thoughts (impulses) and fantasies are precursors to deviant arousal.

- **Myth:** “All sex offenders are sexual sadists”.
- **Fact:** A sexual sadist gains a feeling of sexual pleasure by humiliating and by inflicting pain on the victim. Research indicates on 2-5% of sex offenders are sadist (Langevin 1990).

- **Myth:** “All sex offenders are psychopaths”.
- **Fact:** Research conducted by Dr. Robert Hare in 1996 indicated that only 15-25% of the incarcerated population are psychopaths.

- **Myth:** “Treating the sex offender is not effective”.
- **Fact:** Child molesters who participated in a cognitive behavioral treatment program had fewer sexual re-arrests than the sex offenders who did not receive any treatment. Both groups were followed for 11 years. The recidivism data was obtained by official sources and self-reports. Sex offenders in the cognitive behavior program had significantly fewer sexual re-arrests than the untreated sex offenders (13.2% vs. 57.1%, respectively). Treated exhibitionist were re convicted or charged with a sexual offense less than the untreated exhibitionist (23.6% v. 57.1%, respectively) (Lane Council 2003). Prentky and Burgess found the untreated sex offender's risk of re-offense at 40% compared to treated sex offender's risk of re-offense at 25%.

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FACTS

Sex offenders on community supervision represent only a small portion of the actual sex offenders living in our communities. Research has shown the majority of individuals who abuse sexually will not end up in the criminal justice system.

The media's portrayal of sex offenders has continuously misled the public that all sex offenders are sexually violent predators. Commentators, the media, and even academia use the terms "sex offender" and "sexual predator" in a virtually interchangeable manner (Quinn, 2004). Scientific researched based evidence has proven that this is simply not true. The media's use of such inclusive labels of all sex offenders as dangerous psychopaths disregards the diversity of motive, commitment, and norm violation among sex offenders.

Sex offenders are an extremely heterogeneous mixture and do not fit into a standard profile but fall into numerous categories, from the voyeur, exhibitionist, statutory offender, incest offender, the pedophile, the rapists, the sexual sadist, sexual murderers, to the Sexually Violent Predator (SVP). Incarceration in a penal institution does not deter repeat sexually violent predators or the proliferation of sexual violence. Persons who abuse sexually are male and female and come from all socioeconomic and racial groups. Most sex offending begins during adolescence. It is important to remember that the diagnosis itself of pedophilia does not determine a sex offender's dangerousness. It is the sex offender's behavior that determines the level of dangerousness. Typology categories should be used with extreme caution because many sex offenders crossover to different victims, can fall into multiple categories, and have multiple paraphilias. The following are some paraphilias:

- Rape-forced sexual contact
- Child molesting-having sexual contact with a person under 18
- Frottage-touching or rubbing a person for sexual gratification without the person's consent
- Necrophilia-sexual contact with a deceased person
- Voyeurism-watching someone for the purpose of sexual gratification
- Exposing-displaying of one's genitals for the purpose of sexual gratification

Crossover sexual offenses are defined as those in which victims are from a multiple age, gender, and relationship categories (Heil 2003).

JUVENILES WITH SEXUAL BEHAVIOR PROBLEMS

Sexual abuse of children is a widespread phenomenon but childhood sexual abuse does not predict future sexual aggression. While sexual aggression may emerge early in the developmental process, there is no compelling evidence to suggest the majority of juveniles with sexual behavior problems are likely to become adult sex offenders (Hunter, 2000).

Juvenile perpetrated sexual aggression has been a problem of growing concern in American society over the past decade (Hunter, 2000). According to the 2000 Uniform Crime Statistics published by the Federal Bureau of Investigation, juveniles account for a significant number of sexual crimes. Roughly 16% of the arrests for forcible rape and 20-30% of other sexual offenses involved juveniles younger than 18 (Openshaw, 2004).

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A multitude of issues contribute to sex offending behavior in adolescents. The onset of sexual offending behavior in juveniles can be associated to several factors reflected in their experiences, exposure to violence and pornography, maltreatment, and/or developmental deficits. Some children begin displaying sexually inappropriate behavior with others before they reach ten (10) years of age. Others may copy sexual behavior they have witnessed on the part of older siblings and/or adults. Therefore, early identification, assessment, and treatment are essential for those who have displayed such behaviors.

80-90% of juveniles with sexual behavior problems have had a profound experience with some form of victimization. Approximately 20%-50% of juvenile sex offenders were physically abused and 40%-80% were sexually abused (Hunter, 1998). Rates of physical abuse and sexual victimization are even higher in samples of prepubescent and young females with sexual behavior problems (Gray et. al, 1997, Mathews et al, 1997) 30-60% of juveniles with sexual behavior problems have learning disabilities (Hunter, 2000).

Juveniles are distinct from their adult counterparts. With adult offenders, arousal and interest patterns are recurrent and intense, and related directly to the nature of the sexual behavior problem. In general, sexual arousal patterns of juveniles appear more changeable than those of adult sex offenders and relate less directly to their patterns of offending behavior (Hunter, 1994). It should be noted that only a minority of juveniles manifest established paraphilic sexual arousal and interest patterns. In understanding this fact, society must recognize the other end of the spectrum; that some juveniles commit predatory sexual offenses and will continue deviant sexual behavior into adulthood. Research suggests that age of onset, number of incidents of abuse, the period of time elapsing between abuse and its first report, as well as perceptions of familial responses to awareness of abuse are all relevant in understanding why some sexually abused youths go on to commit sexual assaults while others do not (Hunter and Figueredo in press).

Therefore, the earlier treatment is offered, the more likely it is to prevent continued sexual offending. Recidivism data suggests that juveniles with sexual behavior problems are more likely to commit a property crime than another sexual offense. This suggests that juveniles with sexual behavior problems are more similar to juvenile delinquents and other antisocial teens (Openshaw, 2004). Recidivism rates for juveniles are low. Less than 10% of juveniles with sexual behavior problems recidivate with a new sex crime and 30% recidivate with non-sexual crimes (Davis, 1987, Kahn, 1988).

FEMALE SEX OFFENDERS

Although the majority of sex offenders are male, it is clear that female sex offenders exist and this population of offender is largely unrecognized and neglected. Recent research consistently reveals that females account for about one in four offenders (Pearson, 1997). Additionally, because females often fulfill care-taking roles, female sex offenders may abuse a child under the guise of appropriate care (Jennings, 1993; Mitchell & Morse, 1998). However, there is a paucity of professional literature and clinical practice that describes the needs of the female sex offender. Professional literature often presents females as victims even when they are identified as perpetrators. This lack of attention is regrettable for those who have been victimized by females.

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A female as a sex offender is an idea that society has difficulty acknowledging and it challenges society's beliefs about females. The notion of females as aggressive, exploitive, violent, and deviant offenders is not compatible with society's picture of women as mothers, sisters, wives, and the "gentler sex". Many professionals do not accept the idea that females would use their position and power in this manner. This creates a professional and cultural state of denial.

In a 2000 study, Snyder estimated that females commit 12% of all sexual offenses against victims under the age of 6 and 6% of the sexual offenses against children between six (6) and twelve (12) years old.

It is estimated that 64% of the sexual abuse committed by females were crimes against biological relatives and 19% were against victims who were unrelated to the offender (Saradjian, 1996). The age of onset of the abuse was 3.2 years old (Rosencrans, 1997).

Recent findings strongly challenge the belief that female sex offenders are rarely violent (Marvasti, 1986, Johnson and Shrier, 1987). Seventy percent (70%) of the female sex offenders in this study used extraneous violence against their victims. It is important to acknowledge that this population of female sex offenders does exist.

SEXUALLY VIOLENT PREDATORS

On September 1, 1999, the Governor of Texas signed Senate Bill 365, which established the first outpatient civil commitment program in the United States. The Council was tasked with the implementation and administration of the Outpatient Sexually Violent Predator (SVP) Treatment Program (Title 11, Health & Safety Code, Chapter 841). This Outpatient Program was chosen strictly due to fiscal constraints. The annual cost range is between \$30,000 and \$37,000 dollars per client per year. Inpatient SVP treatment in fifteen (15) other states cost between \$80,000 to \$125,000 dollars per offender per year (AZ, CA, FL, IA, IL, KS, MA, MN, MO, ND, NJ, SC, VA, WA, and WI). The outpatient civil commitment program targets sexually violent predators being released from prison who pose a serious risk to community safety or are at high risk to re-offend.

Civil Commitment statute is civil law. Sexually violent predators are committed not convicted. The civil commitment program is neither a criminal charge nor punitive. The intent of the law is to provide intensive outpatient rehabilitation and treatment to the sexually violent predator. Civil commitment is different than a criminal sentence in that a criminal sentence has a definitive time frame. Civil commitment continues until it is determined that the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence.

The Kansas Sexually Violent Predator Act (1994 Kan. Stat. Ann. 59-29a01 et seq.) has withstood the constitutional challenges and has validated identical laws in numerous other states (Kan. Stat. Ann 59-29a01 et seq., 1994). The U.S. Supreme Court in the *Hendrick's* (Kansas v. Hendricks 521 U.S. 346, 117 S.Ct. 2072 138 L.Ed.2d 501, 1997) case ruled that as long as a State's ancillary purpose is to treat the sex offender and his/her due process rights were protected, the State may commit the sex offender for an indefinite period as far as the United States Constitution is concerned.

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The Texas Legislature defines a sexually violent predator as a person who is a repeat sexually violent offender and suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

Texas civil commitment statute requires a “behavior abnormality” which means a congenital or acquired condition that, by affecting a person’s emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

A predatory act was defined as an act that is committed for the purpose of victimization and that is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists; or a person with whom a relationship has been established or promoted for the purpose of victimization.

A sexually violent offense is defined as Indecency with a Child, Sexual Assault, Aggravated Sexual Assault, Aggravated Kidnapping with Intent, Burglary with Intent, any attempt, conspiracy, or solicitation of the latter, or any offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar. The outpatient treatment and supervision program begins upon the person’s release from the Texas Department of Criminal Justice-Institutional Division, discharge from a state hospital, or upon conclusion of the trial.

Outpatient civil commitment incorporates intensive outpatient sex offender treatment, monitoring with high-technology global positioning satellite tracking, comprehensive case management, and Department of Public Safety surveillance. The Office on Violent Sex Offender Management (OVSOM) as administrator of the Civil Commitment Program, is responsible for the reimbursement of the following but not limited to:

- Case Management System
- Residential housing requirements (if applicable)
- Sex offender treatment (Intake, Testing, Groups, Individuals, Family Sessions, etc.)
- Global Positioning Tracking
- Anti-androgen medication
- Mandated Polygraphs (Instant Offense, Sexual History, Maintenance, and Monitoring)
- Mandated Plethysmographs
- Biennial Examinations
- Transportation needs
- Substance abuse testing

Only **registered sex offender treatment providers** (RSOTP) who contract with OVSOM may assess and provide treatment to the SVP. Sex offender treatment groups are offense specific and limited to ten (10) offenders. Self-help, drug intervention, or time-limited treatment is used only as adjuncts to more comprehensive treatment. Sexually Violent Predators subject to Civil Commitment attend group therapy two (2) times per week and have two (2) individual sessions per month. SVPs are mandated to take polygraphs regarding their Instant Offense, Sexual History, Maintenance, and Monitoring. The penile plethysmographs are utilized to assess sexual arousal.

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

Failure to comply with the order of commitment is a 3rd degree felony, which may result in incarceration in the Texas Department of Criminal Justice-Institutional Division.

Society should understand that SVPs are not “typical” sex offenders. These individuals are repeat sexually violent predators at extremely high risk to re-offend and community safety takes precedence over all conflicting constraints.

SEX OFFENDER BEHAVIORS

Not all sex offenders share all of the following characteristics, and the absence of a particular characteristic does not mean the individual is not a sex offender (English 1996).

Secrecy and dishonesty is a major component of sex offending behavior. Sex crimes flourish in deception and silence.

Sex offenders typically have developed complicated and persistent psychological and social systems constructed to assist them in denying and minimizing the harm they inflict on others, and often they are very accomplished at presenting others a façade designed to conceal the truth about themselves (English 1996).

- Cognitive distortions allow the sex offender to justify, rationalize, and minimize the impact of their deviant behavior (i.e. “I was drunk”, “We were in love”, “She came on to me”, “The child wanted it and I did not have the heart to say no”, “I only fondled the child”).
- Sex offenders use thinking errors to engage in deviant sex. The following are some examples:
 - Mr. Good Guy-“I wear a mask or false front. I give the right answer.”
 - Poor me-“I am the victim of this unjust system.” “Everyone is out to get me.”
 - Victim stance-“I am the one hurt.” “I will convince others that I was more hurt than the victim.”
 - Power play-“It is my way or the highway.” “I will dominate and control others.”
 - Entitlement- “The world owes me.” “I am superior.”
 - Selfish-“I do not care for others.” “I want what I want when I want it.”
 - Hop Over-“I do not answer questions when I know the answer is unpleasant.”
 - Blaming- “I blame others so I can avoid responsibility for my actions.”
 - Minimizing- “I only fondled the child.” “It wasn’t intrinsically harmful.”

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- Secretiveness-“I use secrecy to control others and continue being deviant.”
- Sex offenders are highly manipulative and will triangulate/split those around them. The skills used to manipulate victims are employed to manipulate family members, friends, co-workers, supervision officers, treatment providers, and case managers.
- Grooming activities are not solely for potential victims. Offenders will groom parents to obtain access to their children.
- Grooming is well-organized and can be long term.
- The longer a sex offender knows an individual the better they are at “zeroing in” their grooming (“I can read people like a book. I know what others need and I am available to help out”.)
- The longer a sex offender is on supervision the higher the probability staff will lose their objectivity.
- Sex offenders are generally personable and seek to “befriend” those around them (“My smile is my entrée”. “I ‘m like a salesman but I’m never off work”.)
- Sex offenders will continually test boundaries (personal/professional space).
- Sex offenders exploit relationships and social norms to test boundaries.
- Sex offenders seek professions that allow them access to victims.

Sex offender behaviors are extremely resistant to change, so sanctions to both control and punish deviant behaviors are necessary in protecting public safety. In order to manage their behavior, sex offenders must have external controls (i.e. supervision, support system, law enforcement, registration, child safety zones, electronic or global positioning satellite monitoring, and community notification) and develop internal controls (i.e. identifying triggers and deviant thoughts that precede their offending so it does not lead to the act). Without external restraints many offenders will not follow through with treatment. Internal motivation improves prognosis, but it does not guarantee success.

Sex Offender Treatment

THE DIFFERENCE IN SEX OFFENDER TREATMENT AND TRADITIONAL PSYCHOTHERAPY

The most prominent difference is that the primary client in sex offender treatment is the community and the goal of treatment is NO MORE VICTIMS. With sex offender treatment, community safety takes precedence over any conflicting consideration.

Sex offender treatment is different than traditional psychotherapy in that treatment is mandated, confrontational, structured, victim centered, and the treatment provider imposes

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values and limits. Providers cannot remain neutral because of the risk of colluding with, adding to, and/or contributing to the offender's denial. In sex offender treatment, confidentiality is not maintained due to the enormous public safety issues. Because secrecy is the lifeblood of sexual offending, treatment providers cannot guarantee confidentiality. Treatment providers must not solely rely on self-report because sex offenders see trust as abusable. Treatment providers rely on polygraphs to verify information given by the offender. Sex offender treatment is offense specific and focused on the deviant behavior.

Sex offender treatment requires the offender to face the consequences of their behavior on their victims and society. Sex offenders are expected in treatment to accept responsibility for their sex offending behaviors.

Additionally, sex offender treatment mandates an approach unfamiliar to most mental health professionals because of the substantial control a therapist must exercise over their client due to the concern for community protection. Due to this specialization, a Registered or Affiliate Sex Offender Treatment Provider is qualified through training and experience to conduct the assessment and provide the appropriate treatment for sex offenders. Although community safety is the central purpose of sex offender management, characteristics of sex offenders themselves dictate the form and style of treatment that will be most effective (English, 1996).

Unlike sex offender treatment, in traditional psychotherapy the client voluntarily seeks therapy and is motivated. Goal setting is a joint responsibility with the client having the final say. Therapists remain neutral and do not impose their values and limits. Confidentiality and trust are maintained and are essential to the therapeutic process.

OFFENSE SPECIFIC SEX OFFENDER TREATMENT

Offense specific sex offender treatment is effective in reducing recidivism. A multifaceted treatment program includes the following;

- Cognitive/Behavioral group and individual sessions. Cognitive distortions are thoughts and attitudes that allow offenders to justify, rationalize, and minimize the impact of their deviant behavior. Cognitive distortions allow the adult sex offender and juveniles with sexual behavior problems to overcome prohibitions and progress from fantasy to behavior. These distorted thoughts provide the adult sex offender and juveniles with sexual behavior problems with an excuse to engage in deviant sexual behavior, and serve to reduce guilt and responsibility.
- Arousal control. Control of deviant arousal, fantasies, and urges is a priority with most adult sex offenders and juveniles with sexual behavior problems. Fantasy and sexual arousal to fantasy are precursors to deviant sexual behavior. It should be assumed that most adult sex offenders and juveniles with sexual behavior problems have gained sexual pleasure from their specific form of deviance. Dr. Matthew Ferrara in "Lifestyle Enhancement and Development (2000)" describes deviant sexual behavior as behavior that meets one or more of the subsequent criteria: Sexual contact with a person under the legal age of consent (17 years old); sexual contact with a person who is unable to give consent; sexual contact that is forced,

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aggressive, causes physical harm, is coerced, uses intimidation or deceit, or is paid; or sexual contact that is harmful or degrading.

- Victim empathy. Although there is no clear evidence to suggest that all sex offenders can gain true empathy for victims of abuse, a universal goal of treatment is to learn to understand and value others. Highlighting the consequences of victimization helps sensitize the offender to the harm he or she has done. Empathy is comprised of cognitive and emotional aspects and both components may need to be addressed (ATSA). The use of analogous experiences has been shown to be effective especially with juveniles. Sex offender treatment requires the offender to face the consequences of their behavior on their victims and society.
- Biomedical interventions. Physical or chemical castration should be utilized only as an adjunct to treatment and not in lieu of treatment. Antiandrogens such as depot-provera or Lupron act by reducing testosterone levels. These agents may be helpful in controlling arousal and libido when these factors are undermining progress in treatment or increasing the risk of re-offending before significant progress can be made in the cognitive aspects of therapy. Likely candidates for biomedical intervention are those clients who are predatory, violent, have had prior treatment failures, and report an inability to control deviant sexual arousal. It should be remembered that deviant sexual behavior begins with deviant sexual thoughts.
- Offense Cycle and Relapse Prevention. Current knowledge of deviant sexual behavior suggests that there is a cycle of behaviors, emotions, and cognitions that is identifiable and which precede deviant sexual behavior in a predictable manner. The ability to accurately identify these maladaptive behaviors is a primary goal for every adult sex offender and juvenile with sexual behavior problems in treatment. Autobiographies, sexual history polygraphs, offense reports, interviews and cognitive-behavioral chains are used to identify antecedents to offending. It is essential to examine the sex offender's deviant sexual arousal and behavior and not just the offense of conviction. Research and clinical reports have begun to demonstrate that a number of treatment methods are effective in modifying some forms of sexual deviance. It is known that very specific thoughts occur prior to the sexually deviant act. This is what is commonly referred to as an offense cycle.

IMPULSE → FANTASY → PLAN → ACT → CONSEQUENCE

- Impulses are normal and natural. Everyone has impulses and impulses are automatic. An impulse is when a person recognizes an individual in terms of their sexual attractiveness. A fantasy is a mental picture of what it would be like to engage in deviant sexual behavior. The set up is the plan for victimization. The consequence for deviant sexual acts should be legal sanctions but unfortunately not all deviant sexual acts are followed by consequences. Sex offenders must recognize their deviant impulses and stop those impulses from developing into deviant fantasies. It is essential to examine the sex offender's deviant thought, sexual arousal, and behavior.

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- Polygraphs. Because secrecy and dishonesty is the major component in sexual offending, polygraphs must be utilized. Polygraphs measure the emotional arousal that is caused by fear and anxiety. The autonomic nervous system responds to arousal with physiological reactions such as increased heart rate, depth of respiration, and sweat gland activity. There are four types of polygraphs that are used on sex offenders:
 - a. Disclosure Polygraph- addresses the offense of conviction in conjunction with the official version;
 - b. Sexual History Polygraph- addresses the complete sexual history of the client up to the instant offense;
 - c. Maintenance Polygraph- addresses compliance with conditions of supervision and treatment; and
 - d. Monitoring Polygraph- addresses if the client has committed a “new” sexual offense.
- Plethysmograph is a diagnostic method used to assess sexual arousal by measuring the blood flow (tumescence) to the penis during the presentation of sexual stimuli (audio/visual) in a laboratory setting. The plethysmograph provides the identification of clients’ arousal in response to sexual stimuli and the evaluation of therapeutic efficacy. If offenders are internalizing methods taught to control their deviant arousal, there is a decrease in deviant arousal and an increase to positive appropriate arousal.
- Co-morbid diagnosis. In some adult sex offenders and juveniles with sexual behavior problems there are sufficient signs and symptoms to merit an additional diagnosis by DSM IV-TR criteria. These diagnoses can be anywhere in the entire spectrum of psychiatric disorder. The co-morbid diagnoses should be treated with the appropriate therapies concomitantly with the treatment for sex offending behavior except in the case of schizophrenia where the anti-psychotic therapy would obviously take precedence.
- After-Care. A therapeutic regime that includes after-care treatment significantly increases the likelihood that gains made during treatment will be maintained. In order for new habits and skills to be reinforced and to monitor compliance with treatment contracts, after-care treatment should involve periodic follow up sessions to reinforce and assess maintenance of positive gains made during treatment.
- Adjunct treatments. Substance abuse, anger management, stress management, social skills, couples/family therapy, or self-help groups shall only be used as adjuncts to a comprehensive treatment program in reducing the client’s risk to re-offend.

Polygraph As A Supervision Tool

In recent years the use of polygraph to monitor probated and paroled sex offenders has increased due to new techniques and better equipment. The introduction of standardized testing formats and computerized polygraph instruments has brought polygraph out of the dark ages and into the courts.

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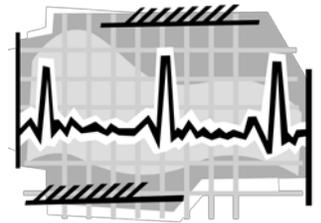
There have been several testing formats designed specifically for use in the monitoring of convicted sex offenders. These testing formats and procedures were reviewed and approved by the Joint Polygraph Committee on Offender Testing (JPCOT). Below is a listing of the testing formats used to monitor sexual predators.

THE DISCLOSURE TEST ON THE INSTANT OFFENSE

This test is used to break denial. In some cases the convicted sex offender enters group treatment in denial of the offense for which he was convicted. The offender may state that his lawyer told him he better take a plea in his case and avoid a trial that could convict him and place him in prison. The offender states that he did not commit the offense but pled guilty to the case to avoid going to prison. The treatment process is not effective when the offender denies he has a problem. The polygraph test is administered to break denial and prepare the offender for effective counseling and treatment.

SPECIFIC ISSUE EXAMINATION

This test is used to test over a specific issue or event for which the offender has been accused since his release. If the offender is accused of an illegal act or specific re-offense, an investigation is conducted and the information uncovered is used to administer a polygraph examination.



THE DISCLOSURE TEST OVER THE SEXUAL HISTORY

This test is administered early in treatment to obtain an accurate picture of the offender's sexual history. This examination requires the offender to document every sexual episode he has experienced in his life. It covers offense issues as well as personal sexual habits and paraphilias. This information gives the treatment provider a baseline for which to begin treatment with each individual offender.

MONITORING TEST

This test is used to ascertain whether the offender has re-offended since his release. This test covers issues concerning being alone with minors, hanging out at school yards or playgrounds, exposing himself, or actually touching a minor's privates. The offender is given this test on a bi-annual basis to make sure he is complying with treatment.

MAINTENANCE TEST

This test is used to ascertain whether the offender is complying with the conditions of his parole or probation. Parole and probation carry restrictions making it a violation for the offender to consume alcohol or illegal drugs, access the internet, look at pornography or visit sexually oriented businesses. The test is also used to determine if the offender is being honest with his treatment provider and parole or probation officer.

The use of polygraph in these situations requires complete cooperation from the treatment provider and parole or probation officers. If no action is taken by these treatment or super-

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vision officials when an offender is shown to be deceptive, the polygraph examinations become ineffective. The individual being tested must fear detection before the test is effective. If violations are uncovered and no action is taken, the examinee no longer fears detection and the examination is moot.

The members of the JPCOT feel that it is important to recognize that with any powerful treatment tool there exists a potential for misuse. A critical point of understanding concerning the clinical polygraph is that it is a diagnostic tool. The polygraph examination's utility, i.e., its ability to obtain information, is a separate issue from forming diagnostic opinions that are scientifically valid, reliable and defensible. By emphasizing the use of methods with established validity and reliability, the JPCOT guidelines seek to protect examinees, registered sex offender treatment providers, supervision specialists and polygraph examiners.

Recidivism

RECIDIVISM RATES

Sex offender typologies have been traditionally used to assess risk and assign levels of treatment and supervision (Heil, 2003). These typologies assume that rapists only sexually assault adults and child molesters only molest children. Heil, Ahlmeyer, and Simons in a 2003 study found that 52% of inmates who were known to sexually assault only adults admitted to sexually molesting children, and 78% of inmates who were known to molest children also admitted to sexually victimizing adults. Additionally, this study found that 64% of inmates known to victimize relative children admitted to victimizing non-relative children.

The recidivism rates fluctuate among different types of sex offenders and are related to specific characteristics of the sex offender and the offenses. Recidivism rates for non-sex offending criminals are higher than recidivism rates for all types of sex offenders except the sexually violent predator. Research on recidivism rates can be functional in developing intervention strategies. Recidivism research outcomes are based on the definition of recidivism used. Caution should be used in placing sex offenders in exclusive categories.

It should be noted that recidivism rates are based upon information gathered from an arrest, a conviction, or incarceration on a sexual offense. In other words, a sex offender can repeatedly re-offend before he or she is arrested and recidivates. Marshall and Barabaree (1990) compared official records with “unofficial” sources. They found that the number of subsequent offenses revealed through the unofficial sources were **2.4 times higher** than the official records.

Donna Schram and Cheryl Darling Miloy reported in *Sexually Violent Predators and Civil Commitment*, a study of sixty-one (61) incarcerated sex offenders in Washington who were **not considered eligible** for a SVP petition, revealed that on average, they had 2.6 sex convictions. Additionally, 95% were alleged to have other known offenses for which they had not been convicted; yet these offenders spent an average of only 5.1 years in prison for their index offense.

In general, the factors most strongly related to violent and sexual recidivism include having the characteristics of psychopathy as defined by a high PCL-R score (Hare, 1991, 1996, Rice 1997), a history of criminal behavior, and being young. Rice and Harris (1997) reported that

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the combination of **psychopathy**, measured by the PCL-R, and **sexual deviancy**, based on phallometric test results, resulted in the highest recidivism in their sample of sex offenders (Wakefield, 1998).

The public would be remiss if relying on recidivism rates in determining the “dangerousness” of a sex offender. Some sex offenders will inevitably commit new sexual offenses despite our best proactive efforts. Likewise, not all sex offenders who have high probability of re-offense will recidivate. Hanson and Bourgon (2004) in a study of 31,216 sex offenders found that, on average, the observed sexual recidivism rate was 13%, the violent non-sexual recidivism was 14%, and general recidivism was 36.9%.

CHARACTERISTICS OF A RECIDIVIST

(Office on Violent Sex Offender Management)

- Multiple victims
- Stranger victims
- Psychopathy (Narcissism+Antisocial Personality=Psychopath. This is measured on the Hare Psychopathy Checklist. A score above 30 is considered a psychopath))
- Diverse victims
- Juvenile sexual offenses
- History of abuse or neglect
- Multiple paraphilias
- Unemployed
- Substance Abuse
- Antisocial lifestyle

RISK FACTORS AND WARNING SIGNS TO RE-OFFENSE

- The following are a few of the risk factors and warning signs exhibited by sex offenders prior to committing a new sexual offense (Hanson 2000):
- The client does not understand they are at risk.
- The client has little or no support systems.
- The client regards sex as an entitlement.
- The client has access to potential victims.
- The client is not compliant or cooperative with supervision or treatment.
- The client is hostile and angry.
- The client is using drugs or alcohol.
- The client is persistently in denial and blames the victim for the crime.

In the 2000 Hanson and Harris study of 208 sex offenders who committed a new sex crime, the first three were the top three risk factors shown in the month before the sex offenders committed a new offense.

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RISK REDUCTION TIPS FOR PARENTS

- **Think safety first.**
- Be informed and know your local resources.
- Be active in your community. Get to know your neighbors.
- **Never** assume your child could not be molested, missing, or abducted.
- Build your child's self-esteem. A child who has low self-esteem is more easily lured.
- Teach and practice decision making with your child.
- Build support systems. Children need to know where to go for help.
- Carefully interview, screen, and check caregivers.
- Teach age appropriate information regarding physical and sexual abuse.
- Use age appropriate role-playing with children. Play "what if" games.
- Develop a family code for emergency situations.
- Respect a child's "no." Do not force a child to hug or shake hands.
- **Never** leave young children unattended.
- Establish ground rules for your child when answering the telephone.
- Teach and have emergency contact numbers easily accessible.
- Teach your child to screen telephone calls through voice mail or caller ID.
- Monitor all computer use. Use parental controls.
- Teach your child their full name, address, and telephone number including area code. Practice calling long distance.
- Teach your child your full name.
- Learn how to access registered sex offender information of the Department of Public Safety website.
- Teach your child when it is okay to "make a scene" if they sense danger. Teach them how to create a commotion.
- Have your child's picture taken at least four times per year.
- Keep your child's records including fingerprints, footprints, dental/doctor information, birthmarks, and birth certificates.
- Tell your child that you will never stop searching for them if they were ever taken.
- Let kids be kids. Teach them safety but do not scare them.

CONCLUSION

Sex offenders cannot be "cured" but with specialized offense specific treatment and supervision, many sex offenders can manage their deviant behaviors. Society must understand that not all sex offenders are predatory and the majority of sex offenders will not commit new sexual offenses. The public perception of sex offenders representing a high risk and the evident reality of statistics demonstrate a relatively low level of sexual re offending (Hanson and Bourgon, 2004; Lane Council, 2003; Hall, 1995; Hanson, 2000; December 2002 Psychiatry News.) Society must be informed, aware, and think of safety first. Communities must listen to outcries regarding abuse. It is crucial to remember, there are no absolutes or "magic bullets" in the process of identifying risk factors. Some sex offenders will inevitably commit subsequent sex offenses, in spite of our best efforts at identification aimed at minimizing these conditions (Bynum, 2001).

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 ADVOCACY

- ▼ Ethics
- ▼ Ethical Standards
- ▼ Post Traumatic Stress Disorder
- ▼ Rape Trauma Syndrome
- ▼ Crisis Intervention
- ▼ Suicide
- ▼ Significant Others

ADVOCACY

A sexual assault advocate must be capable of addressing the overall needs of a survivor, as well as searching for and recognizing other underlying issues that may present themselves after a sexual assault.

Ethics

VOLUNTEER VS. PROFESSIONAL

Sexual assault programs have long valued the ability of volunteer advocates to provide crisis intervention, assistance, and information to survivors of sexual assault and abuse. The sexual assault field originated as a “grassroots” movement with the philosophy that a professional license or academic degree was not necessary to provide basic emotional support to survivors. Volunteers who were well trained and sensitive to the issues could provide excellent service to clients. Some volunteers are survivors of sexual assault and understand, through personal experience, the trauma of sexual assault and want to assist others who have been similarly victimized.



Most advocates enter the field with similar selfless motives. It is easy for the advocate to believe that a genuine desire to be of service to others cannot possibly cause harm. Although advocates may complete a certified training program, individual volunteers are not regulated by professional licensing agencies or governing bodies (unless the volunteer was a psychologist, social worker, nurse, attorney or similarly licensed professional before becoming a sexual assault advocate). Each profession that requires a license to practice also has a formal written standard of professional ethics, specific to that profession, that the members of that profession must subscribe to, or risk losing the license to practice. Since volunteer advocates are not bound to the parameters of such formal written guidelines, it is easier to minimize or overlook the importance of ethical behavior applicable to the sexual assault field. Yet, even an innocent breach of ethical behavior can do unintended damage to a survivor, causing the client to feel re-victimized, or possibly impede the healing process and the criminal justice process.

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DEFINITION

Ethics: the discipline dealing with what is right and wrong and within moral duty and obligation; a set of moral principles or values; a theory or system of moral values; the principles of conduct governing an individual or a group. Ethical: of or relating to ethics; conforming to accepted professional standards of conduct. (Webster's Seventh New Collegiate Dictionary. G. & C. Merriam Company; 1971)

THE IMPORTANCE OF BOUNDARIES

To provide the best possible service to survivors, advocates must be familiar with and conscientiously model good ethical behavior. Essential to the practice of ethical behavior is a recognition and understanding of basic boundary issues. Maintaining appropriate boundaries and consistently and steadfastly behaving within the limits of the advocate/survivor relationship are essential to maintain the survivor's trust and sense of safety. Often, survivors who are appreciative of the support of the advocate will want to extend the relationship beyond the advocate/survivor relationship into a friendship. It is the advocate's responsibility to maintain appropriate limits on the relationship gently. This can be accomplished by encouraging the survivor to develop a personal support system outside of the rape crisis program. It is never appropriate to allow an advocate/survivor relationship to gradually blend into a friendship. Although it is sometimes difficult to recognize, there is a power differential between the survivor and advocate. No matter how caring or well intentioned, the advocate is still in the role of the "expert" or "provider," while the survivor is in the role of "recipient" or "consumer." No matter how much it feels like a friendship between equals, it is inevitable that a survivor will rely on, lean on or give more credibility to the feelings, behavior, and values of the advocate. The survivor already had a significant violation of boundaries occur during the victimization; it is crucial that the advocate not engage in any behavior that may even subtly blur the boundaries of the relationship with the survivor.

Consistently practicing ethical behavior requires vigilance. The advocate must constantly monitor innuendoes, suggestions, offers, opportunities and all aspects of the relationship for signs it is losing its professional focus.

Innocent, but potentially damaging ethical violations might occur when/if:

- The survivor asks for the advocate's home phone number or the advocate provides it.
- The survivor asks for personal information about the advocate or the advocate volunteers it.
- The survivor offers the advocate goods or services, such as a discount at a survivor-owned business, or coupons for a dinner or similar entertainment to express appreciation for services rendered.
- The survivor or advocate extends an invitation to lunch, dinner, coffee, or other occasions purely social in nature.
- The advocate volunteers specifics of his/her own history of abuse.

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- The advocate shares his/her own feelings about the insensitivity of the police, the callousness of the hospital staff or the frustration of working within a bureaucratic system.
- The advocate begins to support a course of action he/she believes is in the survivor's best interest, rather than allowing the survivor to make his/her own choices.

Just as it is a principle of victim advocacy that the perpetrator is always responsible for the assault and the survivor is never responsible for being raped, it is a principle that the advocate is always responsible for maintaining appropriate advocate/survivor boundaries. The client is not responsible for monitoring the relationship to determine when boundaries are being crossed.

BASIC ETHICAL PRINCIPLES

In sexual assault work, another principle is that survivors are entitled to knowledgeable assistance, privacy, and respect. Every survivor has the right to self-determination, which means being allowed to make one's own choices without criticism, opposition or judgment. This does not mean the advocate validates every choice a survivor makes, but the advocate consistently supports the survivor's right to make her own choices. The advocate can serve the survivor best by objectively encouraging the survivor to explore all the potential consequences of any decision, both positive and negative.

Fairness and flexibility are hallmarks of ethical and effective advocacy. Fairness includes providing the same excellent service to all survivors, regardless of age, ethnicity, sexual orientation or lifestyle. It means apprising the survivor of all the options available, rather than just those the advocate favors. Flexibility calls for the advocate to recognize when a particular approach is not helpful to a survivor and to be willing and able to modify it as needed.

An ethical advocate will always honor the survivor's right to informed consent, which means the advocate has the duty and responsibility to provide appropriate, timely and accurate information the client needs to make informed choices and decisions.

Survivors seeking services have the right to be informed about:

- The advocate's qualifications training, credentials and experience.
- The agency's philosophy of counseling. For example, if the agency is affiliated with a specific religious denomination that has prohibitions against certain behaviors or lifestyles, the survivor should be informed of this, before delivery of services.
- Confidentiality policy, including the limits and exceptions.
- The nature and limits of the counseling relationship

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- Anticipated duration of counseling including length and frequency of sessions. If the agency must limit services to a maximum of three or six months, the survivor should be informed of this in advance.
- The survivor's recourse if dissatisfied with the services provided.

CONFIDENTIALITY

Confidentiality is perhaps the most fundamental principle of sexual assault services. Survivors have a basic right to expect information shared with the advocate will not be shared with others inappropriately or without survivors' knowledge or consent. However, confidentiality is not absolute, and it is essential that survivors be made aware of the exceptions. When an exception to confidentiality is made, the survivor should be notified of the disclosure. In addition, the survivor's privacy should be protected to the extent possible when disclosure is required.

Exceptions to confidentiality include:

- Occasions when a survivor poses a danger to self or others; the advocate has a duty to warn and protect.
- Occasions when a survivor requests information be released to appropriate third parties, providers, officials or agencies. In these cases, the survivor should sign a release specifying the information to be released and specifying the length of time for which the release applies.
- Occasions when a court orders a release of information.
- Anytime the advocate is working under supervision.
- Occasions when a client discloses information about physical, emotional and/or sexual abuse of a child.
- Anytime a third party is present in the room.

THE IMPORTANCE OF DOING ONE'S OWN WORK TOWARD HEALING

No matter how passionate an advocate may feel about eliminating sexual violence or how committed the person may be to supporting survivors, if the advocate is a survivor of any kind of similar trauma (e.g., childhood sexual abuse, sexual assault, domestic violence) it is a grave disservice to the survivor if the advocate accepts the role without having first completed his/her own healing. If the advocate still has unresolved abuse issues related to his/her family of origin, a history of abuse or victimization, it is inevitable those feelings will seep into the survivor/advocate relationship.

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Signs that an advocate may have unresolved issues that should be addressed include:

- Encouraging a survivor to express anger he/she has not yet begun to feel.
- Criticizing the survivor's friends, partner or family for not being supportive or sensitive enough.
- Focusing so much on the survivor's needs/problems that one's own emotional needs become secondary or unimportant.
- Becoming angry, tearful, sad or frustrated with a survivor when he/she does not respond as the advocate expects.
- Gossiping about the survivor within the agency or repeating confidential information to one's family, friends or coworkers.

Serving as a volunteer advocate is a demanding and challenging role. The advocate will regularly be exposed to evidence of humankind's inhumanity, stories of unspeakable sadness and scenes of unmitigated injury. It is impossible to continue to be sensitive, giving and appropriately responsive if the advocate's energy and attention flows outward and no compensatory positive energy and attention flows in. The most precious gift an advocate can offer a survivor is a model of a full, healthy and balanced life that gives but also knows how to receive (but not from the survivor). This model shows the survivor powerful evidence that there is hope for recovery, that good does prevail and that life in all its fullness does go on.

Ethical Standards

These standards for advocates can provide guidance in current and pending situations.

- The highest level of ethics is required of all advocates.
- Being an advocate for survivors of sexual assault involves trust. Any attempt to realize personal gain through advocacy is inconsistent with the proper discharge of the advocate's duties with the program.
- Follow these general standards:
 - Do no harm.
 - Promote the good of the survivor.
 - Be fair to all parties involved.
 - Keep your word.
 - Maintain confidentiality of survivor disclosures and records (unless disclosure is required).
 - Foster and respect the survivor's right to information and to make decisions based on the information (e.g., informed consent).
 - Avoid conflicts of interest.
 - Avoid dual roles in relation to the survivor or his/her family.
 - Represent accurately your own abilities, authority and power.
- Advocates should seek the guidance and support of the supervisor volunteer director in all areas of ethical concerns.

Post Traumatic Stress Disorder

Although individual reactions to a sexual assault may vary widely from one survivor to another, most survivors experience a significant degree of physical and emotional trauma during, immediately following, and for a considerable period of time after a rape. In 1974, two crisis counselors, Ann Wolbert Burgess and Linda Lytle Holmstrom recognized the symptoms described by survivors were so consistent that they identified the cluster of physical and emotional reactions to rape as Rape Trauma Syndrome. ("Rape Trauma Syndrome," AMJ Psychiatry: 133: pp. 981-986, 1974).

Rape Trauma Syndrome is not a clinical diagnosis but is a specific form of the clinical diagnosis of post-traumatic stress disorder. Trauma occurs when exposure to an overwhelming life event occurs outside the range of normal, usual or expected life experiences, and the individual feels powerless in the face of intolerable danger or anxiety. The effects of trauma have been recognized since the early 20th century but were originally thought to be specific to soldiers exposed to the horrors associated with combat: watching others die or be wounded, experiencing terror at the uncertainty of one's future, and being helpless to escape. Over the course of the first two world wars and the Korean conflict, the symptoms experienced by returning GIs were identified by various names including shell shock, war neurosis and combat fatigue. It was not until the late 1960s that clinicians working in a variety of areas began to recognize the human response to overwhelming and uncontrollable life events is remarkably consistent, regardless of the nature of the specific trauma: flood, fire, combat, kidnapping, domestic violence or rape.

For an event to be considered traumatic, two criteria must exist:

1. The person experienced, witnessed or was confronted with an event or events that involved actual or threatened death, serious injury or a threat to the physical integrity of self or others.
2. The person's response involved intense fear, helplessness or horror. (Diagnostic and Statistical Manual IV)

CRISIS REACTION

The crisis reaction is a normal human response to trauma that tends to follow a similar pattern. This reaction occurs in all of us when we are exposed to traumatic stress. The crisis reaction consists of physical, emotional and biochemical responses.

Physical Response-When exposed to traumatic stress the physical body responds by increasing the heart rate and increasing the flow of adrenaline. This prepares the body for fight or flight. In some cases the body will also expel excess fluids by vomiting, and releasing the bladder and/or bowel. This is a survival function that protects the body from the risk of infection should internal injuries result from the crisis situation. Individuals may also react with frozen fright. This reaction is characterized by physical shock, disorientation and numbness. We do not consciously choose or control these reactions. These are inherent survival mechanisms that happen automatically when we detect extreme danger.

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The crisis reaction causes some physical senses to become quite heightened, while others may shut down almost entirely. For example, a victim held at gunpoint may experience an extreme narrowing of the information taken in by sight to the point that the only thing he or she can describe about the perpetrator is the gun he was holding. However, the sense of smell may become so acute that it is possible to identify the specific cologne worn by the perpetrator during the attack.

Emotional Response-The emotional response to traumatic stress can be characterized in three general stages. The National Organization for Victim Assistance identifies these as Impact, Recoil, and Reorganization.

The first stage of the emotional response is **Impact**. This phase is characterized by shock, disbelief, and denial. This is when the realization of the traumatic event first “hits.” Some describe **Impact** as feeling like a punch in the stomach or a sudden blow to the face. There is shock and disorientation as we try to make sense out of what has just happened.

The second stage is **Recoil**. Humans naturally draw back from that which is painful and threatening. Unfortunately, there is no escaping the life changes and losses associated with a traumatic event. This stage is characterized by a cataclysm of emotions—a wide range of varying and extreme emotions. Feelings of sadness and depression, fear and strength, relief and dread and anger and rage are natural reactions as we attempt to cope and recover from the traumatic event. Individuals experiencing this range of extreme emotions sometimes report that they feel like they are “going crazy.” These individuals may indeed appear to be unstable. This, however, is a natural response to unusual and threatening life experiences.

The third stage is **Reorganization**. Traumatic experiences often damage or may even destroy one's concept of self, view of the world, belief systems or spiritual views and faith. Recovery requires the reorganization of one's thoughts about the event, reconstruction of equilibrium and sometimes revisions in belief systems. During this phase emotions and beliefs once again become balanced and a new state of "normal" is achieved.

Biochemical Response-As discussed above, traumatic stress causes an increase in adrenaline. Glucocorticoids are also released which may cause damage to the declarative or the language and logic memory functions of the brain. During a traumatic event it is primarily the sensory and emotion memory centers that are functioning. This means that during extreme trauma, like rape, survivors may be unable to logically filter information. The traumatic experience is stored primarily as emotional and sensory memories. Details and chronology may seem somewhat confused at first. This disorientation is a natural result of the traumatic reaction.

THERE ARE FIVE PRIMARY CHARACTERISTICS OF THE HUMAN RESPONSE TO TRAUMA:

1. ongoing startle response or heightened irritability;
2. a tendency to explosive outbursts of aggression;

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3. fixation on the trauma;
4. constriction of the general level of personality functioning; and
5. altered sleep patterns (van der Kolk, M.D., Bessel A., Psychological Trauma, Boston, American Psychiatric Press, 1987).

Kardiner, who first described the syndrome, stated that survivors “continue to live in the emotional environment of the traumatic event.” (Kardiner, A: The Traumatic Neuroses of War. New York, P. Hoeber, 1941). Many researches have described the response to psychological trauma as occurring in two phases, with the survivor alternately reliving and denying the experience. In other words, the symptoms may be either:

- intrusive, or
- numbing.

Intrusive symptoms are those that literally **intrude** upon the survivor’s life or consciousness, uninvited and against her/his will. Intrusive thoughts and reactions sometimes occur because of **triggers**. As discussed earlier, some senses become quite acute during the traumatic incident. When we are in crisis mode these senses take in a great deal of information. When victims experience the same or similar stimuli in the future, this information can trigger the crisis reaction. For example, a woman may feel panic, fear, and anger whenever she hears David Letterman on the television even though it has been many years since her father would sneak into her bedroom, when she was a child, and sexually molest her as her mother slept during the David Letterman program. Although she may not currently be at risk, that sensory memory is linked to danger for her. **Triggers** may take the form of sounds, smells, touches, things we see, locations and other types of stimuli.

Intrusive thoughts may also take the form of recurring images, thoughts, dreams or flashbacks of the event, hyper-reactivity, explosive outbursts, exaggerated startle response or reenactment of situations that remind the survivor of the trauma. For example, a scene in a TV movie may cause a survivor to be flooded with the memory of her own sexual assault, even though it may have occurred sometime in the past. Marked symptoms of anxiety or increased arousal, such as difficulty sleeping, irritability, inability to concentrate, general restlessness or an exaggerated startle response may be experienced by the survivor.

Sometimes, behaviors that appear to be voluntary are actually a form of intrusive re-experiencing (e.g., victims of childhood sexual abuse who may become promiscuous as a result of the abuse). Some clinicians have interpreted this voluntary re-exposure to trauma as an attempt to gain mastery of an event over which the sufferer had no control.

Numbing symptoms are those in which the survivor literally becomes numb or emotionally constricted. She may exhibit a limited range of emotional responses, may isolate herself, may avoid family obligations or activities which were formerly pleasurable and experience a sense of estrangement from others, including loved ones. The survivor may show marked avoidance of anything that causes memories of the event: thoughts, feelings, activities, places, and/or people. (Example: a survivor who was assaulted in a parking garage may walk several blocks to a destination to avoid parking in any parking garage, even in daylight, or

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when with companions.) It is as though the survivor is attempting to gain some sense of subjective control by avoiding all situations or emotions related to the assault.

Detachment is a common defense mechanism that survivors may use instinctively to protect or ‘numb’ themselves to the emotional or physical pain brought on by the event or the memory of the event. In some cases, the detachment is so extreme as to be considered dissociation, where one’s awareness literally “separates” or “dies-associates” from the body, so that a survivor might recount what occurred during an assault as though she were watching it from outside of the body. Often, survivors will say something like: “When I think about what happened, I can see it as though I were floating near the ceiling and watching from above.”

Common expressions that indicate a dissociate response are: “I feel like I’m in a daze,” or “Nothing feels real,” or “I don’t feel real.” The most extreme form of dissociation is amnesia, when the person is unable to recall all or part of a traumatic event. Amnesia may last for a short time or, sometimes in the case of ongoing abuse, for years. (For example, many survivors of childhood sexual abuse who have no means of escape develop amnesia about the abuse until adulthood.) It is another coping mechanism that allows one to endure what may seem unendurable.

NOTE:

If, when working with a survivor, the advocate notices that the client has gone into a dissociative state (e.g., “checking out,” looking dazed, not responding to questions), it is very important not to touch the survivor to get her attention. Any unexpected touch can have a startling effect on the victim and may cause a panic response. It is helpful to call the survivor’s name, several times, if necessary. If there is no response, then try saying, “I’m going to put my hand on your arm, is that okay?” Usually, such an announcement preceding a gentle touch will bring the person back to the “here and now.”

Rape Trauma Syndrome

If major areas of the survivor’s life, such as the ability to work or socialize, are significantly impaired, it should be considered an indication that she may be suffering from Post Traumatic Stress Disorder or, specifically, Rape Trauma Syndrome.

The originators of the term “Rape Trauma Syndrome” identified two major phases of the syndrome:

1. The Acute (Initial) Phase, which lasts a few days to a few weeks after the attack, and
2. The Reorganization Phase, which may last from a few weeks to several months to years after the attack.

During the **Acute Phase**, the survivor’s physical symptoms may include general soreness or discomfort throughout her/his body as well as pain in specific areas, especially those injured during the assault. She may also experience disrupted eating and sleeping patterns. For example, a survivor may alternate between being unable to sleep for long periods of time, and wanting to sleep all the time. Her emotional responses may appear to an outside obser-

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ver to be erratic and unpredictable. Her moods may swing rapidly from rage to hysterical laughter, tears or passivity in a very short time span. Some survivors express their emotional responses while others repress or control theirs. Both are normal responses to the complete disruption of one's life that occurs as the result of a sexual assault. It is important to remember that the survivor's experience is that her life has suddenly and unexpectedly been shattered by an unanticipated, painful event. It is natural for him/her to be in a state of shock and disbelief.

During the **Reorganization Phase**, the survivor's physical injuries heal and he/she begins to reorganize her life and learn how to cope after a sexual assault. The survivor begins to address emotional concerns, such as developing new or strengthening existing coping mechanisms, and developing a support system. She may also begin to address more long-standing issues such as relationship issues, chemical dependency issues, un-addressed spiritual concerns, etc. For example, statistics show that as many as 80 percent of survivors change their residence within a year of the assault, regardless of whether the assault occurred in the home. It is not uncommon for relationships that existed prior to the assault to be disrupted or broken as a result of the event. Sometimes this is due to the increased emotional needs expressed by the victim; other times, it may be due to a partner's inability to deal with the after-effects of the assault.

Over time, the victim may eventually reach some kind of **resolution**. Some consider resolution to be a third, but less discussed stage. This may be because the victim may not reach complete resolution until some time after crisis counseling. Because an assault can cause a victim to reassess all of her beliefs and values, in order to fully resolve the experience, she must find a way to come to terms with the shattering of all of her previous assumptions. These may include assumptions about relationships, trust issues, her own purpose in life, as well as more profound spiritual questions. One indicator that the victim has reached this level of resolution is that she is able to recall the assault without experiencing "triggers" (involuntary elicitation of feelings and reactions to the event) or is able to manage the triggers if they do occur. When the assault is fully resolved, the survivor is able to experience a full range of feelings: joy, happiness, sadness, anger, envy, etc. without constriction or avoidance. She is able to accept anger as a normal human emotion, but one that does not control her life. She may continue to grieve occasionally but the process will be intermittent rather than continuous. Lastly, when the assault has been fully resolved, the former victim will be empowered to avoid re-victimization whenever possible and will discover a stronger, wiser self.

Crisis Intervention

Many times, when people think about helping someone in a crisis it sends the "helper" into something of a crisis, also. He/she become very anxious, the heart starts pounding, the palms of the hands get wet and he/she may become flushed. Sometimes learning more about what it is we fear when this happens, helps us fear it less.

The first important thing to know about a crisis is that it is time limited. A crisis always pushes towards some sort of resolution (good or bad) and will usually run its course in about 8-10 weeks. During a crisis, a person's habits, coping patterns and defenses are suspended. It is during this time that the individual is most open to learning new coping skills effectively.

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It is vitally important for the advocate to be nonjudgmental regarding the nature of an individual's crisis. Trauma and crisis are subjective experiences. What may seem to be a comparatively trivial matter to one person may cause extreme distress for another. For example, one person may go into a crisis and experience intense grief when a pet dies. For another individual, the cat's dying may be of little consequence. There are many factors that influence whether or not we will perceive an incident as traumatic. Past experiences, values and beliefs, emotional stability and support prior to the event are a few of the variables that influence the way we perceive the events in our lives.

It is extremely important to note that a person who is in crisis is experiencing a number of different feelings, two of which may be anxiety and confusion. Therefore, especially in the initial stages of a crisis, help the person get in touch with the feelings that they are experiencing before attempting to provide any information. In reality, there are a lot of places an individual can go to get information that may or may not help. There are not, however, as many places where an individual can get help clarifying feelings about an event. This is important, as clarifying one's feelings will help in making a decision that will in turn lead to a resolution of the crisis.

FEELINGS

The feelings a person in crisis may experience include:

- Anxiety
- Powerlessness
- Shame
- Anger
- Ambivalence
- Hopelessness
- Decreased self-image

It is important that the advocate show the survivor that there are no right or wrong feelings and that whatever he/she is feeling is okay. This may become difficult at times because the survivor may be experiencing a mixture of feelings. Feelings, especially anger, may be displaced and directed at the advocate. The advocate should not be offended by this and thereby, act in a negative way. Remember, the survivor may be in a state of emotional confusion.

Let us examine some feelings that the survivor may have about you—the advocate:

1. First of all, the person in crisis is likely to feel that you, the advocate, are going to solve his/her problem. This is an erroneous assumption, and at times, he/she may need to be reminded that you cannot solve problems for him/her. You can help him/her, though, examine options so that he/she can make the appropriate choices.
2. Secondly, he/she may feel that you are someone who is concerned, knowledgeable and willing to help. This is an appropriate assumption and it is important that the advocate show the survivor these attributes.

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It is important to keep survivors in the "here and now." This will give you a clue as to what issues are presently disrupting their lives and where to begin. Keep them focused on what they are feeling right now and begin the crisis intervention.

Material compiled by Ben Komman, MSW, ACSW from Crisis Suicide Rescue, Inc. and Suicide and Crisis Center of Dallas.

CRISIS INTERVENTION: COPING WITH THE CRISIS

How Do We Define Crisis?

- A response to a stressful situation or emotionally hazardous event which poses a threat to the individual.
- The individual's usual ways of coping are ineffective.
- The individual may be unable to maintain the usual pattern of functioning.

SUMMARY OF THE CONCEPT OF CRISIS

- All people are subject to stress at different points in their lives; all people attempt to maintain a sense of balance.
- There are times when the stress is so great that the person cannot maintain a sense of balance with the personal and environmental resources available to them.
- At this point a person may not be able to function as usual.
- The person may perceive the event precipitating the crisis, as a threat, loss or challenge. Initially, they may feel confused, overwhelmed or frightened.
- A state of crisis is not an illness or weakness. It represents a struggle with a current life situation.
- While a person is in crisis, a minimal force can produce a maximal effect.
- The crisis situation is time limited. Within 8-10 weeks the person may reach a new balance (which can be better, the same, or worse than the pre-crisis functioning).
- A crisis may offer a person an opportunity to grow and develop a new and more effective means of functioning.

CRISIS INTERVENTION

Crisis intervention is immediate short-term support for sexual assault survivors to insure that, physical, medical and psychological needs are met.

- It focuses on immediacy.
- It focuses on the positive or healthy parts of the personality.

Most importantly, crisis intervention involves helping a person handle the current crisis effectively, by utilizing their own strengths and support systems.

THE ROLE OF THE ADVOCATE DURING THE CRISIS

- The crisis intervention advocate connects with a person at the point of crisis or within the crisis period and in the setting, if practical, of the person in crisis.

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- The advocate does not attempt or intend to overhaul the basic personality of the person in crisis. Instead, the advocate helps empower the person so that she/he may develop new problem-solving methods.

GOALS OF CRISIS INTERVENTION

- To reduce the immediate impact of the crisis.
- To understand the precipitating circumstances.
- To help the person access healthy coping skills, capitalizing on strengths, support systems and resources in the community from which a base of reintegration may occur.
- To help the person move beyond the crisis so that she/he may get on with his/her life.

FEELINGS THAT MAY BE EXPERIENCED BY SOMEONE IN CRISIS

- **Anxiety**—This is perhaps the most common feeling. Any substantial threat produces anxiety. Normal amounts of anxiety assist in mobilizing against the threat and may be appropriate and helpful. However, great anxiety may produce confusion, distortion, poor judgment, self-defeating behavior and/or questionable decisions. Anxiety may be the first emotion the advocate must learn to work with.
- **Powerlessness**—People work hard to manage successfully and develop their own set of coping skills. Then, perhaps because of an external event or a conglomeration of unfamiliar emotions, they experience a sense of loss of control that may be overwhelming, bringing with it a feeling of powerlessness. This feeling of powerlessness, in turn, may bring with it a feeling of shame.
- **Shame**—Many people are taught to be competent and self-reliant, but during a crisis, a competent, self-reliant person may have to depend on others and may feel incompetent. This may produce feelings of shame, and may be closely related to feelings of powerlessness. Thus survivors may feel that they are not able to handle their own problems and that they may have to turn to someone else.
- **Anger**—There may be very little, some or a lot of anger. However, anger may often be hidden behind other more obvious expressions. Anger may be directed at self, others, the listener or an "irrational" event.
- **Ambivalence**—Feelings of confusion and uncertainty may emerge. As a result the person may struggle with issues brought on by the crisis. Some of these issues may be: independence vs. dependence; self-reliance vs. relying upon others; controlling emotions vs. losing control; increasing self-confidence by managing for self vs. risk-taking reaching out to another for help or trusting others too much vs. total distrust of others.

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- **Hopelessness**—Survivors may feel that they will never get beyond the present incapacitating feelings. They see no hope of ever recovering or moving beyond the crisis and may talk of ending their lives. Suicidal thoughts or tendencies may sometimes accompany this feeling.
- **Decreased Self-Image**—The individual may also feel a decrease in self-esteem. All these feelings may combine and result in a decrease in self-esteem, leaving the person in crisis extremely vulnerable.

WHAT A SURVIVOR MAY NEED FROM AN ADVOCATE

- Trust
- Clarification of the current situation
- Anticipatory guidance and rehearsal for reality
- Realistic reassurance and support
- Discussion of plans and options, offering available information

BASICS OF ACTIVE LISTENING

Achieve a Relationship

- Listen with compassion to what the person is feeling and experiencing.
- "Check out" what you understand them to be saying to see if you are on the same wavelength.
- Let them experience your warmth and concern. Be genuine.
- Allow them to tell you about the crisis or problem at hand, when it started, how it developed and how they feel about it.
- Let the survivor know you would like to work together to find something that can be done to help—preferably to help them to help themselves.

Isolate the Problem

- Help them to sort out the pieces of the problem they are facing.
- Help them in separating those parts about which something can be done from those about which nothing can be done.
- Encourage them to describe what has been tried. (This way you will not repeat those things that have not worked.)
- Encourage the survivor to describe or discover other possible options.
- Help them examine each option in terms of their probable consequences. "What will happen if...?"
- Help them to decide which of the various options they may want to try now.

Encourage Action

- Encourage the survivor to plan just how he/she might begin doing what he/she has decided to do; the plan should be realistic with achievable goals.
- Encourage commitment to self, beginning soon and at an agreed upon time.
- If you perceive resistance to action on the problem, help them discuss and resolve these feelings.

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- Assure them that someone will be available as they try to act in a constructive way; support with realistic hope. Remember not to be judgmental if your expectations are not met as to the best course of action.
- Encourage step taking. (Avoid doing things for them if they can do it alone—this allows them control of situations.)
- Show support by telling them that as they begin to do things, however small, they may feel better, less depressed, more hopeful, etc.
- Help examine and discover resources to cope—interpersonal, inner, spiritual.

CRISIS INTERVENTION ON THE PHONE

In the following pages, you will read a lot of information about how to understand and assist survivors. Even so, you may be a little nervous about receiving your first call. For this reason, a checklist is provided to help you remember important questions to ask a caller who has just been sexually assaulted. It must be remembered however, that no two callers will be alike and that this checklist is only a guide.

- **Establish Rapport**—Tell the caller your name and ask how you can help. The identification of the hotline and the volunteer is the first sign given to the caller that someone is there to help.

The advocate should make the effort to establish rapport with the caller. In many cases, the caller will be hesitant to talk; emphasis should be placed on reassuring the caller and making him/her feel at ease.

- **Active Listening**—The advocate should begin to listen for a problem, but do not look for one. In some cases, the caller will not have a "problem" and looking for one will be destructive to the caller.

Many of the calls you receive may not be immediate emergencies. The assault may be years old or an old incest wound not discussed previously. Your job is that of a listener, supporter, and giver of encouragement. No referral may come of it. You may not be able to do anything concrete. You have helped them by just being there.

You will not do a survivor any harm by talking to them once or twice. People are the sum total of their whole life's experience. Loosen up and relax—as long as you are there to listen, you are helping.

- **Define the Problem(s)**—If there is a specific problem or conflict situation, the volunteer must attempt to define it. In the case of multiple problems, single out the most prominent one to be dealt with immediately. Put it in simple terms.
- **Assess the Situation**—Take a broader look at the situation and/or problem. Look at circumstances which led up to it and the traumas it may be causing now (future possibilities should be explored also).

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- **Explore Options**—Do not give advice, but do look at different options to the situation. Present these options to the caller, and be prepared to react to their responses.
- **Discuss Acceptable Alternatives**—The caller may decide to explore one or more options. Try to narrow it to one or as few as possible, and help the caller understand them.

Checklist

Are you in a safe place? (Is the offender gone? Are your doors locked?)

- Do you have additional injuries?
 - Do you want to go to a hospital? (Is transportation available?)
 - Which is the closest hospital that will do rape kits/exams?
 - Ask them not to shower, bathe, or douche.
 - Do you want to report to the police?
 - He/She may file an informational report without filing charges!
 - The initial police report can qualify them for city/county financial aid towards the cost of the rape kit/exam and emergency room fees.
 - An initial report does not commit them to filing a formal statement or charges.
- **Referral**—In some cases, an option may be a referral to an agency/program. Always try to give more than one, if appropriate, and let the caller choose which to contact.
 - **Closing**—Closing of the conversation should begin, and preferably end with the caller. (Yet it could be either party that initiates.) Supportive comments for the caller are very important at this point. Let the survivor know that a right decision was made in calling the hotline, and that the first step towards alleviation of the problem has been taken. Sometimes expressing your feelings to the caller can be very positive.

In cases when the survivor is not in crisis and has strayed away from the issues surrounding sexual assault it is appropriate for the advocate to bring the call to a close (see Frequent Caller p. 59). Periodically a caller may need to be reminded that this is a crisis hotline and must remain open for other calls.

- **Follow-Up**—Before hanging up the phone: Go over options one more time. Remind them the hotline is there for him/her 24 hours a day.

Thank the caller for calling.

DOS AND DO NOTS

- Do try to get a first name and the area the person is calling from. If they will not provide a phone number, ask them to please call back if you get cut off.

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- Do sound as though you are listening and you care. Pay attention to your tone of voice.
- Do let the caller take as much time as necessary to get comfortable with you.
- Do be empathic.
- Do report as soon as possible any extraordinary circumstances encountered on the hotline.
- Do send in all call sheets within 72 hours.
- Do not rush.
- Do not over refer. Three referrals provide a choice without being overwhelming.

THE ADVOCATE AS A PROBLEM SOLVER

Sometimes, a caller may ask for advice on what the volunteer thinks the caller should do about something. The advocate can be helpful in most cases, not by giving advice directly, but by helping the survivor solve the problem. The basic steps of the problem-solving process are as follows:

- **Define the problem.** What is the decision that needs to be made?
- **Gather information and identify possible options.** What are the possible things that could be done to solve the problem? What other information is needed? What are the possible decisions that could be made?
- **Identify pros and cons.** Think of each possible way of solving the problem. How would each solution be carried out? What would be the results? What would be the consequences of each possible decision? Advantages of each? Disadvantages?
- **Choose the best option.** Encourage the survivor to make the decision or choose the solution which seems best to them on the basis of the preceding steps.
- **Act!** Encourage follow-through.

RESTRICTIVE RESPONSES

Restrictive responses are high-risk responses. They will frequently produce a barrier in a conversation. They are most destructive when a person is under stress.

Judging

- Criticizing, disagreeing or blaming can make a caller feel stupid, inadequate, inferior, unworthy, or bad. It can provoke counter-criticism and defensiveness.
- Name-calling, labeling, stereotyping, ridiculing—not just the obvious negative tags such as "idiot," "nag," or "bitch," but also positive ones such as "bright," "hard worker," and "loyal." Labeling prevents people from getting to know themselves and just tells them you view them as a "type" and not as an individual.
- Diagnosing or analyzing imply that you are superior. They imply that you have "figured out" the problem. People are highly threatened by this amateur psycho-

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therapy. It insults the caller and is another form of in-depth labeling.

- Praising, evaluating, and agreeing may initially seem to be appropriate, but can become manipulative. If praise does not match the person's feelings about him/herself there may be denial, anger or doubt. "Gee, you are smart to come up with the idea" is just another way of saying, "Keep doing that."

Offering Solutions

- Ordering, commanding or directing all tell the caller that their feelings, needs or problems are not important, and that he/she is not intelligent enough to come up with his/her own solutions.
- Threatening or warning, like ordering, implies the consequences associated with those "bad" decisions.
- Moralizing, preaching, using "shoulds" and "oughts" will give your suggestions an air of outside authority in your attempt to convince a person what to do. This again implies that you do not have trust in the caller's judgment.
- Excessive/inappropriate questioning, probing, interrogating, cross-examining limit the person's freedom to talk about, what is on his/her mind.
- Advising or offering solutions tells the caller that you are not comfortable with their problem-solving abilities. This fosters a depending relationship upon you or the hotline.

Avoiding The Caller's Concerns

- Diverting, withdrawing, distracting, being sarcastic or humoring all tell the caller that you are disinterested, and show a lack of respect. Kidding, sarcasm and teasing are put-downs and can hurt beneath their humor. It implies that you are uncomfortable with the feelings being expressed.
- Logical arguments, teaching or lecturing avoid feelings completely, keeping the caller at an emotional distance. They create feelings of inferiority and inadequacy for the caller.
- Reassuring, sympathizing, consoling or supporting superficially seem helpful. Reassurance implies that you want to be helpful, but are not willing to take the emotional demand that goes with it. It often has the hidden message of "Stop feeling that way. I'm not comfortable hearing those feelings. Can't we talk about something else?" This discounts a caller's feelings or perceptions. It is highly demeaning.

CRANKS/FREQUENT CALLERS

All crisis phone lines have one thing in common—crank and frequent callers. It is a fear that most, if not all, telephone advocates have. Actually there are two fears: That we will be

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“caught” by a crank caller, and that we will “misdiagnose” a caller, treating a legitimate survivor as a crank.

Let us start with definitions.

Crank—a caller who uses the hotline specifically to involve a “live voice” in a (usually sexual) fantasy, or someone who calls the hotline as a “game.”

Frequent Caller—an actual survivor who calls often for assistance and/or just to talk. They may or may not become dependent. Also, this caller may discontinue calling on their own as their recovery progresses.

HOW TO TREAT A CRANK CALLER

Do not be overly concerned with the fears listed above. We have all been caught and will probably be caught again. Although it is infuriating to be used by a crank caller, it's not the end of the world. One other important thought: It is always better to err in favor of the caller (e.g., if you are not sure, always assume they are legitimate).

HOW TO TREAT A FREQUENT CALLER

Often, there will be a treatment plan. Keep the caller focused on the issues surrounding the sexual assault. Limit the call to 30 minutes if possible. Direct the conversation back to the assault when the caller strays to other irrelevant topics. Remember every time you spend an hour or more on the hotline with frequent callers increases the chance that they will become dependent. This ends up doing more harm than good. They also begin to expect the same treatment from the other advocates, making it harder for them to keep the survivor focused. It is important to ask for, and pass on, any information about callers of which other advocates should be aware.

If the caller asks for a specific advocate, explain that everyone is a volunteer and, though dedicated, may not easily be reached. Offer your assistance to the caller—but do not insist. Always attempt to reach the advocate or staff backup if the caller persists.

COMMON CHARACTERISTICS OF A CRANK/SEX CALLER

- Voice tone devoid of emotion.
- Hesitation in speaking/great deal of caller silence
- Gives first name immediately/asks advocate's name immediately.
- Asks personal questions about advocate.
- Resistance toward resolution of “problem.”
- Presents self as innocent about sex.
- Uses the word “embarrassing” frequently.
- Asks for advocate's opinion about “problem.”
- Gives detailed sexual descriptions.
- Use of formal language in describing sex acts or sexual body parts.
- Hangs up abruptly before call is completed – no discernible provocation.

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COMMON OPENING LINES

- I want to talk.
- Will you talk to me?
- Can I talk about anything?
- I've never called before.
- Are you understanding?
- I have an embarrassing problem.
- I'm lonely.

COMMON STORY THEMES

- Dominant woman
- Asking for sexual information/advice
- Penis too large/too small
- Sex with female members of immediate/step family
- Lending girlfriend/wife to another man
- Multiple sexual participants
- Enjoying sex with young girls/boys
- Transvestism
- Fetishism
- Voyeurism/Exhibitionism – includes being watched during some sexual activity (alone or with a partner)
- Nudity
- Humiliation
- Sado-masochism

SAY IT WITH FEELING

- **Down:** bitter, blue, burdened, contrite, despairing, depressed, dejected, disappointed, discouraged, distrusted, distressed, downtrodden, forlorn, gloomy, glum, grieving, hopeless, hurt, low, maudlin, melancholy, miserable, moody, morose, negative, overwhelmed, painful, pessimistic, pitiful, rejected, rotten, sad, screwed-up, shattered, smothered, sorrowful, sorry, subdued, troubled, unappreciated, unfortunate, unhappy, unpleasant, weepy, worried
- **Upset/Angry:** aggravated, agitated, annoyed, appalled, belligerent, bitchy, bothered, bugged, defiant, discontented, dissatisfied, distraught, disturbed, disgusted, enraged, exasperated, frustrated, furious, grouchy, hassled, hateful, hostile, infuriated, irritated, mad, mean, outraged, pained, pissed-off, quarrelsome, rageful, resentful, spiteful, testy, threatened, thwarted, turned-off, uptight, vehement, vicious, violent, vindictive

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- **Low Image/Victimized:** awkward, backward, bashful, childish, crazy, dumb, embarrassed, humble, inadequate, imposed upon, ignorant, incapable, incompetent, infantile, inferior, insecure, intimidated, manipulated, meek, mistrusted, mistreated, misunderstood, picked on, powerless, put down, put upon, ridiculous, servile, shy, sick, stuck, stupid, trapped, ugly, undermined, unimportant, unloved, used, worthless
- **Coping/Forceful:** adamant, assertive, bold, capable, challenging, competitive, confident, defiant, determined, dominating, domineering, driven, productive, righteous, strong, stubborn, sure, tenacious, unafraid, affectionate, appreciated, assured, compassionate, concerned, friendly, grateful, helpful, kind, loved, loving, sensitive, sentimental, sympathetic, thoughtful, understanding, understood, warm
- **Alone:** alienated, abandoned, empty, homesick, isolated, left-out, lonely, longing, lost, neglected, forgotten, unloved, unneeded, unwanted
- **Tired:** apathetic, bored, cramped, drained, disorganized, diminished, empty, exhausted, helpless, hopeless, laconic, lazy, listless, lethargic, numb, quiet, resigned, uncomfortable, useless, vulnerable, weak, weary
- **Feeling Bad:** agonized, belittled, betrayed, cheated, cruel, crummy, crushed, deceived, defeated, degraded, destructive, devastated, dirty, disgusted, evil, lousy, oppressed, powerless, pushed, shocked, smothered, sour, suffering, terrible, trapped, wicked
- **Scary:** afraid, endangered, fearful, frightened, horrible, horrified, mortified, panicked, petrified, precarious, tentative, threatened, worried
- **Confused:** ambivalent, ambiguous, baffled, bewildered, blocked, conflicted, disoriented, divided, doubtful, flustered, forgetful, fragmented, frantic, frenzied, hesitant, hysterical, mixed-up, perplexed, preoccupied, puzzled, scattered, startled, stumped, stunned, torn, uncertain, unsettled, unsure
- **Nervous:** agitated, anxious, apprehensive, distracted, edgy, excitable, excited, flustered, frantic, fretful, impatient, jittery, jumpy, pressured, restless, tense, uneasy
- **Sexual/Romantic:** captivated, cherished, committed, compelled, desirous, flirtatious, impetuous, infatuated, involved, jealous, lecherous, licentious, lustful, modest, sensuous, sexy, tempted
- **Guilt/Shame:** ashamed, blamed, condemned, culpable, foolish, guilty, gullible, naughty, regretful, remorseful, sneaky, tormented
- **Up Feeling:** alive, ambitious, amused, beautiful, blissful, calm, charmed, cheerful, comfortable, contented, creative, delirious, delighted, dreamy, eager, ecstatic, elated, electrified, enchanted, encouraged, energetic, energized, enjoyable, enriched, enthusiastic, euphoric, excited, fantastic, free, fulfilled, full, funny, gay, generous, giddy,

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good, gratified, great, groovy, happy, heavenly, high, honored, hopeful, important, independent, inspired, interested, joyful, joyous, jubilant, kicky, keen, light hearted, lively, lucky, marvelous, nice, mellow, nutty, peaceful, pleased, positive, pretty, proud, rapturous, refreshed, rejuvenated, relaxed, relieved, renewed, rewarded, safe, sated, satisfied, secure, sensational, serene, settled, sharp, silly, stupendous, successful, super, superior, terrific, tranquil, tremendous, turned-on, vital, vivacious, whimsical, wonderful, worthy, zany

- **Miscellaneous:** adequate, alert, amazed, astounded, astonished, awed, callous, cautious, clever, conspicuous, consumed, controlled, cool, curious, deceitful, different, distrustful, engrossed, envious, fawning, greedy, immortal, impulsive, impressed, indifferent, insensitive, limited, lucky, mystical, obnoxious, obsessed, odd, oppositional, parsimonious, patient, phony, prim, prissy, queer, responsible, reverent, selfish, skeptical, small, sober, solemn, sophisticated, strange, stuffed, superfluous, talkative, tenuous, tied down, uninvolved, unlucky, unnecessary, unproductive, useful, vital, wanted, whole, worldly, worthwhile

Suicide

It has often been said that fear is the product of a lack of knowledge about the things that frighten us. Consequently, the more we understand something, the better we are able to deal with it in a positive manner. This maxim can be applied most appropriately to the phenomenon of suicide as it concerns advocates.

It is important to remember that our society still views suicide as a taboo subject, a confrontation which should be avoided like the plague. For many people, just the word suicide is enough to instill anxiety, uneasiness, helplessness, fear or even anger in the person who hears it or is faced with it.

As advocates, it is very important to discern what personal emotions we attach to a suicide threat from a caller. In several instances, our own feelings about suicide can get in the way of our being able to hear and cope with the caller's very immediate needs. Additionally, it is a responsibility of the advocates to have an understanding of what constitutes a suicidal call and, more significantly, an awareness that suicide is preventable. A suicidal threat on any level is a cry for help. The volunteer who is faced with such a threat has been given the opportunity to assist a person walk away from a suicidal crisis.

We need to consider some of the false notions we all entertain about suicide and concentrate on providing advocates with the knowledge they will need to most effectively handle suicidal situations.

STATISTICAL INFORMATION

The national suicide rate is approximately 12.2 completed suicides per 100,000 population per year, that is 30,810 people per year. The rate of suicide attempts, although very difficult to substantiate, is calculated as almost twenty times this number. There is no estimate for those contemplating or threatening suicide; however, one survey shows that perhaps 50 percent of the total population has, at one time or another, seriously considered suicide as a

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possible way of coping with problems. Suicide ranks as the eighth leading cause of death in the United States.

As of the last United States survey in 1991, one person commits suicide every 17.1 minutes. An average of one elderly person every one hour 23.9 minutes commits suicide. An average of one young person every one hour 50.6 minutes kills himself. 4.1 males complete the act for every female completion. Each suicide intimately affects at least six other people. Based on the number of suicides since 1970 (through 1991), it is estimated that the number of survivors of suicides in the US is 3.68 million (1 of every 68 Americans in 1991); the number grows by 180,000 each year. [National Center for Health Statistics, 1993]

An individual who is suicidal is frequently thought of as "typical" when discussing a crisis intervention center, and this type of call is also possibly the most frightening to a new volunteer. Currently, though, the calls received on the crisis hotlines dealing with suicide compose only 3 percent of the total calls. This means that a volunteer may work for a year without encountering someone who is suicidal. But, a volunteer's first call could be someone who has already initiated the suicide process.

Although suicide is a frightening subject to many of us, it is a familiar thought to many others. It is estimated that over five million people in the U.S. have attempted suicide, and virtually every adult has at least contemplated suicide, albeit fleetingly. Because of this apparent contradiction, it is important that volunteers examine their own feelings about suicide. This will help avoid paralyzing indifference when encountering the suicidal caller. It should also be recognized that, when a person calls, they have involved the volunteer in the suicide process. Therefore, the volunteer does have the right to intervene if necessary and has an obligation to attempt to save a life, regardless of the volunteer's personal feeling toward a caller or the situation.

Although suicide has no age, gender, ethnic or socio-economic limits, there are a number of emotional states and perceptions that are common to most suicidal persons. The telephone advocate must be aware of these and recognize them in a caller and, in order to help the caller, at least temporarily, find an alternative. For many depressed and confused persons, the volunteer is all that will stand between life and death at a crucial moment in their lives.

Factors contributing to suicide ideation:

- recent history of loss or threatened loss
- previous suicide attempts
- severe depression
- specificity of suicidal plan
- lethality of method
- disturbed or disrupted interpersonal or social relationships
- inability to communicate and be understood

Although suicide is "democratic," meaning that no particular group is immune to it, some sociological factors are also significant. The suicide rate among whites is higher than among Blacks, except for the suicide rate of young Black males, which is increasing at an alarming rate. Men tend to complete suicide, while women tend to attempt it. Middle age and old age are the most common times for suicide, although the rate for young people is increasing.

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There does not seem to be any significant tendencies in religious, social, political or class factors, except in the motivational aspects between these groups.

SUICIDAL BEHAVIOR

- Impulsive suicide behavior usually follows anger, disappointment or frustration. This emotional crisis is highly temporary but, in an impulsive person, can also be very dangerous.
- The feeling that life is no longer worth living may be the result of severe depression. Individuals may feel a sense of worthlessness about themselves and the external world.
- A very serious illness may lead to suicide as an escape from suffering for both the individual and their family.
- The communication of a suicide attempt may occur when a person has no real wish to die but desires a radical change in the behavior of those around them and uses a suicidal attempt to communicate this.

THE SUICIDAL CRISIS

A suicidal crisis is characterized by various behavioral and topical aspects. It is usually short in duration and works quickly toward some type of resolution. One significant aspect, however, is that most suicides occur within three months after the beginning of "improvement." The myth that once a person experiences a suicidal crisis, he will always be suicidal, is not true. Many people who overcome such a crisis will go on to lead happy and productive lives and are usually very grateful for having been "saved."

The potential suicide will almost invariably display warning signals in one form or another. Contrary to popular belief, people who are considering suicide will give many clues. People who consider suicide as a possible alternative may be ambivalent to some degree about their wish to die because they realize that they are gambling with life and death. This is one of the most important points to remember when talking with a suicidal caller whom you might assess as "lost." If the person feels uncertain enough to call, he is giving you the chance to help him.

Some of the clues resulting from the ambivalent state can be discerned from the person's behavior and the circumstances which surround his life. A serious change in a person's mood or behavior is an indication that all is not going well. This behavior can take the form of depression, intentional or circumstantial isolation or withdrawal, change in eating, sleeping or social habits or loss of interest in the external world. People may physically prepare for death by making a will, giving away possessions or giving orders suggesting that they will not be around to see them carried out. Individuals who are suicidal may give many verbal signals that refer to this intention:

"I'm so bored. I just can't go on."
"I don't want to be a burden."

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"I can't stand it any longer."
"You won't have me to kick around much longer."

The calls coming into the hotline that can be labeled as "suicidal" will normally fall within three types:

- a person contemplating suicide,
- a person concerned about a potential suicide,
- a person affected by a completed suicide.

In order to deal with these calls in the most effective manner, the hotline advocate must remember that it is not his/her responsibility to either psychoanalyze or discover the deep seated problems that either led to or caused the suicidal behavior. The problems involved in such behavior are usually based on experiences that have accumulated over a lifetime, sometimes resulting from a traumatic childhood or infancy. For this reason, a person considering suicide requires assistance much longer than the advocate will be able to offer.

It is, however, a function of the advocate to respond to immediate needs—to be supportive, to be reflective and understanding and most of all, to be accepting and nonjudgmental.

There are ways in which to help:

- **Do Not Deny Feelings**—The individual is stating that he is not upset about objective facts as we might view him/her but is instead concerned with the way he perceives his own world.
- **Reflect and Clarify What You Hear**—This individual is in a highly confused and uncertain state and needs desperately for someone to understand and respond to their feelings. An example might be that a caller could say, "Nothing ever worked out for me." An appropriate response might be, "You feel like the whole world is caving in on you, and you just can't go on with things as they are."
- **Verbalize Suicidal Feelings**—Nothing can be scarier than that which is shrouded in a cloud of mystique. And, nothing is further from the truth that speaking about suicide to a person will cause them to commit suicide. The advocate may be the only person who can understand and accept a person's wish to die. Direct statements are, therefore, the best. If someone is hinting of intentions to commit suicide because of fear or shame, the most effective response is to ask, "Are you thinking about suicide?" Other direct questions that delve into the considered plan, method, etc., will also help in the assessment.

The most common feelings are those of hopelessness and helplessness. The caller is unable to see a future, especially a good future, and is convinced that there is nothing to be done to change the situation. These feelings can set up a vicious cycle of "There's nothing to look forward to, so why should I bother to do anything? It won't change anything anyway," and "I've never done anything right. I've always screwed up my life. It'll never be any different. What's the use of trying anymore?" The caller may attempt to project this attitude onto the volunteer with a comment of, "You probably can't help me either." It is important that the volunteer not let this be dropped unanswered and be careful not to be unrealistic.

EVALUATING THE SUICIDE RISK

Callers with minimal suicidal ideations have a definite plan for suicide. Unless they get help, they will certainly attempt suicide within six to eight weeks or sooner. They see suicide as the only way out and believe that self-destruction will accomplish something important for them. This is the most important group, and the handling of these calls during the year will undoubtedly save lives.

Callers with serious suicidal ideations have a definite plan for suicide and seem likely to harm themselves or others at any moment. If a caller tells you that an overdose has been taken, etc., you should contact the police immediately, without asking the caller's permission. If possible, get an address and the caller's phone number and keep the caller on the phone while someone else calls the police. If you cannot get an address, call police, calmly explain what has happened and give them the caller's phone number if you have been able to obtain it. The police can match it with a cross directory to get the address.

The following is a list of symptoms of a caller who is a potential suicide that will help you make your evaluation. They are not in special order and are not of equal weight, but the more of these symptoms a caller exhibits, the more likely it is that he/she is suicidal.

- **Means**—A suicidal tool is available (e.g., gun, sleeping pills, etc.). This factor carries double weight if the caller frequently mentions that he/she has the means and a well defined plan.
- **Previous Attempt**—A recent study of suicide in Philadelphia showed that in 75 percent of accomplished suicides, there has been a previous attempt, and this is representative of most suicides.
- **Lack of Roots**—Very few people commit suicide in the town or region of their birth. The further away from home, family connections and close friends a person gets, the more likely suicide becomes.
- **Withdrawal**—The potential suicide often systematically eliminates social contacts; he/she drops out of clubs, church, even jobs. He/She avoids old friends. He/She can reasonably say, "I'm not needed."
- **Fear of Future**—Although it sounds incongruous, many persons commit suicide because they fear death. "I know it's cowardly to think of suicide," they say, but actually they are thinking that if they can accomplish suicide, they will not have to fear the things that really worry them.
- **Financial Reversal**—Closely allied with fear of the future is anticipation of financial reversal. The realization is never as bad as the anticipation, but the potential suicide will avoid this impending financial crisis. It is the loss of status that hurts.
- **Feelings of Failure**—Despite any past successes, the person will dwell on failures—even small ones. He/She will say they are inefficient, forgetful, make mistakes that others notice, etc.

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- **Bad Breaks**—Or they will bend in the opposite direction. They are always right and the others are always wrong. But they get all the bad breaks. This is a cover up for feelings of failure.
- **Revenge**—They may be seeking revenge, thinking, “You'll be sorry when I'm gone.” This is a very dangerous attitude because it may give birth to homicide.

NO-SUICIDE CONTRACTS

It's 3 o'clock in the morning and you receive a call from a frequent caller you immediately recognize. Joanne blurts out, “I can't stand it anymore, nothing is going right. I'd be better off dead. I've got a loaded gun in my hand, and I'm going to blow my brains out!” Hearing clicking noises at the other end of the phone, you realize that she is holding a gun to the receiver and is extremely serious. Do you know what to say and do?

During a hotline call, Molly, a teenage survivor who consistently refuses to act on referrals, is depressed about breaking up with John, who was her boyfriend for two years. Her frequent hospitalizations are draining her parents' funds and she states she feels guilty about this. She goes on to say, “If I could get my tranquilizers from my mom, I could end it. My parents would be better off without me. Besides, even John doesn't love me anymore!” Would you know how to handle this?

Molly is speculating about getting and taking her pills. This is not to say that Molly is not suicidal, or that she does not need intervention. However, she has a longer safety period than Joanne.

Your assessment will help you decide whether this person is a suicide risk. Is this enough information? If he/she is suicidal, does he/she need a referral or intervention? For how long are they safe? A tool developed by Robert and Mary Goulding and Robert Dyrel, can help us further assess suicide potential by providing data about how at risk a person is, and for how long the client can be trusted not to kill himself/herself. This tool is called the “No-Suicide” Contract and is stated as follows:

“No matter what happens, I will not kill myself, accidentally or on purpose, at any time.”

The client who is able to make this statement confidently and with congruent behavior is considered safe, although outpatient therapy may be needed to deal with underlying issues. The client who refuses to repeat the contract in some way is considered to be at risk. Alterations of the contract frequently are made in three areas.

The most common alteration of the contract is made in relation to time. The client may state the contract and then add “for a week” or “two months” or “six months.” This gives you a safety period within which you can work or refer the client. The client should be reevaluated for suicide potential well in advance of the time the contract expires. It is imperative that you record the date of the contract and renew it before it expires, or you have provided the client with free reign to commit suicide. If the client is only able to give you a time limit of one hour, this will provide you enough time to get the client to a safe environment. It is up to you to decide whether the time period stipulated is something with which you can work.

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The second condition a client may make is the part of the statement, "No matter what." For example, the client may repeat the contract and add: "unless my husband leaves me, "if I get the job I want," "if my wife still loves me," "if my child behaves himself," etc. There are endless possibilities of an individual nature that the client may relate to you. It is important for you to tell the client that someone else is being allowed to control whether they live or die. This is another issue and requires further intervention. If possible, request that the client set a specific time limit on living, rather than relying on another individual's actions or responses. The time limit will then give you a definite period within which you and the client can work.

The third qualification is the part of the contract stating "I will not kill myself." The client may respond by saying: "I will not try to," "I probably won't," "I'd like to be able to," and might not provide you with a concrete decision. Avoid accepting them! When a client uses one of these variations, counter with "but will you?" This forces the individual to reconsider and make a definite decision by either saying no or stating the time limit.

You may be wondering about the necessity for including the word "accidentally" in the contract. Your client may take unnecessary risks under the guise of normal routine or recreation, for example, driving too fast, neglecting to use seat belts, driving while intoxicated, skydiving or alligator wrestling. Accidents can be unconscious, or can be staged easily and have the advantage of being socially acceptable. Accidental deaths are also covered by insurance. Be aware that not all accidents are true accidents but may be due to unconscious desire or may be deliberate actions. The following case report is an example of how the contract can work:

"Terry" first called suicide rescue on December 15. She had been divorced recently and had just moved into town with her two young children. She had been unable to find work and was depressed about the upcoming holidays. She had taken three drug overdoses in the last ten years and frequently used suicidal gestures to obtain recognition and negative attention. Her plan was to ingest 30 barbiturates, which she had on hand, after her children went to sleep that evening. She was able to agree to a contract until the following morning when she would come into the office.

The following day she agreed to the contract for a period of one week, with the condition that she would call suicide rescue if at any time within that period she felt unable to uphold the contract. She would also contact the local community mental health center to begin outpatient therapy.

Four days into the contract she called and stated she was unable to continue the contract. An ambulance was called and she began outpatient therapy and agreed to a contract for another three months. She did well in therapy although she became actively suicidal again two weeks prior to the expiration of her contract. This is a fairly common phenomenon, as suicide is again an issue a reassessment is necessary. Terry was able at that time to make a six-month contract, at the end of which she was able to give up her suicidal behavior. She was then employed and had developed new support systems to assist her in coping. She had begun taking classes in photography and met a man whom she later married.

The "no-suicide" contract is not a replacement for your assessment; rather it is a tool that provides us with more information and a larger margin for safety.

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MYTHS & FACTS ABOUT SUICIDE

MYTH	FACT
People who talk about suicide do not commit suicide.	Of any ten persons who kill themselves, eight have given definite warning of their suicidal intentions.
Suicide happens without warning.	Studies reveal that suicidal persons give many clues and warnings regarding suicidal intentions.
Suicidal people are fully intent on dying.	Most suicidal people are undecided about living or dying, and they gamble with death leaving it to others to save them. Almost no one commits suicide without letting others know his/her feelings.
Once suicidal, always suicidal.	Individuals who wish to kill themselves are suicidal only for a limited period of time.
Suicide strikes much more often among the rich—or conversely, it occurs almost exclusively among the poor	Suicide is neither a rich person's disease or the poor person's curse. Suicide is very "democratic" and is represented proportionately among all levels of the society.
Suicide is inherited.	Suicide does not run in families. It is an individual pattern.
All suicidal individuals are mentally ill, and suicide always is the act of a psychotic person.	Studies of the hundreds of genuine suicide notes indicate that, although a suicidal person is extremely unhappy, he/she is not necessarily mentally ill.

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Significant Others: Family Members & Friends of Sexual Assault Survivors

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Significant Others: Family Members & Friends of Sexual Assault Survivors

The divorce rate among sexual assault survivors is extremely high. Often the significant other has grown up with preconceived notions (myths) about rape and cannot deal with the fact that someone else has “had” their spouse, even against the survivor’s will. When the survivor has post-rape sexual problems, the significant other may interpret unwillingness or inability to have a normal sexual relationship as rejection. Also, a sexual assault might bring other family problems to the surface. Advocates must address the problem of working with significant others of survivors. Significant others might make the situation more painful if not informed about what has happened.

How does sexual assault affect people—either the primary or secondary victims of this crime? How can those closest to a survivor do “the right thing?” It is those closest to a survivor who will influence how well the recovery process proceeds.

People who have been sexually assaulted may not react to the sexual aspects of the crime, but instead react to the terror and fear experienced. One reaction of the survivor could be, “I could have been killed.” One way to explain this feeling is to ask the significant other to remember or imagine a situation in which he/she felt powerless and afraid. Ask him/her if he/she felt alone, fearful and/or needed comfort.

The goal of crisis intervention with relatives and close friends is twofold;

first, to assist with their own feelings about sexual assault and the effect it might have in their relationship with the survivor; and to assist the family and friends in giving support to the survivor.

Sexual assault is an emotionally charged situation surrounding family and friends immediately after the rape. Some of the reactions you might expect from family and friends could include

- distress that the survivor has been injured
- anger at the offender that might be taken out on the survivor
- anger that the survivor did not “fight harder”
- anger that the person had not been “careful” enough
- feelings of revenge on the offender
- feelings of guilt that they were not there to protect the survivor
- sense of loss for themselves, for the survivor, for the family

Listen to what the partner, father or other family members are saying. As they express their feelings they will be better able to help the survivor express theirs. Provide accurate information and encouragement—give them permission to react to this crisis, also. Friends and family may have a difficult time talking about sexual assault. The advocate can be a safe place to discuss their concerns and vent their feelings.

When you have had a chance to listen to what has been said, you can give the family some concrete information about what the sexual assault represents to the survivor. First, the significant other and family should know that the threat of death or injury was uppermost in

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her/his mind – not the sexual assault episode. Second, you should try to dispel myths about rape – that the family may have grown up with (e.g., “If she didn’t fight back, she must have wanted it.” (See myths.) The third thing you want to stress is that, since this is a mutual crisis, they should support one another. The family can support its loved one by providing a place to share feelings without condemnation and by assisting in mobilizing the survivor’s coping skills. The survivor should be allowed, not forced to express her/his emotions.

Questions about how the survivor feels now and what bothers her/him the most are useful. They are not threatening and should allow her/him to talk about the most immediate concerns. Remember, too, the survivor wants to talk about other things. Often the sexual assault may leave them concentrating on other things and it is important to talk about these. Probably the most practical suggestion is that you communicate your own willingness to let the survivor talk. Because of your closeness to him/her, the survivor may be more sensitive to your feelings. If you are distressed, it may be impossible to talk to you. She/he may also try to protect you. In these and other cases, where he/she really will not be able to talk to you, encourage speaking with someone trusted. Remember that the sexual assault has brought up feelings of powerlessness. Encouraging him/her to talk to whom he/she wants, when he/she wants, is more helpful than feeling it is necessary to talk to you.

In the case of a virgin, female support may seem most important. It is a good time to discuss the pleasure involved in sex, as well as to reassert the person’s right to decide when and with whom to have sex.

If the family has strong religious convictions, they might have trouble dealing with the sin aspect of the sexual assault. The survivor may feel as though she/he committed the sin. If the family agrees with or promotes this idea, the psychological ramifications could be tremendous.

The crisis is very much akin to the grieving process associated with the loss of a loved one. The survivor must be allowed to grieve – it will lead to eventual healing, and the healing of the family. If the family tries to get the survivor to forget it or deny it by shrouding the incident and feelings in silence, they only force her/him to bury it more deeply. This can cause problems for years afterward.

Overprotecting the wounded loved one can be just as harmful as denying the crime. If family/friends constantly try to insulate the survivor from hurt, they keep him/her from confronting feelings. Keeping the survivor in a cage and taking away car keys is not the answer, either. Survivors must live in this world when their “protectors” are no longer there. They must be allowed to regain control of all of their life.

Sometimes family members turn their feelings of inadequacy into self-recrimination – “If I had taken her, she wouldn’t have been attacked.” Significant others must be made to realize that blaming themselves only increases their own anxiety. They could not know this would happen. When they blame themselves, it might cause further anxiety to the survivor because she/he does not want to be the cause of their hurt. One thing you might point out is that if they continue to concentrate on their own reactions, they cannot help the survivor.

The advocate’s key roles in intervention with the families and partners of survivors should be educational in nature.

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- Explain the inherently violent nature of sexual assault as a crime, helping family members to understand that the survivor's experience has been more of a life threatening one than a sexual episode.
- Prepare the family for the predictable psychological and physiological consequences of the sexual assault.
- Explain to the family how to provide an accepting and safe environment into which the survivor can release troubling thoughts and feelings without fear of condemnation or critical response.
- Discuss any sexual indifference by a partner toward the survivor. Help the partner to identify the components of change in feelings and see the congruity of the feelings.
- Discuss sexual incompatibility or indifference before the assault. Encourage both partners to discuss this fact and not to blame the sexual assault for pre-existing problems.

HELPFUL INFORMATION FOR THE ADVOCATE

- **Don't** be openly critical (“You shouldn't...” “You are angry and that's bad.”) This can cause defensiveness and anger as well as cause the family to stop talking with you and thereby decrease useful venting and render you powerless to help.
- **Do** focus supportively on the partner's injury – be aware and let her/him know you are aware that she/he has suffered a loss also.
- **Do** let them know that although it is like grief, it need not be permanently debilitating. He/She will never forget it, but they can go on.
- **Do** encourage significant others to support one another.
- **Do** give any information and support you can.
- **Do** let them know you care.
- **Do** offer a male counselor for male survivors or male family members if available and requested.

FOR SIGNIFICANT OTHERS: ASSISTING THE SURVIVOR

- Let the survivor know you are willing to listen. Because of the nature of the crime, it is sometimes difficult to talk about it. Be a good listener. Allow him/her to “talk it out” if he/she wants to – to you or to someone else.
- Let him/her know you care and that it is important to you that he/she feel safe again.
- Allow him/her to make decisions and take control of his/her life at his/her own pace. The rapist just took that control away. You may help make decisions but do not overprotect.
- Be stable and secure for them. He/She will need reassurances that he/she is still the same person, not dirty or ruined.

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- In general, a male survivor may be more controlled in his response to the crisis and less inclined to talk about it. Encourage him to talk, but do not force him. Be supportive. Be open when he wants to talk.
- Everyone reacts differently in a crisis situation. Try not to judge.

SYSTEM RESPONSE

- ▼ Medical Protocol
- ▼ Law Enforcement
- ▼ Third Party Reporting
- ▼ Pseudonym
- ▼ Address Confidentiality Program
- ▼ Crime Victim's Compensation
- ▼ Criminal Justice System
- ▼ Civil Suit Remedies

SYSTEM RESPONSE

Some sexual assault survivors suffer severe physical injuries, contract a sexually transmitted or other communicable disease or become pregnant as a result of the assault; many others do not. In each situation, however, survivors will experience varying degrees of psychological trauma, the effects of which may be more difficult to recognize than physical trauma.

An individual's perceptions of how sexual assault survivors should look, dress or act and the way those perceptions are conveyed will have a major effect upon the survivor's recovery process in the weeks and months following the crime. Each person has her or his own method of coping with sudden stress.



When severely traumatized, survivors can appear to be calm, indifferent, submissive, jocular, angry or even uncooperative and hostile toward those who are trying to help. All these responses are within the normal range of reactions. An inappropriate response to information about the circumstances surrounding the assault or a misinterpretation of a survivor's reaction to the assault may lead to further traumatization and hinder the interview or evidence gathering process.

For some survivors, the problems of poverty and discrimination already have resulted in a high incidence of victimization, as well as inadequate access to quality hospital treatment. There may be a mistrust of medical and law enforcement personnel who play a vital role in the aftermath of sexual assault. This may be particularly true if there has been a history of negative experiences with these professionals.

Designated medical facilities serving specific or special needs populations should seek assistance of reliable community consultants, such as the local sexual assault program, to help develop procedures and counseling resources which will reflect the special needs of those populations.

Medical Protocol

Few other criminal offenses require as extensive an examination and collection of evidence as a sexual assault. Additionally, except for an occasional assault case, no other crime collects as much evidence from a live person.



While a potentially fatal object (e.g., bullet, knife, etc.) may be removed from someone and taken to the forensic lab for analysis, that person is not required to submit to the same intrusive exam as a survivor of sexual assault. So, it is not unreasonable to assume that having your person gone over with a fine tooth comb, your blood and saliva samples taken, your fingernails scraped and every orifice that has already been violated swabbed with cotton on a stick can be a devastating experience.

Traditionally, the prosecution of adult and child sexual assault cases has been difficult. The survivor often is the only witness to the crime. The examination, collection of physical evidence and the documentation of physical injury may be necessary either to substantiate an allegation or to help strengthen a case for court. Evidence from the offender and the crime scene often may be found on the body and clothing of the survivor. When immediate medical attention is received, the chances increase that some type of injury or physical evidence may be found. Conversely, the chances of finding injury or physical evidence decrease in direct proportion to the length of time which elapses between the assault and the examination.

The examination and collection of physical evidence in sexual assault cases has fallen to physicians and nurses in hospital emergency rooms and pediatric units. The role of medical personnel in this process often can be the key to successful prosecution and can help to promote early emotional recovery for the survivor.

FACILITY & PERSONNEL

It is advantageous for all survivors of sexual assault to seek both medical treatment and evidence collection from a health care facility. Physicians who work primarily in private office-based facilities usually do not have evidence collection kits on hand and may not be as familiar as hospital-based physicians and nurse examiners with the specific medical and evidence collection procedures relevant to sexual assault survivors. Additionally, many private medical offices are not open on a 24-hour basis, and may not have equipment available to make the necessary cultures. However, Texas has many areas in which no hospital is available for 100–200 miles. If that is the case, the facility used **MUST** have adequate equipment available to collect evidence and treat the injuries incurred. (See Reference section on Medical Protocol) The facility should be chosen in consultation with local law enforcement and the local sexual assault program.

The use of Sexual Assault Nurse Examiners (SANEs) to do the forensic examination and collection of evidence is encouraged as an alternative to a physician. SANEs are registered nurses who have completed special training in the forensic examination procedures and issues surrounding sexual assault.

Adults should be treated in medical facilities designated for such treatment. Children should be treated in a pediatrics unit, if available, because staff in these units are specially trained to

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treat them. The ideal situation is a local child advocacy center if your community has one. However, regardless of who examines and treats the survivor or where the examination occurs, he/she should be specially trained in the examination, recognition and collection of evidence and administering to the special needs of a sexual assault survivor. The Office of the Attorney General, Sexual Assault Prevention and Crisis Services Program can recommend training specifically for this purpose. (512) 936-1270.

PAYMENT

Texas law (Texas Code of Criminal Procedure, Art. 56.06) requires that the law enforcement jurisdiction investigating the reported sexual assault is responsible for the payment of medical examinations and collection of evidence in connection with the investigation or prosecution of a sexual assault. In cases when the survivor chooses to undergo a medical forensic examination without police involvement, the Texas Department of Public Safety is responsible for the cost of evidence collection. (Texas Code of Criminal Procedure, Art. 56.065) In all cases, survivors may be billed for medical treatment separate from evidence collection, but Texas Crime Victims Compensation is available to reimburse those medical costs.

Medical facilities designated to provide sexual assault treatment should have 24-hour emergency ability with a staff trained in sexual assault examinations. The local sexual assault program should be called in to serve as an advocate for the survivor. The ideal situation would also include the on-call availability of a specialty physician if needed for consultation and contingency plans for cases requiring photographs and bite mark impressions.

TRANSFER

At hospitals that are not designated or equipped to provide sexual assault examinations, arrangements can be made to transfer survivors to the nearest designated treatment facility, if the survivor wishes. Keep in mind that every transfer and examination of the survivor can destroy evidence. Whenever possible, attempts should be made to preserve evidence when examining, treating or transferring the survivor. However, if there are acute medical or psychological injuries which must be treated immediately, this should be done at the initial receiving facility. A copy of all records, including X-rays taken, should be transported with the survivor to the designated treatment facility. All medical facilities receiving federal funds including Medicare and Medicaid payments are prohibited from refusing treatment or transferring any survivor whose condition is not stable. (Consolidated Omnibus Budget Reconciliation Act [COBRA]; Sections 9121, 1888 (a)(1)(i), 1866(a)(1)(1), 1867; 1985.)

Transfer plans should be developed in conjunction with other treatment facilities in the immediate and surrounding community, and the list of designated medical facilities should then be provided to all local law enforcement agencies and sexual assault programs. This action will greatly reduce the amount of confusion and additional trauma incurred by those survivors who are initially taken or referred to a non-treatment facility and reduce the loss of valuable evidence.

In addition, as of September 1, 2013 all Texas emergency departments are required by law to have personnel equipped with at least basic training on forensic evidence collection and to

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provide medical forensic examinations. (Texas Health and Safety Code §§ 323.004-323.0045). For the reasons described above, treatment by a certified sexual assault nurse examiner is encouraged whenever possible. However, if a survivor is unable or unwilling to travel to a facility with a SANE, the survivor has the legal right to decline a transfer and to obtain a medical forensic exam where she or he is.

MEDICAL INTAKE

The treatment of victims of sexual assault should be considered a medical emergency. Although many survivors may not have visible signs of physical injury, they will, at the very least, be suffering from emotional trauma. A private location within the designated medical facility should be utilized for the preliminary consultation or admission with the survivor. This could be a room adjacent to the emergency department or a private office located nearby. In order to prevent others from hearing the conversation, it is recommended that this same type of facility be provided for any follow-up law enforcement interview at the conclusion of the examination.

While the survivor is being treated at the designated medical facility, the responding officer should wait some place other than in the examining room. In some jurisdictions, police protocol calls for the officer who accompanies the survivor to the hospital to also conduct the follow-up investigation. Officers in these departments should remain at the hospital until the examination is complete (or return to the hospital if they need to patrol) before making arrangements to conduct the more in-depth interview with the survivor.

Over the past several years, many hospitals have developed coding plans, such as “Code R” or “SA” which they use when referring to a sexual assault case. This eliminates the needless embarrassment to survivors and/or their families of being identified in the public emergency or examining room setting as the 'rape' or 'sexual assault' survivor. Other methods can be devised to avoid inappropriate references to sexual assault cases, and designated medical facilities are encouraged to develop their own sensitive coding plans to ensure privacy.

General guidelines for the medical history include the following:

- The history collection conducted by the examiner must be held in a private setting which is free of outside interruptions.
- Consideration should be given to the possible need or request by the survivor or by the advocate on behalf of the survivor for an advocate in the room. The person conducting the examination is also required by law to offer the presence of an advocate to the survivor. (Texas Code of Criminal Procedure, Art. 56.045)

REPORTING

The examiner should be empathetic and understanding of the survivor's trauma, while at the same time efficient in collecting all information necessary for effective treatment.

The examiner should establish rapport as an ally of the survivor and try to cushion the survivor from pressures by family, friends, and other medical personnel.

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The survivor should be asked only those questions necessary to discover information that will assist the examiner in making a plan of care, diagnosis and treatment of the survivor which includes evidence collection.

Texas law has affirmed that the privacy and choice for the survivor is of paramount importance, therefore, there is no law in Texas that requires an adult sexual assault survivor to report the assault, (other than some disabled or elderly persons). If no report is made, the survivor is ineligible for reimbursement of medical costs through Crime Victim's Compensation. Many hospitals have policies that direct emergency room staff to notify law enforcement whenever any person involved in criminal activity, as survivor or perpetrator, seeks treatment. If that is the case, adult sexual assault survivors shall be given the courtesy and choice of whether they wish to receive a medical forensic exam with or without making a police report.

When the survivor chooses not to report, sexual assault programs and law enforcement personnel might encourage the survivor to file an Information Report or Third Party Report. It is very important to the investigation of other cases that law enforcement have all available information even if the survivor does not choose to report the crime. In any event, the survivor should still receive medical treatment and the respectful and sensitive treatment accorded to those who do choose to report.

If the survivor does report the sexual assault, the law enforcement jurisdiction investigating the case is responsible for the cost of the examination to collect evidence. If the survivor does not report at the time of the examination, the Texas Department of Public Safety is responsible for the cost of evidence collection.

Texas law (Texas Family Code § 261.101) requires that any person who suspects child abuse must report it to either Texas Child Protective Services or the local or state law enforcement. The reports should be made by calling 1-800-252-5400 or online at www.txabusehotline.org. Those reporting the incident or participating in an investigation or court proceeding are immune from civil or criminal liability, unless that person acts in bad faith or malice. Medical and social services organizations are bound by this statute.

Cases involving minors who are abused by someone other than a caretaker fall under the same procedures as adult survivors.

SUPPORT PERSONNEL

The importance of having a support person available to sexual assault survivors cannot be over-emphasized. Whenever possible, one person should be assigned to be available throughout the medical and evidence collection procedure visit and preferably the entire system.

Well-trained support persons can provide the immediate crisis intervention necessary when survivors first enter the designated medical facility for treatment; they can assist hospital medical staff in explaining the necessity of medical and evidence collection procedures; and they can advise family members or friends of the survivor who may be at the hospital. A support person can also help provide counseling referrals and other information, such as the existence and availability of Crime Victim Compensation or other types of assistance, emph-

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size the importance of follow-up testing for possible venereal disease or other medical problems, and answer additional questions survivors may have following their medical evidence collection examinations. They are also able to provide support for the survivor throughout the criminal justice process.

As a result of the dedication of women and men involved in the issue of sexual assault, hospitals have entered into working agreements with sexual assault programs. The Office of the Attorney General encourages all hospitals to incorporate the notification of sexual assault advocates into their treatment protocol just as they do law enforcement agencies. The survivor has the best chance at emotional recovery if he/she is able to establish a rapport early with an advocate. Crisis intervention is most effective when it is begun during the first few hours following a sexual assault.

PATIENT/SURVIVOR CONSENT

Obtaining a survivor's written consent prior to conducting a medical examination or administering treatment is standard medical practice. With the advent of evidence collection requirements and crisis intervention services, sexual assault survivors are expected to make a decision about consent to these procedures, as well.

Informed consent should be a continuing process that involves more than obtaining a signature on a form. When under stress, many survivors may not always understand or remember the reason for or significance of unfamiliar, embarrassing and sometimes intimidating procedures. Therefore, all procedures should be explained as thoroughly as possible, so that the survivor can understand what the attending medical personnel are doing and why. A brochure that is designed to accompany this protocol is free and available from the Office of the Attorney General Sexual Assault Prevention and Crisis Services Division and should be distributed to every sexual assault survivor.

Although much of the examination and evidence collection process can be explained by the designated medical facility support person or advocate, this function is ultimately the responsibility of the attending medical personnel.

When written consent is obtained, it should not be interpreted as a blank check for performing tests or pursuing questions. If a survivor expresses resistance or non-cooperation, the medical personnel should immediately discontinue that portion of the process and consider going back to it at a later time in the examination, if the survivor then agrees. In either event, the survivor should have the right to decline one or more tests or to decline to answer any question. Having a sense of control is an important part of the healing process for survivors, especially at the early stages of examination and initial interviewing.

It is important to remember that consent to have a support person or advocate present must be given by the survivor prior to the introduction of that person. Also, at any time throughout the treatment and evidence collection process, the survivor should be able to refuse further interaction with the designated support person and/or request that the support person leave.

Consent to conduct a medical examination and collect physical evidence should be obtained from parents/guardians of all children under the age of 18. However, Texas law provides

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that an examination may be done in cases of suspected child abuse or suicide prevention with the consent of the minor only, court order or on the opinion of the physician in emergencies. Examination may not be done if the child is 16 or older and refuses to consent or if consent is refused by a court order. (Texas Family Code § 32.005). Hospitals should follow their usual procedures for obtaining consent in extraordinary cases, e.g., for the severely injured or incoherent survivor.

SEXUAL ASSAULT EVIDENCE COLLECTION KIT (RAPE KIT)

The Texas Evidence Collection Protocol, as designated by Chapter 420, Government Code, requires sexual assault evidence collection kits to contain items to collect and preserve evidence of a sexual assault or other sex offense.

See Reference Section “Evidence Collection Protocol” for more information.

Packaging

Kits can be made from materials readily available at most medical facilities or purchased commercially. If a kit is purchased commercially, the cost should be approximately \$20.00 each. Kits should be packaged in a crush proof box for transportation to the forensics lab.

In order to prevent the loss of hairs, fibers, or other trace evidence, clothing and other evidence specimens must be sealed in paper or cardboard containers because moisture remaining in the evidence items will be sealed in, making it possible for bacteria to quickly destroy biological fluid evidence. Unlike plastic, paper breathes, and allows moisture to escape. Biological evidence should never be packed in plastic. However, this does not mean that evidence may be packaged wet in paper. All items should be actively air-dried, without heat, before packaging.

Every item submitted to the forensic lab for analysis must be labeled as to site (e.g., vaginal, oral, rectal, penile, etc.), name of survivor, date and examiner's initials.

See Reference Section “Medical Protocol” for Recommended Equipment

EVIDENTIARY AND MEDICAL EXAMINATIONS

A physical examination should be performed in all cases of sexual assault, regardless of the length of time which may have elapsed between the time of the assault and the examination.

Some survivors may ignore symptoms which would ordinarily indicate serious physical trauma, such as internal injuries sustained by blunt trauma or foreign objects inserted into body orifices. Also, there may be areas of tenderness which will later develop into bruises but which are not apparent at the time of initial examination.

If the assault occurred **within the 96 hours prior to the examination**, then an evidence collection kit should be used. The time line of 96 hours is not absolute. It is a guideline. Medical and law enforcement should evaluate each case after that time individually.

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If it is determined that the assault took place more than **96 hours prior to the examination**, the use of an evidence collection kit may not be necessary. It is unlikely that trace evidence would still be present on the survivor. However, evidence may still be gathered by documenting any findings obtained during the medical examination (such as bruises or lacerations), photographs and bite mark impressions (if appropriate) and statements about the assault made by the survivor. These observations and findings should be documented on the report form.

When a medical forensic examination is performed, it is important that the medical and evidence collection procedures be integrated throughout. This coordination of medical and forensic procedures is crucial to the successful examination of sexual assault survivors.

For example, in order to minimize trauma, blood drawn for medical purposes, if indicated (pregnancy, syphilis, HIV) should be done at the same time as blood drawn for evidence collection purposes. Also, when evidence specimens are collected from the oral, female sexual organ or anal orifices, cultures for sexually transmitted disease should be taken immediately following these collection procedures, when indicated.

Attending Personnel

The only people who should be with the adult survivor in the examining room are the examining medical personnel, any translator needed and, (with the consent of the survivor and attending medical personnel) a specially trained advocate. Every effort should be made to limit the number of people in attendance during the examination. Every person in the room can be considered a witness to the procedure and therefore called to testify in court.

It is not necessary for a law enforcement representative or child protective agency representative to observe evidence collection procedures to maintain the chain of evidence or custody. This is the function of the attending medical personnel.

Subjecting sexual assault survivors to the observation of law enforcement personnel during this process as well as having the law enforcement representative privy to the private communications between the survivor and the examining/support team is an invasion of the survivor's privacy and is an unnecessary practice.

Presence of Parent/Guardian

Since children many times will tell health professionals information they may not tell in the presence of parents or other adults, adolescents and older children should be encouraged to provide much of their own medical history, as appropriate. This interview should be conducted in a private area, and information regarding sexual history (of both males and females), menstrual history and use of birth control should be recorded. Encourage the child to be interviewed alone (without parent or guardian) if it does not cause too much stress for the child.

The child and the child's parents/guardians should be informed about and prepared for the physical examination by the medical personnel. They should also be told what specific lab tests will be done, the purpose of each test and when the results will be available.

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If a parent or guardian is present, the purpose of the interview should be explained in a straight-forward manner, and cooperation should be elicited to reassure the child that it is safe to talk with the interviewer. The parent/guardian should also be told that any facial expressions of shock, disbelief or disapproval or any verbal or physical signals to the child could impede the investigation.

Under no circumstances should the interview be held in the presence of a parent/guardian who is suspected of perpetrating the abuse.

Preserving the Integrity of Evidence

The custody of any evidence collection kit and the specimens it contains must be accounted for from the moment of collection until the moment it is introduced in court as evidence. This is necessary in order to maintain the legally necessary chain of evidence; sometimes called chain of custody, or chain of possession. **Therefore, the number of people who handle evidence should be minimized, and anyone who handles evidence items should label them with their initials, the date, source of the specimen, the name of the attending medical personnel and of the survivor. All outside containers should be sealed with an integrity seal.**

DNA Examination of Sexual Assault Evidence

Research in the last few years has revealed new options for identification in criminal investigations. The analysis of cellular biological materials for DNA (Deoxyribonucleic Acid) has greatly enhanced identification possibilities of criminals. DNA (chromosomal material) contains the genetic code of an individual and if sufficient quantity of DNA exists in a given sample, that individual may be identified by DNA comparisons (e.g., comparing blood from a suspect with blood left at a crime scene, etc.). This is especially significant in cases where no witnesses were available to make identifications.

DNA is found in biological materials containing a cell nucleus; therefore, spermatozoa can be readily used for identification of an individual provided sufficient sample is available. This technique of identification can be helpful in a sexual assault investigation where the survivor cannot identify her/his assailant. DNA can also be identified in blood, saliva, hair (containing hair root with root sheath), tissue and bone marrow.

Many sexual assault offenders are sexually dysfunctional and do not ejaculate during the assault. Studies indicate that there is no ejaculation in up to 50 percent of sexual assault cases. Additionally, offenders may use a prophylactic, have a low sperm count (frequent with heavy drug or alcohol use), ejaculate somewhere other than in an orifice or on the survivor's clothes or body, or penetration could have been by an object other than a penis. There could also have been a significant time delay between the assault and the collection of specimens. The survivor could have inadvertently cleaned or washed away the semen, or the specimens could have been collected improperly. **Therefore, a lack of spermatozoa is not conclusive evidence that an assault did not occur it only means that spermatozoa may have been destroyed after being deposited or that it may never have been present.**

CLOTHING EVIDENCE

Frequently, clothing contains the most important evidence in a case of sexual assault. The reasons for this are as follows:

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- Clothing provides a surface upon which traces of foreign matter may be found, such as the assailant's semen, saliva, blood, hairs and fibers as well as debris from the crime scene. While foreign matter can be washed or worn off the body of the survivor, the same substances often can be found intact on clothing for a considerable length of time following the assault.
- Drainage of ejaculate from the vaginal or anal cavities may collect on the panties/underwear, especially with a child survivor. Although bacterial action and breakdown does occur in this environment, it happens at a slower rate than in the body cavities. After 3–6 hours, usable semen evidence, if present, is more likely to be found on the survivor's undergarment than on vaginal or anal swabs. For a child, undergarments are very important, and parents should be encouraged to bring in the child's underwear.
- Damaged or torn clothing may be significant. It may be evidence of force and can also provide laboratory standards for comparing trace evidence from the clothing of the survivor with trace evidence collected from the suspect and/or the crime scene. Any item of clothing worn during the assault or prior to the examination may need to be collected.

In the process of criminal activity, different garments may have contact with different surfaces and debris from both the crime scene and the assailant. Keeping the garments separate from one another permits the forensic scientist to reach certain pertinent conclusions regarding reconstruction of criminal actions. For example, if semen in the female survivor's underpants is accidentally transferred to her bra or scarf during packaging, the finding of semen on those garments might appear contradictory to the survivor's own testimony in court of exactly what events occurred in the assault.

Therefore, each garment should be properly labeled and placed separately in its own paper bag to prevent cross-contamination from occurring.

Prior to the full examination, great care must be taken by the attending medical personnel to determine if the survivor is wearing the same clothing she/he wore during or immediately following the assault. If so, the clothing should be examined for any apparent foreign materials, stains or damage. When the determination has been made by law enforcement personnel that items may contain possible evidence related to the assault, **with survivor consent** those items should be collected.

If it is determined that the survivor is not wearing the same clothing, the attending medical personnel should inquire as to the location of the original clothing, such as at the survivor's home or at the laundry for cleaning. **This information should then be given to the investigating officer so that arrangements can be made to retrieve the clothing before any potential evidence is destroyed.** If this clothing was worn before and/or during the assault, trace evidence may be found. Semen may also be found if the assailant ejaculated outside the survivor's body. Any briefs, trunks, sanitary napkins, panty liners, diapers or tampons worn by the survivor for the period of up to 24 hours after the assault should be obtained as they may contain semen or other evidence.

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See Reference Section “Medical Protocol” for Clothing Evidence Collection Procedure

SWABS AND SMEARS

Smears are made to allow the forensic analyst to test microscopically for the presence of spermatozoa. If they are present, the analyst will then proceed to use the swab(s) to identify the seminal plasma components and attempt to identify the donor population based on genetic markers.

Depending upon the type of sexual assault, sperm or sperm particles may be detected in the mouth, vagina and rectum. However, embarrassment, trauma or a lack of understanding of the nature of the assault may cause a survivor to be vague or mistaken about the type of sexual contact which actually occurred. Because of these reasons, and because there also can be leakage of semen from the vagina or penis onto the anus, even without rectal penetration, it is recommended that the survivor be encouraged to allow examination of all three orifices to determine the specimen collection indicated.

When taking swabs, the examiner takes special care not to contaminate the individual collections with secretions or matter from other areas, such as vaginal to rectal or penile to rectal. Such contamination may unnecessarily jeopardize future court proceedings.

If survivors must use bathroom facilities prior to the collection of these specimens, they should be instructed to do so in a bedpan so that any evidence can be collected from the discharge, if needed.

See Reference Section “Medical Protocol” for Swabs and Smears Collection Procedures

BITEMARK EVIDENCE

Bite marks may be found on survivors as a result of sexual assault and other violent crimes and should not be overlooked as important evidence. Bite mark impressions can be compared to the teeth of a suspect and can sometimes become as important, for identification purposes, as fingerprint evidence. The collection of saliva and the taking of photographs of the affected area are the minimum procedures which should be followed in cases where a bite mark is present.

See Reference Section “Medical Protocol” for more information on Bite mark Evidence

HAIR EVIDENCE

During an assault, hairs may be transferred from one individual to the person or clothing of the other or to the crime scene. Other hairs transferred during an assault are pulled out by friction or other means of forcible removal.

These hairs can be microscopically compared to known hair samples from both individuals to determine the origin. Head and pubic hairs are the only hairs on the body that have enough individual characteristics for this type of analysis. Hair characteristics are affected by many



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factors including stress, diet and hair care products. Time delay in the collection of hair samples of the survivor may adversely affect future comparisons.

See Reference Section “Medical Protocol” for Hair Evidence Collection Procedures

FINGERNAIL SCRAPINGS

The purpose of collecting fingernail scrapings is to collect potentially useful evidence of cross-transfer. During the course of a physical crime, the survivor will be in contact with the environment as well as with the assailant. Trace materials, such as skin, blood, hairs, soil and fibers (e.g., from upholstering, carpeting, blankets, etc.) can collect under the fingernails of the survivor.

See Reference Section “Medical Protocol” for Fingernails Scrapings Collection Procedures

WHOLE BLOOD SPECIMEN

Any semen found on the clothing or in the body cavities of the survivor is likely to be mixed with her/his body fluid (e.g., vaginal secretions, saliva, etc.). Therefore, a blood sample must be collected from the survivor to determine the contribution of her/his genetic markers to the mixture or unidentified stains.

Note that under certain rare circumstances a semen-free vaginal swab may have to be collected from the survivor at a later time in order for the laboratory personnel to interpret genetic marker results. This would entail the survivor abstaining from intercourse for one week then having a vaginal swab collected by a medical professional.

SALIVA SPECIMENS

In the ABO analysis of secretion mixtures, such as semen and vaginal secretions, the ABO type of the survivor must be identified in order to evaluate properly the blood type of the other contributor. A dried sample of known saliva and the known liquid blood sample are used to determine the ABO secretor status of the survivor.

Collection Procedures

It is important that this specimen not be contaminated by outside elements.

Therefore, the survivor should not smoke or have anything to eat or drink for at least 30 minutes prior to this procedure.

See Reference Section “Medical Protocol” for more information on Saliva Specimens Collection Procedures

SEXUAL ASSAULT FORENSIC EXAMINATION

Throughout the examination, the attending medical personnel explains to the survivor why questions are being asked, why certain medical and evidentiary tests may need to be performed and what treatment, if any, may be necessary.

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1. Vital signs and other initial information, such as the date and time of both the examination and the assault, are recorded.
2. A brief description of the details of the assault is recorded. This description includes any oral, rectal or vaginal penetration, whether the assailant penetrated the survivor with finger(s) or foreign object(s), whether any oral contact occurred, and whether ejaculation occurred (if known). The survivor's account of what happened is recorded accurately, briefly and in the survivor's own words.
3. Gynecological history information including menstrual history (last menstrual period, date and duration, menstrual cycle), pregnancy history (including evaluation of possible current pregnancy) and contraceptive history is evaluated and recorded. In survivors at risk for pregnancy, a pregnancy test is done to establish a baseline for possible pre-existing pregnancy.
4. During the general physical examination, all details of trauma are recorded, such as bruises, abrasions, lacerations, bite marks, blood or other secretions, with particular attention paid to the genital and rectal areas of both male and female survivors. Common sites and types of injury, even if not yet visible, include the breasts, the upper portion of the inner thighs, grab or restraining marks on the neck, side of the face, arms, wrists or legs, and injuries or soreness to the scalp area, back or buttocks as a result of being thrown against an object or onto the ground.

NOTE:

Information concerning sexually transmitted diseases is contained in Section 8, Special Concerns.

MEDICAL EXAMINATION DOCUMENTATION

Body Diagrams/Photographs

Photographs of sexual assault survivors **are not the only form of documentation**. Instead, a drawing of the human figure is used to show the location and size of the injury as well as a written description of the trauma. Drawings consist of adult, child and infant figures and contain genitalia for males and females.

Toxicology Blood/Urine Screen

Some hospital protocols include the routine procedure of testing for the presence of alcohol and other drugs in the systems of sexual assault survivors.

Blood/urine screens for determining toxicology are done in the following situations in cases of sexual assault:

- If the survivor or accompanying person (such as a family member, friend or police officer), states that the survivor was involuntarily drugged by the assailant(s),
- AND/OR if in the opinion of the attending medical personnel, the survivor's medical condition appears to warrant toxicology screening for optimal care.

Great care should be exercised to ensure that toxicology screens are not routine for survivors of sexual assault.

PROPHYLACTIC TREATMENT FOR SEXUALLY TRANSMITTED DISEASES AND PREGNANCY

All survivors should be given information about the possibility of contracting sexually transmitted diseases from the assault. Only a follow-up test at a later time will confirm any transmission. The survivor should be consoled with the fact that because a sexual assault has occurred does not necessarily result in the transmission of a disease or pregnancy. However, a follow-up exam and test six weeks after the assault should be encouraged. Prophylactic treatment for sexually transmitted diseases should be offered routinely at the time of the initial exam.

If the medical team determines that the female survivor of child-bearing years is at high-risk for pregnancy, prophylactic treatment for pregnancy is discussed and offered. A thorough history is taken to determine the survivor's method of birth control and whether it was in use during the assault. Should the medical facility have a policy that is philosophically opposed to "morning after treatment," the survivor should still be alerted to her risk for pregnancy, informed of her options and referred to a pharmacy or facility that will provide follow-up care if she chooses it.

PROCEDURES FOR RELEASE OF EVIDENCE

Preliminary Procedures

When all evidence specimens have been collected, they are placed back into the kit, making certain that everything is properly labeled and sealed.

The original copy of the sexual assault forensic examination form is to be maintained at the facility where the exam was completed. The second copy is for the law enforcement officer to take and the third copy is included in the kit. All copies should be legible.

All required information is filled out on the top of the kit just prior to sealing it with red or orange evidence tape at the indicated area. The completed kit and clothing bags are kept together and stored in a safe area. Paper bags are placed next to but not inside the complete kit.

All medical and forensic specimens collected during the sexual assault examination must be kept separate in terms of collection and processing. Those required only for medical purposes should be kept and processed at the examining medical facility, and those required strictly for forensic analysis should be transferred by law enforcement with the evidence collection kit to the crime laboratory for interpretation.

Transportation of Evidence

Under no circumstances should survivors be allowed or expected to handle evidence after it has been collected. Only a law enforcement official or duly authorized agent should transfer physical evidence from hospitals to crime laboratories for analysis. In order to inhibit deterioration and assure the best possible test results, kits should be refrigerated immediately and kept so until transported to the forensic lab by law enforcement personnel. Kits should be taken directly from the medical facility to the lab where the contents will be frozen until processed.

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Release of Evidence

Evidence collection items should not be released from a medical facility without the written authorization and consent of the informed adult survivor, or an authorized third party acting on the survivor's behalf if the survivor is unable to understand or execute the release. An authorization for release of information and evidence form should be completed, making certain that all items being transferred are checked off. Besides obtaining the signature on this form, signatures must be obtained from the medical facility staff person turning over the evidence as well as the law enforcement representative who picks up the evidence.

One copy of the release form should be kept at the medical facility and the other copy given to the law enforcement representative. This representative should also print and sign her or his name on the cover of the collection kit and bags of clothing and fill in the time of transfer.

Non-authorization of Release

Although most sexual assault survivors consent to have their evidence specimens released to law enforcement subsequent to the medical examination and evidence collection process, there may be a few instances when a survivor will not authorize such a release. Medical facilities and/or law enforcement personnel should not react negatively to a survivor's initial decision not to release evidence. They should inform the survivor that the release of evidence is not a commitment to prosecute. Although the lack of authorization on the date of collection could later be questioned if the case goes to court, such reluctance can be explained easily and is not considered by prosecutors to be a serious problem.

If consent is not initially received, kits and clothing bags can be stored on a temporary basis in a locked, secure area. To retard spoilage, kits should be refrigerated for up to two weeks, if possible, before being destroyed. If refrigerated storage is not available, the evidence should remain sealed and be placed in a secure cool dry place. (Although some medical facilities have limited storage and/or refrigeration facilities, space should not present any major problem since the number of actual cases in which release is not authorized is very low). Hospital personnel and/or the survivor's advocate must inform survivor of the length of time the evidence will be held prior to destruction, thereby providing the survivor with an opportunity to reconsider authorization for release within a reasonable period of time after the initial hospital examination. It is the responsibility of the law enforcement agency to contact the survivor to inquire about any change of decision.

Although there have been instances where a parent or guardian, acting on behalf of the child, has refused to authorize the release of evidence to law enforcement, the actual incidence of this has been very low. Since child abuse must be reported, the parent/guardian does not have a choice in whether the evidence is released to the law enforcement agency.

POST-EXAMINATION INFORMATION

Information Brochures

The Office of the Attorney General has developed an informational brochure about sexual assault. These brochures can be helpful in explaining to survivors some of the common problems they may encounter, such as disturbances in sleeping or eating patterns, flashbacks of the attack, and post traumatic stress syndrome. They also provide reassurance to the survivor

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that sexual assault survivors are not responsible for the assault. Copies of the brochure are available from the hospital, local sexual assault program or Office of the Attorney General, Sexual Assault Prevention and Crisis Services Division.

Arrangements should be made to provide a copy of such publications to sexual assault survivors and their families when they leave the hospital. Many kits come with this prepackaged.

The discussion of follow-up services for both medical and counseling purposes is an important treatment aspect for sexual assault survivors. Before leaving the hospital, the medical facilities portion of the information booklet mentioned above should be completed. The type and dosage of any medication prescribed or administered should be recorded in the section provided.

Many medical facilities report that most sexual assault survivors do not return to the facility for these follow-up tests. Denial of the assault or of the need for follow-up testing, especially if no unusual symptoms are experienced and inadequate information provided by many medical facilities concerning the necessity for follow-up treatment are common reasons for a failure to return.

Survivors should be encouraged to obtain follow-up tests, if needed or indicated, for possible pregnancy, sexually transmitted disease and urinary tract or other infections within four to six weeks after the initial hospital visit. It is vital that both written and verbal information be provided, including the locations of public health clinics or referrals to private physicians for medical follow-up if the survivor does not wish to return to the treating facility. Advocates can be helpful in explaining the need for a return visit and what types of tests should be performed.

After an acute assault, it is extremely important that children return for a follow-up visit within one week to re-evaluate any genital or other injuries and to perform follow-up cultures, if necessary.

This visit will also provide the examiner an opportunity to assess how well the child and/or family are handling the stress and whether counseling has been received or is necessary.

Another section of the booklet is used to record follow-up counseling information. While the survivor should be encouraged to seek follow-up counseling, the decision to do so must be voluntary. Some survivors may be reluctant to talk with a counselor; however, they are more likely to participate if counseling has been coordinated with the examination process.

Follow-up Contact

Any further contact with sexual assault survivors must be carried out in a very discreet manner. In an effort to avoid any breach of confidentiality or unnecessary embarrassment, it is recommended that survivors be asked, prior to leaving the medical facility, whether they may be contacted about follow-up services. If so, they should be asked to provide an appropriate mailing address and/or telephone number where they can be reached.

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Clean-up/Change of Clothing

Many survivors would like to wash after the examination and evidence collection process. If possible, the medical facility should provide the basics required, such as mouth rinse, soap and a towel.

If garments have been collected for evidence purposes and no additional clothing is available, arrangements should be made to insure that no survivor has to leave the hospital in an examination gown. In those instances where police officers transport victims from their homes to the hospital, officers should be instructed to advise survivors to bring an additional set of clothing with them in the event any garments are collected. Some survivors may wish to have a family member or friend contacted to provide substitute clothing. When the survivor has no available personal clothing, necessary items could be supplied by volunteer organizations and/or the local sexual assault program. A list of agencies should be developed by the local task force.

This and other issues can be addressed by developing a community plan with local law enforcement agencies and sexual assault programs.

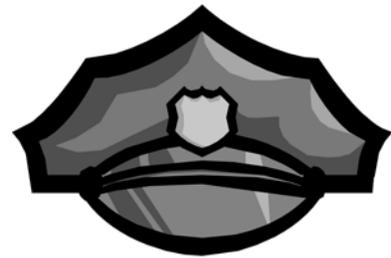
Transportation

Finally, transportation should be arranged when the survivor is ready to leave the hospital. In some cases this will be provided by a family member or friend who may have been called to the hospital for support. In other cases, transportation can be provided by the local law enforcement agency as a community service or by the local advocacy agency.

Law Enforcement

This information is provided to let you know a few of the ways that law enforcement is contacted.

Before the physical exam in the emergency room, the sexual assault survivor may have contacted law enforcement officers. If not, it is important for them to understand that most hospitals automatically contact law enforcement once a survivor enters the emergency room. **This does not mean that there is an obligation to make a crime report, or that making a report can be required as a condition of receiving a medical forensic examination.**



A survivor is the only person who can decide whether or not to make an initial crime report and how to report the crime. In making this decision, the following facts might be considered:

ADVANTAGES:

- If the crime is reported and the suspected offender is caught and convicted, the survivor may have protected others from falling victim to this rapist. Also, by reporting they may be able to help substantiate another survivor's report.

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- The survivor may be eligible for financial compensation provided by the state.
- The survivor may request assistance throughout the trial process from sexual assault advocates.

DISADVANTAGES:

- It may be difficult to repeat the history of the sexual assault so many times to law enforcement officers and in court.
- The prosecutor decides whether or not to proceed with the case, although the survivor is entitled to know why the case was not filed.
- Fewer than one out of five cases go to trial, and even fewer result in conviction. This does not mean that their particular case will not be filed, but the statistics are discouraging.
- Reporting the assault may be emotionally difficult because it may cause the individual to relive the experience.

If the decision is to report the sexual assault, the first step is a crime report which may be made before or after the physical exam in the emergency room. Within a few days after the initial report, law enforcement officers or special sexual assault investigators may call the survivor into the office or go to the survivor's residence for a follow-up report.

The survivor must be truthful in each statement made. If a survivor does not know something exactly, he/she must make every effort to describe it as accurately as possible. The officers are not there to judge survivors. They are there to obtain information about the crime, date, time, location, description of suspect, etc. Survivors will also be asked about their activities before and after the assault. Officers should not ask questions like "Did you enjoy it?" or "Did you climax?" etc. In some cases, they may ask questions about mental state in order to determine whether or not the survivor may need to be referred for counseling. They will also need to know whether any penetration occurred and what sexual acts were forced to determine what crimes can be charged.

The slightest penetration may result in an assault charge rather than an attempted assault charge. Remember, it is not the survivor who did these things but the assailant. The information provided is the basis for a legal proceeding and must be accurate. The survivor has the right to read over everything the law enforcement officers write on forms and to ask them to correct any misinformation. It is a good idea to get the **NAMES, SERIAL or BADGE NUMBERS and BUSINESS TELEPHONE NUMBERS** of the officers. Many people find that they remember more details of an event when they are written down. If a survivor finds that he/she have remembered something he/she might call the law enforcement agency with the information.

Third Party Reporting

Sexual assault survivors are able to report information anonymously about their assault and about their assailant(s) to the law enforcement through third party reporting.

The sharing of such information is a special benefit to law enforcement and the survivor. The law enforcement agency will add the third party report information to the other data they have collected concerning assaults and assailants. This compilation of information frequently reveals assault and assailant patterns which can lead to the arrest of the perpetrator(s) and/or the discovery of a serial rapist.



The survivor, who is the only person able to contribute this valuable information may do so without having to reveal his/her own identity if that is their choice. Also, making a third party report may be an important step in reclaiming a sense of decisiveness, personal power and integrity.

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SAMPLE THIRD PARTY REPORT

This is used only to supply information to law enforcement. This is not an official report.
The survivor has agreed to provide this information: _____ (advocates initials).

Third Party Report

I.

Assault Information: Date: _____ Time: _____ am/pm

Location: _____

Location of first encounter with assailant, if different:

Did the offender use a vehicle? Yes No

Year: _____ Make: _____ Model: _____ Color(s): _____

License Plate #: _____ State: _____

Special Features: _____

What were you doing before you were assaulted?

How did the offender approach you?

What happened during the assault?

Was a weapon used, what? _____

Were you physically injured, how?

Did you receive medical attention, where?

II.

Suspect Information: How many? _____ Name(s): _____

Address(es): _____

Description: Age(s): _____ Sex(es): _____ Race(s): _____

Complexion: _____ Eye color: _____

Height: _____ Weight: _____ Build: _____

Hair color: _____ Length: _____ Texture: _____

Did the offender say anything, what?

Description of voice: _____

Offender's clothing: _____

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Physical distinctions (beard, smell, physical impairments, tattoos, etc.)

Additional information about the sexual assault or any other information you feel is important: _____

Would you be willing for the sexual assault program to have your name and number on file so that we may contact you should law enforcement wish to talk with you more about this report? You would then be able to decide if you wanted to contact them. YES NO

Name: _____ Day Phone: _____

Address: _____

Pseudonym

In 1988, the state of Texas made available to sexual assault survivors the option of using a pseudonym. A survivor can fill out a form to choose a false name to be used on all legal and medical documents associated with the assault. Using a pseudonym may help shield the survivor from unwanted publicity. (If the case goes to court, though the pseudonym will still be used, there may be enough information, including photographs, to identify the survivor anyway).

If a survivor chooses to use a pseudonym, all people and agencies involved in her/his case must receive a copy of the pseudonym form—the hospital emergency room and registration, the police or sheriff's office, Crime Victim's Compensation, her/his therapist, sexual assault programs, etc.

The intent of this legislation was to give survivors a choice in protecting their identity. For many victims, the greatest fear is that their name will appear in the press. It is intended that this option will encourage more survivors to file complaints and experience a sense of privacy when they do.

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- Pseudonym forms are available from local sexual assault programs or the Office of the Attorney General—Sexual Assault Prevention and Crisis Services.
- Law enforcement agencies are encouraged to use the pseudonym form routinely and at first contact. If it is not proffered and the victim requests it later, all public records and court proceedings will need to be changed retroactively. The law was specifically designed to affect the General Offense Report since most news media obtain their information there first.
- The pseudonym can be used for children. It is not addressed as a requirement or prohibition in the bill.
- We suggest that the word "pseudonym" be used in place of the name on any public documents. Please advise survivors that the name they choose will follow them through the criminal justice system. Care should be taken in the choice. Also, the pseudo-address and phone number used should be that of the police department or sexual assault program or it should be left blank on the affected documents.
- A space is provided on the form for the survivor to give permission for release of information for specific purposes. This should help investigations, insurance payments and counseling referrals.
- Law enforcement should make an extra copy of the form to give to the victim.
- The form, or a copy of it, should follow the case file to court and probation or parole.
- All press releases or statements about a sexual assault case should include a disclaimer that a pseudonym is being used.
- A potential jury can be polled about whether or not they know the survivor by bringing her/him into the courtroom during voir dire (questioning of potential jury members).

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PSEUDONYM FOR SEXUAL ASSAULT SURVIVORS (All information will be kept confidential).

Law enforcement agency _____ Case # _____
PSEUDONYM* _____
Real Name _____
Real Address _____
Real Phone # (day) _____ (evening) _____
Alternate Contact person _____
Alternate Contact phone # (day) _____
(evening) _____

*This name will be used in all public files to take the place of your real name. Your correct address and phone number will also be protected. (Texas Code of Criminal Procedure Art. 57.01, Eff. 1/1/88)

RELEASE OF INFORMATION

To assist law enforcement with their investigation and obtain further assistance, I give permission for specific limited release of my real name, address and phone number. By checking the following, my real information may be released to these specified agencies:

- _____ Local sexual assault program
- _____ Law Enforcement Crime Victim Liaison
- _____ Crime Victims' Compensation
- _____ My medical insurance carrier
- _____ District Attorney Crime Victim Coordinator
- _____ Court ordered restitution office

Survivor Signature Date

Law Enforcement Officer Signature/Badge Number Date

FOR YOUR INFORMATION

The following services are available to you from your local sexual assault program: 24 hour hotline & crisis intervention, legal procedures advocacy and support, accompaniment and assistance with law enforcement

The following program is available to you:

(Program name and phone number to be filled in by the officer.)

Address Confidentiality Program

For added privacy protection, the Office of the Attorney General also administers the Address Confidentiality Program. (Texas Code of Criminal Procedure, Ch. 56, Subch. C) Survivors of sexual assault, family violence, and stalking are eligible to participate in the Address Confidentiality Program.

The Address Confidentiality Program is an important privacy tool for many survivors. Even with a pseudonym on all public records, criminal defendants have the constitutional right to know the survivor's true identity (the Sixth Amendment right to confront witnesses). However, defendants do not have the right to know where survivors live. That's where the Address Confidentiality Program comes in.

The OAG provides survivors with a PO box address to be used for all survivors' first class mail. Survivors can use the PO box address for virtually any public document or registration, including court records, driver's licenses, school registration, and service of process for court proceedings. The only uses that are prohibited are for utility providers and creditors. The PO box lasts 3 years, and survivors may apply for renewal.

Thus, although defendants will learn survivors' identities, the Address Confidentiality Program helps promote survivors' safety by keeping survivors' locations secret. To enroll, a survivor must:

1. Meet with a victim assistance counselor to discuss the Address Confidentiality Program;
2. File and application to participate in the program;
3. Designate the attorney general as agent to receive service of process on behalf of the survivor; and
4. Live at, or relocate to, an address that is unknown to the perpetrator.

(Texas Code of Criminal Procedure, Art. 56.82)

Crime Victims' Compensation

A RESOURCE FOR VICTIMS

The Crime Victims' Compensation Act, passed in 1979, created the Crime Victims' Compensation Fund. The fund is supported by persons convicted of crime through payments of court costs and probation fees in amounts ranging from \$15 to \$45.



COSTS THAT MAY BE COMPENSATED

The Crime Victims' Compensation Fund can provide financial assistance for a variety of expenses related to a crime. For example, Crime Victims' Compensation can help pay:

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- The medical bills associated with the injuries caused sexual assault;
- The counseling expenses of an abused child or a sexual assault survivor, and assist with counseling for members of the victim's immediate family;
- Compensation for lost wages and loss of support payments in certain situations. CVC can assist victims and their families with travel expenses associated with medical treatment and court appearances associated with the crime. All expenses must be for items that fall within the general categories listed below and are necessary and related to the crime.
 - Reasonable medical, ambulance, prescription and rehabilitation expenses
 - Mental health counseling
 - Burial and funeral expenses
 - Lost wages and loss of support
 - Travel associated with seeking medical treatment, or attending and/or participating in the criminal justice process
 - Reasonable attorney fees for legal assistance in filing the crime victims' compensation application and in obtaining benefits, if the claim is approved
 - Reasonable costs associated with crime scene cleanup
 - Reasonable replacement costs for items such as clothing or bedding taken as evidence or made unusable as a result of the criminal investigation
 - Some moving costs if the assault occurred at victim's residence.
 - Reimbursement for property damage or loss is **NOT** an eligible expense.

AMOUNT OF COMPENSATION

- Total recovery may not exceed \$50,000 unless the injury is catastrophic.
- Individuals who suffer total and permanent disability as a result of their victimization may qualify for an additional award from \$25,000 - \$75,000 which may be used for expenses such as lost wages, prosthetics, rehabilitation and making a home wheelchair accessible.

RECOVERIES FROM OTHER SOURCES

The Crime Victims' Compensation Fund is regarded as "the payer of last resort." Other sources, such as health care insurance or Medicaid, must be considered first. The staff in the Crime Victims' Compensation Division will work with applicants to see that all available resources are coordinated to work in the best interests of the victim.

WHO IS ELIGIBLE?

- Victims who suffer bodily injury, emotional harm or death as the result of a violent crime.
- U.S. residents who become victims of crime in Texas, and other Texas residents who become victims of crime in a state or country without a compensation program.

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- Immediate family members of a victim and people who legally or voluntarily assume expenses related to the crime.
- Public safety professionals and citizens who are injured or killed as the result of intervening on the behalf of a victim or law enforcement.

To be eligible, the victim and/or claimant cannot share responsibility for the crime. The crime must be reported to a law enforcement agency and the victim must cooperate with criminal justice authorities.

HOW TO APPLY

Applications are available from hospitals, law enforcement agencies and prosecutors' offices. The Crime Victims' Compensation Division also provides applications, brochures and posters. For more information, contact:

Office of the Attorney General
Crime Victims' Compensation Division
P.O. Box 12198
Austin, TX 78711
1-800-983-9933

The Crime Victims' Compensation Division Staff are available to help victims and their families access this program. Applications are available in English and Spanish; the toll-free number is staffed by both English and Spanish speakers. Applications and information are also available from the CVC website: <http://www.oag.state.tx.us>

Criminal Justice System

BASIC OUTLINE

Defendant is charged with offense.

One of the Criminal Courts obtains jurisdiction of the case. Information as to the location of the case can be obtained by calling the District Clerk's office or the District Attorney's office, and giving the defendant's name. If one does not know the defendant's name, call the District Attorney's office anytime after the Preliminary Initial Appearance.

1. **Preliminary Initial Appearance:** within 24 hours of arrest the defendant will appear before the judge or magistrate.
 - a. The Court will see that the defendant is represented by counsel. If indigent, the court will appoint an attorney.
 - b. The Court will make sure that the defendant understands the charge against him.
 - c. The Court will make a finding if there is probable cause to send the case to the Grand Jury.
 - d. Survivor will not be needed at this stage.
 - e. Survivor can ask the D.A. to request conditions on bond.

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2. **Examining Trial:** Defendant may request examining trial; witnesses may need to be available. The D.A. attempts to circumvent this most of the time.
 3. **Grand Jury:** If the Court finds probable cause, the case is sent to a 12 person grand jury.
 - a. This body sits for a 3-month term.
 - b. The grand jury either issues a true bill (indictment) or a no bill usually within two weeks after preliminary initial appearance.
 - c. If a true bill, the case is sent back to the original court conducting the preliminary initial appearance giving the court jurisdiction over the case until disposition of the case is over.
 - d. Normally the survivor is not needed to testify at this stage; however, the grand jury may want to hear testimony.
 - e. The State of Texas is the charging party.
 1. D.A.'s office represents the State of Texas as a party to the case
 2. The survivor is considered a witness, not a party. The prosecutor is not the survivor's lawyer).
 - f. Court is assigned at random to dispose of case.
Bond is automatically set when defendant is charged.
Bond may either be raised or lowered. Conditions may also be set, such as no contact with survivor, etc.
 4. **Arraignment**
 - a. Usually waived; the defendant does not verbally enter a plea at this time.
 - b. This is a good time for the D.A. and the defense attorney to get together and discuss the case, usually for the first time, for several plea negotiations.
 - c. Survivor should notify the D.A. that he/she wants to be involved in the plea negotiations.
 - d. Case is usually reset a couple of weeks later for a non-issue reset.
 - e. Survivor is not needed at this stage.
 5. **Non-issue Setting:** There may be several of these to accomplish plea bargaining and discovery.
 - a. Again, a time for the state and defense to get together and discuss the merits of the case.
 - b. Survivor is not needed at this setting.
 6. **Disposition Setting**
 - a. Last reset date for discussion of the case.
 - b. If plea bargain is not reached, the case will be set for trial.
 - c. If plea agreement is made, the plea may be taken or reset.
 - d. Survivor is not needed at this setting.
 7. **Plea**
 - a. Defendant may plead guilty, not guilty or no contest.
 - b. Defendant may plead in exchange for the agreed punishment recommended by the State.
 - c. Defendant may plead to the Court without an agreement with the State.
-

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- i. The Court would order a pre-sentence investigation report before deciding upon the appropriate punishment.
- ii. The sentencing would be reset for approximately six weeks until receipt of the report.

8. Trial

- a. Defendant elects to have case tried by court judge or jury.
- b. If found guilty by a jury, the defendant also elects whether the judge or the jury would assess punishment.
- c. Procedure:
 - i. Jury selection
 - ii. State's case presented
 - iii. Defense's case presented
 - iv. Both sides rest and close
 - v. Judge charges the jury with the law
 - vi. Summation by the attorneys
 - vii. Deliberation

9. Punishment

▼ Class A Misdemeanor

Fine not to exceed \$4000.00 and/or less than 1 year in jail

▼ Class B Misdemeanor

Fine not to exceed \$2000.00 and/or less than 180 days in jail

▼ Class C Misdemeanor

Fine not to exceed \$500.00

▼ Capital Felony

1. Capital Felony: a person adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by imprisonment in the Texas Department of Corrections for life or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the institutional division for life.
2. In a capital felony trial in which the state seeks the death penalty, prospective jurors shall be informed that a sentence of life imprisonment or death is mandatory on conviction of a capital felony. In a capital felony trial in which the state does not seek the death penalty, prospective jurors shall be informed that the state is not seeking the death penalty and that a sentence of life imprisonment is mandatory on conviction of the capital felony.

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- ▼ First Degree Felony Offense: 5 to 99 years, or life in the Texas Department of Corrections. Fine not to exceed \$10,000.
- ▼ Second Degree Felony Offense: 2 to 20 years in the Texas Department of Corrections. Fine not to exceed \$10,000.
- ▼ Third Degree Felony Offense: 2 to 10 years in the Texas Department of Corrections. Fine not to exceed \$10,000.
- ▼ State Jail Felony: 180 days to 2 years. Fine not to exceed \$10,000.

If the defendant has not been convicted of a felony before or has not received a felony probation, the Judge or jury may recommend probation on the term of years not exceeding 10 years. (Probation is supervised by the Court during the term assessed.)

10. Sex Offender Registration/Notification

Required for a person who has a reportable conviction or adjudication of a sexual offense under Chapter 62, Texas Code of Criminal Procedures.

Informs:

- Judicial System
- Community Supervision
- Juvenile Probation
- Texas Department of Criminal Justice
- Law Enforcement Agencies
- Schools-both public and private

11. Victim Service

- Victim Lounge.
- District Attorney Victim/Witness Program.
- Victim Assistance Program.

SUGGESTIONS FOR COURT ACCOMPANIMENT ADVOCATES

- Without speculation on the merits of the survivor's case, provide him/her with as much information as possible on the court system. It is much better to tell the survivor that you do not know the answer to a question than give incorrect information.
- Often the survivor is not as concerned about a particular legal aspect of their case, as they are afraid and frustrated by an unfamiliar set of circumstances or intimidated by the threats of the defendant. If the defendant threatens the witness she/he should contact the police and the victim witness office immediately.

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- If the survivor does want to know about a particular problem in his/her case, call the victim witness office and the sexual assault coordinator will provide the information or will contact the prosecutor.
- Postponements are an inherent problem in the judicial system and the effect can be devastating to a witness. Regardless of the type of case, cases are given scheduling priority according to the amount of time the defendant is not in jail, and out on bond: how old the case is in relation to the others on the court's docket (unless the case is given a priority setting).
- Some courts, especially the older ones, have more of a backlog than others do, which further aggravates the problem. Postponing the case is also a standard defense tactic because the more frustrated the witness gets; the less likely the witness is to appear when the trial finally does begin.
- Assure the survivor that the postponement is not due to a frailty in the case. The victim witness office can work with her/him to place he/she ON-CALL for court appearances in conjunction with the prosecutor. That is, they will not have to come to the courtroom until called when the case is certain to go to trial.
- The Texas Penal Code requires the defense to inform the court (out of the hearing of the jury) prior to asking any question of the survivor concerning specific instances, opinion evidence, or reputation evidence of prior sexual conduct. After this notice, the judge will hold an IN CAMERA hearing to determine whether the proposed evidence is admissible and the limitations of such questioning. If the witness is concerned, advise discussion with the prosecutor.
- The most common defenses in a sexual assault case are either identity or consent. In an identity defense, the defendant does not deny that the witness was sexually assaulted, but asserts that he/she did not do it. In a consent defense, the defendant will claim that he/she did have intercourse with survivor, but it was consensual.
- Assure the witness that the trial will be difficult to go through, but not impossible. Often it is beneficial to contact the victim witness office to find a scheduled trial for the witness to observe.
- Information on the Texas Crime Victims' Compensation Act is available through the victim witness office. The act provides payment of medical bills and counseling expenses for victims of violent crime less insurance benefits. For more information on Crime Victims' Compensation, you may contact the Crime Victims' Compensation Division at the Office of the Attorney General at 1-800-983-9933.
- Billing for the sexual assault forensic exam itself is covered under another statute. Other bills related to the collection of forensic evidence are paid by the law enforcement agency.

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- Finally, you may be the first contact that the victim has. Your function is an invaluable one and much needed. Please feel free to call on the victim witness office to help you with any problems.

SUGGESTIONS FOR WITNESSES

- **Answer all questions directly**—Answer only the question that is asked. If you can answer with a "yes" or "no," do so. If you do not understand a question, **feel free to ask to have the question repeated or explained**
- **Speak clearly and distinctly**—The juror farthest from you should be able to hear you.
- **Be attentive**—Remain alert at all times so that you can hear, understand, and give a proper response to each question. Avoid trying to "second guess" the questioner. The prosecutor will develop the case by your testimony and will object to any improper questioning by the defense during cross-examination.
- **Do not be afraid to tell the truth**- Do not guess or make up an answer. If asked little details you do not remember, it is best to say, "I don't remember."
- **Do not lose your temper**—Losing your temper during cross-examination may mean losing your credibility. Anger will lessen your recall ability and may cause you to make incorrect statements.
- **Dress conservatively and be courteous**—The jury knows nothing about you, except for the impression that you make with your testimony and with your appearance. Wear clothing that will not distract the judge or jury from your testimony.
- **Bring friends and family**—You will only be present in the courtroom for your testimony and the closing arguments. This is to insure that the testimony of one witness will not influence that of another, and is called "invoking the rule." The support of friends and family is helpful at this time, although they cannot relate actual proceedings to you. A coordinator from the victim witness office or an advocate from the sexual assault program will also accompany you, if called.
- **Be aware that the defendant will be in the courtroom at all times and that you will be asked to identify him**—This is easier to deal with if you prepare beforehand. Remember that the defendant is on trial; you are not!
- **Take a positive attitude with you**—It is not a good idea to go into trial with revenge in mind as no amount of punishment for the defendant can atone for what you have gone through. By going through the ordeal of testifying you have shown a great deal of courage and concern for others by hopefully preventing this from happening to someone else.

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BASIC LEGAL CONCEPTS

The following rights and privileges are accorded to those accused of crime by the Constitution and The Bill of Rights.

- The defendant is innocent until proven guilty: This concept is the foundation of our judicial system and influences every other legal principle.
- The defendant has the right to trial by jury: The Sixth Amendment to the Constitution guarantees that in all criminal proceedings, the accused shall enjoy the right to a speedy and public trial by an “impartial jury.”
- The defendant has a right to counsel: This is an inherent right of any defendant and the State must provide counsel if the defendant cannot secure his/her own.
- The burden of proof belongs to the state: The State has the burden of proof and must show BEYOND A REASONABLE DOUBT that the accused committed the act charged. This phrase means that a member of the jury must have no reasonable doubts about the defendant's guilt. If the juror does have a reasonable doubt, the juror must vote "Not Guilty."
- The defendant has a right to confront witnesses: The Sixth Amendment also guarantees that the accused shall be allowed to confront the witnesses against him. The defendant also has the right to cross examine any witnesses presented by the State. For this reason, the defendant will always be present in the courtroom, while the witness will be present only for her/his testimony.
- The defendant does not have to testify: The jury cannot deliberate the issue of whether or not the defendant testifies. The full burden of proof lies with the State and it must supply the evidence.

ELEMENTS OF A TRIAL

- **Pre-Trial Setting**—any court setting scheduled before a trial setting,
- **Non-Trial Setting**—any setting that is not a trial setting.
- **Motion Setting**—a requested setting by either the attorney for the defense or the state for the court to rule on a legal issue. Motions may be for continuances, suppression of evidence (such as prior sexual history or improperly taken confession), for speedy trial by the defendant, etc.

The trial is the most effective method that our society has devised to settle disputes among people. A trial is not a contest: there is not a winner or loser. A trial is a method of gathering facts and drawing a conclusion from those facts while operating under procedural code.

THE PROGRESS OF A TRIAL

- The defendant is read his charge by the judge and **pleads** "Not Guilty."

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- The defense attorney and the prosecutor question prospective jurors and select those that will become jury members (**Voir Dire**).
- The prosecution, representing the State, makes the **opening statement** to the jury, outlining the case to be established.
- The **prosecution** calls its witnesses and offers evidence.
- The defense may **cross examine** the State's witnesses after the State has concluded the **direct examination**. The State may then take the witness on **re-direct examination** after the defense concludes the cross exam. The defense may take the State's witness on **re-cross examination** after the State concludes the re-direct exam, etc.
- When the state has concluded its case, or **rested**, the defense, representing the defendant, makes its **opening statement**, and puts on its evidence and witnesses.
- The prosecution and the defense then offer their **final arguments** to the jury. Usually, the witness may come back into the courtroom to hear this summation.
- The jury then retires to **deliberate** the guilt or innocence of the defendant.
- If the defendant is convicted by the jury then both the defense and the prosecution present in the **punishment** phase.
- Texas has a **bifurcated** trial system. That is, the trial is held in two stages: the guilt stage and the punishment stage.
- The jury must be unanimous in their decision. If the jury cannot come to a verdict, a **mistrial** results in the form of a **hung jury**.
- The case may also result in a **mistrial** if the judge so rules on a procedural error.
- If the defendant is found **not guilty** there will not be a retrial. The rule of **double jeopardy** prohibits the accused from being tried twice for the same offense (with some exceptions).
- The defendant may waive his right to a jury trial and go directly to the judge in a **bench trial**.
- If the defendant is found guilty some judges will order the probation department to complete a **pre sentence investigation report, or "PSI,"** on the defendant before the judge will rule on punishment.

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- Portions of the above have been adapted from publications of the Chicago Women Against Rape. Chicago, Illinois.

Civil Suit Remedies

A person who has been harmed by the wrongful conduct of another can bring a lawsuit in the civil court system for a remedy. In most cases, that remedy is monetary damages (e.g., compensation for losses and pain and suffering, reimbursement of medical bills, etc.) In other civil cases, the legal remedy being sought is an order of protection or other type of restraining order.

The most distinctive characteristic of a civil lawsuit is the control the plaintiff has over the action. The plaintiff decides whether or not to bring the lawsuit whereas in a criminal case, the police can arrest someone for the crime whether the victim wishes the arrest to happen or not. The plaintiff chooses the attorney who will prosecute the case. In most cases, if the plaintiff is unhappy with the attorney representing him or her, the plaintiff can hire another attorney.

For some victims, the civil lawsuit is the only method of obtaining any remedy because the government does not prosecute the case or the defendant is acquitted in the criminal action. Sometimes, the defendant is acquitted in the criminal trial because the higher standard of proof (beyond a reasonable doubt) cannot be met, although the civil standard of proof (preponderance of the evidence) could be met. Sometimes, the government does not do a good job of prosecuting the offender and the victim brings a civil lawsuit in order to have an attorney chosen by the victim prosecute the case. For some victims, the goal is to establish the truth of what happened even if the defendant has no income or assets from which the judgment could be collected.



DECIDING TO FILE A CIVIL CLAIM

Whether or not to commence a civil lawsuit is an important decision for the victim. The process can invade the victim's privacy, cost money for lost time from work, attorneys' fees and litigation costs, force the victim to relive the painful memories repeatedly, and otherwise be painful and inconvenient for the victim. What many victims do not realize is that, during the discovery phase of civil litigation, the plaintiff and defendant are both entitled to compel the other to produce documents, evidence, answer questions, testify at pre-trial proceedings, etc. In some cases, confidential counseling records may become available to the offender and his or her attorney which is a horrifying prospect for most victims.

Any survivor who wishes to institute a civil claim should be well-established in supportive therapy before starting the action. It is not a good idea to start a lawsuit shortly after recovering memories of abuse or acknowledging the issue of abuse in your life.

Cases that are based solely upon her word against his are difficult. Cases with some outside corroboration are more feasible. Outside corroboration can consist of other victim evidence and also corroboration by expert mental health professionals. Expert psychologists and psy-

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chiatrists are qualified to evaluate a victim and her history in order to identify patterns of behavior and psychological and somatic (physical) complaints that are typical of victims of sexual assault.

No case can be feasible unless the perpetrator is lawsuit worthy. Theoretical cases with no hope of collecting damages are not handled well by our judicial system and only serve to further disappoint, invalidate and frustrate victims. Cases can be lost for legal reasons that have no bearing on the truth of the allegations or the merits of the claim. Lost cases only serve to further damage victims. Lost cases also send the wrong message to perpetrators. For these reasons most lawyers carefully screen victim recourse cases and only accept those with a good chance of success. When those cases are identified and successful claims are brought, victims can benefit from making their perpetrators financially and morally accountable.

ABUSE BY PROFESSIONALS

Offenders are sometimes in a professional position that they can exploit to gain access to or control victims. For example, members of the clergy, employers/supervisors, law enforcement officers, teachers, prison guards and others can all wield a great deal of power. If an organization that employs one of these professionals is aware or should have been aware of the sexual abuse, the organization could be held liable for the abuse and subject to a civil law suit.

Adult victims who have been exploited by medical professionals (i.e., doctors, therapists and psychiatrists) also have a civil remedy. It is fairly well-established that mishandling of the transference/counter-transference phenomenon that arises in therapy is malpractice that is covered by insurance. (*St. Paul Fire & Marine Ins. Co. v. Shernow*, 222 Conn. 823 (1992)).

SECURITY CASES

In some settings, adult victims may have remedies against property owners for failure to provide adequate security. For example, successful suits have been brought against parking lot and garage owners, hotels/motels, private owners of buildings open to the public and apartment building owners.

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SPECIAL POPULATIONS

- ▼ The Sexually Abused Child
- ▼ Adolescents
- ▼ Adults Molested as Children
- ▼ Seniors and Sexual Abuse
- ▼ Male Survivors
- ▼ People of Color
- ▼ People with Disabilities
- ▼ G/L/B/T Survivors

SPECIAL POPULATIONS

In attempting to better serve any sexual assault survivor, it is important to be open and flexible. Do not second guess or assume you understand the person's experiences and value base. Do not ignore the survivor under the assumption the person would probably prefer to interact with a staff person "who could better understand" his/her needs. Do not assume what the survivor's needs are.

The Sexually Abused Child

Sexual abuse is defined in the Texas Family Code as any sexual conduct harmful to a child's mental, emotional or physical welfare as well as failure to make a reasonable effort to prevent sexual conduct with a child. A person who compels or encourages a child to engage in sexual conduct commits abuse, and it is against the law to make or possess child pornography, or to display such material to a child.



According to Planned Parenthood, child sexual abuse involves sexual contact—by force, trickery or bribery—where there is an imbalance in age, size power or knowledge. Contact can include fondling, obscene phone calls, exhibitionism, masturbation, intercourse, oral or anal sex, prostitution or pornography.

Sexual abuse may consist of a single incident or many acts over a long period of time. Boys and girls of any age can be victims of sexual abuse. The molester can be almost anyone, but most often is someone known to the child. The abuse may escalate over time, particularly if the abuser is a member of the child's own family. The child's non-abusing caregiver(s) may be unaware of the abuse or may be in a state of denial.

Child sexual abuse includes fondling, lewd or lascivious exposure or behavior, intercourse, sodomy, oral copulation, penetration of a genital or anal opening by a foreign object, child pornography, child prostitution, and any other sexual conduct harmful to a child's mental, emotional or physical welfare. These acts may be forced upon the child, or the child may be coaxed, seduced and persuaded to cooperate. The absence of force or coercion does not diminish the abusive nature of the conduct but, sadly, it may cause the child to feel responsible for what has occurred.

It is extremely difficult for a child to report sexual abuse. A very young child may not understand the abuse is not normal or accepted. More importantly, the abuser will do his or her best to keep the child from telling anyone about the abuse. The strategies for silencing a sexual abuse victim are as ruthless as they are varied. If the child depends upon and trusts

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the abuser, the offender may use the child's dependency and affection to extort a promise of secrecy. A more brutal perpetrator may threaten to harm and even kill the child or other family members or pets. Or the abuser may tell the child that the family will be broken up, the child blamed, or the child taken away from home if the secret becomes known. These are not altogether unrealistic fears for the child, unfortunately.

For many people, an allegation or disclosure of sexual abuse is indeed hard to accept. Many adults have a tendency to overlook, discount, minimize, explain away or simply disbelieve allegations of sexual abuse. This is particularly true when the perpetrator is a family member or an otherwise law-abiding, respectable and seemingly "nice," "normal" person.

Texas law (Texas Civil Statutes, Texas Family Code, Chapter 34, Sections 34.01 and 34.02, 1994) does require that any person who suspects child abuse must report it to either local/state law enforcement or the Texas Department of Protective and Regulatory Services (TDPRS) by calling 1-800-252-5400. The report may be made in writing, by telephone or in person. Those reporting an incident or participating in an investigation or court proceeding are immune from civil or criminal liability, unless that person acts in bad faith or malice. Medical and social services organizations are not exempt from this statute.

PHYSICAL INDICATORS OF SEXUAL ABUSE

Sexual abuse may result in physical injury (though most often it does not). A child who is physically injured as a result of sexual abuse may display difficulty in sitting or walking, report pain when urinating or defecating, or complain of stomach aches. The child may report a discharge, pain or itching in the genital area. Injuries to a child's genitalia may or may not leave lasting marks; other physical evidence, such as semen, is certainly ephemeral. A child, therefore, needs to be examined as soon as possible if there is reason to suspect sexual abuse.

SPECIFIC BEHAVIORAL INDICATORS OF SEXUAL ABUSE

A sexually abused child may make frequent expressions (e.g., verbal references, pictures, pretend games, etc.) of sexual activity between adults and children. Or the child may display more knowledge about sexual relations than someone that age likely would know. The child may masturbate inappropriately or compulsively. Behavior may be sexually suggestive or inappropriate or, conversely, the child may show infantile behavior or extreme fear of being alone with adults of a particular sex. A very strong indication that a child has been abused is that child's sexual victimization of other children.

SYMPTOMS OF EMOTIONAL INJURY

More generalized psychological impacts of sexual abuse include withdrawal, depression, sleeping and eating disorders, self-mutilation, phobias, and psychosomatic symptoms such as stomach aches and headaches. The child may develop school problems such as frequent absence or a sudden drop in grades. The child may exhibit either poor hygiene or excessive bathing. Older children may abuse alcohol or drugs, run away or adopt other self-destructive behaviors including suicide threats or attempts. Any or all of these behaviors can arise from

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causes other than sexual abuse. However, in context, any one of them could be taken as a warning that some form of harmful sexual conduct has occurred or is still occurring.

CHILD SEXUAL ABUSE STATISTICS

- In 1995, local child protective service agencies identified 126,000 children who were victims of either substantiated or indicated sexual abuse; of these, 75 percent were girls. Nearly 30 percent of child victims were ages 4–7. (Department of Health and Human Services, Administration for Children and Families, Child Maltreatment, 1995).
- Approximately one-third of all juvenile victims of sexual abuse cases are children younger than age 6. (Violence and the Family. Report of the American Psychological Association Presidential Task Force on Violence and the Family, 1996).
- According to the Justice Department, one of every two rape victims is under age 18; one in six is under age 12. (Child Rape Victims, US Department of Justice, 1992).
- While 9 out of 10 rape victims are women, victims also include men and boys. In 1995, among males age 12 and older, 32,130 were victims of rape, attempted rape or sexual assault. (National Crime Victimization Survey. Bureau of Justice Statistics, US Department of Justice, 1996).
- Teens 16–19 were 3.5 times more likely than the general population to be victims of rape, attempted rape or sexual assault. (National Crime Victimization Survey. Bureau of Justice Statistics, US Department of Justice, 1996).

SUBTITLE E. PROTECTION OF THE CHILD

CHAPTER 261. INVESTIGATION OF REPORT OF CHILD ABUSE OR NEGLECT

SUBCHAPTER A. GENERAL PROVISIONS

§ 261.001. Definitions

In this chapter:

- (1) "Abuse" includes the following acts or omissions by a person:
 - A. mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - B. causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - C. physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

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- D. failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- E. sexual conduct harmful to a child's mental, emotional, or physical welfare;
- F. failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- G. compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;
- H. causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
- I. the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child; or
- J. causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- K. causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code; or
- L. knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.

Adolescents

One out of four girls and one out of seven to ten boys will be sexually assaulted by the time they are age 18. In many cases, the abuse will take place over a period of time by someone the survivor knows. However, many adolescents are also survivors of a one-time assault. This section is about those survivors.

Though all survivors share similar responses to sexual assault, some issues and reactions are specific to the adolescent survivor. It is important to keep in mind that adolescents differ from adults on three primary levels:

- Adolescents are still growing developmentally. Trauma may interfere with the completion of that specific phase.
- Along with their parents, adolescents are still defining the concept of autonomy and independence. Many adolescents fear their parents' response to their victimization will foster a loss of autonomy. Sometimes they are right.
- Peer pressure and peer identity strongly impact how adolescent survivors perceive themselves and what happened to them. It will also impact their commitment to a recovery program.

SEXUAL ASSAULT: EFFECTS ON ADOLESCENTS

- **Self Blame:** Many peer attitudes contribute to the occurrence of sexual assault among adolescents. Adolescent males and females may



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have very different views on what is appropriate in a dating relationship, and many have incorporated myths in their ideas of appropriate dating behavior. Therefore, guilt and self-blame may be very prominent if the adolescent feels he/she has broken one of the rules under which the peer group operates. The adolescent may wonder about having flirted too much or dressing too provocatively.

- **Fear:** Adolescents may fear other acquaintances will find out and take sides. Most adolescent girls date boys who attend the same school they do. Many times when word gets out about the assault, students will take sides. Adolescent survivors may face ridicule, ostracism, even physical attacks.
- **Victim Blaming:** Adolescent survivors may be more likely than adults to be blamed for being raped. They may even be labeled delinquent and stigmatized because they were “asking for it.”
- **Pregnancy:** Adolescent girls are less likely to be using any form of birth control at the time of the rape than adult women. Adolescents also are more likely to have anxiety about pregnancy but also deny the possibility of it. They are more likely ignorant about the symptoms of pregnancy and will have great difficulties making deciding what to do about a pregnancy.
- **Multiple Rapes:** An adolescent survivor may be more likely to be the victim of multiple rapes, not only because of the greater vulnerability of this age group, but also because she is more vulnerable to gang rape, especially if marked as a target after the rapist brags to others.
- **Power and Control:** Feelings of powerlessness, often experienced by rape survivors, may only increase in adolescents, who already have less power and control over their lives than adults do. Due to the exacerbated feelings of powerlessness, adolescent survivors may have a more difficult time exercising control in their lives. Thus, to escape feelings of fear, unpleasant associations, and/or harmful attitudes of others, adolescent survivors may run away from home, skip school or psychologically run away by dissociating.
- **Resources:** Adolescent survivors have fewer resources available. They may trust very few adults in their lives. Adolescents may have difficulties accessing resources or, due to distrust of adults, be slower to seek help.
- **Parents:** A major problem between many adolescents and their parents may be difficulty communicating including a reluctance to tell parents. Other problems may include:
 - Parental over-reaction.
 - Over protectiveness and restrictiveness.
 - Parental anger.
 - Rejection.
 - Lack of attention.

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Parents often experience anger at the assailant. Parents may demand prosecution or plan some retribution. If the adolescent disagrees, parents' anger can be turned against the adolescent. "If you don't want retribution, this must not have happened." Parents should be reminded of the peer pressure the adolescent may face, as well as the strong desire adolescents have for things to get back to normal. To participate in the criminal justice process keeps their lives from being as normal as their peers'.

Parents may also be more concerned about the adolescent's emotional and sexual development. There might be a great fear the survivor will hate men (or women) or sex. Parents should be assured the adolescent will take more cues from parents than anyone else. If parents constantly discuss the traumatization (even if they think the adolescent cannot hear it), the adolescent will focus on it, too. Frank discussion about normal sexual behavior and how it differs from rape will go a long way to minimize trauma in this area.

Parents may also unrealistically expect behavior to change after sexual assault. They misinterpret the adolescent's desire to go out with friends or on a date as evidence that rape produced no trauma. Parents may need to be reminded that adolescents have a great need to be like their peers. It is important for adolescents not to be different, so they may try hard not to show any trauma because then they would seem different.

Parents may also be more concerned about pregnancy and venereal disease. Adolescents have a wonderful ability to believe if they do not think about something bad, then it will not happen. This belief does not necessarily come from a position of irresponsibility but more from vestiges of childhood naiveté.

An adolescent often assumes that if parents know about the sexual assault, and especially the specifics of the assault, they will view their child as bad, dirty or irresponsible. An advocate's reassurances that this will not happen can be empty promises because the advocate has no idea what myths about rape and victims have been discussed in the home. Instead, advocates should discuss where any assumptions come from and, whenever possible, arrange to talk to the parents about the myths and facts about rape, before they talk with the adolescent.

Displaying a need to protect their parents, adolescents may refuse help or resist telling their parents for fear of hurting them. "You don't understand. My mother can't handle this kind of news." This sense of protection is real and is an expression of caring that may be based on facts. Ascertain why the parents cannot handle the news; then strategize ways to break the news in an empathetic fashion.

TIPS FOR COUNSELING ADOLESCENT SURVIVORS

- Emphasize the sexual abuse/assault was not the adolescent's fault. The adolescent can sense disapproval from an adult so develop a nonjudgmental rapport. It is possible to disagree with adolescent behavior—but never act shocked by it.
- Beware of promising strict confidence. The advocate has a responsibility to make parents aware of dangerous behavior or circumstances. It is important for the advocate to tell the adolescent about plans to share information with parents when

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it is appropriate. Also, share the hope that all parties can work on the solution together.

- Do not assume the parent and the adolescent have the same concerns. Discuss each person's concerns separately and decide, with each person, ways to communicate those concerns to the other.
- To desensitize the survivor to assault, encourage the adolescent to verbalize and rework the experience. Actively inquire about feelings of blame and guilt. Help the adolescent to focus on feeling responses.
- Help parents accept and support their child's separate emotional reactions and needs.
- Remember the adolescent may not have developed enough coping skills to deal with the assault and may need extra guidance. Be mindful of issues involving power, and be sure not to make the adolescent's decisions. This is a great opportunity for the adolescent to discover she knows a great deal about taking care of himself; so this can be a very empowering experience.
- The family needs to be allowed to express emotions in a safe environment away from the adolescent. Offer that opportunity and gently provide facts about any myths or misconceptions they have.
- Trust may be one of the first issues to discuss with an adolescent. An abused or assaulted adolescent may have trust issues that need addressing before issues about the abuse can be handled. The adolescent needs to recognize the advocate knows about the potential mistrust of adults.
- Working with adolescents can be a wonderful experience. They are not small adults. They are young people still learning their way. Do not get in the way of that learning. Encourage them to learn more about themselves and the world around them. They can.

Adult Survivors of Childhood Sexual Assault/Incest

There are two categories into which adult survivors of childhood sexual assault fall: either they were victims of incest by a family member, (someone in a parental/authoritative role) or they were assaulted by a stranger. Whatever the case may be one thing is certain, survivors have a long and very difficult road to recovery ahead of them. This violation of one's most personal boundary, especially during the developmental stages of childhood, can have very long-lasting and devastating effects on the child's growth physically, emotionally and mentally. This is why many survivors have difficulty expressing any emotions except sadness or hopelessness.



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In cases where the perpetrator was someone in a parental or authoritative role, the fact that this violation came from someone who was supposed to love, protect and/or nurture them can be a very frightening realization. Even to allow themselves to fully understand this means knowing how completely powerless they were. Thus, the survivor may try to bury every memory of the assault. It is a shame many survivors cannot bear.

To understand how prevalent the problem of childhood sexual assault is, advocates can examine the statistics. According to a report from the National Victim Center and Crime Victims Research and Treatment Center in 1992, six out of ten of all rape cases occurred before survivors reached the age of 18. It is imperative that advocates and counselors become familiar with childhood sexual assault issues as these clients will be accessing the sexual assault programs for services. In order to discuss the ramifications of childhood sexual assault on the adult survivor, advocates must have a thorough understanding of the issues involved. Although many of them run parallel to those of the survivor who is sexually assaulted as an adult, certain issues such as trust, self-esteem and forgiveness go even deeper.

The following is a brief synopsis of some of the issues facing adult survivors of childhood sexual assault:

- **Setting Limits/Boundaries**—Survivors who are sexually assaulted as children may have difficulty with setting limits and boundaries. Past experiences have given them little hope of ever having any control over what happens to them. During the recovery process there is a need to understand that they are no longer the child who was powerless to stop the abuse perpetrated on them by the adults in their lives. Not only do they have more power now, but they also have the right to control what happens to them. They have the right to choose their sexual partners and they have the right to make any other decisions that affect their lives.
- **Memories/Flashbacks**—Survivors may experience the constant and repetitious return of certain memories surrounding the assault. They can be very disruptive, constantly reminding the survivor of what happened. A flashback is the sudden occurrence of a visual image of the assault. It returns with all of the emotions and feelings experienced at that particular time and can be very frightening. Both the memories and flashbacks may have been triggered by a familiar face, place, certain sounds, smells, etc. The important thing is to assure the survivor that they are only pictures and recollections of what has already happened, not what is going to happen. The perpetrator(s) can no longer hurt them in that way.

Often, the mind will not allow a memory to surface until the survivor is at a place where they can deal with it. This could mean that they are at a place where they feel both emotionally and physically safe or they now have access to a support system when the memories become overwhelming. Once the survivor realizes that they have control over the memories and flashbacks, and that they can actually choose when to think about them, the memories lose their power and the survivor can get on with life.

- **Anger**—Although this is one of the most common issues that a survivor has to deal with following a sexual assault, it is also the most difficult emotion to get in touch

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with for the adult survivor of childhood sexual assault. The survivor has perhaps spent many years covering up real feelings and emotions. Their anger had little or no effect on the actions of the perpetrators in their lives, so they learned how to suppress their anger. Some survivors were too young to know that what was happening to them was wrong.

The healing process involves helping survivors get in touch with their feelings of anger. The anger felt toward the perpetrator(s), toward the adults who should have protected them, and the anger that arises from self-blame needs to be acknowledged and experienced. It involves helping survivors understand that they have the right to feel angry about what happened and that there is nothing wrong with expressing the anger in positive ways. Unexpressed anger leads to depression. Healthy expressions of anger free the survivor to move beyond it. Encourage the survivor to utilize activities such as: exercising, journaling, screaming, or punching pillows, thereby enabling the anger to move from the inside to the outside where it can be dealt with effectively. Remember, anger is an issue that is bound to come up sooner or later and it is only after working through the anger that the survivor is able to really let go and move on.

- **Grieving/Mourning**—Being abused as a child means experiencing the loss of many things. There is the loss of childhood experiences like being carefree, happy, nurtured, protected and unencumbered by serious things. How can a child be carefree when she/he is carrying a secret as big as being sexually assaulted by a family member? They do not dare let their guards down and experience happiness for fear of losing control. There is a loss of innocence.

Since incest involves parents, and/or other family members, there is a loss of trust. The very people who were supposed to nurture and protect the survivor were the abusers. There is a loss of a normal relationship with a parent, a loss of childhood memories and a loss of the right to choose their own sexual partner. The list goes on and on. However, now the time has come to name these losses, grieve over them and bury them once and for all. This may mean having some sort of ritual where they are finally put to rest. All losses need to be mourned, this helps to bring the grieving to closure.

- **Guilt, Shame & Blame**—Part of the healing process is reminding the survivor that a child can never be responsible for being sexually assaulted. All of the blame needs to be placed firmly where it belongs, with the perpetrator. Survivors need to understand that, although the perpetrators are their parents and/or others who were in positions of authority, they abused their positions of authority and should be held accountable.

Survivors often carry a lot of guilt either because they may have experienced some physical pleasure from the sexual abuse or because they did not try to stop it. It is important for the survivor to be told that although the body will respond to certain stimulations, it is up to the adult to know better and teach the child the difference. Children often actively seek the affection of an adult and will sometimes accept any show of affection as an affirmation that they are loved.

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Although survivors may soon accept the fact that it was not their fault and that they did not do anything to cause the abuse, it takes longer for the sense of shame to subside. Due to the myths about sexual assault, survivors are often blamed or disbelieved so much after making the decision to disclose their abuse, few want to come forward. Unfortunately, the secrecy continues to clothe the incident in shame. It is only in breaking the silence that the shame begins to dissipate. The more the survivor talks about the abuse, the less shameful it becomes and the more empowered survivors become to move forward in recovery.

- **Trust**—As discussed earlier, learning to trust again is very difficult for the adult survivor. The survivor of incest entered this world as an innocent child, but became the recipient of pain and suffering, shame and guilt at the hands of family members who used and abused them. In addition, they may have grown up in an unsafe environment where nothing was sacred. An adult in their lives was manipulative and abusive. They had no reason to believe that others in their lives would be any different, making them unwilling to take the risk of being deceived again.

If survivors cannot trust the people in their most immediate environment, how do they step out of that space to begin to trust others? This is the dilemma that the advocate must help the survivor to overcome. It is the fear of trusting others, of being hurt and experiencing that pain all over again. Survivors will sometimes go from one extreme to another, not trusting at all or trusting too much. This is where setting limits and boundaries becomes very important

Express to survivors that as adults they have the right to choose the people with whom they want to begin a relationship. They are no longer the children that had no control or power in their past relationships. Also, remind them that trust does not come automatically, it has to be earned. It is permissible for them to test the person with whom they want to develop a relationship by asking them to do small favors to see if they can be trusted. It is also permissible to go back to not trusting someone if that trust is violated. The important thing is for them to take one step at a time and allow themselves to take whatever time is needed to learn or regain the ability to trust.

- **Coping Skills**—People develop many different coping skills to help them deal with trauma. Some of them are healthy and some are not; however, all of them are very important because they enable the person to survive whatever they were going through. These were the skills that worked and often the survivor did not know any others to use. The role of the helper is to assist the survivor in recognizing those coping skills that are unhealthy and replacing them with healthier ones.

When examining past coping mechanisms it is important that survivors forgive themselves for any coping skills used that were unhealthy. Once again, these skills served a purpose and fulfilled a need at that time. For instance, they may have developed a habit of drinking excessively whenever any memories of the childhood sexual abuse arose. This behavior was repeated again and again and was a way for them to numb their feelings so they did not have to re-experience the pain that returns with the memories.

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When survivors allow themselves to go through the feelings and emotions of a childhood sexual assault, help and healing comes much faster. They can do this in a safe environment where they can receive the support and information needed. For adult survivors, these coping mechanisms helped carry them through a painful childhood all the way into adulthood. It is important that they give themselves enough time to learn and develop new and healthier skills to cope in the future.

Self-Esteem/Isolation—An adult survivor of childhood sexual assault may have a problem with issues of self-esteem. This is a result of hearing all the negative messages from their perpetrators while being abused, as well as feeling that they were somehow responsible. As soon as they realize that being abused was not their fault and that 100 percent of the responsibility for what happens belongs to the perpetrator, the more quickly they can move beyond this false perception of themselves. Those negative messages may have completely overshadowed any positive images they had of themselves.

Statements such as: "You are a bad girl," "You were a little tease," and "You made me do this to you," etc., reinforced the idea that they were to blame for what happened.

A child that grows up with the belief that somehow she/he caused a family member to sexually violate him/her, must now come to accept that a child can never be responsible for being sexually abused. He/She carries this burden for years; his/her self-image plummets, and it takes time and work to heal from the perpetrator's lies.

The recovery process begins by reaffirming their experience as a survivor of a very traumatic experience. They are not responsible for the abuse. They did not ask for it or cause it to happen in any way. Survivors need to know that their feelings and emotions are normal reactions to sexual abuse. They have the right to their feelings and to be able to express them in a healthy, safe environment. Also, no one has the right to tell them when they should or should not be over this. There are people who do care and agencies where they can go to receive the support and information they need. There is no time limit for the recovery process.

Survivors might begin taking care of themselves by first acknowledging and celebrating their successes, no matter how small. Looking back and remembering how other crises were dealt with in the past and comparing them to present coping skills, will enable survivors to see what progress has been made. Help them remember that, as an adult, they have more power and control over what happens to them. They also have the right to do what is best for them. They can set boundaries and say "NO," and they have the right to be respected for that "NO." Help survivors find ways of affirming how important they are. This could begin by making a list of ways to nurture themselves and referring to that list whenever there is the need to feel more relaxed, calm, cared for or centered.

- **Intimacy**—Intimacy is a close bond between two people, but survivors of childhood sexual assault may have a hard time establishing an intimate bond.

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Entering into a close relationship with another person involves trust, respect, love and the ability to share. Survivors sometimes flee from intimacy; at other times, a survivor may hold on too tightly for fear of losing the relationship. Both reactions are a result of having been sexually abused as a child. In incest cases, the trust they so innocently gave was violated, their personal boundaries were not respected and they never felt the love and caring that comes from growing up in a healthy environment.

The advocate's role is to help the survivor understand that she/he can develop the skills necessary to learn how to be intimate with someone else. It just takes time. It is always risky to open up and allow oneself to enter into a relationship with another person. True, she/he may experience hurt or disappointment, however, it will not destroy him/her. She/he can assess what happened, learn from it and move on. No one can predict or control another person's behavior, however, survivors can develop skills that will better prepare them for entering new relationships. This is one of the goals of the healing work that needs to be done.

- **Sexuality**—The very nature of the assault has a tremendous impact on the survivor as far as sexuality issues are concerned. First of all, an adult who has been sexually assaulted as a child has to deal with the fact that their first initiation into sex came as a result of incest or rape, perhaps at an age when they could not even verbalize what was happening to him/her. Yet the body stored those painful memories for years. As a result, many survivors experience the return of body memories while engaged in a sexual activity with another person. This can be frightening, especially when the source of these memories is not readily available. It can also be frustrating as it may inhibit the survivor from participating in any type of sexual act with their partner.

SEXUALITY TRUTHS

Below are some sexuality truths that can be discussed with the survivor:

- a. Anyone has a right to say “NO” when he/she does not want to be touched or engage in sexual activity.
- b. People are not objects to be used or abused by other people. All individuals have rights.
- c. Men and women have equal responsibility during sexual activity.
- d. Women have the same sexual rights as men for self-experimentation and self-exploration.
- e. Women and men both have the same sexual right to be assertive.
- f. Women and men have the same freedoms to be sexually active and to receive pleasure from sex.

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Help the survivor to understand that their partners and the perpetrator(s) are different people. The memories and flashbacks are just that, images of something that has already happened and not predictions of what is going to happen.

- **Forgiveness**—The important thing to know about forgiveness is that there is no rule that says that the survivor must forgive the perpetrator in order to heal and recover. This decision is entirely up to him/her. What is important is that the survivor understands that lack of forgiveness can become so encompassing that it grips them like a vise, bombarding them every moment with thoughts of ways to get revenge, is very damaging. It serves no purpose and can end up being very self-destructive. Anger is a valid reaction to the abuse; however, there are ways, as discussed earlier, of expressing it in a safe and non-threatening manner.

The survivor may decide that she/he is not ready to forgive the perpetrator. This is permissible as long as she/he does not allow the lack of forgiveness to become like a canker sore, eating away at him/her. Forgiveness for the survivor may mean just learning how to "let go." The key is for survivors, first of all, to forgive themselves.

Seniors and Sexual Abuse



An elderly person is at risk for many types of abuse and may be particularly vulnerable to certain kinds of crime. Seniors may experience physical or psychological abuse, neglect, a lack of supervision, or sexual assault. Seniors may face an increased susceptibility to sexual abuse perpetrated by relatives, caregivers, acquaintances, and strangers. The older woman can be vulnerable to sexual assault because:

- He/She is generally predictable.
- He/She may be less able to physically defend him or herself.
- He/She is often more dependent on public transportation or favors from others for assistance.
- He/She is more likely to live alone than younger individuals.

The perception of their vulnerability can make seniors an easy target. The rate of sexual abuse for this age group remains lower than for many younger people; however, the incidences of abuse are likely to be much higher than is expected by the general public.

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About 85 percent of senior victims are women. The remaining 15 percent are men. Well over 90 percent of the abusers are also male. The vast majority of senior female victims are abused by close family members and caregivers. The male victims are most likely to be abused by individuals who are identified as friends or housekeepers. Reporting among senior victims is very low. Factors such as loyalty to family, fear of retaliation, and revulsion to the crime keep many seniors from telling anyone what happened.

WHAT SENIORS NEED FROM ADVOCATES:

- non-judgmental emotional support
- protection from access by the abuser
- medical care
- legal remedies when appropriate and wanted

The concerns and experiences of a senior sexual assault victim may be somewhat different from that of their younger counterparts. Seniors commonly experience feelings of helplessness, fear of outside people finding out, physical trauma, overprotective families or a significant loss of freedom, confusion about how this could happen to them, and, ultimately, major lifestyle changes. Advocates should be sensitive to the special needs of an elderly survivor of sexual assault such as those that follow.

SPECIAL CONSIDERATIONS FOR SENIORS WHO ARE SEXUALLY ABUSED

- **Medical**—An elderly survivor may experience more pain, soreness, and exhaustion than a younger survivor suffering a similar assault. In addition to possible pelvic injury and venereal disease, the older survivor may easily sustain other soft tissue damage. Since bones tend to become brittle with age, broken bones are more likely. An assault may exacerbate existing chronic conditions, such as arthritis, high blood pressure, and heart conditions.
- **Psychological**—It is not absolutely clear whether or not the psychological impact on an older person differs from that of a younger one. There do seem to be indicators that a senior victim may have concerns different from other survivors based upon their unique life experiences and special needs, including:
 - Diminished ability to face the physical frailties associated with advanced years. Being injured or physically disabled may raise awareness of physical vulnerability, reduced resiliency, old age, and the imminence of death.
 - After being violated sexually, perhaps after years of voluntary sexual inactivity, sodomy and oral sex may be especially traumatic.
 - There is likely to be humiliation, fear, anger, and depression associated with the sexual assault. The first reactions of the older survivor are frequently embarrassment, shock, disbelief, and denial (just as in some younger survivors), as well as gratitude that it did not happen to someone younger (for example, “I’m glad it was me and not my granddaughter.”). The real

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impact of the sexual assault may come later. Fear, anger, and depression can be especially severe in cases of seniors who are isolated, live alone, and have little self-confidence. Most sexual abuse that affects seniors occurs in their home, so there may be a great reluctance to return home.

CRISIS ADVOCACY

Be aware of the profound effect that sexual assault may have on an individual whose generation seldom mentioned the word “rape” or believe that it happened only to bad girls, or that women who are raped are ruined and somehow are to blame for the incident. Many survivors have the fear that others will find out but this may be even more pronounced concern with a senior survivor. This reluctance to share can result in an extremely limited support network, thus placing a greater responsibility on the advocate. Remember, maintaining reputation and respectability may be a major issue for this survivor.

Be sensitive to the fact that some older people distrust or are uncomfortable with a younger person. Younger advocates should be especially diligent in treating the senior survivor with the utmost respect. Do not refer to him/her by a first name unless he/she has specifically asked you to do so. Help her/him to rebuild a sense of dignity and self-respect that may have been damaged during the assault.

Follow the survivor’s lead as far as language standards are concerned. She/he may be very uncomfortable talking about sex or using explicit terms. Be sensitive to this and always emphasize the violent (rather than sexual) aspects of the crime.

Older survivors may have disabilities that will be undetectable at first. Vision may be poor; they may be hard of hearing and seem not to understand what people are saying. They may be arthritic or very slow and deliberate in their step. Offer assistance but do not rush to maneuver them around.

Dementia is a condition of some elderly people which may result in a decreased ability to remember and cope with recent events, names, etc. In some individuals this will manifest itself in child-like behavior. It is not uncommon for a person with dementia to have moments of lucidity and be able to respond to questions in a very accurate manner; at other times, confusion will be the norm. A trauma such as sexual assault is likely to further erode their ability to think and function at an optimal level.

Older people may be very concerned over the lack of control they feel over their lives. Well-intentioned individuals in their support network may want to put them in a more controlled environment where they can be cared for by others. A senior who is filled with self-doubt and fear may accept this proposition, when they resisted such a move in the past. The senior survivor may also be very resistant to this step and feel like the sexual assault has impacted their freedom to the point that life is not worth living. The advocate can be instrumental in working with the entire family on this delicate issue. Always support the survivor in whatever choice she/he makes, regardless of how much pressure the family may put on you to support their agenda.

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LOGISTICAL PROBLEMS

- If the survivor was robbed, you may need to find a source of emergency funds. Reduced incomes of the elderly also may make any hardship much more difficult to endure. Be aware of the financial constraints and of potential monetary resources that may be available.
- If the survivor was living alone and the assault took place in the home, windows and doors may be broken and emergency shelter needed until these can be repaired.
- If assaulted by a caregiver, the survivor may need assistance in identifying alternative personnel to help meet their needs.
- An elderly survivor may have transportation problems, especially during the evening. Be sure that a way to the hospital, support groups, and other services.

FOLLOW-UP

This is an essential step, especially if the survivor lives alone. Special care should be taken to ensure that there is contact with the appropriate resources so that over time routine activities may be resumed.

DEALING WITH OLDER PERSONS WITH COMMUNICATION IMPAIRMENTS

The Police Executive Research Forum (PERF) developed excellent guidelines to help law enforcement accommodate elderly victims who may have communication impairments. These guidelines, listed below, have been slightly modified in order to be relevant to victim service providers.

- Because many older people have communication impairments, it is essential for service providers to develop skills that will optimize their effectiveness in interviewing victims, providing counseling or other support services, and offering information and referral assistance.
- Many older people have a partial hearing loss. This means that they can hear some sounds but not others. Most of the elderly with hearing loss do not learn sign language. Rather, they depend on lip reading, hearing aids, or other electronic devices to assist them.
- If a service provider suspects that an older person has a hearing loss, the service provider should ask the victim if he or she is having difficulty understanding (but not assume that the victim is having such difficulty). There are numerous methods and devices which can help when communicating with individuals who have hearing disabilities. Some communities have agencies (such as hearing societies or independent living resource centers) that can lend out special equipment or provide assistance with interviews. Victim service providers should determine if such

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services exist in their jurisdictions.

- Most people with hearing loss compensate for the loss by paying more attention to visual cues. For that reason, it is important that they can clearly see the speaker's lips, facial expressions, and hands.

Effective strategies for communicating with adults with hearing loss include the following:

- Asking the person if she/he would prefer to use written communication or an interpreter.
- Arranging the room where communication will take place so that no speaker and listener are more than six feet apart, and everyone is completely visible.
- Positioning yourself directly in front of the person to whom you are speaking.
- Concentrating non-glaring light on the speaker's face for greater visibility of lip movements, facial expressions, and gestures.
- Not standing in front of a direct light source such as a window.
- Speaking to the person with hearing loss from a distance of no more than six feet, but no less than three feet.
- Establishing eye contact before you begin to speak.
- Speaking slightly louder than you normally would.
- Speaking clearly at your normal rate, but not too quickly.
- Using short, simple sentences. Keeping language concrete.
- Never speaking directly into the person's ear.
- Rephrasing the statement if the person does not appear to understand what is being said, rather than just repeating the same words.
- Refraining from over-articulating. Over-articulation distorts both the sound of the speech and the face, making visual cues more difficult for the elderly victim to understand.
- Including the person in all discussion about him or her.
- Avoiding smoking, chewing gum, or covering your mouth while you speak.

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- Repeating key words and phrases. Asking the listener to repeat what you have said.
- Asking the victim to repeat or rephrase the response if you cannot understand the person's answer to your question.
- Using open-ended questions, not requiring a "yes" or "no" answer.
- Using visual aids whenever possible, such as drawings, diagrams, and brochures.
- Treating the elderly client with dignity and respect, and avoiding a condescending tone. (PERF 1993).

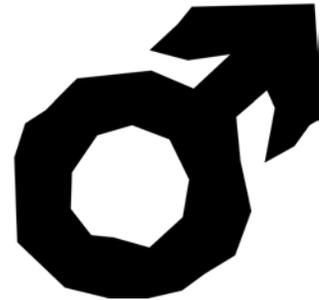
Male Survivors

PREVALENCE

By far, the majority of survivors who seek the services of crisis centers are female. Similarly, the overwhelming majority of identified rapists and child molesters are male. For those who work with survivors, the evidence of violence by men against women is so pervasive that it is sometimes difficult to remember that males can also become victims of sexual assault. Yet, sexual violence perpetrated on males is far more common than most people realize.

Until the age of twelve, rates of sexual abuse of male and female children are approximately equal. It is estimated that one in six men (excluding the prison population) are sexually assaulted in their lifetime, although national studies variously estimate the rate of abuse at between 2.5 and 16 per cent (Mic Hunter, Abused Boys: The Neglected Victims of Sexual Abuse [Lexington, Mass.: Lexington Books, 1990]). In one study, one of every twenty-five male high school students and one of every fourteen male college students reported that he had been a victim of sexual abuse

(Ibid). In spite of these estimates, most sexual abuse of children (both sexes) is never reported and most sources agree that reported cases represent only a fraction of the actual number of male victims, whether child or adult. As low as the rate of reporting is for female victims, it is even lower for male victims because "perhaps even more than women, the stigma of being sexually assaulted discourages men from reporting such events" (Groth and Birnbaum, Men Who Rape: The Psychology of the Offender [New York: Plenum, 1979]).



CHARACTERISTICS

Sexual abuse of adolescent girls generally involves a family friend or relative whereas research indicates that adolescent boys are more likely to be abused by strangers or authority figures in an organization, such as school, youth group, athletic team, scouting or church-related groups. Girls are more likely to be molested in the home whereas males are more likely to be molested outdoors, in remote areas and/or automobiles.

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The sexual orientation of the rapist is generally identified as heterosexual and, in fact, homosexual men are far less likely than heterosexuals to engage in rape. According to several studies, more than 50 percent of rapists choose victims of either gender.

Sexual abuse of young males by older females is far less common, although in recent years, reports of sexual abuse by female perpetrators have increased. While the motivation of male abusers is more often related to the need for power and control or to attempt to humiliate the victim, motivations of female abusers may emanate from a variety of sources. The female abuser may be an older sister, cousin or baby-sitter who is in a position of power over the boy and seizes the opportunity to explore her own sexual curiosity. She can also be a mother, aunt, grandmother or other female relative or neighbor who is unable to get her emotional needs met by traditional means and turns to a younger male in an attempt to satisfy those needs.

While the characteristics of sexual abuse of males are similar to those for females during childhood, from adolescence onward, sexual assault of males takes on a more violent cast. For example, gang-rape is more common, multiple forms of sexual acts are likely to be demanded from and perpetrated on the victim, weapons are more likely to be used, and physical injury is more common and more severe.

CULTURAL ISSUES

Throughout our culture, rape is one of the most misunderstood of all violent crimes. When the victim is male, these misconceptions are dramatically compounded. In part, this is attributed to culturally pervasive stereotypes of males as strong, powerful and aggressive—stereotypes that contradict the general depiction of victims as powerless, weak and vulnerable. A male who admits to being sexually assaulted risks being thought of as “less male” by others as well as by the victim himself.

As a result, much sexual abuse of males is not defined as abuse. A common misconception is that “girls get raped, but boys get seduced – and love it.” (Anonymous client, Survivors and Friends, Bellevue, Wa.) The image of the macho male permeates American culture to such an extent that we assume males, even boys, are able to protect themselves and are less vulnerable to sexual assault than females.

A corollary to this myth is that, when males are sexually assaulted, they are less traumatized than females. While a few studies have suggested that males may be less negatively affected, the preponderance of evidence indicates the long-term effects are very damaging to both sexes. Boys who are sexually abused show the effects of the trauma in many areas of life: physical, emotional, sexual, social, behavioral and spiritual. Guilt, shame, anger, fear and loneliness are common after-effects, which often result in addictive behaviors. Sexual dysfunction such as premature ejaculation, sexual masochism, sadism, exhibitionism and impotence occur about five times more often in sexually abused males than in non-abused males.

Another common myth is that homosexual males perpetrate most sexual abuse of boys. Pedophiles who molest boys are not expressing a homosexual orientation any more than pedophiles who molest girls are practicing heterosexual behaviors (Fifth International Conference on Incest and Related Problems, Biel, Switzerland, Aug. 1991).

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A related myth about male sexual abuse is that males who are victimized are or will become homosexual. This is particularly damaging to the survivor who, in addition to all of the other issues related to recovery, must also grapple with doubts about his own sexuality and, as a result, may be discouraged from reporting the abuse. The process by which one's sexual orientation develops is a complex one but most experts in the field of human sexuality do not believe that it is significantly impacted or shaped by early abuse experiences. For both boys and girls, one of the issues related to victimization is a tendency to question what caused the perpetrator to choose "me" rather than someone else as their victim. Early victimization, for both boys and girls, can lead to confusion about one's sexual identity and orientation. This is related to the confusion generated by premature sexual contact before one is developmentally ready, rather than innate characteristics of the victim's sexual identity.

Another misconception about male sexual abuse is that, once victimized, a male is likely to become a sexual predator himself who will go on to victimize others. Although most perpetrators do have histories of sexual abuse, it is not true that most victims go on to become perpetrators. The most significant factor that determines whether an abused male becomes a perpetrator seems to be whether or not he told about the abuse and was believed and supported by significant people in his life.

IMPLICATIONS FOR COUNSELING

Men respond to being sexually assaulted in much the same way that women do, however there are some primary counseling issues specific to male survivors. These include the following:

- **Psychological Issues**—Since men have generally not been socialized to believe that being sexually assaulted is in any way a remote possibility for them, the psychological impact on a male survivor can be even more severe than with female survivors. Being assaulted violates everything he has been taught about his own maleness or male identity. For most men, sexual assault is the ultimate humiliation. As a result, his sense of himself and his concept of reality is disrupted. This may include profound anxiety, depression, fearfulness and identity confusion. Withdrawal from interpersonal contact is likely to result and will heighten his sense of alienation. His relationship with a counselor is critical during this period.

Specific psychological problems may result from the assault. Counselors should be alert for the development of phobias specific to identifiable characteristics of the assault setting. Survivors are likely to show an increase in hypochondriacal (extreme depression or imaginary ailments) and stress-induced psycho-physiological reactions. The assault may also mobilize underlying paranoia and obsessive fear of bodily harm.

- **Sexual Identity Issues**—Men who have never felt any same-sex attractions may experience "homosexual panic," fearing that the assault will make them become homosexual. A survivor may feel he is less of a man. While acknowledging these feelings, the counselor must consistently counter these ideas.

Men who have felt same-sex attractions are likely to believe that the assault was their own fault and that they are being punished and victimized because of these feelings.

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Extreme self-loathing and self-destructive behavior may result. The counselor must work to reduce this self-blaming.

- **Support Issues**—It is very difficult for male sexual assault survivors to seek support from family and friends. Often, even if the survivor is willing or able to ask for support, the responses of others are often further damaging to his self-concept. The advocate can help the survivor decide who to talk to and arrange sessions with family members or collaterals when appropriate.
- **Relationship Issues**—The male victim's primary relationships will almost certainly be disrupted by the assault and his reactions to it. The advocate must assess how best to assist him to maintain his relationships for the stability and support they can provide.
- **Emotional Issues**—It is extremely important for advocates to help male survivors work through the anger and hostility that could result from the assault. This is essential to help them rebuild their self-esteem and identity. Further, although research data to support the conclusion is sketchy, clinical evidence seems to indicate an increased probability of male survivors acting-out their anger in ways which later victimize others.
- **Safety Issues**—Other fears may result from the rape itself. Perhaps the assailant threatened the life of the survivor or his family to prevent the victim from making a report. Or perhaps the assailant coerced the survivor into silence through his position of power or authority. Survivors in institutions such as prisons or mental hospitals, the disabled and those receiving certain kinds of mental health counseling are particularly vulnerable to the coercion of authority figures.
- **Privacy Issues**—The survivor may also be uncomfortable with the need to report the details of his story so many times to so many different people during the reporting process. Or he may be unwilling to subject his family to the possibility of it becoming public information. Support and understanding on the part of family and friends and from medical and law enforcement personnel can greatly reduce the stress placed on survivors by these fears.

REACTIONS OF FAMILY AND FRIENDS

The most important factor from the survivor's point of view is to be believed. Lack of belief of the survivor's story on the part of friends or family members is not only devastating to the survivor, but may cause irreparable damage to the relationship. It is very rare for people to make allegations about sexual assault that are untrue.

Because of the obsessive fear of homosexuality among many males in our society, some male friends and relatives may have a difficult time understanding that being a victim of rape is not related to a person's sexual preference. The survivor's sexual orientation does not cause the assault, and neither is there any evidence that an assault will have an effect on the future sexual preference of the survivor. Ironically, although males are the offenders in both cases, the fathers of female survivors often fear that sexual assault will cause their daughters to turn

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away from men, whereas fathers of male survivors seem to fear that their sons will turn toward men for sexual gratification.

Family and friends should try to remember that survivors of sexual assault may react very differently depending upon personality, life experience, the events surrounding the assault, and the reactions of significant others. Whatever the apparent reaction, survivors need time to heal; the trauma is often severe and may take months or years to resolve. Survivors may need not only emotional support, but also encouragement to take time to do whatever feels helpful to them to reduce feelings of stress. That may mean plenty of time alone with their favorite music, or enjoying natural surroundings, or it may mean plenty of supportive company. Allow the survivor to set the pace and determine his needs.

People of Color



INTRODUCTION

Historically, rape and racism in this country have always been connected. Because racism and sexism are pervasive in our society, violence against people of color reflects both biases. According to a National Institute of Justice report (NIJ 1995), of 319 victim services programs in law enforcement agencies and prosecutors' offices, about 65 percent of the victims were white, 22 percent were African-American, 8 percent were Latinos, and 5 percent were Asian, American Indian, or other ethnic group. Yet, minorities are disproportionately affected by crime. Even in 2000, males, African-Americans, Latinos, the poor, and residents of urban areas were the most vulnerable to crimes of violence according to the Bureau of Justice Statistics (2000). Harassment and violence reinforce the power that one individual may assert over another solely by virtue of his/her status in society; status derived from race, class, gender or sexual orientation.

For people of color, the vulnerability caused by the constant threat of violence places them in a weakened status. Racist and sexist myths have continually stereotyped people of color within our society, thus perpetuating their victimization. African-American women are sometimes portrayed as primitive, promiscuous and domineering; Latinas as passionate, teasing and flirtatious; Asian American women as submissive sexual servants, mysterious and sinister; American Indians as subservient, savage and child-like; men of color as macho, lazy

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and womanizing. The exoticizing of women of color contributes to the myths that they are more willing to be abused and are easier to abuse. This same stereotyping consequently affects the credibility of both male and female persons of color who are sexual assault victims. This often leads to a failure to report the crime for fear that he/she will not be believed or supported by police, judges, the media, professors, administration, or even his or her family. Language barriers and failure to report crime to authorities were also cited as partial reasons for limited representation of certain groups. However, it is more than language problems that keep survivors of sexual assault from diverse backgrounds from reporting and accessing victim assistance services.

All survivors are individuals, with different reactions to being raped. But people of color have special concerns about sexual assault that come from their cultural upbringing and the problems of coping with racism in society. Although not all people of color share the same feelings, there are patterns that some people of color share.

Similar feelings shared by people of color

- A lack of trust in authorities and the legal system
- Less inclination to openly discuss feelings with a counselor or authorities
- Reluctance to report sexual assault
- Shame and taboo—each culture has taboos, and certain crimes can bring shame upon victims
- Fear of deportation
- Loyalty to own cultural group, especially if perpetrator is from same culture
- Concerns about what will happen if their families or communities find out about the sexual assault
- Prejudice by sexual assault service providers
- Cross cultural-communication. In addition to language barriers, there are many aspects of communication (verbal and non-verbal) that can either impede or facilitate service delivery. Word meanings and gestures vary for different ethnic groups, which can contribute to misunderstandings or miscommunications.
- Conceptions of privacy. People of color may feel that certain types of crimes should be dealt with within a family or community. The most common examples of this are sexual assault and domestic violence.

Meeting the needs of people of color who are survivors of sexual assault

The validation of cross-cultural differences is imperative between advocates and survivors in dealing with rape. As advocates, be aware of your own prejudices that may hamper the rape recovery process.

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Cultural sensitivity is an awareness, understanding, responsiveness and respect for the beliefs, values, customs and institutions (e.g., family, religion, etc.) of a group of people, particularly those of a race, culture or ethnic group different from one's own. Providing culturally relevant and competent services means incorporating elements of cultural awareness into training, treatment, and services designed to impact upon, or meet the needs of, individuals or groups. A strong sense of basic worth and dignity of each human being should also be apparent. Specifically the following should occur:

- All advocates working with sexual assault survivors should receive on-going training in cultural sensitivity and providing culturally competent services.
- If the staff available to work with survivors of sexual assault are not representative of the diverse cultural groups within the community, volunteers from these communities should be recruited and trained.

TIPS AND TOOLS FOR CULTURALLY COMPETENT ADVOCATES

Communication

1. Listen patiently and show interest and empathy.
2. Be aware of confidentiality. Self-disclosures may be a concern to some survivors.
3. Validate the survivor's explanation of the crime and its repercussions.
4. Be flexible, alter an action plan to fit the survivor's cultural framework and negotiate a compromise, whenever possible.
5. Reassure the survivor that the best will be done to help him/her.
6. Practice effective cross-cultural communication which includes:
 - Awareness and sensitivity to non-verbal cues, body language, gender roles, and face-saving needs.
 - Ask for clarification and check for understanding. Often even though the same term is used, it may mean different things to the advocate and the survivor.
 - Keep it simple and jargon-free.
 - Recognize your own communication style and acknowledge when it may clash with the survivor's.
 - Know and manage your own hot buttons.

Relationship Building

1. Take time to build trust and rapport.
2. Build a relationship with the family and main decision-maker in the family, when appropriate.
3. Work within the survivor's system, or negotiate/compromise.

Self Awareness

1. Be aware of your own biases/stereotypes and work at controlling them.
2. Reduce ethnocentrism and respect the survivor's world view, even if it does not mesh with yours.

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3. Recognize limitations and ask for help from the survivor, the family, and cultural informants.

Discerning Cultural Patterns

2. Recognize and work within gender norms, when appropriate.
3. Elicit the survivor's concept of the crime, safety, grief and healing.
4. Acquire cultural knowledge, which will enable you to react positively to unfamiliar practices.
5. However, be careful not to stereotype. Treat each case uniquely.
6. Identify sources of disagreement between the advocate and the survivor.
7. Develop skills to understand issues from another's perspective and to recognize and reduce resistance.

AFRICAN AMERICANS

HISTORICAL PERSPECTIVE OF RAPE IN THE AFRICAN-AMERICAN COMMUNITY

Rape has been an integral part of African-American women's history in the United States. Historically, rape was used during slavery to control those enslaved. Africans were viewed by white slave owners as property which could be handled however the owner desired. The women were property of the slave owners and therefore the white men had free access to African American women's bodies. Slavery relied as much on routine sexual abuse as it relied on the whip and the lash, thereby virtually institutionalizing rape.

When the rape of an African slave by the slave owner resulted in the birth of a child and that woman and the child lived in the slave owner's house with his white family, there was often further turmoil. The myth that African-American women were more sexually desirable than white women was prevalent. Many white slave owners' wives believed the enslaved women were sexual temptresses and their husbands innocent victims of lust. This myth may have allowed white women to perceive the enslaved African woman as a threat to her white womanhood (Hooks, 36). It may be at this point in history that a dissonance between white women and African women began; hence the first part of a stereotype of "the bad black woman" designed to promote and facilitate the continued exploitation of African-Americans (Lerner, 93).

The right claimed by slave owners and their agents over the bodies of female slaves was a direct expression of their presumed property rights over black people as a whole (Davis, 175).

Burning, lynching and terrorizing African Americans have all been part of creating fear to maintain white supremacy (Lerner, 194). As African-Americans continued to fight for economic equality and freedom, lynchings were increased as a way to control African American rebellions.

Sexual stereotyping of the African-American community, as well as other people of color, persists today. Women of color are more hesitant to file rape charges and less likely to be believed in court.

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That black women have not joined the anti-rape movement en masse does not, therefore, mean that they oppose anti-rape measures in general. Before the end of the nineteenth century, pioneering black women conducted one of the very first organized public protests against sexual abuse. Their eighty-year-old tradition of organized struggle against rape reflects the extensive and exaggerated ways black women have suffered the threat of sexual violence (Davis, 175).

African-American women have evidence confirming their suspicions that the anti-rape movement was largely oblivious to their special concerns. The belief that the criminal justice system is objective and fair simply does not hold true when the statistics of rape trials are observed. Many more African-American men will be sentenced for longer periods of time than white men for the same crime. There is the illusion that white women are more desired by African American men. Young African-American men are still stereotyped as the typical rapist today (Davis, 179). These stereotypes only impede an end to sexual violence. Rapists come from of all social and economic classes, ethnic groups and age groups. Most rapes occur within the same class and cultural ethnic group. Regardless of culture, ethnicity, class or appearance, no one deserves to be raped.

Men of color, especially African-American men, have often been the scapegoat for sex crimes. Statistics show that most rapes are intra-racial. Over 85 percent of rapes occur between people of the same ethnic group. Perpetuation of the myth of the black rapist (the next part of the stereotype), allows white women to believe they are safer with white men, when in fact they have a greater probability of being raped by a man of their same group. This racist attitude increases a separation between whites and African-Americans when discussing sexual assault. To help end violence against all women, an open dialogue must begin between different cultures to help dispel racist myths and stereotypes.

MYTHS AND STEREOTYPES

Here are nine racist myths about black women that service providers must dispel. They are not:

- Too strong and lacking of feeling to be hurt by battering or assault;
- More angry, aggressive and violent than white women;
- Abusive/unloving to their children;
- Carrying hatred and/or are jealousy toward white women;
- Unwilling to leave abusive relationships;
- Distant and unapproachable, loud and rude;
- Needful or desirous of comfort, kindness and support;
- Manipulative the system and know their way around welfare or public assistance programs; or
- Harder to work with than other women.

APPROACHING RAPE FROM AN AFRICENTRIC PERSPECTIVE

Wade Nobles, in his article “Extended Self, Rethinking the So-Called Negro Self Concept,” discusses the notion of world views. He believes that the way people perceive their relation-

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ships to the world (other people, nature, institutions, etc.) will influence the way individuals behave. Nobles describes two world views: one European, the other African.

The European world view has a different life ideology than the world view held by Africans in their homeland. Where Europeans are more oriented towards individuality and uniqueness, the African world view thrives on groupness and sameness. From an African world view, community and cooperation are important, and there is a sense of interdependence among all community members. The competitive European nature encourages separation and independence. The African world view contains the strong belief that people must be in harmony with nature and must learn to survive and adapt in nature. There is no need to control or conquer nature and the universe.

The African perspective is a part of the African-American heritage. It is not eliminated simply because they were moved to the United States. The African perspective is important to understand when trying to assist rape survivors in their recovery. These two different world views must be acknowledged if you wish to provide effective and more culturally appropriate services to African Americans. The African world view may dictate how the rape survivor will seek help and react to services offered.

Sexual assault may include familial, stranger, marital, acquaintance or date rape. The clients who use your services may not necessarily identify themselves as rape victims. This is especially true when the perpetrator is someone known to the victim or there was no overt brutality. Since African-American women have been socialized to internalize racism and sexism, they especially may believe the many myths about rape (e.g., their blame for the rape because of their lifestyles, clothing, or activities. blamed for the rape because of their lifestyles, their clothing, and their activities.)

When an African-American woman experiences sexual assault, she may be more concerned about how African Americans, not how she, will be perceived. How the rape will reflect upon her family, extended family and her community may be of more concern than her own suffering, frustration and anger. If the woman holds an African world view, her family, friends, and church can provide a large amount of support and validation for her. What affects her will affect her entire support network.

This may explain an African-American woman's decision to use social services (if she chooses to use them at all) for only a short period of time. The interdependence and collective responsibility she feels towards her community may be more important to her recovery than the individual counseling and assistance that service providers offer.

Source: Surviving, Columbus Urban League, 1994.

THE AFRICAN-AMERICAN COMMUNITY'S RESPONSE TO SEXUAL ASSAULT

African-Americans have been blocked from forming a constructive group identity. As a racial minority in the United States, African-Americans have been pressured to trust whites

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more so than themselves. They have had a value system imposed on them that forcefully undermines their self-esteem and very existence.

“The image of African-American women as long-suffering victims may help keep African-American women passive and confused about the assaults in our lives (White, 19).”

Many contradictory messages may discourage women from seeking outside help when they are raped. African-American women have had to fight throughout history. They are survivors in the true sense of the word. As Evelyn White states:

- We are considered evil, but self-sacrificing; stupid, but conniving; domineering while at the same time obedient to our men; and sexually inhibited, yet promiscuous. Covered by what is considered our seductively rich, but repulsive brown skin, Black women are perceived as inviting but armored. Society finds it difficult to believe that we really need physical or emotional support like all women of all races (White, 20).

White men and women historically have denied African-American women the status of even being a woman. Therefore, the African-American rape victim may feel a similar but greater level of helplessness, shame, guilt, failure, devaluing and unworthiness. As service providers, it is important to be culturally and ethnically aware, not prejudiced, but genuine in your desire to help and support African American women. Service providers are also ethically responsible for assessing their own racist attitude. It must become important for us to document the number of incidents of sexual assaults in the African- American community. Advocates must be willing to read literature, participate in events and accept theories from culturally diverse populations.

ADVOCACY ISSUES

White advocates conducting intervention with black survivors will need to overcome distrust by blacks of the white community and white authorities. Sexual assault programs are usually not considered part of the black community. Black women may be hesitant to report sexual assaults to police, or to use available social services, because they suspect they will not be believed or taken seriously. They fear a lack of concern for their needs, and wonder if they will be accused of provoking the assault. Because authorities have traditionally ignored the needs of black women, they believe reporting will have no effect and no action will be taken to arrest the offender. Evelyn C. White states, “...we (black women) know that we cannot depend on the police, social workers or the criminal justice system to protect us from abuse or intervene on our behalf. They have, in fact, been some of the worst offenders in perpetuating and blatantly ignoring the violence in lack communities.

If the assailant is white, the survivor may expect a lack of concern, or even retribution against her, by a primarily white criminal justice system. If the assailant is black, she may be reluctant to expose another black to the racist system, and she will be worried that the black community will view her as disloyal.

According to White, “The traditional response of the black community to violence committed against its most vulnerable members—women and children — has been silence. This silence does not stem from acceptance of violence as a Black cultural norm ... but rather from shame, fear and an understandable, but nonetheless detrimental, sense of racial loyalty.

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For the black woman, feelings of powerlessness that come from being assaulted are greatly intensified because she may feel she lacks power in her everyday life. She may want to get past the emotional distress quickly and revert to her routine without giving herself adequate time for recovery. There may be a need to deny long-term effects of sexual assault.

Many black women have access to a strong support system that includes family and the black community. To gain the trust of black women, sexual assault advocates may want to gain assistance from ministers or other service providers within the black community. Although black women often find support from their families and the community, the advocate should not automatically assume that these provide all the emotional support a black survivor needs when coping with a crisis such as sexual assault. Every survivor may not have access to these safety nets.

A woman of color may fear that revealing sexual assault to an advocate and/or the authorities will bring about a break-up of her family. The advocate has to be sensitive to these fears, and careful not to push the sexual assault survivor into taking actions that she might not be ready to handle.

To avoid interacting based on stereotypes of blacks, white advocates should examine their own feelings and attitudes about black women. White advocates should become aware of feelings that come from not belonging to a privileged class: feelings such as alienation, low self-esteem, anger, impotence, isolation, frustration and inferiority. White advocates must admit racism exists, and must allow black women to discuss the problem openly. Advocates must confront racism in their own attitudes.

White sexual assault advocates must work to gain the confidence of black women survivors. Trust must be established, and strict confidentiality maintained.

When advocating for child victims and their families, it is important to be sensitive to the role of men in the family structure. In communities of color, men are regarded as the head of the family.

If the father or stepfather is the perpetrator of the sexual assault, child protection authorities will probably remove the child from the home or remove the father from the home, thereby breaking up the family. If the mother does not force the perpetrator to leave the home, authorities may perceive her as not protecting her children. Many families of color are unwilling or unable to choose between the welfare of the children and the father or stepfather, especially when reporting the assault will lead to the division of the family. This is one reason cases of child sexual abuse often go unreported by members of the black community.

When the sexual assault advocate attempts to persuade the black woman to force the perpetrator from the home, it reinforces an attitude by many blacks that the women's movement is anti-family and anti-male. According to Fern Y. Ferguson of Volunteers of America, this promotes mistrust of the social service system, including rape crisis centers. Women fear disclosing child sexual assault, because they suspect that the white advocate will betray them by bringing about the break-up of the black family. Frequently, in black communities, the image of the family is more important than the recovery of the victim.

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BLACK WOMEN IN THE ANTI-RAPE MOVEMENT

There has been, traditionally, a lack of involvement by black women in the anti-rape movement. Fern Y. Ferguson offers reasons why this is so, and ways that the problem should be confronted:

- Accusations of rape have been used to kill and incarcerate black men since slavery. Figures provided by Angela Davis show that the rape charge is still indiscriminately aimed at black males. Of 455 people executed for rape from 1930 to 1967, 405 of these were black men. Blacks are naturally cautious about working in a movement that concerns a problem historically linked with racism.
- The rape crisis movement is linked to the women's movement. Many black women see the women's movement as anti-family, and as a leisure activity for bored white women. White women are perceived as not being grateful for their many social advantages. Black women suspect they would not be accepted as equals in the movement if they became involved. Feminism is not perceived as an important issue by blacks, since the community does not consider the roles of men and women in the family of equal importance.
- Black women in the rape crisis movement often feel isolated and ostracized by both feminists and the black community. Support and network systems for black women in the movement need to be established and maintained.
- Black women should be hired at centers because of their talents, not their skin color. If they are unprepared to do a job, hiring them only propagates myths about women of color, and frustrates the individual. Women of color should be expected to discuss and understand feminist issues. They should not be treated differently than other staff.
- Black advocates should not be expected to work with only black clients.
- Black advocates should not be expected to conduct all public education in communities of color. Women of color should be allowed a workspace that reflects cultural diversity. Clients also feel more welcome when they see artwork and artifacts that reflect their tradition.
- Differences between Anglo, African-American, Latino and Asian cultures need to be acknowledged. Differences also exist between individuals, national origins, and rural and urban living conditions. To ignore these differences is to strip people of their cultural and individual identities.

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LATINOS

The term Latino identifies the large groups of people whose national and cultural origins, or those of their ancestors, are from Mexico, Central America, or Latin American. The term “Latina” is used for women of descent from these regions.

As well as individual differences, there is great diversity among Latinos in the wide variety of traditions from their original countries. While many Latinas may speak Spanish, there will be some language variation from country to country. There will be class and political differences, and varying degrees of assimilation into mainstream American culture.

When working with Latina survivors of sexual assault, it is important to be aware of stereotypes about persons of Latin or Spanish heritage. Typical misconceptions about them include: inherent laziness, lack of education, lack of intelligence, lack of sophistication, dependency, passivity, machismo, and sexual promiscuity. Recognizing and dispelling these racist attitudes are essential for the advocate.

LATINA SURVIVORS

The diversity of Latinos is reflected in such factors as income and education levels, lifestyles, family patterns, residency status length of time in this country, and languages spoken. Latinos range from those who maintain their traditional cultural values to those who have assimilated Anglo-American values and customs.

Despite great diversity, some general beliefs within the Latino culture may influence the Latina after a sexual assault. In the cultural and religious perspective of the Latina, human sexuality is generally confined to marriage and is considered a very private matter. The emphasis on virginity for a single woman and on monogamy in marriage is significant, and thus plays an important role in the Latina’s foundation of self-respect and respect from others. A Latina survivor may react to an assault with additional shame, dishonor and loss of respect.

Within the Latino culture is a traditional view of female/male roles. This can contribute to the feelings of shame and loss of respect. Traditionally, Latinas have been seen in extremes, either as madonna or whore. The sexually active Latina is traditionally viewed as responsible if a sexual assault occurs. If the Latina is young and a virgin, she is considered less responsible but her prospects or chances to marry and reputation are at risk. In addition, the Latino culture is heavily influenced by the Catholic Church’s teachings which emphasize a woman’s virginity and purity of mind and body. Sometimes sexual assault is equated with the sexual act and may be seen as God’s punishment for previous sin.

Social mores concerning sexuality make it difficult for a woman who has been assaulted to readily talk about the experience or to be assured and supported. In addition, Latinas may not readily seek help because many professionals do not offer bilingual/bicultural services. If the victim is an illegal alien, there is the added fear of deportation. Thus, for the Latina, seeking assistance for a sexual assault may jeopardize her residency status, her job, her relationships with family and her community.

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Guidelines that may be useful in working with Latina victims:

- Try not to stereotype Latina survivors. Understand that some elements of the traditional culture may lead to victimize the survivor further, as do Anglo-American societal myths and attitudes about Latinas. Anglo stereotypes abound concerning Latinas as uneducated, intellectually inferior, unsophisticated, overly dependent, and eager for sex.
- If at all possible, provide bilingual services. Fear of stereotypes may cause a Latina victim to claim to be bilingual, when in fact, she may be limited in the expression of feelings in her second language, English. Expressing feelings is always easier and more complete in a person's native language.
- Be sensitive to a Latina's residence status. It should not block the victim from obtaining sensitive assistance, or from holding an assailant accountable for a crime.
- Because of sexual mores concerning sexuality, it may be difficult for the Latina victim to discuss the specifics of the assault. In addition, words that adequately describe such acts and body parts may not be part of the routine vocabulary of the Latina whose primary language is not English. Professionals who understand the Latino language and culture are particularly helpful.
- Because of cultural and religious beliefs, the Latina victim is particularly prone to feeling self-blame and violated. It is important to help the victim and her family to understand rape as an act of violence.
- Latina survivors who do not believe in artificial birth control or abortion may have particular concerns about dealing with pregnancy resulting from assault.
- Professionals should be aware of referral resources, particularly bilingual/bicultural resources for the victim's different needs. These resources should be sensitive to the general needs of a sexual assault survivor and to the specific concerns resulting from traditional cultural values and language differences.

ADVOCATING FOR THE LATINO FAMILY

Family life is highly important to Latinos. "As in other traditional agricultural societies, family solidarity, subordination of women and respect for elders created a structure where large and extended families lived under patriarchal authority" write Angela Ginorio and Jane Reno. The family structure is hierarchical, with special respect given to the father. The mother is supposed to be obedient to her husband, and she receives respect from her children. "Older family members order the younger and the men the women. This establishes interpersonal patterns in the family around the dimensions of respect and obedience to elders and male dominance" (Ginorio and Reno, 1986). Extended families often exist, which include the nuclear family, relatives, long-standing friends, and relatives such as godparents.

Strict role identification is generally maintained in the Latino family. Boys are taught to respect and obey their parents but are allowed a high degree of freedom in lifestyle. "While

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the male role was defined in secular terms, the female role was closely tied to the values and traditions of the Catholic Church,” write Ginorio and Reno (1986). “As females, the models presented to us were accepting, silent and constantly responsive to others’ needs. We were told we were morally superior to and spiritually stronger than the male. Thus we must be mediators for him and represent him by our presence in the church and by our exemplary behavior. Any misbehavior by any family members reflects on the honor, pride and prestige of the male.”

Girls are closely supervised by their families, who wish to protect the girls’ innocence and virginity. Sex for Latina women, especially those who are Catholic, is discouraged, except for childbearing. Latina women often suffer extreme shame and guilt if they are raped. If she is an unmarried woman, she will be punished because she is no longer a virgin; if she is married, she will be humiliated because she has been abused by a man who is not her husband.

Because of the close family ties in Latino culture, the survivor’s recovery process will be affected by her family’s reactions to the sexual assault. The survivor may not gain the support of family members and the Latino community. It could be believed that she provoked the rape by not acting properly, or that she is being punished by God for some past impropriety. She may hesitate to tell her family or authorities. There may be fear that disclosing the abuse will be more harmful than the abuse itself, or that the family may seek retribution by attacking the assailant. It is important to respect the survivor’s reluctance to disclose the rape. If the family does become involved, the advocate should try to understand its’ reactions, even if the attitudes seem negative or old-fashioned.

If the survivor felt comfortable enough to disclose the rape to her family, the family should be included in any advocacy sessions. The survivor should be able to decide which family members she wants to include. Working with the entire family can help them understand the survivor’s lack of complicity in the assault and the need for medical and emotional treatment.

COUNSELING AND RELIGIOUS ISSUES

Latinas are raised with the concept that sex outside marriage is wrong. The religion of the vast majority of Spanish-speaking people is Catholicism, which defines sex as sin, unless for the purpose of conception. “Because for so many women the (Catholic) Church has been the only avenue for participation and expression outside of the family, we have looked to the Church for leadership and support to help in establishing our identity as women...Sexism in the Church has often reinforced passivity and acceptance of male domination. The religious stance on sexuality, rape, abortion and birth control has not made it possible to openly and frankly confront these issues so central to women’s lives, neither in the privacy of the family nor in the public forum of society” (Ginorio and Reno, 1986). The advocate should stress the violence of the assault and minimize the sexual aspects.

If the survivor becomes pregnant, there may be particularly great concern because of the Catholic sanction against abortion. The advocate must respect the victim’s religious beliefs and should never pressure the survivor to have an abortion. Advocates must respect the victim’s religious beliefs.

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The Catholic survivor may exhibit a fatalistic attitude about the assault, with an unwillingness to work at recovery. She may feel the rape was God's will, part of her own inalterable fate. The counselor should encourage the survivor to take responsibility for helping herself.

There may also be a high level of self-criticism and guilt because of the victim's religious beliefs. The advocate should determine whether consulting a sympathetic priest will help the Latina woman.

OTHER ADVOCACY ISSUES

If the survivor does not speak English well, and the advocate is not bilingual, there will be a language barrier. Even when the Latina woman speaks English, she may have difficulty with the English language. People tend to revert to their native language during periods of crisis, and a Spanish-speaking advocate should be provided to give more effective services. Even a Spanish speaking advocate may have difficulty communicating with a woman from a cultural background different from the advocate's own. The introduction of an interpreter into a session may also cause the survivor additional discomfort when revealing humiliating details of the rape. The advocate will have to be particularly sensitive at such times.

Latina survivors may not have the words to describe the sexual assault. Words used to describe sexual offenses might not exist in their language, or will be seen as too obscene to speak. Confusion may result as to the meanings of American expressions for sexual activity.

Some Latinas will not feel comfortable with the intimate, explicit questions asked by advocates. This discomfort may prevent them from reporting the assault.

If a Latina is not a naturalized citizen of the United States, she will probably have strong concerns about deportation and the problem of maintaining economic survival. This may discourage the survivor from reporting the rape to authorities. The perpetrator may be an individual who maintains power over the woman and her family directly because of her non-resident status (such as an employer). It is essential that the advocate provide support, even when charges against the assailant cannot be pursued.

Latinas, especially those classified as non-residents, may be particularly vulnerable to gang rape. Gang rape will also bring concern that disclosure will cause further, possibly more severe violence from gang members. The resulting fear can be especially disabling.

Expressing anger should be encouraged in Latinas as a legitimate reaction to sexual assault. Culturally, Latina women have been raised to contain their rage. Part of a survivor's recovery will hinge on her ability to express and cope with anger.

Referral to other community resources should show awareness of cultural differences. Bilingual services sensitive to issues of sexual assault, as well as to Latino culture, are critical and necessary.

Because of a history of racism and discrimination, advocates must work to gain the trust of Latina survivors. The advocate may be viewed as another representative of an oppressive system. Assure the survivor that everything discussed will be confidential.

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Advocates should respect the Latina woman's religious views and cultural heritage, which stresses concepts such as honor and close family interaction. Respect and validation of cultural differences will assist in recovery. It is essential to remain nonjudgmental at all times.

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ASIANS

There are wide cultural and language differences among people of Asian descent. The largest Asian population in the United States is Chinese.

"Asian-Pacific" refers to a variety of Asian ethnic groups such as Japanese, Chinese, Filipino, Korean, Thai, Vietnamese and Samoan. Others of Asian background include Burmese, Kampuchean, East Indian, Malaysian, Laotian and Pacific Island people. These groups have different native languages, religions, and cultural patterns, they are linked by this term only for Western convenience.

Asian women suffer from racist beliefs that define them as passive and subservient. U.S. intervention in Asian countries has brought about an attitude of superiority toward Asians. Some people, accustomed to viewing Asians as enemies or prostitutes, perpetuate hatred toward Asian people in the U.S. Domination, both military and sexual, is basic to stereotypes.

Most Asian women will probably be Buddhist, Confucian or Catholic. Religious traditions have a direct influence on a woman's response to sexual assault. The Confucian religion dictates that women are subservient to men. A Buddhist or Catholic woman who becomes pregnant as a result of rape will probably choose not to have an abortion.

Passivity and a sense of fatality may be a part of an Asian woman's personality. According to Tracy A. Lai (1986),

- Traditional Asian Pacific values tend to socialize women into secondary roles to men. Their identities are defined mainly in terms of their husbands and family responsibilities. As a consequence, there is often a pattern of behavior characterized by deference to authority (males, elders), non-assertiveness, and self-effacementthese behaviors create a vulnerability which invites exploitation and manipulation. Assertive behaviors for women may seem threatening if presented in opposition to traditional responses.

Because of the differing cultures, as well as the differences between recent immigrants and second or third generation citizens, plus the differences in personality and circumstances, once again, generalizations are impossible. However, awareness of the common myths about Asian women and understanding some common cultural patterns may help in working with Asian women who have been sexually assaulted.

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Common myths include the belief that Asian-Pacific women are rarely sexually assaulted. Other myths state Asian women rarely use social service agencies or that they have adequate service resources within their own communities. In reality, language, cultural barriers, lack of knowledge about resources, and reluctance to bring attention to themselves contribute to the low reporting rate and under utilization of established services.

In Asian cultures, sexual assault is often seen as primarily sexual, and sexuality is not easily discussed. In addition, the woman is often seen as responsible for the assault. A woman's self-worth is often based on chastity, virginity and ability to marry. Sexual assault not only decreases self-worth, but also brings shame to the whole family. In some traditional cultures, only marriage to the perpetrator of sexual assault removes the stigma for the woman.

Western stereotypes can add to the vulnerability of Asian women. Asian women are often seen as geisha dolls who are fragile, defer to authority, and who cannot take care of themselves. When working with Asian women, it is imperative to assure confidentiality if the woman is to express her feelings openly. While a professional of a different ethnic group may be viewed with suspicion and have language or cultural barriers, a professional of the same ethnic group may also be viewed with suspicion because of fear of gossip. The following guidelines might be helpful when working with Asian women:

- Asian-Pacific women must be educated about sexual assault as an act of violence that is not the victim's fault. It is helpful to emphasize the susceptibility of all women and the reasons men assault.
- While the Asian woman experiences the same emotional crisis as almost all other victims, she may be more likely to deny the assault. She may be unwilling to discuss the attack. In addition, her family may share her denial. Asian women may be more likely to put family ahead of individual interests and less willing to discuss sexual incidents (Ohio Coalition 1991; "Cross Cultural Service Delivery," 1992; United States Commission on Civil Rights, 1992; Hamilton, 1989).
- Because of cultural mores, the process of getting information and helping the victim through the recovery process may be longer and more frustrating. In addition, some Asian-Pacific languages may not have words for body parts, particularly the genital areas.
- An Asian-Pacific woman may view her post-assault need as limited to concrete practical procedures. While she should be assisted in these needs, it is also important to encourage the victim to seek emotional counseling. "Most Asians are taught to be task-oriented. Therapy sessions for Asians should therefore delineate goals, assign practical exercises, and should occur over a brief rather than extended period" (Ogawa, p. 274).
- Because of the societal shame following a sexual assault, the Asian-Pacific woman may be particularly susceptible to suicide ideation.
- It is very difficult for many Asian women to tell their families about a sexual assault. Often, victims make plans to disappear from their families and communities. Professionals should help victims make plans for how to deal with their families.

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- ? It is not uncommon for an Asian-Pacific woman to be disowned by her family or to be battered by male relatives after a sexual assault. Make sure the victim has information regarding emergency shelters or an alternative plan if a shelter is not available.
- In many Asian-Pacific ethnic groups, sexual assault of married women automatically means divorce. Married Asian women who are raped are traditionally viewed as unfaithful to their husbands. It is difficult for Asian husbands to comprehend that their wives are not responsible for sexual assault. Her trauma will be increased by his inability to understand. It is important for professionals to understand this fear and be ready to provide information about the woman's rights as an immigrant, as a refugee, and as a spouse regarding community property.
- Non-Asian professionals may find communicating with Asian victims difficult because of the cultural tendency to be indirect. Special sensitivity to nonverbal signals is important. It is essential that the advocate respect the confidentiality of the survivor, and understand the shame felt by the survivor and her family.

THE ASIAN FAMILY

In Asian culture, the image of the nuclear family is usually regarded as more important than an individual's needs. A sexual assault will be viewed as a disaster that has befallen the entire family. The survivor may feel that she has dishonored the family by being a victim, or that she is humiliating them by disclosing the rape.

If possible, the advocate should find out who is considered the head of the family, and work with that individual, as well as the survivor. The authority figure may be the oldest female, or the survivor's husband or father.

The family will probably deny the rape and try to keep the assault a private matter, undisclosed to the extended family and the community. Relatives may accuse the survivor of provoking the sexual assault. The survivor may refuse to speak to the advocate after the initial disclosure, with the family assisting her in hiding from the advocate. Relatives may attempt to speak on the woman's behalf or may literally prevent her from seeking help.

If the Asian woman is single, her family may consider her no longer eligible for marriage since greater value is put on virginity.

ADVOCACY ISSUES

Common emotional reactions by Asian survivors include fear of retaliation by the assailant, shame, guilt and the belief they are responsible for the sexual assault. There may be a feeling of loss of face which is a reaction of extreme shame and disgrace.

Recent immigrants to the United States may not report sexual assault, fearing that contacting the authorities will lead to deportation. They may also not know about sexual assault programs or how to find them.

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Advocates who are not fluent in Asian languages may have difficulty communicating with some Asian clients. An interpreter sensitive to sexual assault issues will be vital in such cases. If an interpreter is not available, the advocate should remain aware that words describing sexual parts, functions or activities may not exist in the Asian woman's language. Sex is not freely spoken about in Asian culture, and the survivor will be reluctant to discuss the rape in explicit terms. The advocate should avoid using words the survivor does not use, because they may have negative implications in her understanding of English.

Because of the tendency to deny rape, providing strong assistance to the Asian survivor during the initial session is critical. The advocate should discuss Rape Trauma Syndrome, what the survivor can expect emotionally, common issues and distress faced by sexual assault victims, and written materials for further reference.

The Asian survivor may come to the advocate seeking concrete, practical information about what she should do. Once getting legal or medical information, she may terminate the relationship. Legal problems confronting the Asian woman may concern divorce, or her rights as an immigrant, or custody of children.

If the Asian woman returns to the sexual assault program, the advocate may find that problems will be confronted slowly over an extended period of time.

An Asian woman may view the advocate as an authority figure. The survivor may want the advocate to tell her what to do, she may not initially understand the concept of helping herself. Some Asians are accustomed to consulting with older, more experienced members of the community and may put the advocate in this role. Even though an advocate might not be comfortable with this method, it might be best for the survivor if the advocate takes on this role of authority. By doing this, asking personal questions will not be viewed as disrespectful and intrusive by the survivor and her family.

Respect and integrity are important in the Asian community. When speaking to the survivor's family, the advocate should acknowledge and accept the authority of the elder spokesperson by addressing older family members by titles rather than first names. Eye contact and touching should be done with discretion, some Asians find these expressions too familiar and intimate.

Asians often laugh to mask anxiety. If the survivor's family laughs, the advocate should not assume this demonstrates a lack of regard for the seriousness of the survivor's problem. Anger and distress are not easily displayed in Asian culture.

REFERRAL

Referral for long-term counseling may not be possible with some Asians. Individual mental health has little meaning in Asian culture, where the function of the family as a whole is of primary concern. If the survivor does return for counseling, she will probably preferably an older woman as a counselor, preferably one who speaks her language, but is not a part of her community. If the survivor is Catholic, she might appreciate a referral to a sympathetic priest.

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SUMMARY

The Asian woman's main concern about reporting her abuse is that the community will discover her shame. If the survivor can understand her name will not appear in public and that the police will not speak to her neighbors, she may consider pressing charges. However, if the assailant was a member of her community, she will probably prefer the assault remain unreported.

It is essential that the advocate respects the confidentiality of the survivor, and understands the shame felt by the survivor and her family.

The survivor may not understand goals of restoring control over her own life. Many Asian women are raised to be submissive. Stressing assertiveness and self-control as means of coping with rape will probably cause further confusion. The advocate would best serve the woman by helping restore her life to the routine established before the sexual assault.

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AMERICAN INDIAN

CULTURAL TRADITIONS

The terms "Native American" and "American Indian" apply to the many tribes that inhabited the United States before Europeans came to this country. Because these tribes maintain vastly different traditions and degrees of assimilation into mainstream American culture, the following information should be considered a generalization of many of the diverse characteristics of American Indians.

Extended families are common among American Indians, who respect the elderly and family traditions. American-Indian women may allow their children to be cared for by relatives. American Indians are expected to be self-reliant at an early age and able to care for younger children.

American Indians often have a frequent turnover of jobs and a casual attitude about time. Traditionally, American Indians do not value the accumulation of wealth as an end in itself, but enjoy sharing their possessions. There is little incentive to acquire a job and move up the ladder of success in the workplace. American Indians expect work to be valuable and enjoyable, but most of them do not have the education and experience to acquire fulfilling jobs in this country. A job may be taken to pay for immediate expenses, and the American-Indian employee will then quit when the money is made.

Time is viewed differently in the Native-American culture than it is in the regimented mainstream lifestyle. As a result, Native Americans are often late to appointments. The advocate

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should try not to be annoyed when a client is late, because the lateness is not a sign of disrespect or lack of interest.

American Indians have suffered from abuse, discrimination and racist misinformation including characterizations of them as savage, woman-hating, impoverished, simple-minded, drunken, childlike and weak. The results of the white man's subjugation of American Indians are particularly devastating.

VIOLENCE IN NATIVE-AMERICAN CULTURE

American Indians are not easily assimilated into mainstream American culture. American Indians have the lowest per capita income, the highest unemployment rate, the lowest level of education, the worst health and housing conditions, and the highest suicide rate of any group in the United States.

The breakdown of the extended family and increasing alienation from traditional values have resulted in increased occurrences of child sexual assault, incest, rape and domestic violence.

A report by Phyllis Old Dog Cross in the periodical *Listening Post*, cited by Allen (1986) reports that rape, sexual assault and incest are becoming frequent on reservations. The report states that at least 80 percent of American-Indian women seen at a five-state regional psychiatric center experienced sexual assault. According to this report, "Sexual abuse at a young age is quite frequent and almost always involves a relative such as a father, brother, cousin, uncle or grandfather...the problem of alcohol is seen in about 90 percent of the cases."³

ADVOCACY ISSUES

People advocating for American Indians must work to understand the group's strong culture and tradition.

The advocate will have to work to gain the trust of the American Indian survivor, whose culture has been victimized for centuries. Patience and quiet presence will work better than aggressively pushing the survivor to disclose her feelings.

The advocate may find that an American Indian who has been sexually assaulted will distrust the advocate, medical personnel and other authorities. The survivor will expect to be treated poorly and with disrespect, and the advocate must assure her this will not occur.

The advocate should allow the survivor to set the pace of discussion and intervention. The Native-American woman might not wish to speak at all. Coping with sexual assault is a private struggle. Silence does not necessarily indicate the survivor does not appreciate the advocate's support. The advocate should never push the victim into conversation, because this may make her even more reticent.

Questions from the sexually assaulted woman should be answered, and medical and legal processes she will undergo explained. The advocate should not be authoritative but must gently help the woman search inside herself for the means of healing.

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It may be difficult to maintain eye contact with an American-Indian person. This is probably a sign of respect on her part, since eye contact is believed to be powerful, and it is not given easily.

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People with Disabilities

Children and adults with disabilities have the same rights as persons without disabilities to personal safety and a life free of sexual violence and abuse, yet sadly, individuals with disabilities are particularly vulnerable to sexual assault, sexual abuse, and other violent crimes. Sexual abuse or assault against persons with disabilities may include nonconsensual sexual touches, verbal propositions that are sexual in nature, exhibitionism, and any other forms of sexual exploitation. Any sexual encounter between an individual with a disability and a paid service provider is considered sexual abuse.



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Research has documented that people with disabilities experience violence and abuse at least twice as often as their peers without disabilities (Sobsey & Doe, 1991). Stimpson and Best (1991) suggest that more than 70 percent of women with a wide range of disabilities have been victims of violent sexual encounters at some time in their lives. Another study estimated that 83 percent of women and 32 percent of men with developmental disabilities experience sexual abuse during their lifetimes.

Sexual assault programs, law enforcement, and other helping professionals or family members sometimes do not help or reach out to people with disabilities because of stereotypes and myths. These include:

MYTHS	FACTS
Strangers are the most likely perpetrators so people with disabilities must be kept in protective environments such as state schools, state hospitals, nursing homes, and group homes.	Persons who live in congregate living facilities face an increased likelihood that they will be sexually abused. Strangers are sometimes perpetrators, but research has clearly documented that the most likely perpetrators are persons who have an established relationship with the individual with disabilities.
People with disabilities are asexual.	People with disabilities develop physiologically in a similar way to people without disabilities and have sexual urges, feelings, and reactions.
Males are generally at lower risk for sexual assault so males with disabilities are rarely sexually abused.	Boys and men with disabilities are sexually abused less often than females with disabilities, but studies have shown that males with disabilities encounter sexual abuse at a higher rate than males without disabilities.
People with cognitive disabilities are not affected by sexual abuse.	Persons with all types of disabilities including cognitive disabilities experience emotional trauma, physical injury, and social consequences of abuse.
People with disabilities cannot benefit from crisis intervention or counseling.	Individuals with disabilities have feelings and can heal and learn to empower themselves through crisis intervention and counseling services.

WHAT IS A DISABILITY?

There are an estimated 313,600 children and adults with developmental disabilities in Texas. A developmental disability is a mental or physical impairment or both that substantially

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limits functioning in at least three areas of daily living (receptive or expressive communication, mobility, learning, self-care, self-direction, economic self-sufficiency, and/or capacity for independent living). A developmental disability occurs before the age of 22 and is expected to last indefinitely. Some examples of developmental disabilities include, but are not limited to:

- Cerebral Palsy
- Mental Retardation
- Spina Bifida
- Muscular Dystrophy
- Downs Syndrome
- Autism
- Attention Deficit Disorder (ADD)
- Dyslexia or other learning disabilities

Persons who have developmental disabilities are less likely than those without disabilities to receive education related to sexuality or self-protection strategies. In working with survivors with developmental disabilities, it may be necessary to provide basic education related to personal safety, sexuality, and the right to say “no” to an unwanted touch.

Acquired disabilities may occur at any time during the lifespan either through an accident, as a result of a crime, a degenerative disease, and/or as a result of the aging process. Persons who acquire disabilities through an automobile, explosive, or other accident, viral infection, or as a result of battering or other crimes are more likely to have knowledge about their sexual anatomy, self-defense or self-protection strategies, and boundary issues especially if the disability was acquired during adulthood. Some examples of acquired disabilities include:

- head injury
- spinal cord injury
- back injury
- paralysis
- visual or hearing loss
- Acquired Immune Deficiency Syndrome (AIDS)/HIV
- diabetes
- Alzheimer’s disease
- cancer

Some individuals may be classified as having multiple disabilities including a combination of speech, hearing, physical, visual, cognitive, and/or psychiatric disabilities. Sensory impairments may include a speech or language disorder, visual impairment or blindness, or hearing impairment or deafness. Speech and language disorders refer to difficulties with communication. Some causes of speech and language disorders include hearing loss, neurological disorders, brain injury, mental retardation, drug abuse, or physical impairments.

Some individuals who are deaf or hearing impaired will either have complete or partial hearing loss. Persons who are deaf or hearing impaired will communicate in different ways. Some individuals utilize American Sign Language, finger-spelling, oral communication, speech communication, and/or written communication. Persons who are labeled as visually

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impaired or legally blind will have vision loss, but may have some sight. Individuals who are blind or visually impaired usually have a sense of awareness about their environment, but may not have experience setting verbal or physical boundaries if they are approached too closely or touched inappropriately.

Some individuals have disabilities that may not be visually apparent. “Invisible disabilities” may be classified as developmental or acquired. Some examples of invisible disabilities include epilepsy (seizure disorders), traumatic brain injury, learning disabilities, diabetes, mental illness, and chronic fatigue syndrome.

VULNERABILITY FACTORS

Although all people are at risk of sexual violence, people with disabilities may face increased vulnerability factors to sexual assault or abuse that are related to their disability. A risk factor for sexual abuse against persons with disabilities stems from the fact that they must contend with the possibility of violence inflicted by caregivers or personal care attendants. Care providers frequently have close, personal, and frequent contact with people with disabilities. These relationships often resemble the intimate type of relationships many people have with partners.

The following are some vulnerability factors faced by individuals with physical, cognitive, sensory, and speech disabilities:

- Persons with physical disabilities may depend on others to meet some of their basic needs. Care providers may be involved in the most intimate and personal parts of the individual’s life (e.g., assistance with bathing, toileting, changing clothes, other hygiene-related tasks), which can increase the opportunity for sexually abusive acts. Persons with physical disabilities may be less likely to defend themselves or to escape sexually abusive situations.
- Persons with cognitive limitations may be overly trusting of others and easier to trick, bribe, or coerce. Individuals with cognitive disabilities may have an overwhelming desire to please others and participate in sexual activities even when the situation is exploitative or illegal. They may not understand the differences between physical and sexual touches. Persons with cognitive disabilities who are abused may not understand that the violation is not normal, especially in cases of sexual abuse. Many people with mental retardation and other disabilities (e.g., speech impairments) are unable to articulate verbally when sexual abuse or assault has occurred. Furthermore, even when they try to report abuse, individuals with disabilities are often not believed and have difficulty establishing credibility.
- Persons with cognitive disabilities have traditionally spent much time in settings in which they are taught to do as they are told. This increases their risk for sexual abuse. Many people with disabilities are taught in school and through other service providers and family members to be obedient, passive, and to control difficult behaviors. This compliance training teaches them to be good victims for sexual abuse. When people with disabilities are assertive or stand up for their rights, they may be punished.

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- Persons who are deaf may have difficulty reporting due to barriers with communication including lack of interpreter and or other assistive devices such as telecommunication device for the deaf (TDD).
- Persons who have speech impairments may have limited vocabulary or communication skills which can pose barriers to disclosing sexual assault or abuse. They may be misunderstood or viewed as intoxicated or making a prank call when reporting sexual assault or abuse. Some people who have speech impairments utilize communication boards; however, many of these devices do not include vocabulary for reporting sexual assault or abuse.
- Many persons with disabilities tend to grow up without receiving sexuality education, abuse prevention information or self-defense training. They may lack knowledge about their bodies, healthy relationships, and how to protect themselves. Persons with disabilities may be touched so often and without permission that they may become conditioned to touch. This may lead to the individual having difficulty distinguishing between abusive and necessary touches.

Even when people with disabilities do report sexual abuse, they are often not believed. Due to societal attitudes, people with disabilities are generally viewed as non-sexual, lacking intelligence and not being credible witnesses to crimes. When a person with a disability does report sexual abuse, many times they are not believed due to beliefs that the individual is not sexually desirable. People with speech impairments and/or cognitive disabilities are also often considered incompetent witnesses.

Generally, social isolation is associated with higher risks for sexual abuse. People with disabilities have traditionally been oppressed through their segregation from the community and placement into congregate care residential facilities or settings (e.g., state schools, state hospitals, nursing homes, group homes, foster homes, sheltered employment workshop settings, etc.). In residential facilities, people with disabilities may lack access to telephones as well as family, social supports, police, lawyers, or advocates. Persons living in congregate residential facilities are more likely to be repeatedly sexually victimized and have multiple perpetrators.

WHO COMMITS SEXUAL ASSAULT AGAINST PEOPLE WITH DISABILITIES?

It may be hard to believe that someone would hurt a person who uses a wheelchair or someone who has any type of impairment. Persons who sexually offend against people with disabilities may be paid or volunteer caregivers, family members, intimate partners, disability service providers, friends, acquaintances, special transit bus drivers, or strangers. The most likely sexual predators though are persons who are known to the individual with a disability. Between 1977 and 1983, the Seattle Rape Relief Project found that 99 percent of victims with developmental disabilities were sexually assaulted by a relative or caregiver (Wisconsin Planning Council on Developmental Disabilities, 1991). Between 1995 and 1998, SafePlace (in Austin, Texas) found that at least 57 percent of sexual abuse survivors with disabilities who entered counseling at the agency had multiple perpetrators and 71 percent reported multiple incidents of sexual assault in their lifetime. In addition, 73 percent of clients with

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disabilities reported sexual victimization by friends, acquaintances, intimate partners, family members, and/or paid caregivers.

TIPS FOR WORKING WITH SEXUAL ABUSE SURVIVORS WITH DISABILITIES

Persons with disabilities face increased risks to sexual assault or abuse and they deserve access to the same services as survivors without disabilities. The challenge for sexual assault centers is to find ways to make all services accessible to all people, regardless of their abilities or disabilities. **Crisis intervention** can be an effective means of healing for sexual abuse survivors with disabilities. **Counseling** can help the person with a disability deal with the effects of the abuse and help prevent subsequent victimization. People with disabilities are a very heterogeneous group. They will be very different from one another in skills and in needs. Assumptions should not be made about a person's abilities based on his or her appearance. Instead, the person should be asked what support they will need from you.

Referrals

It is important to keep in mind that the survivor with a disability may not self-refer for services. A survivor may not self-refer for a variety of reasons including: limited or lack of access to telephone, difficulties with communication, and unawareness of community resources such as a rape crisis center. It is important to remember that the survivor with a disability may not want services and the survivor's decision should be respected even if the referral source requests that the individual have intervention services. The referral source may have ideas about how intervention should proceed which may be in conflict with the needs of the survivor with a disability. It is important to follow the needs of the survivor rather than the suggested needs by the referral source when there is inconsistency between the two.

Tips for Communication:

- Survivors of sexual assault who have disabilities deal with similar challenges to mental health that all survivors must face. As an advocate, it is important to realize that communicating with a survivor who has a disability may require additional time.
- Start where the client chooses even if it does not seem relevant to sexual assault. Persons with disabilities tend to have people enter and leave their lives on a frequent basis. It may take extra time to build rapport and trust with a survivor with a disability.
- When communicating with an individual with a disability, listen and ask them to repeat if you do not understand them. Do not pretend that you understand if you do not. You might paraphrase what they are saying to ensure that you understand them correctly. Encourage the client with a disability to ask questions, ask if he or she understands, and be sure that he or she is with you before moving on. If the individual has difficulty expressing him or herself with words, you might try role plays, picture books, or art drawings to assist the person in expressing his or her feelings or the concept.

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- When introduced to a person who has a disability, it is appropriate to offer to shake hands. People with limited hand use or who wear an artificial limb can usually shake hands.
- When meeting a person with a visual impairment, always identify yourself and others who may be with you. When conversing in a group, remember to identify the person to whom you are speaking. Describe materials such as videos or visual cues or materials that a person who is blind or visually impaired may not be able to see.
- If you offer assistance, wait until the offer is accepted. Then listen to or ask for instructions.
- Treat adults as adults regardless of their disability. Address people who have disabilities by their first names only when extending that same familiarity to all others. Never patronize people who use wheelchairs by patting them on the head or shoulder. Never treat adults as children nor refer to adults with disabilities as children.
- Leaning or hanging on a person's wheelchair or scooter is similar to leaning or hanging on a person and is generally considered annoying. The chair is part of the personal body space of the person who uses it.
- Listen attentively when you are talking with a person who has difficulty speaking. Be patient and wait for the person to finish, rather than correcting or speaking for the person. If necessary, ask short questions that require short answers, a nod or a shake of the head. Never pretend to understand if you are having difficulty doing so. Instead, repeat what you have understood and allow the person to respond. The response will clue in and guide your understanding.
- When speaking with a person in a wheelchair or a person who uses crutches, place yourself at eye level in front of the person to facilitate conversation. This will limit the possibility that the individual will strain his or her neck when conversing with you.
- To get the attention of a person who is hearing-impaired or deaf, tap the person on the shoulder or wave your hand. Look directly at the person and speak clearly, slowly and expressively to establish if the person can read your lips. Not all people who are deaf or hearing impaired can lip-read. For those who do lip-read, be sensitive to their needs by placing yourself facing the light source and keeping hands, cigarettes and food away from your mouth when speaking. When a sign language interpreter is utilized, speak directly to the person rather than the interpreter. When communicating with someone who is deaf or hearing impaired, it is better to utilize concrete examples rather than abstract concepts or euphemisms.
- When communicating with a person who has a cognitive impairment, present your ideas or questions in concrete rather than abstract terms. Use simple language and break complicated instructions or information into smaller parts. Keep sentences

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short and speak slowly and clearly. If the individual does not seem to understand you, repeat the information or ask in a different format.

- Relax. Do not be embarrassed if you happen to use accepted, common expressions such as “See you later,” or “Did you hear about this,” that seem to relate to the person’s disability.
- Be patient and take time when giving or asking for information.
- Go slowly in getting information about the sexual assault incident(s). Remember that many people with disabilities have extremely limited knowledge of private parts, sexual activity, and have been told not to talk about sexuality.

EDUCATION AS A COMPONENT OF COUNSELING

Persons with disabilities may live in over-protective environments and may not be given opportunities to take risks or make decisions. Realize that the survivor with disabilities may have a limited vocabulary of feeling words and may need basic education about feelings. Describe what counseling is. Give them a list of available services.

Survivors with disabilities are frequently sexually re-victimized during their lifetime and may have limited knowledge about their body and/or self-protection. Accurate and appropriate sexuality education is rarely provided to individuals with disabilities, despite its critical role in preventing sexual abuse and in promoting healthy relationships. Clients with disabilities may need assurance that they have the right to be safe. They also may need information on self-protection, how to know when a situation is dangerous, how to say no to an unwanted sexual touch, and the importance of telling someone if abuse occurs. Be aware that many persons with disabilities tend to be taught to be compliant, so teaching exceptions to compliance may be a confusing concept.

REPORTING SEXUAL ABUSE

A majority of suspected cases of sexual abuse against people with disabilities are not reported. Public citizens and professionals are mandated to report any suspected case of sexual or physical abuse, neglect, or exploitation against people with disabilities to the Texas Department of Family and Protective Services (DFPS). In 1998, there were approximately 52,000 cases of suspected abuse against older adults or people with disabilities reported to DFPS. Approximately 1 percent of these reports were of sexual violence and approximately 10 percent of the reports of sexual abuse were validated. All residents of the State of Texas are required by law to report any and all suspected abuse of any type of against persons with disabilities. Often, there is no medical evidence to substantiate sexual abuse, but this does not mean that abuse did not occur. It is recommended that volunteers inform their supervisor when making a report to DFPS. The telephone number to report suspected abuse, neglect, or exploitation of children or adults with disabilities is 1-800-252-5400. Reports can also be made online at www.txabusehotline.org.

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FIRST LANGUAGE

Language is an important factor in the way that information is communicated. All people deserve the right to be treated with dignity and respect. People First Language is the recommendation that when referring to an individual, refer to the person first and then to the situation, condition or disability – if it is relevant.

Utilizing People First terminology represents a change in how language has been used as an identifier in the past. Sometimes though, people with disabilities and their families may refer to themselves in a way that would not be sensitive coming from a person without a disability. Do not correct their preferred way of referring to themselves or loved one with a disability.

EXAMPLES OF PEOPLE FIRST LANGUAGE	TO REPLACE
People (or person) with disabilities	The disabled, handicapped, special, gimp, charity case
People (or person) who experience disabilities	Suffers from, afflicted, victim, special needs, diseased, poor, unfortunate
People (or person) who have a cognitive disability	Stupid, dumb
People (or person) who have mental retardation	Retard, retarded, mentally retarded
Person who has a physical disability	Crippled, wheelchair bound, confined to a wheelchair
Person who uses a wheelchair	Physically challenged, differently abled, ill, gimp
Person with a hearing, speech or vision impairment	The deaf, the blind, deaf and dumb

Prepared by Wendie H. Abramson, LMSW, Director of the Personal Safety Awareness Center of SafePlace, Austin, Texas. The Personal Safety Awareness Center is a statewide abuse prevention project targeted to people with disabilities. For more information contact SafePlace: Domestic Violence and Sexual Assault Survival Center at (512) 385-5181.

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Gay/Lesbian/Bisexual/Transgendered Survivors

If the advocates' core beliefs will not allow affirming homosexuality, bisexuality and transgenders, then working with these groups will cause more harm than good, so you should facilitate such individuals transfer to an advocate or counselor who can be affirming. Survivors are already sufficiently fearful of being disbelieved or rejected by service providers, and they are quite sensitive to any such signs.

To be called homosexual, gay or lesbian an individual must self-identify as one and prefer the same gender on many levels: sexually, emotionally, intellectually and physically. The bisexual label has been a cover for some gays unable to tolerate the homophobia of society and who found the label more acceptable than the homosexual one. However, many people who identify openly in this way are trying to acknowledge the fact that, no matter what their preference, their attractions both to men and to women are real and important in their lives. Transgenderism refers to a range of individuals who are living as the opposite sex, (with or without surgical reassignment) cross-dressing for a period of time, or earning a living working in the dress of the opposite sex.

An assumption prevails that all people are heterosexual, and that heterosexuality is right, correct and normal. Based on this assumption, organizations, policies, and structures that only benefit and acknowledge heterosexuality and heterosexuals exclude and put down individuals of another sexual orientation. Forms, printed materials and language when on the phone or in person need to be gender neutral, which means not using a pronoun or sex-specific label unless the person gives one.

When people, regardless of sexual orientation, suffer sexual assault, common behavioral and somatic reactions include psychological distress that often leads people to question their own worth. When individuals are attacked because they are perceived to be other than heterosexual, the consequences of victimization mix with those of societal heterosexism to create a unique set of challenges for the survivor to overcome. Perhaps most important is that the survivor's sexual orientation becomes directly linked to the heightened sense of vulnerability that follows victimization. One's orientation may be experienced as a source of pain and punishment, (e.g., internalized homophobia for the gay/lesbian/bisexual/transgender). That internal hatred, fear and disgust may reappear or be intensified. Self-blame/self-disgust can lead to feelings of depression and helplessness even in individuals comfortable with their sexual orientation.

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- **Incident:** Sexual assault most often occurs to women. Gay men and transgendered individuals also are targeted for sexual assault. Male-male sexual assault is largely an invisible problem in our society, it often is assumed to occur only in prisons and similar settings. As with sexual assault of females by males, male-male sexual assault is a crime of violence, often anti-gay violence, rather than a crime of sexuality. Lesbians and gay men of color are at increased risk for attack because of their orientation. Another unique problem may be that lesbians may be directly targeted for sexual assault by anti-gay attackers or raped opportunistically (when the perpetrator of another crime inadvertently discovers his victim is a lesbian).
- **Aftermath Issues:** The aftermath of victimization for gays and lesbians is affected by the survivor's stage in the coming out process. Those who are out have already faced a major threat to their self-esteem. Those who are still in the early stages of coming out will probably not have the social support and developed gay identity that can increase their psychological resilience and coping skills. A survivor lacking a positive interpretation, may have feelings especially vulnerable to others' influence, and they may accept feelings of helplessness, depression and low self-esteem. Survivors who are still not "out" may choose to avoid the public disclosure of their sexual orientation in such a potentially hostile setting as a police station, and thus not report the victimization.

Reactions to being violated sexually will be similar to those experienced by heterosexual women. However, there are some specific issues with lesbian/gay/bisexual/transgender survivors. There is the fear of reporting or disclosing the assault, for not only will the assault be an issue, but sexual orientation will be an issue as well. This may be true with the discrimination or judgmental reaction from family, friends, the community and service providers. There are few services available for lesbians, and those for gay men and transgendered are nonexistent. Survivors may feel they either have to remain silent and deny sexual orientation, which will foster shame and internalized homophobia, or disclose sexual orientation and risk discrimination or physical harm.

Working with gay/lesbian/bisexual/transgender survivors will require the service provider to confront personal interpretations and beliefs about this population. It is important for service providers to address their own issues of personal, social and cultural homophobia before trying to provide services to the group. To keep an advocate from re-victimizing the survivor because of the advocate's particular beliefs and prejudices an advocate uncomfortable working with this population should not work with them. Be aware during a period in the coming out process some gay men/lesbians will prefer receiving services from the gay community, with gay providers. So be willing to refer out and know of resources in the community for them.

Without cultural sensitivity to this community, it is virtually impossible to provide meaningful, supportive services. To gain some cultural sensitivity, service providers can educate themselves about the culture and participate in cultural activities. Service providers can seek out opportunities to educate themselves about gay/lesbian/bisexual and transgender culture and to participate in cultural activities.

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Lesbians and gay men are often less likely to be supported in their own communities than are heterosexual survivors of sexual assault so it is important to acknowledge the assault with survivors and tell them it is not less likely to have occurred because same-sex partners were involved. Also, encourage reporting the assault. The fear of reprisal/non-belief from law enforcement personnel may discourage the possibility of reporting.

Often survivors of gay/lesbian/bisexual/transgender sexual assault are not out to family members and/or are not supported by members of their community. They are afraid of drawing attention to the community or, because of internalized homophobia, they may somehow deem their assault to be less important than heterosexual assault. It is important to listen to them and their concerns. They need to be assured the assault is not something they should have expected to experience because of the inferior life they lead. Some individuals may view the assault as a part of the punishment meted against them for their life. It is important to acknowledge the effects of religious teaching since many gay men and lesbians have been taught from childhood that the life they lead is immoral because it violates religious tenets.

Support the strengths and abilities of the survivor because the survivor is usually hyperaware of personal weaknesses. Focus on empowerment. It is often assumed that, contrary to heterosexual relationships in which there are usually clear power imbalances, there can be no power imbalances involving same-sex partners. Although there are no gender differences between partners, gays/lesbians may have less economic power and almost always have less social power than heterosexuals. Survivors do not need to be blamed or shamed. Many lesbians/gays have a heightened fear of abandonment/loss that may be attributed to feeling different and set apart as children, or losses experienced from disclosing their orientation to family members and friends.

All workers can serve as change agents by helping their agencies and other service providers be more responsive and affirming to gay/lesbian/bisexual and transgendered survivors of sexual assault.

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 CATEGORIES OF
SEXUAL ABUSE

- ▼ Acquaintance/Date Rape
 - ▼ Marital Rape
 - ▼ Sexual Harassment
 - ▼ Stalking
 - ▼ Substance-Facilitated Sexual Assault
 - ▼ Ritual Abuse
 - ▼ Sexual Exploitation by Helping Professionals
-

CATEGORIES OF SEXUAL ABUSE

Sexual violence can include several kinds of crimes; rape, incest, sexual harassment, child molestation, marital rape, exposure and voyeurism. Ninety percent of all rapes are planned and, in 87 percent of the cases the assailant either carried a weapon or threatened the victim with death or bodily injury if he/she resisted. Offenders have other means at their disposal to intimidate. These include the use or threat of force, trickery, coercion, or bribery. Generally, the offender takes advantage of some power imbalance, such as age, size, strength development, knowledge, status, to humiliate, violate and control the victim.

Acquaintance/Date Rape

Acquaintance rape is sexual assault by someone known to the victim. The offender can be anyone from the person who sacks the victims groceries to a relative or boyfriend. Date rape is, by definition, sexual assault that occurs while on a date or between persons who expect to have (or already have) an intimate relationship. According to a 1987 study done by Mary Koss, more than 3/4 of the rapes reported in this country are committed by someone known to the victim: current or former husband, boyfriend, relative, friend, friend of a friend, brief acquaintance, date, neighbor or fellow worker. Fifty-seven percent of these sexual assaults occurred on dates. In 1998, 74 percent of rape or sexual assault victims knew their offenders and 18 percent of the victims were assaulted by an intimate partner (Bureau of Justice Statistics, 2001).



The myths about this type of sexual assault are still prevalent. These myths are often a major factor in the fear and distrust of reporting. Others—and even the survivor—perceive the attack as the fault of the victim. The myth that date rape is an act of passion, not violence, is a distortion that increases victim blaming.

Another pervasive myth about date rape is that the victim provokes it. This mistaken belief holds that women ask to be raped through their actions or dress. In fact, studies demonstrate that 71 percent of rapes are planned in advance (Groth, 1979), making irrelevant the survivor's demeanor or apparel at the time of the rape. Men may overestimate their date's interest in sex and may later feel led on, which some males regard as justifying a rape. Situations that were rated as most indicative that the woman wanted sex were those in which the woman asked the man out, went to his apartment, or let him pay the dating expenses. Sex

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may or may not have been the goal, but the ultimate decision to proceed or to decline still lies with each individual (Muchlenhard and Linton. 1987).

Another fallacy about acquaintance/date rape is that people agree to sexual intercourse and then later change their mind and cry rape. According to the FBI, an estimated 2 percent of all reported rapes are considered false reports—the same as for any other crime (Bureau of Justice Statistics, 2001).

Primary targets of acquaintance rape or date rape are girls and women in their last year of high school, freshman year of college or in the summer between high school and college. Acquaintance rapes tend to occur primarily on weekends and are usually committed in the rapist's own environment. The date rapist rarely uses lethal weapons relying instead on verbal threats and physical force to intimidate and overpower. The sexual assault tends to be longer in duration—sometimes stretching over hours—and is likely to occur on first or blind dates. While the aforementioned seem to be common factors of acquaintance rape, remember, anyone can be a potential victim.

THE ROOTS AND EXTENT OF ACQUAINTANCE RAPE

In our society, many males and females have been taught half-truths about the other sex. Males are taught to "score" with women; they believe women say "no" but really mean "yes" and just need a little persuasion. On the other hand, females believe that flirting is an innocent and harmless game that everyone plays. Yet women are taught they are responsible if things get out of hand. All too frequently, the result of this social conditioning is rape—a rape that both survivor and rapist may rationalize as being something less.

Students age 14 to 18 were asked under which circumstances it was okay for a male to force sex on a female.

CIRCUMSTANCES:

	Males	Females
	agreeing	agreeing
She is going to have sex with him, then changes her mind	54%	31%
She has led him on	54%	26%
She gets him sexually excited	51%	42%
They have dated for a long time	43%	32%
She lets him touch her above the waist	39%	28%

(Goodchilds et al., 1988)

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Survivors of sexual assault respond to the assault experience according to societal programming. The survivors of acquaintance rape must deal with cultural attitudes about sex and violence. Violence is often seen as a normal part of sexuality. Force is often seen as justified. Violence itself is eroticized. Sometimes it is merely a means to sex, and in some cases, sex is a means to violence. So it is no wonder that with this socialization a victim of acquaintance rape attempts to rationalize the situation and make it less than a criminal offense.

In a study by Dr. Mary Koss of Kent State University (1987) "Sexual Victimization of College Women," found that about 3 percent of college women experienced a completed and/or attempted rape during a college year. About 1.7 percent of the college women reported being coerced to have sex. Most of these women knew the person that assaulted them. Even though the legal definition of rape fits the victimization experienced by these women, the study found that in about half of the incidents, the women did not consider the incident rape (National Institute of Justice, Bureau of Justice Statistics, 2000).

ACQUAINTANCE RAPE SURVIVORS

Because of societal attitudes, acquaintance rape survivors usually do not report the crime or seek help. Survivors tend to feel ashamed, guilty, depressed and angry with themselves. The trust and integrity of a relationship has been shattered. They could blame themselves for the rape and they no longer feel in control of their lives and betrayed by their own judgment. Survivors may find themselves in the position of having to face their rapist again, particularly in school settings. Since most acquaintance rapes are not reported to law enforcement agencies or rape crisis centers, the survivor deals with these intense feelings alone.

Survivors of acquaintance rape often have trouble identifying why. They may have been told that they were a tease or asked for it. The offender may apologize for it and deliver a long list of rationalizations.

Everyone has the right to control his/her own body and to make decisions about having sex. When survivors disclose feeling guilty, they are assuming responsibility for the assault, and questioning their behavior in a desperate effort to answer the question, "Why did it happen?" Shame and embarrassment show a fear of how others will respond, "Will they say it was a sexual experience, not an assault?" Thus, there is reluctance to tell others.

The acquaintance rape survivor suffers from an inability to trust. The rape is a devastating act of betrayal because someone the victim trusted or maybe loved assaulted them. This betrayal of trust influences the immediate decision making process, "Who can I tell? Can anyone be trusted? Will anyone believe me?"

The assault may also have a long-term impact on the survivor. Lack of support compounds the survivor's emotional reactions and a tendency to assist in resolving it. Thus, denial of the emotional impact of the assault can occur without crisis intervention counseling. Without intervention, victims of acquaintance rape may develop lifestyles of being exploited and victimized. An acquaintance rape survivor may not realize that they have personal rights or control over their own body. An inability to trust others may result in losing the capacity for intimacy.

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Acquaintance rape survivors may also have a fear of

- retaliation, since they are known by the rapist (address, etc.);
- subsequent harassment;
- future harm;
- harassment by family and friends of rapist; and/or
- returning to normal routine (particularly if the rapist is part of this routine).

Of particular concern is the adolescent survivor. Of all age groups, the most at risk for sexual assault are adolescents and the most common type of assault to happen to adolescents is acquaintance/date rape (Ageton, 1983). Koss (1988) and Mandoki & Burkhart (1989) both found a significant number of survivors (41 percent and 59 percent respectively) were virgins at the time of their assault. According to Burkhart and Sherry (in press), the inexperience and naiveté of adolescent survivors not only increases their vulnerability to assault, but is also likely to reduce their ability to cope with the victimization.

Family Reactions to Acquaintance Rape

The data on family reactions to acquaintance rape are limited because relatively few families are given the chance to react to acquaintance rape. Because of pressures (based on society's attitudes and expected codes of conduct) on the survivor to keep the rape a secret, only a small percentage of acquaintance rape survivors reveal the assault to their families. A study by Ageton, 1983, revealed that only twenty-two percent told their families.

The reasons victims give for not telling family members include:

- The victim wishes to protect the family from upsetting news. Victims in this category felt that they could handle the rape, but family members could not.
- Value conflicts with the family led some victims to feel that the family would not understand because of their attitudes about rape, their religious orientation, or their disapproval of the survivor's lifestyle, thus blaming the survivor for the rape.
- The survivors wished to maintain their independence. Adolescents, dealing developmentally with establishing their own identity and eventual independence from the family, felt that telling parents would restrict their independence.
- Some survivors felt psychologically distant from their families.
- Some adolescents were geographically distant from family members, usually away from home at school or living in another type of residence.

THE ACQUAINTANCE RAPIST

Acquaintance or date rape follows the same motivation as rape by a stranger. It is an act of violence, not passion. It is an expression of anger, power, dominance and control, not sexual frustration.

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Incarcerated rapists denied the incident for which they were convicted was a rape. Many of these, although they used physical force and injured their victims, saw their behavior as congruent with consensual sexual activity (Scully and Marolla, 1982).

When asked, 30 percent of college men who were surveyed said they would rape if they were assured of not getting caught (Check and Malamuth, 1983).

When college men were asked to agree or disagree with specific statements regarding their attitudes about sexual behavior:

- 91.3 percent agreed they like to dominate women.
- 83.5 percent agreed that some women look like they are just asking to be raped.
- 63.5 percent agreed that they get excited when a woman struggles over sex (Greendlinger and Byrne, 1987).

Some rapists prefer to know their victims. They are able to get closer to them or trap them in a vulnerable position without arousing suspicion—they know whether their intended victims live alone, when they are alone and their routines. An acquaintance rapist gains the confidence and trust of his intended victim and manipulates it to isolate and violate.

The advantages of this type of assault for the rapist include: the information possessed and the victim's trust make the victim reluctant to be cautious for fear of offending the date/acquaintance. All of these make the attack easier. One added disadvantage for the victim: they are often unable to identify the extent of the danger until past a safety point.

Py Bateman, founder of Alternatives to Fear, an organization concerned with prevention and avoidance, identifies three main stages of acquaintance rape: intrusion, desensitization and isolation.

At the intrusion stage, the rapist violates the victim's space in some way. By using unwanted touches, uncomfortable looks or very personal conversation, rather than overt threats, there is less sense of a threat to the victim. The goal is to make the victim feel comfortable.

The rapist switches to the desensitization stage when sensing that the victim is used to the intrusions. The victim's guard has been dropped and the offender's behavior has been accepted as natural. The victim tries to push aside the sensation of uneasiness.

At the point of isolation, the victim is alone with the offender. The victim may have been raised to be polite, to accept the preferences of a date, and may not want to hurt his feelings. Suppression of the survivor's feelings and true fears may be something learned. People who might otherwise react assertively to the same situation with a stranger may be quite passive with a date.

ACQUAINTANCE RAPE AVOIDANCE TIPS

No one deserves to be raped. There are some danger signals to watch for that may point to potential acquaintance rapists. A person who does not listen to or chooses to ignore limits is not sensitive to another person's needs. This is the sign of someone for whom consent is not important in physical intimacy. If anger is a typical response when limits are set, then this

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may be someone who cannot allow another to confront them. The offender may be a person on a power trip. By repeatedly ignoring "no," the offender may be trying to elevate the level of fear.

- **Communicate**—Make your expectations and limits clear. Say “no” when you mean no and "yes" when you mean yes. Make sure that your body (e.g., tone of voice, posture, gestures, etc.) is giving the same message that your words are.
- **Trust your intuition**—If you feel uncomfortable or uneasy in a situation, then get out as soon as you can. You might run the risk of embarrassing yourself but better that than to be sexually assaulted.
- **Know your limits**—Decide before the date what your sexual limits are. How can you effectively communicate your limits if you do not know what they are?
- **Avoid isolated areas**—Be cautious of isolated areas (such as empty houses, abandoned buildings, lovers lanes, etc.) It is much more difficult to get help if there is no one nearby to hear you.
- **Be aware**—Know what is going on around you. Know where you are, who is with you and around you.
- **Date information**—Find out where you are going and what time you will be home and then tell someone! Make sure someone knows where you are. Checking with him/her at a pre-arranged time.

DATING RIGHTS

- I have the right to refuse a date without feeling guilty.
- I have the right to ask for a date without being crushed if the answer is "no."
- I have the right to choose to go somewhere alone without having to pair up with someone.
- I have the right not to act macho or seductive.
- I have the right to say "no" to physical closeness.
- I have the right to say "I want to know you better before I become involved."
- I have the right to an equal relationship with the opposite sex.
- I have the right not to be abused physically, sexually, or emotionally.
- I have the right to change my goals whenever I want.
- I have the right to say "I don't want to be in this relationship any longer."

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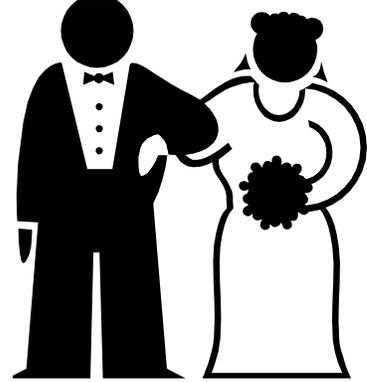
Marital Rape

Marital rape is the term used to describe nonconsensual sexual acts between a woman/man and her husband/wife, ex-husband/ex-wife, or intimate long-term partner. These sexual acts can include: intercourse, anal or oral sex, forced sexual behavior with other individuals, and other unwanted, painful, and humiliating sexual activities. It is rape if one partner uses force, threats, or intimidation to get the other to submit to sexual acts.

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It is illegal in all 50 states for one spouse to rape the other spouse. Some states, including, Texas, have gender-neutral laws which apply to both spouses. Although Texas was relatively late in doing away with marital exemptions for rape (1994), the state is currently one of only seventeen states to completely abolish all marital exemptions. The majority of states still include additional legal burdens on wives in charging husbands with sexual assault. By statute in Texas, marital rape is treated identically to other sexual assaults. A victim can make charges in the same manner as with other sexual assault cases.

In reality, very few marital rape cases have been successfully prosecuted in criminal court in the United States. This is not said to discourage survivors from going through the criminal justice system, but rather to illustrate the difficulty in getting a grand jury to return an indictment in this kind of sexual assault case. Some women have chosen to sue their husbands/ex-husbands in civil court where the burden of proof is not as heavy.



TYPES OF MARITAL RAPE

Source: License to Rape: Sexual Abuse of Wives by Finklehor & Yllo (1987)

- **Battering Rape**—This involves forced sex combined with beatings. This type of sexual assault is primarily motivated by anger towards the victim. The sexual abuse is either part of the entire physical abuse incident or is a result of the husband later asking his wife to prove she forgives him for the beating by having sex with him.
- **Force-Only Rape**—The husband uses only as much force is necessary to coerce his wife into sexual activity. This type of sexual assault is primarily motivated by the need for power over the victim. This husband/rapist generally does not see himself as being abusive. In his mind, he is merely asserting his right to have sex with his wife on demand. This is the most common type of marital rape.
- **Obsessive Rape**—The person's sexual interests run toward the strange and perverse, and s/he is willing (or even has a preference) to use force to carry these activities out. This is the least common, yet arguably the most physically damaging, type of marital rape.

It is important to note that, although battered women are more at risk for marital rape than their non-battered counterparts, some men will rape their wives and never beat them and vice versa. These issues may be inter-linked or seemingly unrelated. Do not make assumptions about victimization based on partial facts.

SCOPE OF THE PROBLEM

Conservative estimates are that 10–15 percent of wives are raped by their husbands. It is difficult to get accurate figures because perception of marital rape is a problem within society as a whole but also among wives themselves. Many women, for whatever reason, will not be open to the possibility that their husbands can rape them, no matter what the law. Many

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individuals will view marital rape as an unpleasant but not particularly serious part of a marital squabble. Wives are likely to blame themselves for driving their husbands to do it, just as many women will try to take responsibility for causing their husbands to hit them.

Reporting of marital rape is likely to remain low as long as it is not viewed as real rape, because there is no stranger, no weapon, and no death threat. Marital rape is not a disagreement over sex but a seriously damaging criminal act.

There is the myth that marital rape is a one time occurrence, a husband overcome by frustration or lust, or perhaps a disagreeable wife who is withholding sex to punish a husband for some imagined infraction. In actuality, marital rape is likely to be a repeated incident.

In addition to forced vaginal intercourse, many wives are subjected to other types of sexual abuse by their spouses including: oral/anal penetration, rape with objects, genitals or breasts bitten or mutilated, forced sex with a person of their husband's choosing, or forced engagement in sexual activity in the presence of others (such as children).

IMPACT OF MARITAL RAPE ON THE SURVIVOR

Women who are raped by someone with whom they share a life, home, and family experience profound psychological injuries. They are not only violated sexually but their intimate relationship has been betrayed as well. This is perhaps the most private and personalized form of betrayal they could imagine.

Survivors of marital rape generally experience the acute fear of being assaulted again and again, a deep-seated mistrust in their chosen life-partners, self-doubt regarding their responsibility in the assault, etc. They commonly will suffer from residual effects years after an assault, even when in new relationships such as an inability to trust any man, aversion to sex or real intimacy, intense and sometimes unspecific anger towards people in general. These symptoms are aggravated by the fact that most people still see marital rape as somehow being less serious than other rape, consequently they may receive limited support from others.

When providing crisis intervention or advocacy for domestic violence victims, remember to ask questions that address the possibility of their sexual, as well as physical victimization. This frequently cannot be determined by bluntly asking, "Have you been raped by your husband?" If their personal belief system does not include the possibility of husbands raping their wives they will not answer affirmatively, regardless of the circumstances. It makes sense to be more specific and use less-charged language in your initial intake, such as. "Has your husband ever made you have sex when you didn't want to?" or, "Has your husband ever held you down to make you submit to sex?" or "Has your husband ever made you do something sexually that you clearly did not want to engage in?" This may give you a more accurate picture of the actual victimization she may be experiencing and prepare you for how to best assist or refer your client.

Survivors of marital rape need on-going and unconditional support from advocates (and ideally their friends and family). Remember they may not self-identify as a rape victim/survivor. It is not important whether or not they accept this label. Do not try to change a

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survivor's religious beliefs or value system to reflect the legal definition of sexual assault or to bring her in line with your way of thinking. Advocates must be willing to assist all survivors with their issues, as they see them. Offer non-judging support and resources to marital rape victims, even if they do not recognize the full extent of their victimization.

Sexual Harassment

Sexual harassment is any deliberate or repeated sexual behavior that is unwelcome to its recipient, as well as other sex-related behaviors that are hostile, offensive, or degrading.

Victim advocates are hearing from an increasing number of clients who have a primary complaint of sexual harassment. This is not necessarily because the incidence of sexual harassment is skyrocketing but rather because survivors of harassment have only recently been acknowledged as being victims of sexual abuse.

Limited resources and limited personnel at rape crisis centers have often necessitated that sexual harassment be a very low priority. Victims of sexual harassment frequently did not know that support and services were available for them through their local rape crisis center. Consequently, they did not call hotlines or visit outreach offices. Sexual harassment was most often dealt with as a secondary complaint or when it had escalated into rape. As individuals become more aware of their rights they may also feel entitled to services to help them cope with their ordeal. Sexual assault advocates should have a working knowledge about the dynamics of sexual harassment and an adequate grasp of what resources and remedies are available to its victims.

THERE ARE BASICALLY TWO TYPES OF SEXUAL HARASSMENT:

Quid Pro Quo Sexual favors are openly or implicitly suggested as a condition of employment (e.g. "Have sex with me or you are fired," "If you want that promotion you'll have to sleep with me," etc.)

Hostile Environment This is sexual conduct that is unwelcome and sufficiently severe and pervasive to create a hostile working environment or hostile educational environment. This could include: sexual jokes, lewd posters, leering, inappropriate touching, rape, etc. In schools at any level of education, the U.S. Department of Education has advised that a single instance of sexual assault against a student is enough to constitute a hostile environment. For less severe examples, patterns are important; a single crude remark or request for a date would not qualify. This type of sexual harassment comprises 95 percent of total cases.

HOW COMMON IS SEXUAL HARASSMENT?

Statistics vary, however, most women will experience sexual harassment at least once during their academic or professional careers. Only about 5 percent of sexually harassed women will make a formal complaint and about 2 percent will seek outside action. Although sexual harassment is more commonly experienced by women, some men are the targets of sexual harassment as well. Their harassers may be male or female and the same legal remedies are available to them.

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Sexual harassment is so prevalent that the impact in the workplace or school is tremendous. The negative consequences of sexual harassment to the employee and the employer are well-documented. A person who is sexually harassed is likely to experience:

- emotional & physical consequences
- poor concentration at work
- stress on their personal relationships
- fear or anxiety
- debilitating depression
- sleep or weight problems
- alcohol or drug abuse

The costs associated with sexual harassment may be high to the employer or school also. These costs may include:

- staff turnover
- increased absenteeism
- tarnished company reputation
- increased pay outs for sick leave & medical benefits
- vulnerability to hostile confrontations
- legal & consultant costs
- lower staff productivity
- poor staff morale
- less teamwork

THE LAW

There are several sections of federal law that pertain to sexual harassment: Title VII, Title IX, and the Campus SaVE Act. Title VII of the 1964 Civil Rights Acts prohibits discrimination on the basis of race, color, religion, or gender. In 1977, the Supreme Court affirmed that sexual harassment is a form of sexual discrimination and is thereby covered under The Civil Rights Act. Title IX refers to the Education Amendments added to the Civil Rights Act in 1972. This prohibited sex discrimination in public schools and colleges that receive money from the federal government. In 2013, Congress enacted the Campus SaVE Act, which expanded and clarified schools' requirements in responding to sexual harassment. In a nutshell, Title VII will pertain to workplace sexual harassment and Title IX covers sexual harassment in schools. Rape crisis centers should have a copy/summary of these laws available at their center. This will provide useful information such as filing deadlines, etc.

To stay in compliance with the law, employers have three primary obligations when an employee makes an allegation of sexual harassment:

- To fully inform the complainant of their rights
- To fully and effectively investigate the alleged incident(s)
- To promptly and effectively remedy the situation. The law requires more than a request to stop the conduct.

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To comply with federal requirements, schools must ensure several requirements are met, including:

- Notify students of their rights to report sexual victimizations to law enforcement, to obtain protective orders, to have existing protective orders enforced on campus, and to contact local advocacy, counseling, health, mental health, and legal assistance services.
- Notify students who report victimization of options to change academic, living, working, and transportation situations if reasonably available.
- Honor any lawful protective order or no-contact order.
- Disclose the range of possible sanctions that may be imposed on a perpetrator.
- Detail the procedures victimized students should follow if a sexual offense occurs.
- Summarize the school's disciplinary procedures, including complainants' right to prompt and equitable proceedings and the right of both complainants and respondents to be notified in writing of the outcome of a proceeding within 1 day of the decision.
- Ensure disciplinary proceedings are conducted by personnel trained on sexual assault and intimate partner violence, and that the preponderance of the evidence standard is used in such proceedings.

SUGGESTIONS FOR HANDLING SEXUAL HARASSMENT

- If safe and practical, talk to the harasser. Tell that person, in plain language, that the behavior must stop. This may also be handled through a letter rather than a direct conversation.
- Keep a log with specific dates, times, locations, possible witnesses, etc.
- Talk to a supervisor, formally or informally. If your direct supervisor is the harasser, go to the next level of management.
- Contact the Personnel Office or Human Resources Department. Large employers, have departments that are likely to have staff prepared to deal with sexual harassment allegations.
- File a formal complaint. If the problem cannot be resolved at a lower level it may become necessary to file a formal complaint through an internal procedure or with an outside source.
- When the sexual assault survivor is also a student, the sexual assault often is *both* a crime and sexual harassment. That means the survivor may have multiple remedies that can be pursued at once.

Stalking

WHAT IS STALKING?

Stalking occurs when a person intentionally and knowingly engages in a behavior that is directed towards another person that would cause a reasonable individual to fear for his/her

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safety or the safety of their immediate family. This could include: maintaining close visual or physical contact (e.g., following, spying, watching, etc.) or making overt or implied verbal or written threats to a person on at least two occasions (e.g., phone calls, letters, messages, e-mail, etc.).

Our best current estimates reflect that approximately 200,000 Americans are stalked at this time. One in twenty women will become stalking targets and about one in seventy-six men will as well. At least 80 percent of stalkers are men, primarily stalking women. Most are young to middle-aged, with above average intelligence. Almost three quarters of stalking victims are female; one quarter are males. An overwhelming majority of male stalking victims are being stalked by males.

There are two broad categories of stalkers. The most common type is the Simple Obsession Stalker. This stalker has had some kind of prior personal relationship with the victim. This accounts for about 75 percent to 80 percent of all stalkers. In summary, this is a person who cannot let go. The other type is the Love Obsession Stalker. There was no previous relationship between the victim and the stalker, except perhaps in the stalker's mind. This stalker has delusional thought patterns. He is inclined to live out his fantasies when the victim does not follow the script.

There are some common characteristics shared by many stalkers. These personality traits can be seen as warning signs of potential danger:

- Jealous in nature
- Obsessive and compulsive
- Falls in love at first sight
- Extremely manipulative
- Very self-centered or arrogant
- Not responsible for own actions or feelings
- Controlling
- Socially inadequate or awkward
- Feels he/she is always the victim of others
- Sneaky
- Will not take no for an answer
- Violent mood swings, especially between love & hate
- Often of above average intelligence
- Tremendous sense of entitlement
- Does not cope well with rejection
- Confuses their fantasies with the reality of the situation

Many stalkers are former intimate partners or casual dates of the victim and the threat of physical or sexual violence is often implied or clearly stated. For this reason, rape crisis centers and domestic violence shelters will often be called by stalking victims searching for assistance. Advocates will be most effective if they stay current on the anti-stalking laws and can adequately provide information to victims who are experiencing this unique brand of terrorism.

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ANTI-STALKING LAW IN TEXAS

In March 1993, Texas' first anti-stalking law was passed. Unfortunately the language of this law was later deemed unconstitutionally vague by higher courts. The very first bill signed into law during the following legislative session was a more strict version of the same anti-stalking legislation. The new anti-stalking law (Penal Code 42.072) became effective on January 28, 1997.

This law forbids the following actions by the stalker or other(s) who act on his/her behalf:

On more than one occasion and pursuant to the same scheme or course of conduct directed at a specific person, following; placing a person under surveillance; making threats; restraining; confining; or engaging in behavior or threats that the actor knows or reasonably should know will cause the victim or member of the victim's family or household to fear bodily injury, death, or damage to his/her property.

The first stalking conviction is a Class A misdemeanor, with a maximum penalty of one year in jail and a \$4000 fine. Any subsequent convictions are third degree felonies and can carry a penalty of up to a 10-year prison term and a \$10,000 fine.

Stalking can be difficult to prove. The advocate can provide valuable information on developing safety plans for potential stalking victims, as well as helping a stalking victim build a prosecutable case. One method for building a stalking case is to keep a journal of stalking incidents, including dates, locations and witnesses.

SAFETY PLAN FOR STALKING VICTIMS

Early intervention is always best, as waiting tends to intensify the obsession. There are certain pre-stalking behaviors that generally signal that there may be trouble ahead. At the first sign of discomfort, the potential stalking victim could try to clearly communicate his/her desire to sever all ties with the other person. When attempting to cut off all contact she may state directly what behaviors she has seen, how it makes her feel, and that she does not want to continue any type of relationship. This can be done in a non-accusatory fashion, firmly but with plenty of "I" statements.

On occasion, despite the clearest message of non-interest, a person will attempt to continue (or develop) a relationship with a disinterested party. This situation can run the gamut from annoying to extremely dangerous. The advocate should never try to minimize the potential risks for the victim. What may seem harmless or inconsequential at first glance may actually become very explosive in a short span of time. Stalking victims should be encouraged to take the utmost caution concerning their personal safety.

Stalking victims can be offered detailed suggestions on residential, office and school security. This is true for measures concerning safety in their vehicles and other personal security information. A stalking victim may need to be extra sensitive suspicious to potential personal information getting in the wrong hands. Many police departments can offer safety plans to individuals who feel threatened in this manner. Additionally, there are websites that specific-

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ally cater to potential stalking victims and offer information and support in this area. Some stalking victims can benefit from protective orders. Fear of the criminal justice system will stop 20 percent to 30 percent of all stalkers. Other victims are in such grave danger that they resort to permanent relocation. There is detailed information available as to the most effective means of accomplishing this feat.

BUILDING A PROSECUTABLE CASE

There are ways that a victim can improve her/his chance of a prosecutable case of stalking. It generally involves meticulous documentation. This thorough paper-trail will assist law enforcement in presenting a solid case for possible prosecution. The following steps are concrete ways a victim can strengthen a case against a stalker:

- Have a thorough understanding of her state's anti-stalking law.
- Keep detailed records of all encounters.
- Keep a personal copy of all applicable police reports.
- Make sure all law enforcement jurisdictions in her area have copies of the reports.
- Report every incident, every time.
- Request that all police reports make reference to her prior reports.
- Keep all potential evidence, no matter how seemingly insignificant.
- Stay in constant contact with the detectives assigned to your case.
- Save all forms of communication.
- Use Caller ID or Call Trace (if available in your area).
- Ask anyone who has had contact with the stalker to provide documentation as well.
- Obtain a Protective Order.
- Videotape the stalker in the act (if safe to do so).
- Contact a victim's advocate group for support & assistance.

Stalking is a very dangerous and damaging type of victimization. It can leave the victim feeling extremely vulnerable and fearful, even without overt threats to her personal safety. It is best to treat all incidences of stalking seriously, regardless of how mundane the situation may seem in the beginning. Like other types of intimate violence it has a tendency to escalate in frequency and severity.

Substance-Facilitated Sexual Assault

The link between alcohol and sexual assault is a strong one. Research has shown that the use of alcohol is the single largest determining factor in a sexual assault. Alcohol use and sexual assault among teens and young adults is undisputedly entwined. 50 percent of young men who perpetrated an acquaintance rape had been using alcohol (Abbey et al 2004). In addition, 68 percent of young women who were victims of acquaintance rape had also been drinking (Fisher et. al. (2003)). "Alcohol is the most related factor to sexual aggression" (Kerns 1996). This is not to say that the use of alcohol explains why sexual violence is so prevalent, but it does suggest that society needs a better understanding of how alcohol and drug use may add to the chances that a particular individual may offend or be victimized.

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ALCOHOL

The effects of alcohol on men and women can make a sexual assault more likely to occur. Men often see themselves as "more powerful, sexual, aggressive, and believe alcohol increases their sexuality and women's interest in having sex. In addition, many rapists use alcohol as a means to an end; purposefully getting a 'date' drunk and then raping her.

Afterwards, the victim is viewed as being at least partially responsible for the attack. If the perpetrator was drinking as well, the alcohol makes an easy excuse for his behavior after the fact.



Women or men drinking alcohol are frequently seen as easier targets. On many levels, it reduces their ability to protect themselves. She/he may not realize the situation has become dangerous. Thinking is impaired and the victim may miss the danger signals. It is generally harder to avoid or handle conflict while intoxicated. It is harder to leave a disagreement or risky circumstances while inebriated. Perceptions of others are not as clear. She/he

may miss major indicators of a problem or miss clues to the perpetrators behavior/motives, etc. It is also difficult to set limits or communicate clearly about sex when intoxicated. Additionally, the victim's ability to resist physically or verbally is seriously impaired.

Although alcohol or drug use increases one's vulnerability to sexual assault, advocates should be careful not to suggest that a survivor who has been drinking or using drugs is responsible for their own assault. The choice to victimize someone rests solely upon the abuser. Similarly, the use of drugs or alcohol does not lessen the responsibility of the offender for the assault.

DIMINISHED CAPACITY

Sexual activity by individuals who are impaired by drugs or alcohol can be a very tricky proposition. Questions frequently come up about consent issues when both/all parties are intoxicated. Be prepared to handle questions, comments, and challenges about why an individual can be charged with sexual assault for having sex with a drunk or stoned person and yet they are as messed up as the other actor. It is helpful to have a working understanding of diminished capacity. It is imperative that the public, especially young people, know that there are serious legal implications to having sex with someone who is drunk, especially of the falling down drunk variety.

The law is clear that certain individuals do not have the capacity to consent. They include, but are not limited to, anyone who is sleeping, drugged, passed out, unconscious, mentally incapacitated, etc. Young people should learn that if they are in doubt about the person's ability to give consent, even in the slightest, it is best for all parties concerned not to engage in sexual activity.

"DATE RAPE" DRUGS

Alcohol is the original date rape drug and it is not likely to be replaced any time in the near future. In fact, virtually any drug can



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be misused to serve the purpose of incapacitating an individual for the purpose of sexual victimization. “Date rape drugs” is a tag put on a few specific drugs that have shown their potential for helping facilitate a sexual assault. Because of the prevalence, availability, and potential for abuse of these drugs, we will discuss them in some detail. Please remember, however, that many other drugs may be substituted and have the same effects. A sexual assault that has been carried out by drugging a victim with Benadryl is no less serious than an assault where GHB was the drug of choice.

In recent years, offenders have used a variety of inexpensive, easy to obtain drugs to incapacitate and sexually victimize an individual. These drugs are often administered to the unsuspecting targeted person. Other times, the person ingests drugs voluntarily for recreational purposes and while incapacitated is sexually abused.

Texas, due to our shared border with Mexico which makes access to some drugs easier than in many other states, is a hotbed for drugs like Rohypnol and other benzodiazepines. To a lesser degree, there are other drugs with more limited access such as Ketamine.

ROHYPNOL (ROOFIES, ROPE, ROACH, RIB, ROCHEs, ETC.)

This drug is illegal to sell, make, or possess in the USA. It is, however, legal in many countries, particularly in Europe and Latin America. Its legitimate purposes are primarily to treat insomnia and as a pre-anesthetic medication.

Effects (starts working 10-15 min. after ingestion, peaks 1-2 hr’s. later, can last 8 hr’s, residual effects for 24 hr’s.)

- dizziness/nausea
- disorientation
- drowsiness
- low blood pressure
- visual disturbances
- unconsciousness
- memory loss/amnesia
- skeletal-muscular relaxation (difficulty speaking or moving)

Additional factors which make this drug so popular are that it is tasteless, easy to get, inexpensive, dissolves quickly and is odorless. When mixed with alcohol, the drug effect is tripled. It remains in the victim's urine for 3 days or less. Drugs such as Valium, Librium, and Klonopin and other benzodiazepines, are often substituted for Rohypnol and the effects are very similar.

GAMMA HYDROXY BUTYRATE AND ITS ANALOGS GAMMA BUTYROLACTONE AND 1,4 BUTANEDIOL

This GHB is illegal to sell, make or possess (although possession in Texas is currently only a misdemeanor). It is legal in Europe where it is primarily used for treating narcolepsy, and in France as an anti-depressant. In addition, it has been used for alcohol withdrawal and Japanese and American bodybuilders have illegally used it to bulk up. When ingested, GHB’s

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analogs, or chemical cousins, are quickly transformed into GHB with the same effects. These analogs can be found in products like fingernail polish remover and wheel cleaners. It is legal to possess these analogs.

Effects (starts working 5-15 min. after ingestion, lasts about 3 hr's.)

- extreme intoxication
- impaired judgment and decision making
- enhanced sexual feelings
- unconsciousness
- nausea/vomiting
- dizziness
- seizures
- respiratory arrest
- memory loss/amnesia

Additional factors: easy to obtain, easy to manufacture, inexpensive. Even small amounts of alcohol or antibiotics react with GHB and can cause overdose. Urine test must be taken in less than 12 hours.

OTHER POTENTIAL DATE RAPE DRUGS:

Ketamine (KIT KAT, Special K): legal for veterinarians to use as an anesthetic. It is in a class of drugs known as a Dissociative Anesthetic, which causes an out of body experience. Effects are similar to PCP and include:

- Vivid hallucinations and possibly extreme delirium
- memory loss/amnesia
- stroke and cardiac arrest
- cessation of breathing, brain damage and death
- poor coordination

What all these drugs have in common is the very real potential for being an aid in perpetuating a sexual assault scenario. These drugs are generally easy to get, inexpensive, fast-acting, incapacitating, and unfortunately share the quality of causing anterograde amnesia. This last factor alone makes drug-induced sexual assaults extremely damaging.

As difficult as it is for a survivor to remember the details of a sexual assault, it is even more devastating to the survivor to experience significant memory lapses. The survivor then uses his/her imagination to fill in the gaps and this can prove to be overwhelming.

Often the unknown is even worse than the realized victimization. These survivors are left with lingering doubts about details such as: the number of perpetrators, acts forced upon them, whether pictures or videos were taken, whether people witnessed the assault, fears that it will show up on the internet, etc. Advocates need to be very cautious that they do not unintentionally help the survivor fill in the gaps. This will be damaging to their emotional well-being, as well as to any potential legal action.

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Realistically, prosecuting a substance-related sexual assault is even more difficult than other sexual assaults. This is especially true for victims who knowingly ingested drugs or alcohol. This lends itself very well to victim blaming. Other potential complications to prosecution include the memory loss that many drugged victims' experience. While the lack of specific details of the assault can be a challenge to the investigation, memory loss itself can be evidence of symptoms that are consistent with drugging which may support the investigation. Symptoms of drug and/or alcohol use, including memory loss should be noted and shared with investigators.

Keep in mind: the victim is likely to need a lot of reassurance and on-going support.

Ritual Abuse

Ritual abuse is a brutal form of abuse of children, adolescents, and adults consisting of physical, sexual and psychological abuse, and involving the use of various kinds of rituals. Ritual abuse is not necessarily Satanic, although some survivors report they were ritually abused to indoctrinate them into Satanic beliefs and practices. Ritual abuse usually involves repeated abuse over an extended period of time.

The physical abuse is severe, sometimes even to the point of torture. Victims younger than six suffer the most severe and long-standing emotional damage from the abuse, and they are particularly susceptible to being terrorized and indoctrinated into the abuser's belief system. Young victims who are being ritually abused without the knowledge of their parents are usually subjected only to physical abuse that is not easily detected, such as submerging the victim in water with the perception of near drowning, withholding food or water for several hours, and sleep deprivation.

Ritual abuse of adolescents, or the forced participation of adolescents in the ritual abuse of others, can take place in family or school settings, or in youth gangs which orient themselves toward a self-styled Satanism or other ritualistic violence. During and even long after the abuse, victims live in a state of terror and suffer from the impact of mind control techniques. All this makes disclosure of the abuse an exceedingly difficult, terrifying and painful experience.

Many adults who are victims and/or perpetrators of ritual abuse came under the influence of such beliefs and practices in their childhood or adolescence and may subsequently have one or more, often severe dissociative disorders. A dissociative disorder is characterized by a subjective sense of numbing, separating one's awareness from one's body, reduced awareness of one's surroundings, selective amnesia, and a sense of the self or the outside world being unreal. Dissociative disorders include post-traumatic stress disorder and dissociative identity disorder (formerly called multiple personality disorder), an extreme form of dissociative disorder. For adults never previously exposed to ritual abuse, enticements to join a group may include sexual promiscuity and perversion, the availability of illicit drugs, the promise of money or power, and a distorted spirituality, characterized by abuse of power and moral license. Whether ritual abuse first has influence early or later in life, victims and/or perpetrators sometimes are working members of society, and their secret participation (past or present) in such activities would not be guessed by casual friends or neighbors.

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Ritual sexual abuse is unusually painful, sadistic, and humiliating. The damage is far more severe than the harm usually inflicted by a pedophile or in the context of intrafamilial (incestuous) sexual abuse. The ritualized abuse is intended as a means of gaining total dominance over the victim, as well as being an end in itself. Actions may include repeated sexual assaults by men, women and other children, individually or in groups; the use of instruments for penetration of body orifices, including symbolic objects or weapons; or forced sexual contact with animals.

The psychological abuse is devastating and involves the use of indoctrination, which may include mind control techniques, mind-altering drugs, and ritual intimidation, all of which produce a profound terror of the perpetrators and the powers that victims believe the perpetrators have. Mind control could occur through an elaborate system of brainwashing, programming, indoctrination, hypnosis, and various mind-altering drugs. The purpose of these techniques is to compel victims to keep the secret of their abuse, to conform to the beliefs and behaviors of the group, and to become functioning members who, without being detected within society at large, will serve the group by carrying out the leaders' directives..

The emotional consequences of ritual abuse and mind control for adult and child survivors include:

- **Terror: an overwhelming, profound fear.**
They are hypervigilant and feel as though they are constantly being watched. They are anxious and agitated, sometimes mistakenly perceived as hyperactive.
- **Guilt and fear of discovery.**
Ritually abused children experience profound fear of punishment and loss of love from family and friends. They have been made to feel they freely chose to participate in heinous acts, and they are responsible for their actions. Therefore, they are especially fearful the authorities will find them responsible and punish them for participating in sexually violent behavior.
- **Loneliness.**
If abused ritually outside of their families, children feel painfully cut off from their families and deeply lonely. This kind of emotional estrangement from their parents is often accompanied by profound despair.
- **Identification with the group.**
A sense of personal badness. Ritually abused children tend to identify personally with the evil performed by the group; this identification may lead to physically and sexually assaultive, compulsive behaviors.
- **Rage over victimization.**
Perpetrators encourage child victims to act out their anger by assaulting others. Then perpetrators tell children the assault shows they are truly becoming members of the abusive group, thereby heightening children's sense of hopelessness and entrapment.
- **Loss of sense of self.**
Ritual abuse victims feel a loss of boundaries between the self and group. Often,

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they become so identified with the group that they feel like an extension of it. This loss of the sense of self contributes to feelings of personal badness and rage.

- **Loss of free will.**

After repeatedly feeling victimized, powerless, and helpless, the victim is burdened by guilt and shame but still feels there is no choice but to comply.

As with all traumatic experiences, ritualized abuse has profound and long-lasting impact on victims' beliefs, feelings, and behavior, even though victims may not consciously remember the abuse. Should the story of their abuse be told, the victims' credibility is often questioned because this kind of abuse is so far beyond the range of normal experience. All sexual abuse leaves some emotional scars. Profound ritual abuse may be so shattering that victims may require many years of therapy with a highly skilled therapist to help them painstakingly reconstruct what happened and to learn to trust again.

Sexual Exploitation by Helping Professionals

Since the early 1970s, numerous studies in the U.S. have documented the prevalence of sexual contact between a variety of helping professionals and their clients/patients. An early study of physicians (psychiatrists, obstetrician/gynecologists, surgeons, internists, and general practitioners), showed 13 percent of those surveyed stated they had engaged in some form of erotic behavior with patients, which ranged from kissing to sexual intercourse (Sheldon H. Kardener, Marielle Fuller & Ivan N. Mensh, *A Survey of Physicians' Attitudes & Practices Regarding Erotic and Non-erotic Contact with Patients*, 130 Am. J. Psychiatry 1077 (1973)). Subsequent studies focused specifically on the sexual involvement of psychologists, psychotherapists, or other health care providers with their patients. In one survey of practicing therapists 70 percent reported they were aware of at least one patient who had been sexually involved with a previous therapist. Studies consistently report as many as 90 percent of patients who have had some sexual contact with a health care provider or other helping professional suffer some kind of damage, including sexual dysfunction, anxiety disorders, depression, increased risk of suicide, internalized feelings of guilt, shame, anger, confusion, worthlessness, and loss of trust. (Nanette Gartrell et al., *Psychiatrist-Patient Sexual Contact: Results of a Nat'l Survey, I. Prevalence*, 143, Am J. Psychiatry 1126 (1986); Kenneth Pope, *Therapist-Patient Sex Syndrome: A Guide for Attorneys*, in *Sexual Exploitation In Professional Relationships*, 45 (Glen O. Garbbard ed. 1989).



In spite of the prevalence of sexual exploitation of clients by professional helpers, the incidence of reporting such abuse is low, variously estimated at 4 to 8 percent of actual incidents. (Nanette Gartrell et al., *Reporting Practices of Psychiatrists Who Knew of Sexual Misconduct by Colleagues*, 57 Am. J. Orthopsychiatry, 287-293 (1987)). One reason for the low reporting rate is that clients often take several years to recognize the harm done to them. To address the specific needs of sexually exploited patients, some states have begun to extend the statute of limitations beyond those applicable in usual malpractice cases.

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Sexual contact of any kind between a helping professional and a client/patient is universally regarded as unethical and, in every licensed profession, can be grounds for malpractice and possible loss of licensure. With increasing frequency, states are enacting legislation specifically targeted at the professional/client-patient relationship. In some states, sexual contact between a client and a helping professional is a criminal offense. Even in states where it is not a criminal offense, sexual exploitation of a client by any professional – physician, attorney, clergy, chiropractor, dentist or others – may constitute grounds for a lawsuit. In states where sexual contact with a patient is a felony offense, all but one (Maine) say that consent from the patient is not a legal defense.

Sexual exploitation of the professional-client relationship is so heinous because the relationship has a special characteristic: the professional has the duty of care, meaning that the professional's role is to protect the interests of that patient and to avoid doing anything that would harm the client or benefit the professional at the client's expense. The helping professional is, by definition, in a position of greater power and authority. Many professions consider their members to have a "fiduciary" relationship with clients and patients. Originating in estate law, the definition of "fiduciary" has extended to include any relationship in which one party places trust and confidence in the other, more powerful party. The more powerful party is said to have "fiduciary duty" toward the less powerful party; therefore, any exploitation of a client is unethical, not only because it harms the client, but also because the professional is deemed to have violated his/her fiduciary duty.

Although exploitation can occur in any professional–client relationship, the relationship between client and therapist is perhaps the most susceptible because of the relationship's special characteristics. The client or patient is vulnerable and trusts the therapist to help her/him feel better. The therapeutic relationship is particularly intimate because the therapist hears the client's most private thoughts, feelings, and experiences. This intimacy lends itself to sexual acting out. According to the American Psychiatric Association, "The necessary intensity of the therapeutic relationship may tend to activate sexual and other needs and fantasies on the part of both patient and therapist, while weakening the objectivity necessary for control." (American Psychiatric Association, *The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry*, section 2.1, p.7A –17A (1985).

Additionally, the issue of transference can sometimes help to sexualize the therapy. Transference refers to the way in which clients transfer positive and negative feelings about others in their lives to the therapist. Transference occurs in all therapeutic relationships and is a necessary occurrence. The patient's positive transference enables a therapist to help the patient. However, difficulties arise when the therapist is unable to recognize the transference for what it is and counter-transfers his/her own feelings back to the client in a sexual manner.

A Minnesota court aptly described the situation:

1. The therapist must encourage the patient to express her transferred feelings, while rejecting her erotic advances; at the same time, he must explain to the patient that her feelings are not really for him, but that she is using him in a symbolic role to react to some other significant person in her life. In short, the therapist must both encourage transference and discourage certain aspects of it. This may be difficult to do and presents an occupational risk. The therapeutic

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alliance in this situation gives rise to a duty, imposed by professional standards of care as well as ethical standards of behavior, to refrain from a personal relationship with the patient, whether during or outside therapy sessions. This is because the personal relationship infects the therapy treatment, rendering it ineffective and even harmful (*St. Paul Fire and Marine Ins. Co. v. Love*, 459 N.W. 2nd 698, 701 Minn. 1990).

Exploited patients tend to have only three common characteristics. They frequently are vulnerable, female, and much younger than the therapist (Gary R. Schoener et al., *Psychotherapists' Sexual Involvement with Clients: Intervention and Prevention* (1989)). The profile of therapists who sexually exploit include psychopathic repeat offenders, those in the midst of their own marital or mid-life difficulties, and those who feel lonely and vulnerable and gradually become more involved with a particular patient, first through minor non-sexual boundary violations and eventually through sexual contact (*Sexual Exploitation in Professional Relationships*, p. 83-87, Glen O. Gabbard, ed., 1989).

Sexually exploited clients have remedies in three categories: licensing board complaints, civil lawsuits, and criminal complaints.

Licensing standards vary considerably among states and professions. The most severe penalty is the loss of a license to practice, which does not necessarily mean the therapist can never practice again. The licensing authority is responsible for proving the case (*Licensing Board vs. Therapist*).

In civil lawsuits, the client must hire his/her own attorney and sue the therapist directly (*Client vs. Therapist*). The burden of proof is on the client. The applicable standard of proof is the preponderance of the evidence. The best outcome the client can hope for the court to order the therapist to pay the client a monetary award.

In criminal proceedings, the client does not bring the suit and does not have to hire an attorney; the state prosecutes (*State vs. Therapist*). The burden of proof is "proof beyond a reasonable doubt." The best outcome for the client would be a criminal sanction (fines, probation, incarceration, or all of these) against the therapist.

With the victim of abuse by a therapist (or other helping professional), the advocate has the same role as with any other client, with the additional caveat that it is important to understand the special dynamics inherent in this kind of professional-client relationship and the potential ramifications of the betrayal for the victim.

SPECIAL ISSUES

Prostitution and Sex Work

Women working as sex workers have been portrayed by some as victims of exploitation and abuse, and by others as workers in a profession stigmatized by a sexually repressed society. The debate about the status, treatment and motivation of prostitutes can be traced to ancient Greek and Roman times (Bullough & Bullough, 1987; Decker, 1979), and although it may be discussed in slightly different terms, continues throughout history. Unfortunately, the attention given to the debate may diminish the attention given to services needed by sex workers.

In the ancient Near East, ancient Rome, and ancient Greece, sex work was considered necessary for social order, by “providing a necessary sexual outlet for men while simultaneously cutting down on adulterous relationships”/(sex with a prostitute was not considered adultery)/(Decker, 1979, p. 76). From at least 600 BC through the early 1600s, government taxation and regulation of sex workers waxed and waned as societal attitudes for and against prostitution changed during these centuries (Bullough & Bullough, 1987; Decker, 1979). In sixth century Europe, earlier restrictions which had been placed on sex workers were eliminated and replaced with harsh penalties for procurers (Decker, 1979). In fact this action, taken by the Roman leader Justinian, was coupled with what may have been the first program designed to rehabilitate the sex worker (Decker, 1979). General consensus on the importance of regulating sex work does not seem to have occurred until the Reformation of the sixteenth century (Bullough & Bullough, 1987; Decker, 1979). At this time, the serious health threat of venereal disease seems to have been the major motivation for the regulation of prostitution (Bullough & Bullough, 1987).

In the frontier West in the United States, sex work grew during the 1800s. Many women who traveled west have been described as adventurers who were not happy with life on the farm, and "did not find prostitution so reprehensible that they wouldn't engage in it" (Decker, 1979, p. 60). As in the East, sex work in the West was generally prohibited, but tolerated by law enforcement (Decker, 1979). Some western communities regulated sex workers by segregating brothels and conducting medical exams on the prostitutes (Decker, 1979).

By the mid-1800s, philanthropic groups had begun to develop rehabilitation programs for young women to prevent them from entering, or to rescue them from, a life of sex work (Bullough & Bullough, 1987). Organizations such as the Magdalen Society, Female Reform Society, or the American Female Guardian Society, provided services such as housing, training (usually in housework), and job placement (Bullough & Bullough, 1987). At the turn

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of the century, movements concerned with morals, venereal disease, women's issues, alcohol prohibition, and white slavery (for example, the international trade in women for prostitution) coincided to temporarily reduce tolerance for sex work and bring an end to regulated sex work (Addams, 1912; Decker, 1979). Josephine Butler is frequently credited with leading the movement to abolish regulation of sex work (Bullough & Bullough, 1987; Roberts, 1992; Rosen 1982). Viewing forced medical exams as a form of rape, and regulation as a means of maintaining women in a life of sex work, she worked successfully to repeal the Contagious Disease Acts of 1864, 1866, and 1869, which had required registration and forced medical exams of prostitutes (Bullough & Bullough, 1987; Roberts, 1992; Rosen, 1982). Butler believed that sex workers were victims of economic injustice and a sexual double standard (Bullough & Bullough, 1987). Although Butler did not support the institution of prostitution, she felt that prohibition and regulation of sex workers served to further victimize prostitute women (Bullough & Bullough, 1987). Butler eventually distanced herself from the abolition movement, which had become more repressive to women as the focus changed from the abolition of regulation to the abolition of sex work itself (Pheterson, 1989).

In 1908, the United States joined the 1904 International Agreement for the Suppression of White Slave Traffic, in which countries agreed to take action against international prostitution (Barry, 1979; Barry, Bunch, & Castley, 1984; Bullough & Bullough, 1987; Decker, 1979). In 1910, the United States passed the White Slave Traffic Act, also known as the Mann Act, which prohibited interstate or international travel for the purpose of prostitution (Barry, 1979; Barry et al., 1984; Bullough & Bullough, 1987; Decker, 1979). Although these laws stopped regulated prostitution, and temporarily impacted tolerated prostitution, illegal prostitution continued. Although prostitution is prohibited in all states except Nevada, it is tolerated in varying degrees across the country. Most forms of sex work which do not involve intimate physical contact with a customer, such as telephone sex, peep shows, topless dancing, and nude dancing, are legal, though regulated.

THE DEBATE ON SEX WORK

The continuing and current public policy debate over sex work exists primarily between some feminists and women escaping the sex trade industry on one side, and other feminists and women in the sex trade industry who want to be considered legitimate workers on the other side. Although many people believe that all feminists recognize sex work as victimization (MacKinnon, 1987), women who consider themselves feminists do not all speak with the same voice on this issue (Bell, 1987; Delacoste & Alexander, 1987; Pheterson, 1989). Most feminists and sex workers who have written on the subject advocate that sex workers not be criminally liable for engaging in sex work. Almost all feminists and sex workers also acknowledge the abuse endured by sex workers and the poor social, political, and economic condition of all women in general (Hunter, 1994; Pheterson, 1989). Beyond these similarities, a few distinct points of view emerge. Some feminists and women escaping the sex trade industry contend that sex work should be entirely outlawed because it is a form of victimization of women perpetrated by a patriarchal system which wants to maintain men's right to sexual access to women (Dworkin, 1987; MacKinnon, 1987). This group of women is frequently referred to as prostitution abolitionists (Barry et al., 1984; MacKinnon, 1987). Another group of feminists and sex trade workers, frequently referred to as sex workers' rights groups, claim sex workers are businesswomen who should simply be granted the same freedom to work—and the same worker protections—as any other worker (Bell, 1987; Delacoste & Alexander, 1987; Jenness, 1993; Pheterson, 1989). These sex workers' rights

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groups are not victims, except of puritanical mores and oppressive laws; they want sex work legalized or decriminalized. Finally, other feminists and activists have attempted to find a middle ground between these positions by acknowledging the violence most sex workers experience, but also favoring incremental reforms to make sex workers safer and to improve women's opportunities for education and advancement. This group contends that outlawing sex work would not eliminate the industry, because women are driven to engage in sex work by a combination of poverty, geographical displacement, and cultural gender inequality—factors unaffected by legal abolition.

SEX WORK AS VIOLENCE

Those supporting the abolition of sex work, such as Women Hurt In Systems of Prostitution Engaged in Revolt (WHISPER), and the National Coalition Against Domestic Violence (NCADV), “reject the lie that women freely choose prostitution from a whole array of economic alternatives that exist under civil equity” (Wynter, 1987, p. 269). Rather, these groups insist that in the United States, with its high rates of child abuse, wife-battering, rape, female-headed household poverty, lack of an equal rights amendment, and inequitable wages, women live with civil inequity which does not allow free choices, especially in regards to potentially life-threatening work. Supporters of these beliefs want sanctions against sex workers eliminated, but they want those who solicit, procure, or profit from sex work to be criminally liable.

Those who want to abolish prostitution challenge the notion that women freely choose to work in the sex trade industry. Many authors have noted that prostitution exists under conditions of poverty and economic hardship (Addams, 1912; Barry, 1979). For example, in the United States, women's incomes are only about two-thirds the income earned by men (Osberg, 1984). In addition, several studies focus on the relationship between prostitution and childhood sexual abuse (James, 1976; Silbert & Pines, 1981; Simons & Whitbeck, 1991). Data on prostitutes who have sought services to leave prostitution indicate that the majority (73 percent–85 percent) were victims of incest as children (Hunter, 1994), 90 percent were physically abused, and 98 percent were emotionally abused (Hunter, 1994).

SEX AS WORK

The advent of the sex workers' rights movement of the 1970s finally provided a forum for the sex worker to speak for herself. The sex workers' rights movement was founded on three general tenets, all of which are based on the right to self-determination. First, members of the movement do not believe that all sex work is forced, and in fact, believe that many women freely choose this work (Jenness, 1993; Pheterson, 1989). Second, they believe that sex work should be viewed and respected as legitimate work (Jenness, 1993; Pheterson, 1989). And third, they believe it is a violation of a woman's civil rights to be denied the opportunity to work as a sex worker (Jenness, 1993). These women “demand recognition as workers” as well as “freedom to financial autonomy...occupational choice...sexual self-determination...[and] worker's rights and protections” (International Committee on Prostitutes' Rights [ICPR], cited in Pheterson, 1986, pp. 192-197).

Contrary to the abolitionists' plan to support sex workers while trying to eliminate the institution of sex work, sex workers' rights groups and many sex workers reject “support which

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requires them to leave the profession” (ICPR, 1986, p. 192). Sex workers’ rights groups claim there is no difference in work in which a woman sells her hands, such as a typist, and work in which a woman sells her vagina, as in sex work (Jenness, 1990; Pheterson, 1989).

Sex workers and sex workers’ rights groups are concerned about the sexual violence, physical violence, and/or exploitation that the prostitutes suffer at the hands of customers, pimps, and the police. Yet, unlike those who rally for the abolition of sex work, those in favor of decriminalization want these abuses stopped by the enforcement of existing laws which prohibit kidnapping, assault, rape, and fraud. Those who support the decriminalization of prostitution and other forms of sex work point to the illegality of most sex work as one of the primary factors which leaves them vulnerable to abuse, rape, and exploitation (Pheterson, 1989).

Sex workers and sex workers’ rights groups reject the notion that female heterosexuality perpetuates male privilege and men’s dominance of women (Jenness, 1990). Many sex workers believe that it empowers all women for sex workers to charge men for what men expect all women to provide for free (Jenness, 1990). This conflicts with the view that the sex trade industry perpetuates men’s belief in their right to sexual access to all women (Barry et al., 1984; Dworkin, 1987; MacKinnon, 1987).

WHAT WE DO NOT KNOW ABOUT SEX WORKERS

Because of the nature of the population, sex workers are extremely difficult to study. One of the most prevalent problems is that researchers study one segment of sex workers, such as street prostitutes, and suggests that the findings are generalized to all sex workers. It is critical to understand that sex workers are a very diverse group. The work venues in sex work are diverse, ranging from legal (topless dancing) to regulated (brothel prostitution in Nevada) to illegal (street prostitution). The women who work as sex workers are diverse, representing all ethnicities, sexual orientations, socio-economic status, religions, abilities/disabilities, and educational levels.

Although there is an extremely limited body of research on sex work and violence, violence against sex workers is generally understood to be rampant. Barnard (1993) obtained data from 206 street sex workers in Glasgow, Scotland. Practically all of the women interviewed had been confronted with violent clients on at least one occasion. The study found that one of the main forces that placed women at risk for violence was lack of recourse to the law for legal protection. Miller and Schwartz (1994) conducted interviews with 16 street prostitutes in a correctional facility in a Midwestern city. Most of the participants were crack users. The results suggest that rape myths (“who asks for it” and “who deserves it”) were played out in the treatment of the women in the study. The researchers concluded that, based on some of the women’s reports, some male clients believed that because the women were in the social category of prostitute meant that they were available for verbal, physical, and sexual abuse. Data collected by the Counsel for Prostitution Alternatives (CPA) in Portland from 55 prostitutes who sought services to leave prostitution indicated that 78 percent had been raped an average of 33 times per year, 49 percent had been kidnapped, and 84 percent were victims of aggravated assault (Hunter, 1994). Silbert & Pines’ (1981) study with 200 street workers in San Francisco found that customer rape or clients victimized 70 percent of the participants an average of 31.3 times. While the data from CPA and Silbert & Pines do not reflect the experience of most sex workers, they certainly show that sex work can be danger-

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ous for some women. Finally, it is worth noting that several notorious serial murderers have targeted prostitutes as their victims (for example, the Green River killings in Washington).

In countries like the United States where most sex work is illegal, sex workers are frequently denied police protection, leaving sex workers vulnerable to exploitation, sexual and physical violence, arrest, and incarceration (Pheterson, 1989). For example, immigrant women who prostitute may be deported, and mothers who prostitute can lose custody of their children (Pheterson, 1989). In the U.S., most sex workers avoid seeking social services because of the stigma attached to sex work, the criminalization of prostitution and the potential implications for them as parents (Boyer et. al., 1993; Sloan, 1997; Weiner, 1996). Shedlin (1990) notes that sex workers have reported that “their greatest fear is that of being investigated by social service agencies and having their children taken away” (p. 138).

The Boyer “Needs Assessment of Sex Workers in Seattle” (1993) reported that the existing social services “are not prepared to deal with the unique issues of sex industry women” (p. 20). In a handful of cities, services including support groups, housing, job training, and assistance in applying for state and federal benefits are available to sex workers who want to escape the sex trade industry. However, few services exist for sex workers who cannot, or do not want to leave the sex trade industry, but may need assistance with some aspect of their lives. Two of the most common services directed at sex workers are needle exchange programs and STD prevention programs. Worldwide, few services exist that specifically address the needs of sex workers who have been victims of violent crime.

IMPLICATIONS FOR SEXUAL ASSAULT PROGRAMS

One of the issues on which feminists and sex workers on all sides of this issue agree is that sex workers are, or can be, victims of sexual violence, physical violence, psychological abuse, economic exploitation, kidnapping, torture, and murder. Recently, the Texas Association Against Sexual Assault (TAASA) adopted a pragmatic position on sex work which acknowledges the public policy debate, but makes services to sex workers, without moral or ideological judgment, a priority. TAASA’s resolution calls for sexual assault services to be provided for sex workers who are victims of sexual violence, appropriate referrals for those who want to leave the sex trade industry, and support for those who cannot or do not want to leave the sex trade industry.

At the same time that sexual assault programs are beginning to examine what they can do for sex workers, sex worker organizations are beginning to address the issue of violence. For many years, the Sydney, Australia, Sex Worker Outreach Project (SWOP) has distributed an “ugly mug” book to warn sex workers of dangerous customers. In another campaign, they developed outreach materials with the slogan “Strippers: We Support You,” the materials included information on topics such as STP’s, money management, worker rights, and agencies willing to provide crisis services to sex workers. SWOP is currently developing materials to address violence against sex workers. In the U.S., services to sex workers are scarce, despite the fact that this population is extremely vulnerable to crime.

Because sex workers rarely disclose their occupation to social service providers for fear of stigmas and arrest (Boyer et. al, 1993; Weiner, 1996), service providers do not always know when a client is involved in the sex industry, limiting the ability to meet the needs of clients that are specific to sex work. Women who are unable to hide their sex worker status are

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frequently the most vulnerable because they are either homeless, addicted to drugs or perhaps have serious health conditions (Weiner, 1996). Consequently, many women who reveal their status are turned away from social service programs (like domestic violence shelters or long-term alcohol and drug treatment) out of fear that they will compromise the programs by continuing to trade sex for drugs or money (Weiner, 1996). While some cities like Seattle, Portland, Minneapolis, and Buffalo have services that offer support groups, housing assistance, job training and counseling to sex workers who want to leave the life, few services exist to support sex workers who remain in the sex industry despite the fact that some of them may be in dire need of social services.

RECOMMENDATIONS

First, it is recommended that sexual assault advocates examine their own stereotypes and biases about sex workers. Despite one's own perspective, it is important to take your lead from the survivor. As with any survivor of sexual assault, it is important to remember to begin where the client is. A sex worker may fall anywhere along the continuum as to her experience with sex work: she may see it as exploitive and forced, or she may see it as a choice she has freely made. Do not impose your own beliefs on her.

Although most of your intervention with a sex worker will be just like that with any other survivor, there are some important differences. First, if the type of sex work in which the survivor is engaged is illegal, she may be reluctant to report the offense to the police. Your knowledge of police in your community will help you know the type of response she may receive if she reports the sexual assault. Although street workers are likely to be known to local law enforcement, off-street workers enjoy more obscurity and may be especially reluctant to expose themselves to the scrutiny of the criminal justice system. Unfortunately, the stigma faced by sex workers can reduce the likelihood of a successful prosecution in all but the most heinous cases. Second, prostitutes who are raped while engaging in prostitution are ineligible for Crime Victims' Compensation. Currently, CVC disallows benefits to anyone who becomes a victim while they are committing a crime.

Some sex workers may want and need assistance to leave sex work. Depending upon the circumstances, an array of services may be required, including housing, education, job training, financial assistance, child care, drug treatment, clothing, etc. The services needed may be beyond the scope of your agency. Unfortunately, the services needed may be beyond the scope of any agency in your community. The development of services, including outreach, is best done in collaboration with sex workers in your community.

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Spiritual Issues for Survivors

In recent years, research has yielded much new information about the impact of traumatic events on survivors' lives. For example, in addition to whatever physical injuries a survivor might sustain, a variety of emotional and psychological after-effects also arise. Trauma as intimate as a sexual assault has an impact on every aspect of a survivor's being. Spiritual/religious beliefs may provide comfort and strength to a survivor. But, individual belief systems can vary widely, even among adherents of one religion. This discussion will focus on potentially problematic ways that coping with assault can affect a belief system, and vice versa. Whether or not the survivor was a member of any organized religion, becoming the victim of a violent act can raise questions: "Why did this happen to me? Did I do something to deserve this? If such evil exists, how can one ever feel safe in the world? Is there a God? If so, where was He/She when this happened?"



Being the victim of violence shatters any illusion that we have an agreement with an omnipotent force guaranteeing our invulnerability. A traumatic event can disrupt our sense of connection with that higher power and create a "deeper feeling of a broken covenant" (Decker, Larry, National Center for Post-Traumatic Stress Disorder's Clinical Quarterly, vol. 5,1, Winter, 1995 1-3). At an even deeper level, all human beings nurture a hope that there is purpose and meaning to life, regardless of what tragedies occur. But it may take a survivor some time to reconnect with faith in that belief.

In the broadest sense, spirituality is a search for transcendent meaning and purpose to existence beyond the merely physical or psychological, whereas religion can be thought of as an "organized attempt to facilitate and interpret that search" (Ibid.) Spiritual themes and quest-

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ions have been expressed throughout the history of mankind in various ways such as art, music and literature. Some people have pursued these questions by subscribing to specific religious beliefs; others have pursued them in other ways. Whether or not one is a member of any organized religion, a sexual assault may injure the survivor's sense of spirituality. An assault often leads survivors to wonder if a Supreme Being is intimately involved in the affairs of humans and, if so, how was such evil allowed to happen?

While it is not necessary for the advocate to function as a spiritual counselor, it is important for the advocate to recognize and be open to addressing spiritual concerns the survivor expresses, even if they are raised indirectly. Concerns may differ, depending upon the survivor's prior spiritual beliefs or religious practice. Although one may place emphasis on the Passover in Egypt, the birth of the Buddha, the life of Jesus, the vision of Mohammed, the manifestations of Shiva, the ceremonies of American Indians, the universality of the Goddess or another philosophy, a survivor may be seriously challenged to find a way to incorporate being the victim of a violent event without it affecting the person's sense of meaning and purpose.

Problems may arise if a female survivor from the Judeo-Christian tradition strictly understands God as an omnipotent father, who decrees the proper relationship between men and women is one in which men have authority and women are subservient. A survivor from this spiritual perspective may find that anger toward the perpetrator cannot be separated from anger toward a God who seemingly failed to protect her. Similarly, a male survivor from the same tradition may judge himself by those patriarchal traditions and have difficulty reconciling the Biblical image of authoritative masculinity and his own experience of becoming a victim. Both may find it difficult to experience the nurturing, forgiving, compassionate, merciful qualities also attributed to the Judeo-Christian God.

A Muslim woman victimized by sexual assault may feel terrified of possible condemnation by Allah as well as alienation or ostracism by her family, because being the victim of a sexual assault is tantamount to violating the commandments of the Prophet. Although Islam requires male and female adherents to avoid illicit (unmarried) sexual relations at all costs, it emphasizes the responsibility of women to practice modesty requiring, for example, traditional women of Islam wear the hijab or veil so as not to tempt a man who may have difficulty "suppressing his natural urges completely" (Doi, Abdur Rahman, *Women in Society*, Center for Islamic Legal Studies, Ahmadu Bello University, Zaira, Nigeria, 1997). An Islamic woman in the process of trying to adapt to Western society may experience a deep spiritual conflict between her traditional beliefs and the more liberal lifestyle she encounters in Western society. Although it is common for many survivors to feel they, rather than the perpetrators, are responsible for assault, this tendency may be significantly magnified if the woman and her family subscribe to religious beliefs which reinforce the idea that women are responsible if men cannot control their impulses.

Nevertheless, incorporating a spiritual awareness into work with survivors can be extremely helpful to the survivor, providing the advocate facilitates rather than directs the spiritual aspect. For instance, while it is helpful for survivors to remember that everything physical is temporary and they are more than their physical bodies, introducing abstract metaphysical concepts may not help and, in fact, may lead to more confusion if the advocate randomly initiates such discussion. If addressing spiritual issues, it is important for the advocate to avoid appearing in any way to blame the victim including or implying:

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- The victim consciously or unconsciously allowed the assault;
- The survivor is morally deficient because he/she experiences emotional difficulties;
- The assault is the result of some behavior on the part of the survivor, in this or a past life;
- An omnipotent being caused or allowed the assault in order to promote the survivor's spiritual development (Adapted from King, H.M., CNYNet: Health and Environment, 6/95).

The possibility of forgiving the offender may not occur. But for some, survivors especially those reared in a religious tradition, the belief that he/she must forgive the perpetrator may present additional blocks to resolving the abuse. It is important to allow the survivor to raise this issue, when and if he/she is ready. An attempt by the advocate to introduce the subject of forgiveness before the survivor is ready may prevent the survivor from expressing natural and appropriate anger or hatred toward the perpetrator and delay recovery from the trauma. If forgiveness is an issue, it is important to help the survivor distinguish between forgiving the person and condoning or excusing the offender's behavior. For even the most spiritual, forgiveness cannot be accomplished by willpower. It is a process that evolves over time and can occur only when the survivor is ready to let go of the anger and to no longer allow the experience to dominate life. The survivor should be given permission not to forgive the perpetrator until he/she is ready, if ever. It is a process that may take years and for some, may never happen.

Probably the most important spiritual thing an advocate can do is to offer hope to the survivor. Yvonne Dolan, author of *Resolving Sexual Abuse*, writing about her own struggle with faith after sexual abuse, says:

Hope was not initially available to me from within, at least not in the sense of a strong belief that I was going to have a positive future. This initial difficulty in believing in a positive future is one of the most common symptoms of sexual abuse. But while hope was not initially accessible, endurance was available. By endurance, I am talking about the simple act of willing oneself to act "as if" you believe a positive future is possible, a message to the self that sounds something like, "I will stay alive; I WILL get through this somehow, even if I don't know how right now." It is perhaps more an act of will than a belief. Fortunately, endurance can lead eventually to hope, as it did for me. But the survivor has to endure long enough to find that hope.

Some survivors have described the work required to overcome the effects of sexual abuse/assault as a kind of Shamanic Journey. "In the Shamanic tradition, a person suffers a terrible trauma and survives it, although inevitably the process of survival requires every ounce of inner strength he or she can summon. Once the trauma is over, the act of moving beyond the trauma, coming to terms with it, healing from it, is the vehicle for becoming personally gifted and exceptional—in this case resulting in the role of ...Healer. Sexual abuse survivors are healers, too, initially of themselves, by necessity, and later, sometimes of others too" (Ibid.).

Dangers of Providing Confrontational Advice

Recently, while addressing an audience on the topic of rape, one of the authors was asked what advice he would offer to a woman confronted with a rape situation. All too familiar with this question, he replied that he could recommend a course of action only if the person asking the question would describe to him: first, the location of the confrontation; second, the personality of the hypothetical victim; and third, the type and motivation of the particular rapist.¹

This conditional response certainly disappointed the audience, for they wanted an all-purpose answer that could be easily remembered and serve all situations. Unfortunately, our research and experience indicate strongly that no one piece of advice will prove valid in all or even a majority of sexual assault situations.

As faculty members of the Behavioral Science Unit (BSU) at the FBI Academy, we are experienced in the study of sexual violence and have worked with investigators from law enforcement communities throughout the nation on over 1,000 rape cases. We have had the rare opportunity of personally interviewing serial rapists, and we have worked closely with professionals widely recognized for their research in, and their investigative and academic contributions to, the study of sexual violence—Dr. Ann Wolbert Burgess, University of Pennsylvania, who pioneered the identification of Rape Trauma Syndrome; Dr. Fred Berlin, Johns Hopkins Medical Center, who has led the field in treating sexual offenders with Depo-Provera; Dr. Park Elliott Dietz, University of Virginia, a recognized expert in forensic psychiatry; and Dr. A Nicholas Groth, former director of the sex offenders' treatment program in Somers, CT, among others.

Our research and experience indicate that there is no one specific way to deal with a rape situation. Groth and Birnbaum speak for the rapists themselves when they say, "Different motives operate in different offenders and, therefore, what might be successful in dissuading one type of assailant might, in fact, only aggravate the situation with a different type of offender."²

Consequently, we wish to first highlight the dangers of giving confrontational advice. To do so, we will report the highly conflicting advice offered by professed experts in the field and by convicted rapists, and we will analyze specific cases that demonstrate the predictability of sexual assault behavior. Second, we wish to discuss the three parameters of the sexual assault situation that might assist the potential victim in determining a reasonable course of action: 1) the confrontation environment, 2) the personality of the victim and 3) the type and motivation of the rapist. We understand that reason is necessarily clouded in unexpected confrontational situations, but we believe that consideration of these factors will yield better results for the victim than if she trusts one arbitrary response that might work or that might goad the assailant to further violence.

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

R.R. Hazelwood and A.W. Burgess, eds. *Practical Aspects of Rape Investigation: A Multidisciplinary Approach* (New York, NY; Elsevier Science Publishing Co., Inc., CRC Press).

A. Nicholas Groth and H. Jean Birnbaum, *Men Who Rape* (New York, NY: Plenum Publishing Corporation, 1979).

ADVICE FROM RAPISTS

Occasionally, one reads an article or observes a television program in which an individual interviews one or more rapists about what a potential victim should do when confronted with a rape situation. Such a representation has great impact on its audience because the advisors are real rapists! Who should know better than the offender what would deter his attack? To believe the advice, however, the audience must assume that all rapists are behaviorally like the one presented to it.

As part of an ongoing research project, members of the BSU ask this same question of men who have raped 10 or more victims. The men have given widely divergent answers as to what would have successfully deterred each one. Some say, "Tell them to scream, fight, claw like hell." Some, "Tell them to give in because the guy is going to rape her regardless of what he has to do." Some, "Tell her to pretend that she wants him so he will finish and leave." And others, "Tell her to bribe him with money." Which rapists should the potential victim listen to? The individual who presents rapists (and their advice) to an audience has an obligation to explain that the information provided is relevant only to the rapist providing it and should not be generalized to all rape situations.

EXPERTS IN THE FIELD

Over the years, programs and techniques have mushroomed that profess to provide potential victims with the key to deterring the rapist. These programs and techniques have grown out of a variety of professions, including law enforcement, criminology, sociology, mental health and crisis intervention.

They usually advocate one or some combination of the following methods of resistance:

Physical Resistance: Training the individual in self-defense tactics, including knowledge of various pressure points that are sensitive to attack.

Verbal Resistance: Sensitizing potential victims to the effects of their tone of voice, manner and attitude, and training them to scream, negotiate, or assertively respond to the attacker's demands.

Noisemaking Devices: Acquainting and equipping individuals with whistles, miniature sirens, or other such devices.

Use of Chemicals: Providing individuals with containers of disabling gases, such as mace, or with repugnant odor devices.

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Use of Weapons: Training individuals in the use of guns, keys, clubs, or stickpins in the hostile situation.

Pretext of Pregnancy or Venereal Disease: Advising individuals to claim pregnancy or disease to the attacker in hopes that it will appeal to his sense of humanity or to his fears.

Vomiting, Urinating, Defecating: Advising the individual to repel the attacker by performing disgusting physical actions.

All of these techniques certainly have their place and can be highly effective in a particular situation. But they could also be worthless or even dangerous in particular situations.

CASE STUDIES

We are certain that individuals who advocate the various methods of resistance presented above formulated them because they were employed successfully in one or more situations and present them as viable techniques with the very best of intentions. However, we are also certain that to generalize the success of one or more instances to all rape situations is not only potentially dangerous to the victim but is also irresponsible and unprofessional. The following four cases serve to illustrate the futility of providing potential victims with just one technique to deal with all rapists.



Case NO. 1

One summer evening, a 20-year-old female was walking home after attending a movie when she noticed a car with four males inside following her. She became nervous and walked to a pay phone to call her parents. As she was explaining her fears, two of the males pulled her from the phone booth and forcibly placed her in the back seat of their car. She involuntarily defecated and urinated out of fear. This so enraged her captors that they began pummeling her and forced her to consume her own waste material. Following this, the four took turns assaulting her sexually. Finally, they tied her to the rear bumper of the car and dragged her behind the automobile before releasing her. As a result, she suffered numerous fractures and required extensive medical treatment and mental health care.

Case NO. 2

The rapist, a white male in his late twenties or early thirties, entered the residence of a family of four. The husband and wife were out for the evening and had hired a 13 year old girl to baby sit. Brandishing a handgun, he subdued the baby-sitter and her young charges and forced the young girl to perform fellatio and to masturbate him. When the parents arrived home, he handcuffed the husband, forced the wife to disrobe, bound her hands behind her back and vaginally assaulted her in the husband's presence. Up to this point, the rapist had not struck or physically harmed anyone in the home and had been emotionally calm. As the rape was occurring, the husband asked his wife if she was all right, and the wife replied, "Yes, he's being a gentleman." At this point, the rapist's attitude changed dramatically. He so brutally attacked the victim's chest with his hands that she later had to undergo a radical mastectomy of both of her breasts. He was later asked why he had reacted so violently to

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such an innocuous statement. He answered, “Who was she to tell me that I was being a gentleman? I wanted to show her who was in charge, and she found out.”

Case NO. 3

A serial murderer sexually assaulted and killed 17 women over a number of years. He had also raped and released several women during that same period of time. One of the released victims reported the assault to the local police department. Because she was a prostitute, little attention was given to her complaint. Two years later, a state police agency located and interviewed the victim, and subsequently, the offender was identified, arrested and convicted. He made a full confession, startling his interrogators when answering questions about why he did not kill all his victims. He told them that, before he would kill a victim, three criteria had to be met. First, the victim must have approached him sexually (he frequented areas known for prostitutes). Second, the victim must exhibit some reluctance in performing various sexual acts, and third, the victim must make some attempt to escape. The prostitute victim mentioned earlier had met the first two criteria for death, but had made no attempt to escape even though the offender had tried twice to give her his weapon (unloaded). The victim had declined the weapon and stated that she did not want to shoot anybody, she just wanted to go home.

Case NO. 4

A 39-year-old white male sexually mistreated his wife over a number of years, even binding her and assaulting her with a hairbrush. Additionally, he had raped several women and molested his two daughters, two nieces and the daughter of a female acquaintance. During an interview about one of the rapes, he was asked what his reaction would have been had the victim resisted him either physically or verbally. He thought for several moments and replied, “I don’t know. I might have left, but then again, I might have killed her. I just don’t know.”

These four case illustrations demonstrate dramatically that any one program on confrontation techniques would not have helped all the victims. In Case No. 4, not even the rapist was prepared to state what his reaction to resistance would have been.

THREE CRITICAL VARIABLES IN CONFRONTATIONS

This article opened with a statement that we would offer confrontational advice only if we had specific information about three critical variables: 1) the environment of the assault, 2) an understanding of certain personality characteristics of the victim and 3) the type and motivation of the rapist involved. We believe that these three variables dictate the shape a confrontation will take, and we advise police, field experts and potential victims themselves not to give or act on advice that does not take these factors into account. Below, we describe these three critical factors.

- **Location of Assault**—The advice one would provide to a victim encountering a rapist in a shopping mall parking lot at 4:00 p.m. would certainly differ from the advice for an encounter occurring at 4:00 a.m. on a deserted roadway. Use of a noisemaker would be futile in the latter situation, but may be successful in the former. To advise a person to fight, scream, defecate, or use disabling chemicals or gases is insufficient in itself. **Victims must tailor their type of resistance to the**

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environment in which the attack is occurring. Above all, potential victims should not be lulled into a false sense of security because they have a whistle or can of mace in their pocket. Such confidence may actually increase their chance of becoming a victim.

- **Victim Personality**—The personality of the victim strongly impacts on how she will react in a confrontation. A passive and dependent personality will have extreme difficulty implementing advice to be assertive and physically aggressive in a confrontation where a physically larger male has awakened her from sleep. Conversely, an independent and assertive individual will be hard pressed to submit to a violation of her body without a struggle, even if she has been advised that passivity is her best course.

Anyone providing advice to an audience must remember that there are as many different personalities present, as there are audience members. To influence effectively the decision-making process of an audience, one must consider these variations and must stress that **the success of resistance behavior depends largely on the victim's ability to apply it.**

- **Type and Motivation of Rapist**—In our opinion, the most important unknown variable to consider when giving advice to potential victims is the type of rapist they may confront and the motivation that underlies his sexual attack. Is the victim being confronted by an inadequate male who has fantasized a mutually acceptable relationship? By a sexual sadist who delights in the victim's response to physical or emotional pain? Or by an offender who desires to punish or degrade women? In each case, the motivation is different, and the rapist's reaction to the victim's resistance is correspondingly different.

The spectrum of advice offered by serial rapists earlier in this chapter underlines how strongly the type and motivation of the rapist colors the dynamics of the confrontation. To assume that all rapists are alike in type and motivation demonstrates a lack of knowledge and experience. As Groth and Birnbaum note, "Physical resistance will discourage one type of rapist but excite another. If his victim screams, one assailant will flee, but another will cut her throat."

To give advice to potential victims without consideration of these critical variables can be compared to a physician who would prescribe medication or recommend surgery without the patient's medical history and documenting the signs and symptoms that would warrant such medication or surgery. Individuals who profess to have expertise in criminal sexuality have an obligation similar to a physician—to advise on a case-by-case basis, and only with complete knowledge.

The following case ironically illustrates the importance of recognizing and considering the different types of rapists.

Case NO. 5

In a large metropolitan area, a series of rapes had plagued the police over a period of months. In each instance, the rapist controlled his victim through threats and intimidation.

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One evening, a hospital orderly went off duty at midnight and happened upon a male beating a nurse in an attempt to rape her. The orderly went to her rescue and subdued the attacker until the police arrived. Shortly thereafter, the orderly was arrested for the series of rapes mentioned earlier. During the interrogation, he was asked why he had rescued the nurse when he was guilty of similar offenses. He became indignant and advised that they were wrong. He would never hurt a woman.

This offender did not, clearly, consider the two offenses as similar. He equated hurt with nonsexual trauma and either failed to consider, or ignored, emotional sexual trauma.⁴ His willingness to turn in another rapist shows how powerfully the motivations of a rapist affect his way of seeing and behaving in a confrontation.

A BEHAVIORALLY ORIENTED APPROACH

Experts in the field take pains to broadcast valid crime prevention measures which individuals can take to minimize opportunities for the confrontation. They should also educate these same individuals in the variables involved in a rape confrontation so that they can prepare themselves in advance to handle the unexpected. While it may seem to be a cumbersome concept for one faced suddenly with a frightening situation, it removes the emphasis from one-dimensional techniques that may backfire and puts it where it should be—in advance preparation and training. In sports, athletes are trained to know their own strengths and weakness and to accustom themselves to different playing areas. On the day of their sports event, they are prepared to assess their competitors on the spot and adjust their final strategy accordingly. The same process holds true in many areas of life: to survive one must prepare himself for the unexpected. Similarly, potential victims have an excellent chance of surviving a rape confrontation if they are prepared in advance. They should be trained in assessing their personal strengths and weaknesses. They should be taught techniques of manipulating the environment to the disadvantage of the assailant, and they should be educated about the various types of rapists, their motivations, and assaultive behavioral patterns.

To date, we know of no such comprehensive training program, but we know that one is possible and must involve the cooperative participation of law enforcement, mental health, and crisis intervention professionals. The more thoroughly researched the variables are, the better they will be understood and the more effectively they could be taught and manipulated to the victim's advantage.

CONCLUSION

Field experts in the area of criminal sexuality have an enormous responsibility to the people they advise in rape resistance. Individuals tend to be fascinated by discussions of criminal sexuality, but they are almost always exceptionably naïve and uninformed. Usually they are looking for an easy solution to a difficult problem and will accept at face value whatever piece of advice is offered.

Advocates who speak at workshops or seminars on rape confrontation techniques have an obligation to refuse to provide an easy solution. They have a further obligation to keep current with the research and to provide information that will help deter rapists. Confron-

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tational advice which considers the three-variables' approach may lack the simplicity and comfort that providing a whistle may offer, but it is a realistic approach to a complex situation that may help a victim understand more appropriate options in dealing with such an encounter. In light of new research, advocates who publicly advise one all-purpose solution to a rape confrontation may well be increasing the risk of injury to potential victims.

Interdisciplinary research is necessary to develop a viable training program for victims confronted by a rapist. Such a program would provide potential victims with information about the various types of rapists and their underlying motivations, would teach potential victims to assess their abilities to resist and would train them to control the environment to their advantage.

Those who speak publicly on the subject should avoid offering single solutions to their audiences and should start laying the groundwork for a truly effective training program.⁵

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THE ADVOCATE

Sexual assault advocates have a responsibility to place the needs of the survivor first. However, often times it is necessary to re-evaluate our own needs and feelings to ensure the survivor is provided with the most objective advocate as possible.

Secondary Victimization

Volunteers or professionals who work with victims in crisis over a period of time may experience stress themselves as a result of being exposed to so many stories and images of victimization. They are, in effect, experiencing trauma vicariously and can become secondary victims of the same events their clients have been exposed to.

The burden placed on advocates can be a very heavy one. They are asked to absorb the pain and suffering of their clients, to validate the survivor's experience, and to be empathetic and supportive without losing their objectivity. Advocates who work with survivors are exposed to graphic descriptions of brutal victimization's, which leave lasting impressions in the mind and heart. It is impossible to listen to these stories without taking in some of the pain and anguish expressed by the survivor. According to Karen W. Saakvitne, Ph.D. and Laurie Anne Pearlman, Ph.D., "The bottom line is that working with trauma survivors changes us profoundly. For therapists, or helpers, or analysts, or counselors, whose work involves empathic connection with individuals who have experienced traumatic, horrific life experiences, the impact of that work on the self of the helper is enormous." (Pearlman, L.A., Saakvitne, K.W., et al. (1995) Vicarious traumatization I: The cost of empathy. Ukiah, CA. Cavalcade Productions, Inc.)



The advocate may feel outraged, horrified, shocked, saddened or helpless. It can be very difficult to let go of those feelings at the end of the day, and return to work the following day, refreshed and renewed. Many times, advocates will "take the work home with them" and find themselves thinking about the images they have been exposed to, worrying about a survivor, or feeling depressed because ideal or even adequate resources are not available. This can place a strain on the advocate's coping skills as well as on his/her relationships with family and friends.

Those in a helping role should consider the possibility of secondary victimization if they notice persistent signs of anger, anxiety, depression or sadness, low self-esteem or emotional exhaustion. Advocates who are experiencing secondary victimization or vicarious trauma may find themselves unable to make decisions or having difficulty concentrating or remembering things. For some, the manifestations may be more somatic, such as fatigue, headaches, difficulty sleeping, or gastrointestinal symptoms.

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Many times, the helper feels guilty about being angry or frustrated and tries to address the guilt by giving even more, trying to be more empathic, more helpful and pouring his/her limited energy into the client rather than addressing his/her own needs. It may be difficult to tell when enough is enough. She may try to deal with these feelings by smoking, abusing alcohol or prescription drugs, or over-eating. Although these behaviors may momentarily relieve stress, over time, they only add to the physical and emotional stressors experienced by the advocate.

Others may address their own secondary victimization by withdrawing or shutting down emotionally, in an attempt to distance their own sense of self from the traumas experienced by their clients. "Victim service providers can, as a consequence of long-term stressful service, 'armor their hearts' and shift to a stance of what could be called 'professional warmth' in which they appear to be emotionally present with their client, but actually are not. Although such behavior may be completely unintentional, the result can be that providers in very insidious, hard-to-see, but ultimately injurious ways act to keep their clients from disclosing the real depth of their trauma because the provider cannot handle it anymore, or cannot tolerate that particular variety of it. This is doubly tragic in that it prevents service providers from establishing a genuine healing connection with victims, while at the same time, they personally will lose the enriching aspect of that connection, which for many providers was a fundamental motivation for entering the field of victim services" (Tobey, MD, Henry. National Victim Assistance Academy Training Text, Chpt. 6-2, Mental Health Needs) (Coleman, G., Gaboury, M., Murray, M. and Seymour, A., Ed, Office of Victims of Crime, Washington, D. C., 1999).

Often, the first line of defense is denial. The advocate may have difficulty acknowledging the toll that such work is taking, believing that to do so suggests that they are somehow failing. However, for persons who work with trauma survivors, the most important part of coping with the intensity of the work is to acknowledge **it will affect you**. It is important to recognize that "if you've been trained in crisis intervention and empathic, active listening skills, this work will affect you. If you really listen to what the client is telling you, this work will affect you. Recognizing that it is 'normal' to be affected by this type of work is the most important coping skill that you can give yourself." (Nelson, Terri Spahn. Vicarious trauma: Bearing witness to another's trauma. Proceedings from the 20th Annual Convening of Crisis Intervention, Chicago, 1996).

Another contributing factor in the development of vicarious trauma can be the system itself. According to the National Victim Assistance Academy, "Victim service providers are expected to provide comforting and compassionate support for crime victims while, at the same time, be outspoken advocates to ensure that victims are extended their rights within the justice system and receive necessary services. In addition, many crime victim assistance professionals work within the very system they are trying to change and improve; they know all too well its limitations. The responsibility of serving in roles that sometimes conflict can be a major source of stress. The nature of the work causes many crime victim advocates to be in regular contact with people who have suffered severe trauma and loss. The provision of effective victim assistance requires tremendous emotional energy and resilience, which can be a near-constant source of stress" (Coleman, G., Gaboury, M., Murray, M. and Seymour, A., Eds. Mental Health Needs: National Victim Assistance Academy Training Text, Ch. 6-2, Office of Victims of Crime, Washington, D. C., 1999).

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There are other stressors inherent in the work environment of victim service providers. Isolation, especially in communities in which they work for the only victim service agency, or where there is not a strong support network of victim service providers, may mean that there is not sufficient support to help the helpers cope with their own chronic stress. Funding pressures experienced by most victim service agencies can cause employees and volunteers to worry whether the program and/or adequate victim services will continue. Lack of closure can be a particularly frustrating issue. “Much of the work of victim service providers is fragmented: making a referral, helping a victim complete a compensation claim, or providing short-term crisis intervention. Very few victim service providers help and guide the victim through the entire criminal or juvenile justice process. The crisis counselor on call when the victim first contacts the agency may not be the same advocate as the one who provides court support. Thus, advocates must rely on allied professionals to provide a continuum of quality support and services. Consequently, opportunities for feedback on the ultimate outcome of a case are minimal” (Eisenberg, Ph.D. Terry, *Developing a law enforcement stress program for officers and their families*, National Institutes of Justice Report, NIJ, Washington, D.C., 1997).

According to Dr. Eisenberg, other stressors related to the work environment of many victim service agencies include frustration with the system, lack of adequate referral agencies, lack of career opportunities, inadequate rewards and extensive paperwork (Ibid.).

There are several things that advocates and other helping professionals can do to support themselves in the work environment. These include:

- avoiding over-identification with the job;
- meeting with other volunteers and staff to address issues of work overload;
- encouraging discussion of the impact of the work between experienced and inexperienced advocates and professionals in staff meetings;
- learning to set limits and say “no” when necessary;
- seeking out training opportunities to increase skills, career opportunities and support from others in the field.

On a personal level, advocates can reduce their susceptibility for secondary victimization by:

- striving for balance in life, between work and play, allowing for time to be social and alone, physical activities, hobbies and spiritual development;
- improving time management skills to avoid feeling overwhelmed and chronically pressured;
- monitoring attitudes and self-talk, recognizing and changing self-defeating thoughts;
- learning relaxation, meditation, or guided imagery that you can use during times of stress;
- exercising on a regular basis to release stress.

(Paraphrased from Eisenberg, Ph.D. Terry, *Developing a law enforcement stress program for officers and their families*, National Institutes of Justice Report, NIJ, Washington, D.C., 1997).

“Caregivers sometimes have a hard time knowing when they should be taken care of” (Lynne Hornyak, Ph.D. quoted in Edward, Randall. *APA Monitor*. I Washington, D.C., 1995). In other words, it is important to practice what we preach. According to Dr. K.W.

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Saakvitne, “If we don’t take care of ourselves, we can’t take care of our clients (Saakvitne, K.W., Pearlman, L.A. and Staff of the Traumatic Stress Institute. Transforming the pain: a workbook on vicarious traumatization. New York, WW. Norton, 1996).

Stress and Burnout

Stress is a part of everyone’s daily life and cannot be avoided. The simple act of crossing the street produces a degree of stress in most individuals. This stress is a positive type of stress. It is helpful stress which makes an individual alert enough so that she/he can avoid getting hit by a car. Besides making us more alert, positive stress helps to increase our energy level, helps to increase our level of creativity and in general helps make us more productive in our jobs.

At the same time, stress can be a negative factor in our lives. It can be debilitating to the point that we are ineffective and counter productive both at work and at home. Since it is virtually impossible to live without some stress in our lives it is important that as a sexual assault program advocate learn to recognize when stress is having a negative effect on you and do something about it.

Constantly working with survivors of trauma is extremely stressful and often results in burnout within several years. Professionals and volunteers in this field often find that the tragedies they are exposed to trigger memories and grief associated with losses and struggles in their own lives. It is, therefore, imperative that those who wish to work in this field focus on processing and recovering from all of their own traumatic experiences before exposing themselves to further traumatic material.

Advocates will be working with survivors in crisis. Advocates may find that they are being asked for help by someone who has just been sexually assaulted. The survivor may be suffering from severe anxiety and depression. They may have even contemplated suicide. The person will be looking for support and guidance and the pressure will be on you, the advocate, to help. Over a period of time the responsibility of helping one after another person in crisis can take its toll on the helper. The helper may find him or herself feeling over-stressed and as a result not being of much help to anyone.

One of the primary causes of traumatic stress is the feeling of powerlessness. This is true for the survivors we serve and it is also true for us. After working with survivors for some time, it is common to feel helpless to stop the violence, the suffering, or the intense pain that we witness. This feeling of powerlessness is linked to the traumatic reaction. There are several things you can do in order to avoid burnout and vicarious trauma. As stated previously, you must process the traumatic experiences and losses in your own life. You must make your own recovery a priority before you can safely offer stable support to others.

Look at the following two lists of physical and psychological symptoms. They will help you to examine your own stress level right now while in training. The lists can also be used later after you have worked as an advocate for a while to keep a check on your stress level.

If you regularly exhibit two of the following physical symptoms, it may be a sign that high stress is putting your body at high risk.

Physical and Behavioral Symptoms:

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- Excess weight for age and height
- Increase in drinking and/or smoking
- Premenstrual tension or missed cycles
- Desire to eat as soon as a problem arises
- Frequent heartburn
- Lack of appetite
- High blood pressure
- Alteration of sleep patterns
- Feeling of constant fatigue
- Chronic diarrhea or constipation
- Frequent headaches
- Shortness of breath
- Possibility of fainting or nausea
- Inability to cry or a tendency to burst into tears easily
- Persistent sexual problems
- Excessive nervous energy which prevents sitting still and relaxing
- Accident proneness
- Dryness of mouth and throat
- Pounding of the heart
- Excessive perspiration
- Trembling/nervous tics
- Impulsive behavior
- Grinding teeth
- Speech difficulties
- Muscle spasms

If you regularly experience any 4 of the following psychological symptoms (or a total of any four physical and psychological symptoms), then you may be suffering from excessive stress.

Psychological Symptoms:

- Constant feeling of uneasiness
- Constant irritability with family and work associates
- Boredom with life
- Recurring feelings of being unable to cope with life
- Anxiety about money
- Morbid fear of disease, especially cancer and heart disease
- Fear of death, yours and others
- Sense of suppressed anger
- Inability to have a good laugh
- Dread as weekend approaches
- Reluctance to take vacation
- Inability to concentrate for any length of time or to finish one job before beginning another one

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Once you have discovered that your level of stress is too high, the first step is to assess the origins of your stress. For example, is it truly your work with sexual assault survivors or is it a combination of your work and your own personal problems that are creating too much stress?

If the stress does stem from working with sexual assault survivors you must be clear about what your role is and what it is not. You cannot fix or change the terrible reality with which your client is faced. You are there to offer nonjudgmental support. You are there to educate about the effects of trauma and assist the survivor in developing a plan for coping. You are there to provide information that will aid the victim in working with the system and in accessing support services. It is important that you remain clear about your purpose.

Once you have decided what it is that is causing you to have too much stress, then develop a plan for reducing your stress level. You may need, for example, to take some time off from being an advocate so that you can expend all your energies at resolving your personal problems.

If you have assessed your stress and carried out a plan to reduce this stress and you are still not feeling better, then you need to reassess and see if something else is causing you stress. You may want to talk with your director and see if he or she may be able to give you useful feedback. Seeking the help of a mental health professional is also an option which may need to be explored.

Part of your responsibility now that you are becoming an advocate is to keep yourself psychologically and physically healthy so that you can best serve the survivors that seek your help. Besides being aware of your own stress level, take steps to actively combat stress. Exercise regularly. Choose a type of exercise that you enjoy and do it regularly. Research has shown that people who exercise regularly stand less chance of getting heart disease. Regular exercise acts as diversion to get your mind off stressful events. It also conditions your body to enable you to handle higher levels of stress.

Also allow yourself time to simply relax and get away from it all. Choose an activity that you enjoy doing that will help take your mind off of things. Meditation following exercise is a great practice in reducing stress. Watching T.V., playing cards, or simply reading may be important activities which will help revitalize and reenergize you and make you much more effective as an advocate.

You may not feel sympathetic to every survivor. You may not even like some survivors. Conversely, you may feel intense sadness and grieve for a survivor. We must not judge ourselves harshly for these reactions. Feelings are not always rational or within our control. We are, however, completely responsible for our behavior. We cannot become fixated on what we do and do not feel. We must focus our attention purposefully and direct our energy toward behaving in a compassionate and professional manner with every victim regardless of your feelings. Just as you do not attach judgment to clients, you must not attach judgment to the feelings that you, yourself, may experience.

Finally, you must make your own mental health a priority. You must know your limits, communicate about what you are feeling and learning as we experience these new situations, allow time for peace and relaxation, nurture intimate relationship with those who are

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important to you, seek opportunities to enjoy the things that lift your spirits and inspire you. You cannot give to others when you are empty.

SELF-PROTECTION/ RISK REDUCTION

Sexual violence can include several kinds of crimes; rape, incest, sexual harassment, child molestation, marital rape, exposure and voyeurism. Ninety percent of all rapes are planned and in 87 percent of the cases the assailant either carried a weapon or threatened the victim with death or bodily injury if he/she resisted.

Self-Protection

When speaking of self-protection, we must consider these facts:

- Sexual assaults are going to happen. An offender who wants to commit rape, eventually will find a victim.
- Many sexual assaults are unavoidable. Regardless of previous training and preparation, some people will face situations where the rape is going to occur.
- Rape victims DO NOT share any responsibility of the crime with the offender. The offender is 100 percent responsible for the rape.

With these facts in mind, self-protection can be viewed in three areas:

- Preventing the assault
- Escaping the assault
- Surviving the assault

ASSERTIVE COMMUNICATION

Knowing your rights and standing up for them may prevent you from being sexually assaulted. Everyone has the right to set his/her own standards for sexual behavior and to resist pressure when those standards are violated. Do not apply pressure on others to live up to (or down to) labels like: stud, foxy, dude, wimp, frigid, whore, easy, prude, etc. It is not fair to give up your own ideas, standards and needs just to be nice or to be liked by others. Know your rights and do not apologize!

This requires relatively honest, clear and open communication between the sexes and we must begin with men and women talking to each other more frankly about sex, personal needs and limits. Everyone needs to begin rejecting stereotypes that teach men to regard women only as sex objects and women to see men as protectors and free rides. Equalize relationships—take turns being in charge of things, and be ASSERTIVE without being

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aggressive. Communicate expectations by asking (do not guess) what your dates' or friends' desires are. Have ideas about the evening and communicate them clearly, verbally and non-verbally (body language). Be direct and do not hint. Express your ideas ("I think", "I feel", "I want"). Do not attack or put down ("the trouble with you is..."). Know your rights and do not apologize ("Gee, I'm really sorry but..."). Speak clearly and directly (do not giggle, squirm, smile a lot or whisper).

To be assertive means to express your ideas and needs clearly, to enforce your rights without violating someone else's, to disagree with others without putting them down personally, and to be direct and to speak up for yourself. An assertive statement is an honest expression of feelings, needs and rights said in your own words, a way of working out differences and having more honesty with others. The idea is not to win, but to work things out.

Make and declare your choices about sex—what you will and will not do, what you expect from others, and say "yes" if you mean yes, "no" if you mean no, and know the difference.

Men need to know that women do not think money buys them and that dressing sensually does not mean that they want to have sex, and that, even if she has had sex with him previously, she may choose not to do so again. For some women, it is hard to be direct because they do not want to hurt the man's feelings. Women may enjoy sexual contact without sexual intercourse—friendship with a man may or may not include sexual activity. Many women feel that men want friendship with them only if it includes sex.

EDUCATING WOMEN FOR RAPE AVOIDANCE

Commonly Used Styles of Attack (Donna Myhre, July 1982):

- **Blitz**—This is the stereotypical rape situation in which the woman is physically attacked suddenly, with no warning. The rapist may literally leap out of the bushes or an alley, or he may come from nowhere to drag her into a secluded or isolated area or pull her into a car. A blitz attack also occasionally happens between acquaintances. This also applies when the woman is with the rapist without suspecting any danger, and suddenly, without warning, he becomes violent (this is most likely to happen with an anger rapist).
- **Breaking and Entering**—This is a rape situation where the victim is in her home and the rapist illegally gains entry. If she is asleep at the time, it will feel like a blitz attack to her. Occasionally such rapes are committed by burglars who thought no one was home, and upon finding a woman in the house, decide to rape her. More often, the rapist breaks in with the intention of raping, though he may also steal some of her possessions while he is there.
- **Traps**—Some rapists will set traps and wait for unsuspecting victims to walk into them. For example, the rapist who hides in the back seat of an empty car, in the closet of an empty house, or in the laundry room of an apartment building.
- **Con Games**—Rapists who use this style gain the confidence of the victim by pretending to be someone they are not (e.g., a police officer, a salesman, an old friend of the victim's husband, etc.) or by misrepresenting his intentions (e.g., offer to help

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change her flat tire, carry her groceries, first date, need to use the phone, etc.). After the victim is off guard and the rapist has gained access to her home or some other secluded place, he proceeds to threaten and attack her.

- **Testing Pattern**—Some rapists go through a process of testing potential victims. The aim of the testing, from the rapist's point of view, is to find out whether the woman can be intimidated that is, will she be an easy victim. The general pattern of the test can be seen in the stranger on the street situation. Step one is an innocent remark or request – “Can you tell me how to get to Main Street?” or “Do you have a light?” or “Nice weather, isn't it?” Step two is an offensive remark which would not be offensive coming from someone the woman is close to, but is totally inappropriate coming from a stranger – “Is your boyfriend/girlfriend treating you well?”. Step three is a clear threat: “Come with me or I'll kill you,” or “I have a gun in my pocket, keep quiet, or I'll shoot.”

At each step, the rapist is judging whether or not the woman can be intimidated, whether she appears weak and unsure of herself, whether or not she will put up a fight or make a fuss. If he thinks she can be intimidated, he proceeds with the next step.

A variation of the testing pattern is sometimes used in acquaintance rapes. In this instance the rapist and his intended victim are engaged in casual, innocent conversation because they know each other perhaps they work together, or go to school together, or are neighbors. At some point, the rapist steers the conversation into an intimate and/or sexual area where his remarks become inappropriate, given the nature of their relationship. Usually the intended victim begins feeling uncomfortable, suspecting that something is wrong. The rapist is waiting to see how she deals with that; if she pretends that nothing is wrong, if she goes along with this turn of conversation for fear of embarrassment or whatever, he then proceeds with a threat or with the actual attack.

Sometimes the con game and the testing pattern are combined.

PRECAUTIONS

Given this background information on risks and rapists, it is time now to speak of what women and men can do to avoid rape. Rape avoidance measures can be divided into three (3) different kinds of things women and men can do:

1. Precautionary actions, such as home and car security, those things which will make it less likely that a rapist will decide to attack them;
2. Avoidance measures, ways that women can detect and escape from potentially dangerous situations before the rapist has enough control of the situation to do serious harm; and
3. Resistance measures, options for the woman who is confronted by a man intent on raping her, and from whom there is no easy way out immediately—that is, the rapist has already gained some control over the situation.

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The basic principle underlying precautionary and security measures is that the more difficult it is for a rapist to attack a woman, the less likely it is that he will. There are no guarantees that he will not; it is simply a matter of increasing the odds in the woman's favor.

When advising women on protective measure, it is important to remember the socio-economic status of the woman. Not everyone has the financial capability to invest in the best locks, alarms and burglar bars. Encourage women who have little money to be creative in finding alternative ways to increase their safety.

Some suggestions rape crisis services have collected from women are: simple wire coat hangers hanging on doorknobs and window latches are a no-cost alarm system—the clatter they make when the door or window is opened can be quite noisy; brackets on each side of a doorway to hold a broom-handle can make it much more difficult for anyone to break through the door. Women who are concerned about security will be able to come up with their own innovative techniques.

In addition to the security measures, there are other kinds of precautions which women can take:

- The less you look like a victim (weak and vulnerable) the less likely you are to become a victim. Again, there are no guarantees; it is a matter of increasing the odds in your favor. Learning to walk and talk in a manner portraying self-confidence can increase your safety. Posture can make a difference: sitting, standing and walking with your back straight, your head up, being clearly aware of your surroundings.
- Taking an assertiveness training course can be very helpful; learn to speak loudly, clearly, firmly; learn how to say "NO" with certainty.
- In speaking of these things with women, it is not a good idea to talk about "victim-types." This can cause unnecessary distress for any woman who has already been victimized, and can also lead some women who have not been raped to believe they are not victim-types and therefore have no need for precautions.

It makes more sense to speak of victim behavior, and to acknowledge what is true that all of us, on occasion, for various reasons, engage in this behavior. Victim behavior refers to acting in ways that convey helplessness, weakness or vulnerability.

In this context, explore the idea of women who are physically challenged.

- Women who are physically challenged in some way may be more vulnerable to be attacked by rapists. Physically disabled and develop mentally disabled women are frequently chosen as victims because they may be less able to defend themselves.
- Everyone can be challenged at certain times in certain ways. Everyone suffers from temporary handicaps. For example, being asleep is a temporary handicap. The woman who is awakened from a sound sleep to find a man standing over her, intent on raping her, faces one of the most difficult situations imaginable. She has been caught utterly by surprise, may be groggy and is probably in a prone position.

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- Women who are drunk or drugged may be temporarily challenged. Their physical capabilities might be slowed down and their judgment could be impaired. Another common challenge might be depression. Most people are afflicted by "low days," times when things are not going well and they are unhappy about their lives. Depression can impair one's physical and mental responses as surely as drugs can.
- Undergoing a life disaster may also make one temporarily more vulnerable to attack. Many women have been raped during the days, weeks, or months after some other awful event occurred, like having been in an auto accident, or after the house burned down, or the death of a family member.

Be aware of how temporary challenges increase our vulnerability and take extra precautions. Make efforts to appear less vulnerable by consciously straightening up our posture, speaking assertively, etc. Also, choose to avoid some temporary handicaps, such as being drunk.

AVOIDANCE MEASURES

Awareness of the high risk of being confronted by a rapist, plus knowledge of the styles of attack which rapists employ, may help some women avoid some dangerous situations by escaping from them while escape is still a relatively easy matter.

If you are walking down the street and there is someone following along behind you, and you think he might mean harm to you, you can do something about it. You can cross the street, go to a public place where there are other people, or go to a pay phone and call for help.

Most women have been taught not to make a scene. This learned fear of not making a scene can be unlearned and replaced with a greater concern for safety.

Another problem for many women in such situations is the fear that they are right, that it is a dangerous situation, and they will be attacked. It is characteristic of people to we often choose to run away from fear—not from the danger which causes the fear, but from the fear itself.

Staying with the same example, where you are walking down the street and become aware that a man is following you. It can be tempting to just ignore him and hope he will go away, tempting for you to continue as you are in the hope that if you do nothing to attract attention he will not notice you. It may also be true that the more a person looks helpless, weak, and scared the more attractive he/she might be to rapists.

Research on avoidance has shown that in most cases women who react as soon as they are aware of danger usually are able to get away from the danger without any serious damage to themselves, of any kind. The important thing is taking immediate action of some kind, like running away, making a loud noise, or whatever may seem appropriate in the situation.

With an awareness of the risks of rape and knowledge of the motivations and behavior patterns of rapists, plus trust in their own intuition, women can develop their own built-in

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early warning systems. Trust your intuition—it is a real thing, research has confirmed its existence. There is scientific evidence of the value of women's intuition.

Your best weapon against rape is an educated intuition. Know as much as you can, be as aware and alert as you can—then trust your intuition. It is on your side. Your intuition works for you, not against you. An alert intuition can help you avoid situations and places where there could be a rapist waiting to trap you. Your intuition can help you see through a con game, or detect a rapist's testing pattern, early enough to give you the warning you need to escape from the situation with little or no damage.

When confronted by what seems to be the beginning of a testing pattern, women can fail the test by not looking or acting like victims. Generally, assertive behavior, rather than either passive or aggressive behavior, is enough to steer the rapist away.

The rapist who tests you first is asking the question: "Can this woman be intimidated?" By the way you act and speak, you can convince him that you cannot be intimidated. Speak firmly, loudly, clearly; look at him directly. As in the case of the man who is following you on the street, simply ignoring him is likely to make you look vulnerable and scared (like an easy victim).

In dealing with a possible rape situation, where the (possible) rapist has not yet made a clear threat or move to attack, usually being assertive is a better choice than being either passive or aggressive. Assertive is neither weak (nor hostile) but is strong, firm and calm.

Children are told not to take candy from strangers, but in fact, adult women are more likely than children to be attacked by strangers. The candy offered to women may be the offer of a ride home, help getting the bags of groceries home from the supermarket or changing a flat tire.

Perhaps even more often, the stranger asks the woman for help with something. It can be difficult to refuse a request for help, especially for women who have been taught to be helpful. Statistics show that women in the helping professions are particularly vulnerable to rape because sometimes answering a request for help can endanger them. Your safest course usually is a polite but firm refusal.

RESISTANCE MEASURES

It is not always possible to avoid a rape situation. Even women who are well informed and careful to practice precautionary and avoidance measures can be caught in a direct confrontation with a rapist. Escaping from the situation, running away from the rapist, is of course always the first choice, do it if possible. The exceptions to this are those situations in which it is clear that fleeing will not be possible no matter what the woman does, such situations occur, but they are rare.

When speaking of resistance in a rape situation, resistance measures move into the part of rape avoidance education which has been most confusing in the past. Women have been told contradictory things about what they should do when confronted by a rapist. They have been told that any resistance will only get them killed. They have been told they should fight back. They have been told to be seductive and win the trust of the rapist in order to get in

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the right position to stick their thumbs in his eyes. They have been told to treat him like a human being so that he will see them as human. They have been told to "turn him off" by acting crazy or vomiting.

It is time to move beyond this confusing and contradictory advice. There now exists good research results from four different studies on rape avoidance. Women can also use some common sense based on all that they know about rape. It is time to offer women options—not rules.

The research shows that women have tried a number of different strategies in rape situations. All of these strategies have worked successfully at times. Some of them work more often than others, and using more than one strategy greatly increases the chance of success.

Because physical resistance, fighting back, does work more often than other strategies, and because many women have been taught to be afraid of fighting back, this manual examines that strategy more than the others. It is important to remember that there are options, that no one is bound to any one method of resistance. If you fear facing a rapist, you are the one who must choose what to do about it. In that situation, you know better than anyone else what your best choice is. Trust your intuitive feelings about what might work best in that situation, but be ready to try something else next.

These are all choices in a rape situation:

- Running away or trying to run away
- Physical resistance, fighting back
- Yelling, screaming, blowing a whistle
- Talking assertively or aggressively
- Crying or pleading
- Conning
- Looking crazy or repulsive

The first four of these options are considered more effective than the last three, but all of them have worked in some situations. Remember that using more than one increases your chance of escape. It can be effective to combine two or more strategies. For example, fighting and yelling at the same time, or combining assertive talking with a con (e.g., saying loudly and firmly: "You had better leave now. My brother is a karate expert and I was expecting him to be here 10 minutes ago").

Elaboration on each of these options will help women understand better how to use them and can give them more viable choices. Admittedly, those strategies which are less likely to be effective appear to be the easiest (for most women) to carry out. But:

- If you are being subjected to a sexual assault, there is no easy way out. You are likely to get hurt, emotionally or physically or both, no matter what you do. It may seem that the easiest course of action is inaction, doing nothing in the hope that he will only rape you quickly and leave. It is important to understand that what may seem easiest at the time will not, in the long run, be easy at all. A woman who resists an attacker and is not raped will nevertheless experience some trauma afterward, but it will be less severe than if she had not resisted. In other words, choose less suffering for yourself.

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- Deciding not to resist at all is also no guarantee a victim will not be physically injured. While active resistance may mean that one will incur minor physical injuries, more serious physical injuries are usually intentionally inflicted by a rapist who wants to hurt his victim—and he will do it anyhow, whether she resists or not, no matter what she does, unless she can escape from him.

In the past, some rape prevention educators have made a mistake assuming that women fear physical injury above all else. They have equated hurt with physical injury and not with emotional damage, and then advised women on getting out of a rape situation without getting hurt but only raped. The fallacy of assuming that raped is not hurt should be very clear. Now many must deal with the idea that the hurt of rape is preferable to the hurt of physical injury, if one has a choice.

It is rare for a rape victim to sustain a physical injury so serious that its effects last as long as those of her emotional trauma. Many rape victims have said that they would do anything, including risking serious injury or death, to prevent it from happening again.

There is a common but mistaken idea that women cannot stand the pain of physical injury. In fact, women can tolerate pain as well as or better than men. And there is no way that any woman can decide that she will not get hurt in a rape situation. The chances are that she will be hurt, no matter what she chooses to do. What she can do is choose to resist, by whatever strategy or strategies, and know that she is taking action which will lessen her emotional trauma.

It cannot be emphasized too strongly that the aim of any strategy will be to escape from the situation. When speaking of resisting, especially when talking about fighting back, the goal is winning a fight, or overpowering an attacker. It is about changing the situation to the extent that escape becomes possible. That may mean, in various situations, loosening his grip, getting him off balance, and/or distracting him or discouraging him (remember that a rapist is not looking for a fight, but for a victim).

The two strategies which are most often effective, especially if used in combination with yelling (or otherwise making a loud noise) and physical resistance.

- Some women like to carry whistles, and that is fine, for a whistle does have an authoritative sound which will attract attention, cause the rapist to worry about discovery, and possibly bring aid. But it would be a mistake to depend on a whistle to save you from rape. It will not. It may be there when you need it, and it may be effective.
- A loud yell is more reliable. You never have to dig it out of the bottom of your purse or pocket. But notice the difference between yelling and screaming; a yell is a loud roaring sound, a scream is higher pitched and sounds weaker because it carries a feeling of "I am scared." If the noise you make is more like a yell than a scream, it has a better chance of being effective. It will also be more effective, and you will have more confidence in it, if you practice it sometimes. You may have to be careful about when and where you practice! But most of us have opportunities in our lives to practice yelling: at football games, calling the children home, or just when driving

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along the highway. If you practice now and then you will know it is there if you need it. Try to make the sound come up from your diaphragm rather than your throat. You might also practice yelling "NO!" rather than simply making a noise.

Some people argue against yelling as a strategy on the basis that it may lead to the rapist trying to "shut up" his intended victim by killing or seriously injuring her. This is not likely to happen, but does not mean it will never happen, but only that the odds are against it. This is especially true if the woman begins yelling as soon as she is confronted by the rapist. At this point he has not yet committed a serious crime and his easiest option is simply to leave. If he decides to stay he probably will threaten the victim with serious consequences if she does not agree to be quiet. The woman who is being threatened will have to decide how seriously to take his threats and what her safest course of action is.

If he is threatening to shut you up, these are things to remember, consider and feed into your intuition:

- He means you harm, in any case, no matter what you do.
- If he says he will not hurt you if you will just be quiet, possibly what he means is that he will only rape you; he probably does not understand that rape hurts.
- It can make a difference whether or not you have reason to believe that anyone else will hear you yelling and come to your aid.
- If he is like most rapists, he will not intentionally kill you. He knows that murder is a crime, and he does not see himself as a criminal. He may not even realize that what he is doing is rape, or it may be that he does not think rape is really a crime.
- Let your intuition be your guide. Remember that it is on your side. Usually your intuitive feeling about the best thing to do will be right.

It is unfortunate that the issue of physical resistance against rape has become controversial. Women should not be made to feel either that they must fight back against rapists or that they cannot fight back. Experts are free to take extreme positions and argue with each other over the question of physical resistance. Women confronted by rapists do not have that kind of freedom and they certainly have no time for arguments. Important to give women accurate information relevant to resistance, rather than dogmatic opinions about which resistance strategy is the best.

In doing research on rape avoidance, different scientists in different parts of the country interviewed hundreds of women who had been raped and women who had successfully resisted a rape attack. They found that the most effective reaction to a sexual assault was to run away. The second most effective strategy, and the most effective strategy in situations where running away was not immediately possible, was physical resistance. That does not mean that fighting back is always the best option. It is still important for the woman to trust her own intuition and make her own decision in any situation. At the same time, however, while women must not feel compelled to fight attackers in every situation, they also should be able to choose physical resistance without being restricted by mistaken fears about resistance.

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Some of the rape prevention education of the past has made women more afraid of resistance than of rape. Women have been told that if they fight back they are only asking to get murdered as well, whereas if they would just passively submit they would only get raped. This mistaken idea has probably done more harm than any of the other myths about rape. There are some things we can say now to counteract some of the damage that has been done.

You do not endanger yourself by resisting a rapist. If you are facing a man who intends to rape you, you are already in danger. You did not create this danger; he did.

Most rapists are not murderers. As we have already said, most rapists see murderers as criminals, but do not think of themselves as criminals. They do not think of rape as a crime, and they do not understand the devastating effects of rape on their victims.

The majority of rapists are insecure men with weak egos. Their main weapon is intimidation, and threats which are often bluffs. Many of them can fairly easily be intimidated.

The rapists who kill intend to kill. They intend to kill before the victim does anything. They intend to kill regardless of what their intended victims do. They do not kill in response to their victim's resistance, but in response to their own inner urges.

The odds are low for encountering a sadistic (killer) rapist, but it can happen. Your only chance for survival is escape and your only chance for escape is some kind of resistance. Your best chance to escape is to try every kind of resistance strategy that you can. You lose nothing by trying everything you can.

Most women do not know how strong they are, for they do not test their strength as many men do. Most women are stronger than they realize. Having and carrying babies, scrubbing floors, carrying laundry around, many of the things that women do in their daily lives develop strength. It is a mistake to assume that every woman is weaker than every man.

Women have one inherent physical advantage over men, for their bodies are constructed differently. Female bodies have a lower center of gravity; therefore, women have better balance. In a struggle between a man and a woman, it is the man who is more likely to lose his balance.

If you are in immediate danger of being raped, you will naturally have an intense emotional reaction. Probably you will be feeling strong fear. (If it is anger instead, that is great!) This intense emotional reaction causes physiological changes in your body which give you temporary super strength. If you know it is there, you can use it.

Most women have heard the story about the mother who, when a car rolled over her small child, simply lifted up the car. That really does happen, and that is the kind of thing meant when it is said that you will have a temporary super strength due to intense emotion.

So if you are facing a rapist you will be scared (or angry). But rather than being paralyzed with panic, you will be exceptionally powerful. This adrenaline power is probably one of the most important factors in enabling three-fourths of women confronting rapists to get out of the situation without getting raped or seriously hurt physically. Another factor which is sometimes in your favor is the element of surprise. It is on his side in the beginning, for you

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were not expecting to be attacked. But he may not be expecting you to resist strongly and may be caught off guard by immediate resistance.

These are your natural weapons against attackers:

- Your intuition.
- Your physical strength.
- Your better balance.
- Your intelligence.
- Your determination to avoid, or at least minimize, the emotional trauma of rape.

He is vulnerable. These are his weak points:

- His insecurity, his weak ego.
- His lack of commitment to pursuing you as a victim (unless he is a revenge rapist).
- His vulnerable physical characteristics: primarily knees and feet, throat, eyes, and fingers.

While martial arts training can increase a woman's chances of avoiding rape, and women should be encouraged to take such training, it is important to distinguish between martial arts and self-defense. Martial arts training is helpful primarily because it increases the woman's self-confidence and general physical condition. The specific techniques of martial arts are of lesser value.

Martial arts training can increase your natural strength, quicken your responses and build up your own confidence in your abilities. But also remember that martial arts techniques practiced in formal training proceed according to rules that do not apply in a real rape situation. You may, or may not, be able to use any of the techniques of the classroom in real life.

If a good self-defense course is available to you, which concentrates on techniques which are appropriate to countering a real attack, that is one of the most important things you can do for yourself.

Here are just a few tips on self defense techniques that you can think about as possibilities for you to use:

- If he is holding onto you tightly, especially if he has his hands on your throat, you can grab his smaller fingers and bend them back, until they break, if necessary.
- Generally his groin area, which many people think of as a primary target, is not a good target for you to aim at. It is too low for your arms and too high for your legs to attack with much strength, and it is also the first place he protects, but while he is busy protecting it, you can go for a more accessible target.
- Knees are exceptionally vulnerable, a swift kick to the knee can be very effective.
- A jab to his throat or eyes can also be effective.
- Do not forget your teeth and jaw as a powerful weapon.

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- If he is holding your arms, to break his hold pull in the direction of his thumb, that is the weakest part of his grip, where his thumb and fingers come together.

Self-defense experts stress the value of mental practice. They say that to practice self-defense mentally can be almost effective as physical practice. It is suggested that women use their daily lives for practice situations. There are many opportunities to mentally prepare for an attack. Even imagined instances can be used to determine a means of escape.

Many women worry about this question: What if he has a gun or weapon? There is a common assumption that, if he has a gun or knife or some other deadly weapon, all is lost. According to this assumption, there is no way to fight a weapon without endangering your life. But this is a fallacy.

One of the most interesting findings of rape avoidance research is that the same resistance strategies have the same relative effectiveness whether or not there is a weapon present. This is important for women to know.

Additionally:

- As with any other aspect of the situation trust your intuition about the weapon. But make sure you are also armed with the facts listed in the preceding paragraph and other weapons facts.
- Remember that most rapists are power rapists whose aim is to control and dominate, not murder.

Another relevant factor to discuss with the audience is the fact that many women are unfamiliar with weapons. The unfamiliarity leads to a rather mystical fear. It can be suggested to women that they make an effort to learn something about weapons, to know what can be done with a weapon and what cannot be done. One is less likely to be panic-stricken at the sight of a familiar object.

- Most rapists who carry weapons use them for intimidation, not for murder or maiming.
- Many women resist rapists with weapons without being injured by those weapons.
- Some women have told of not resisting rapists with weapons, and they were still injured by those weapons.
- It is the rapist who is the danger, not the weapon. Focus your attention on him, not the gun, knife or whatever.
- Do not reach for the weapon, even if he puts the weapon down. Use this opportunity to escape.

There is also the question of whether women should carry weapons for their own defense. More and more women are choosing to do this. It is still a personal decision. For some, it is a moral issue, for some there is worry about possible accidents, especially if there are small children in the house. Whatever decision a woman makes, it is important for her to understand she cannot always depend

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on a weapon to save her from danger, and that if she chooses to carry a weapon she should learn to use it and care for it correctly, as well as know what the laws regulating the use of the weapon.

Another important research finding tells us that the most dangerous places are enclosed places. This usually means a home or car. It is not suggested that you never go home or get in a car! This finding becomes important when a rapist is insisting that his intended victim go somewhere with him.

If you are faced with such a situation, remember that the rapist wants you to go somewhere else because he does not feel safe where he is. You can be sure that going along with him will put you in more danger. If, for example, you are approached on the street by a man who is telling you to get in his car and threatening dire things if you do not, you have a better chance for successful resistance if you refuse to get in his car. If you go along, things will not get better, they will get worse. So again, immediate resistance is the best chance for successful resistance.

One last thing about rape resistance, while it is always best to pay attention to your own intuition about what to do in any specific situation, it can also help to think seriously now about what you feel yourself capable of doing and believe that you can do if faced with attack. There are some decisions that you can make now, while you have time to think about them carefully and calmly. Are you willing to hurt someone else in your own defense? Do you value yourself enough to make a commitment to yourself that you will do whatever is necessary to minimize the damage to yourself if attacked?

Determination and commitment are extremely important in deciding to actively resist a rapist. If you decide to use physical resistance, it should be with the realization that you may have to continue that resistance over a period of time. You may not be able to escape after one kick to his knee, for example. Most women who continue to resist, for as long as necessary, are successful. But it takes determination to continue the resistance.

SURVIVAL MEASURES

No rape avoidance presentation is complete without some words about what to do if it happens. Women need to know what to do if, despite their best efforts, they do get raped. There are things a victim can do, after the rape, to minimize the trauma.

Some women have found that they can negotiate with a rapist after the rape has been committed; that is, during the time immediately after the rape, before the rapist has left the scene. These women were not able to stop the rape, but were able to save some things which were important to them. Examples: persuading him to return stolen property, such as purse or wallet (particularly important because it does not leave your identification, address, etc., in his possession); persuading him to give you money for bus or taxi to get home (or to the police station, but do not tell him that); getting identifying information about him which may lead to his conviction; persuading him to do something which may lead to his arrest and conviction.

This kind of negotiation/persuasion is seldom successful prior to a rape, but often successful after a rape. Some rape victims have been very clever and innovative in coming up with ways

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to get their rapists caught and convicted. One woman, raped by a hatchet-wielding man who broke into her home, persuaded the rapist to go with her to a bar for a drink. She called the police from the bar, and he was still there, unsuspecting, when the police came to arrest him. Another woman, abducted in the rapist's car, managed to slip her driver's license into the window slot of the car door; the police had to dismantle the car door to retrieve it, but they did, and it led to his conviction.

Women who do these things still suffer the trauma of having been raped, but their trauma is lessened by their satisfaction in knowing that they did something about it, even though it was after the fact.

Remember that your best weapon against rape is an educated intuition. You have made a good start on educating your intuition by coming here today.

Here are suggestions about more things you can do:

Give your own home and car a security check, and make needed changes (see below).

- Take an assertiveness training course.
- Take a self-defense course.
- Develop that habit of mental practice for self-defense in your daily life.
- Develop an attitude of resistance, a determination that you will do what is best for yourself.
- Work on learning to trust your own intuition.
- Pay attention to signs of your own strength.
- Always remember the odds are already in your favor and you can change those odds to be even more in your favor.
- There are no guarantees and no rules you must follow, but if you do what feels right to you, your chances are very good.

STRATEGIES TO PREVENT BURGLARY, ROBBERY OR SEXUAL ASSAULT

Always be cautious no matter where you are or what time of day it is. A burglary, robbery or rape CAN happen to YOU.



IN THE HOME



Doors

- There should be lights at all entrances.
- Doors should be solid so they cannot be kicked in. If yours are less than 1.75" thick wood, weak, or hollow-core, replace or reinforce them.
- Change exterior door hinges to the interior or install non-removable hinge pins.
- Doors should fit securely in their frames. If the fit is loose or the frame is weak, have the frame reinforced.
- Install a wide-angle peephole for a full view outside your door.

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- Do not leave notes on your door, or newspapers on your porch advertising you are not home.
- Keep doors locked at all times.
- Instruct young children never to answer a doorbell or knock.
- Put bells on your doors or empty cans on the inside of your doors at night. They will make a noise if someone opens your door.

Windows

- Keep curtains and/or blinds on every window.
- Shades and blinds left open day and night can give the potential intruder a chance to see that you are not at home. Be sure to keep your curtains and blinds down at night, especially if your home is easily accessible from the street.
- Have weak or loose frames reinforced or rebuilt.
- Hang bells on your windows. They are cheap and will make a noise if someone tries to open the window.
- Make sure all windows can be (and are) locked securely.

Locks

- All windows and doors should be in place and have either a dead bolt or Drop-Bolt lock. These operate with a key inserted into a cylinder.
- When moving into a new house or apartment, change ALL locks.
- Protect the cylinder with a guard plate. This metal device secured to the door prevents the cylinder from being removed.
- Avoid snap or spring locks which work just by closing the door without requiring the use of a key. Do not rely on chain locks.
- The best lock is no good if it is not used. Use it all the time— even during the day if you are home.

Keys

- If you lose your keys, have locks or cylinders changed immediately.
- Do not hide the keys in obvious places (e.g., the mailbox, under the doormat).
- Be wary to whom you give your keys.
- Separate house and car keys when parking your car or having it repaired. Do not carry an identification tag on your key ring.

General

- Be aware of places where people might hide; under stairs, between buildings.
- Know some of your neighbors and which ones you could trust in an emergency.
- Use your initials rather than your first name in the phone book and on your mailbox.
- If you hear a prowler or burglar in your house, get out of the house through a back door or window and go to a neighbor's house to call the police. **Avoid any confrontation.**
- When you are not at home, never leave only the outside porch lights on. This is a signal you are not home. Leave a bedroom or bathroom light on also. Leave a light

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on at night—this gives some protection. Or buy a timer for a light if you will be returning home late at night.

- When returning home at night, have your keys ready before you get to the door. This precaution will prevent you from taking time at the door to search through your purse for your house keys.
- If you return home and you feel something is not right, do not go in. Call the police and have them help you check the house.
- If a stranger comes to use your phone, get the information and make the call for the person.
- When alone and answering a door ring, call out, "I'll take it, Bob," or "I'll get it, Tom." Make sure your voice is loud and clear. **NEVER** reveal either in person or on the phone that you are **ALONE**.
- Dogs can be a deterrent to a would-be intruder.
- If possible, avoid going into a public laundry or apartment building room alone at night. These are prime target areas for attackers.
- Keep emergency phone numbers posted for easy access. Use 911.
- Do not leave a car or boat for sale in the front yard with the phone number of your home. It lets people know when you are gone by calling.
- Keep your grass mowed so no one can hide in it. If you are going to be away longer than a week, arrange to have your yard mowed. Do not block the view of your front door with shrubs or plants.
- Make alarm stickers visible. If you do not have an alarm, find some stickers anyway. The would-be intruder does not know if you are kidding or not.
- Do not let newspapers and mail pile up if you are away.
- Empty garbage cans left out for days. Just look down your street the day after trash day and you can figure out who is not home.
- Leave a radio or television on.
- Know your neighbors; watch out for each other.
- Engrave your driver's license number on all valuables.
- Be suspicious of anyone you do not know who asks about your schedule and plans.

Visitors, Repairmen, Delivery men

- Repairmen who represent utility companies carry identification cards. If a man has none, get his name and phone the company he claims to represent before you admit him.
- A large number of attacks occur because women allow unidentified strangers to enter their homes. **NEVER** say to a repairman, "Come in," and then check his identification. Make him wait outside the door until you are satisfied it's safe to let him enter.

Telephone Calls

- Do not give your name, number, or address to a telephone caller. Ask who is calling, then tell him he has the wrong number.
- **NEVER** give a caller any reason to suspect you are alone in the house.

If a phone call is or becomes obscene or frightening, hang up immediately. If the caller persists, blow a whistle loudly into the mouthpiece.

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If threatening or obscene phone calls persist, report them immediately to the phone company so your number can be changed or your phone monitored.

Elevators

An apartment or office building elevator is a made-to-order cage in which to trap female victims. It is small, soundproof, confining, and can be halted between floors for an unknown period of time.

- When entering an elevator, always stand next to the control panel. Look for the emergency button.
- Do not get on an elevator occupied by a man (or men) who makes you feel uneasy. If there are other passengers who get off the elevator except for a man who makes you uneasy, get off with them and wait for the next car.
- If you are alone on the elevator and a man or group of men get on and you feel uncomfortable, get off. **RESPOND TO GUT REACTIONS.** It is better to offend someone or even to look foolish than to get raped.
- Allow other passengers to push the button for their floor first, then push yours.
- If you suspect trouble, push the alarm button and as many buttons as possible so that the elevator will quickly come to a halt at the next floor.

Walking

How you look is important. An attacker usually expects a passive victim, so if you walk slowly or in a daze, you will appear vulnerable. Walking at a steady pace, looking confident, and knowing where you are going can make a difference.

- Do not overload yourself with packages, a large purse, or books. Pockets are more practical. Keep your hands free. (Most men on the street have their hands free.)
- Wear shoes and clothes that you can run in if you need to. Tight pants and long dresses make it difficult to move. Clogs and high-heeled shoes should not be used if you are walking alone. Capes, scarves, and long necklaces are easy to grab.
- Try to avoid walking alone at night. It is always best to work out transportation with people you work with, are friends with, or with whom you go out or to school.
- Walk only on busy, well-lighted streets. At night, do not walk through dark parking lots, parks, or other places where people might hang out or hide.
- Avoid shortcuts, especially through school yards, parking lots and alleyways.
- Do not walk too close to the inside of the sidewalk, near bushes, alley entrances, driveways, or entrances to private places and times each day. If you cannot vary your routine, have friends and neighbors watch for you when coming home.

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- Carry a whistle wrapped around your wrist or any noise-making device that can be heard from a distance.
- If you are alone, be especially aware of what is around you. Listen for footsteps and voices nearby. Look around to see if someone might be following you. If you think so, try crossing the street. Stay near the streetlights. If you decide to break into a run, yell, "Fire," or "Help." Go to the nearest lighted place and get in quickly.
- Avoid wearing Walkman devices when jogging or walking.
- If a car approaches and the driver is bothering you, run in the opposite direction of the car's travel. The driver will have to make a U-turn to chase you. The time this takes him may allow you to get away.
- If a man asks you for directions from his car, do not walk over to him. If he speaks too softly, stand where you are and ask him to speak louder.
- If you are being followed as you approach your home, go to a neighbor's home or the nearest police station. Do not try to go to your home. The attacker may force his way in as you open the door.
- Do not give friendly answers to men who attempt to strike up conversations on the street. Walk briskly and with purpose.
- When you arrive home by taxicab, ask the driver to wait until you are inside the house.
- Maintain eye contact with strangers. Do not look down.
- Maintain a secure grip on your purse and carry it under your arm with the flap next to your body.
- Be sure to know the area you are walking in. Know which stores, restaurants, etc. are open late in the evening. Watch for homes with lights on. If an attempt is made to attack you, run to these places.
- Walk on the side of the street facing traffic.



WHILE USING TRANSPORTATION



Driving

- Keep the car doors locked and the windows rolled up at all times

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- while driving and if you intend to leave your car for only a few minutes after parking the car. Do not leave valuables where they can be seen.
- The more lighted your house, garage and driveway, the better.
- Always check the back seat before entering. A potential attacker can hide there and wait for the driver to return.
- Prominently display an article of male clothing in the car. Someone with harmful intentions often has no way of knowing whether you will be returning to the auto with a male companion, even if you left the car by yourself.
- Install an auto-burglar alarm.
- Try to travel on busy, well-lighted streets. Let someone know your destination, route and expected time of return.
- Keep your car properly maintained. Make sure you have enough gas to get where you are going.
- Always leave the car in gear while at stoplights or pedestrian crossings. If someone tries to get into your car, blow the horn and drive away quickly. Do not roll your windows all the way down.
- Do not stop for another car even if it has flashing red lights unless it is a marked police car, ambulance, or fire vehicle. There have been cases of criminals stopping their victims at night by using flashing red lights. If you are not sure, proceed very slowly to the nearest well-lighted, populated area to avoid the appearance of trying to escape.
- If you wish to help a stranded motorist, go to the nearest telephone and call for assistance. Many women are robbed or attacked because they stopped to help what appeared to be someone with car trouble.
- If a stranger tries to open the door, push the accelerator pedal fast. If traffic conditions prevent you from moving forward, back up and blast the horn. The noise probably will scare off the attacker and attract attention.
- **NEVER** leave your keys in the ignition. Even if you park for only a short time, take them with you and be sure your car is locked.
- When you go out, be sure to let someone know your destination, route and expected time of arrival.

If You Think You Are Being Followed By Another Car

- Do not allow your car to be forced to the side of the road. If someone tries to crowd you to the curb or off the road, be tough and aggressive no matter how

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frightened you are. Lean on the horn for a long period of time. Let your pursuer know you are just as determined as he is.

- Get his license number and car description. Then, promptly notify the police. If he has not succeeded with you, there is a good chance he will soon go after another person. The police want to get him behind bars just as badly as you do.
- Do not pull into your driveway. Drive to the nearest police station or into a busy service station.
- If another motorist indicates that your car is not working properly while driving, do not stop or get out of your car to investigate. Drive to the nearest service station or a friend's house.

If Your Car Breaks Down In An Isolated Area

- If you are stranded in a car that will not start, turn on the emergency blinkers and raise the hood if you feel it is safe to get out of the car. Then get back in the car, lock the doors, and roll up the windows. Or, buy a sunshade that has a call police message on it.
- Do not accept rides from strangers.
- If someone stops, do not get out of your car to talk. Keep about six envelopes in your car which contain a quarter and a telephone number to call. You can then momentarily open your window slightly, hand them the envelope and ask them to call the number in the envelope for assistance.
- If someone tries to force his way into your car, turn on the lights, blink your bright lights, and sound your horn.

Parking

- Always park your car in well-lighted busy locations. Avoid alleys, dark underground garages and dark side streets when possible.
- Avoid parking next to paneled vans. If upon returning to your car, a paneled van is parked next to you, get into your car on the passenger's side.
- If parking during the day and returning at night, check for street and building lights.
- **Always lock the doors**
- Do not get out of the car until you are sure there are no suspicious persons in the area.
- When you come back to your car, have your keys in your hand. Approach your car from the rear and check under your car and the car next to the driver's side. Check that the front and rear seats are unoccupied before getting into the car.

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- When parking in a valet lot, leave only the ignition key in the car. Do not give anyone a chance to duplicate your house key.
 - When you arrive home, leave your car lights on until you have opened the garage door and checked that no one is hiding in the garage. Check your house and yard for anything suspicious. Have your key ready before you get out of the car.
 - You might consider installing an automatic garage door opener that simultaneously turns on your garage lights.

Acquaintance Rape Avoidance Tips

- Find out as much as possible about your date, particularly if he is a blind date or someone you do not know well.
- Consider double-dating the first few times you go out with a male with whom you are not well acquainted.
- Know beforehand the exact plans for the evening and make sure a parent or a friend knows these plans and what time to expect you home.
- Be aware of your decreased ability to react under the influence of alcohol or drugs.
- Think carefully about leaving a party or a gathering with a male you do not know well- if you do leave with someone, be sure you tell another person you are leaving and with whom.
- Avoid out-of-the-way or secluded areas.
- Assert yourself when necessary; be firm and straightforward in your relationships.
- TRUST YOUR INSTINCTS- if a situation makes you uncomfortable, try to be calm and think of ways to remove yourself from the situation.
- Consider taking a self-defense course.

NEVER FEEL GUILTY ABOUT ANYTHING YOU MUST DO TO SURVIVE A POTENTIAL SEXUAL ASSAULT SITUATION!!!!!! USE ANYTHING YOU THINK MIGHT WORK FOR YOU.

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REFERENCES

- ▼ An Introduction to Role Play
- ▼ Texas Statutes
- ▼ Pregnancy
- ▼ Sexually Transmitted Infections
- ▼ HIV/AIDS
- ▼ Evidence Collection Protocol

REFERENCES

An Introduction to Role Play

Most volunteers dread role playing and the mere mention of the words strikes terror in their hearts. However, role play enhances training by:

- providing time to practice new skills;
- providing an opportunity to get the feel of each role: survivor and advocate;
- helping you determine if you are ready to work with survivors; and
- allowing you to experience various situations.

Role play is a good mechanism for you to get to know some of the volunteers in your training class. It is also a good opportunity for the volunteer coordinator and trainers to offer you suggestions and answer your questions.

Do not worry, you can learn from bad role plays. You learn:

- What not to say.
- What not to do.
- How to express yourself.

Practice both hotline and face-to-face role plays. As you practice, ask yourself:

- What is the difference between face-to-face and hotline role plays?
- Which intervention requires more time for relationship building?
- Which intervention is easier to obtain personal information?
- During which kind of intervention is a survivor more likely to disclose more details about the sexual assault?
- Which intervention is less threatening for the survivor? For you?
- Which intervention requires more concentration from you, the listener?

ROLE PLAY EXERCISES (FACE-TO-FACE)

1. Ophelia, a 58-year old female, divorced for several years, lives alone. She is very close to her adult children (4 boys and 3 girls). She was raped vaginally & anally by her boyfriend of six years. She is in a lot of pain, does not wish her children to know, and is afraid to report the attack to the police because her boyfriend threatened to hurt her if she did. She is confused and does not understand the behavior of her boyfriend stating that he has never done

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this before. She tells you that the lock to her front door does not work, and she is afraid to return to her home.

2. Steven, a 24-year old male is new to the community. He is a body builder and recently joined a local gym. At the gym, one of the personal trainers Bob, a 45-year old male, initiated a friendship with Steven. Last night, Steven was invited to Bob's house to help hang pictures. The evening resulted in Bob sexually assaulting Steven. Steven is angry and adamant about not speaking with the police about the incident, stating that he fears they will label him a fag and not offer any assistance. He adds that the only reason he came to the hospital was because of the pain he is experiencing. When asked if he would like someone from rape crisis services to speak with him, he declined at first. After thinking it through, he decided it might be helpful to talk to someone and requested that a female be contacted. He stated that this is the first time he has had sex with a male.

3. Donia and Todd, both 18-year old college students, were attacked by three males and tied up while walking through a park late in the evening. Todd was forced to watch the rape of Donia. Afterward, they were tied back to back in a sitting position, Donia was still nude and the rapists took her clothes. A park ranger discovered them and took them to the hospital. Both Donia & Todd have a strong religious background and state that they feel God did this to "test" them. They recognized the males as students who attend the same college they do. They do not feel it wise to press charges, since God will take care of them for what they did. While Donia is being examined and Todd is in the waiting room, she confides to you that she feels ashamed that Todd saw her nude, and secretly does not understand why God let this happen to her.

4. Kathy is a 28-year old unemployed bartender. She is currently living with her parents because recent surgery on both arms has left her unable to work. Last night, she visited her old place of work with a girlfriend and met three males who invited them to a party. At this point Kathy had had a lot to drink. She volunteered the use of her pick-up for transportation and allowed one of the males to drive while she rode in the back of the open bed. In route to the party Kathy passed out and her friend, who was also in the back of the truck, got out at a light. When Kathy woke, she was in a strange room and discovered her jewelry, money, and credit cards had been stolen, the stereo system in her truck was gone, and she was in a lot of pain from head to toe. In addition, one male who was in the room with her informed her that he and the other two males had their way with her. Kathy is angry that she allowed this to happen, and repeats over and over that she is a big girl and can take care of herself. She informs you that she lifts weights and has never allowed a male to take advantage of her. She feels her friend betrayed her by leaving her alone with the men. She blames her friend for the rape.

5. Jessica and her parents are in the hospital waiting area when you arrive. Jessica is sitting on one side of the room away from her parents. You learn from a SANE that Jessica is 13 years old. She had been allowed to attend a school football game for the first time without her parents being present. Instead of waiting for her father to pick her up at a pre-determined area, she accepted a ride home from an acquaintance of a friend. The driver took her to his home (a male in his early 20s), raped her and told her to leave. Jessica walked several miles to a phone to call her parents. She did not tell them right away why she was so far from the football stadium or that she had been raped. Her parents blame themselves for not protect-

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ing their daughter from the assault, which was reinforced by the detective who asked them what they were thinking by allowing a 13 year old out that late at night alone.

6. Minnie is a 65-year old mildly mentally retarded adult female who has been assaulted. She has lived alone in a small house for the last two years. Minnie and her sister lived together until her sister died two years ago. She has one relative, a cousin, whom she is not particularly close to. The relative, a female police officer, arrives after the exam and expresses concern about her cousin continuing to live alone. Minnie's home has bars on the windows and doors, but she failed to close and lock a small window in the laundry room which the attacker used to enter the house. When the advocate arrives, Minnie is already in the examining room waiting for the doctor. She complains about her ribs hurting. She says she told a nurse, but the nurse did not seem to hear her. She repeats over and over what occurred and says that nothing like this has ever happened before.

7. Allison is a 15-year-old female who was raped at a church camp. The camp is several miles from her hometown. Her parents drove to the camp when they learned of the assault and brought her to their family doctor to be examined. She has not spoken to the police, and does not want to speak to an advocate. She clings to her mother the whole time and hides her face against her shoulder. Her parents appear to be upset, but very supportive of their daughter. She refuses to be examined.

ROLE-PLAY EXERCISES (HOTLINE)

1. Nadia explained that she was raped two years ago by her preacher. She stated she did not feel it was rape at the time since she did not think ministers would do something like that. She said she felt it was her fault that the incident occurred and excused the minister for his behavior thinking he was unable to help himself. After the rape she continued to attend the church, the only one of its denomination in the small town where she resides. She explained that she began to have bad dreams after the rape that were similar to the attack. Lately, the dreams changed and she began to think about the sexual abuse that occurred when she was a child. After disclosing the above to a close friend, the friend told her that she had been raped by the preacher, was depressed and should talk to someone.

2. Lydia states that her son, a 25-year-old male, was sexually assaulted as a child, and most recently, one week ago today. She is concerned that he may hurt himself. She explains that he is moody, depressed, and does not want to do anything with friends or family. His life partner has called her daily, frantic about his behavior. Lydia says that she has encouraged her son to report the attack, and to seek help, but he refuses. She wants to know what she can do to help him.

3. Tanya, a shy, quiet, 17-year-old female was sexually assaulted one month ago by her sister's boyfriend. She was afraid to tell her family, for fear they would blame her. Her parents are outraged and feel betrayed by the attacker. Her sister is upset with Tanya and blames her for the assault. She feels her plans to marry her boyfriend have been interrupted by her sister's behavior. In addition, her sister blames Tanya for creating a relationship problem between her parents and boyfriend. The sisters share a room.

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4. A man's voice states that he is so horny and that he is afraid he is going to rape someone tonight. He says he has done it before. He informs you that he has been in therapy for this little problem and would normally call his therapist, but has been unable to reach him.
5. A female who does not wish to identify herself tells you through tears that one of her regular john's just raped her. She says she has known him for several years and he often requests kinky sex, but nothing bizarre. This time, however, he asked her to engage in an act that would be painful (she is hesitant to describe). She refused and he forced her at knife point to do it anyway. As a result, she is injured, bleeding and in pain. After the attack, the john left the usual fee plus a hefty bonus. He told her she had no right to report him since she had been paid well. She is afraid to tell the police or go to the hospital.
6. Sarah, a 24-year-old has been married for three years. For the past year, her husband has been getting more and more physically violent toward her when he wants sex. It starts when he playfully slaps her butt, but the slapping gets harder—he begins to push and punch. Sarah fears for her life, but cannot afford to leave him because she does not have a job.
7. A male caller begins by saying his problem is embarrassing and he does not know if he can tell you what happened. After much silence and hesitation, he proceeds to explain how he was stripped and tied up by an older couple (husband and wife). He says this couple engaged in many bizarre sexual acts while he was forced to watch. He describes in detail the sexual acts, and says he is ashamed to admit that he was aroused by the scene and obtained an erection. Furthermore, he explains how painful the erection became since he was not allowed sexual gratification.

Texas Statutes

As an advocate, you do not have to be an expert on sexual assault law. However, you will want to be familiar in a general way with existing statutes related to sexual assault in Texas. It is helpful to know how to look up a statute or to help survivors figure out how to find a law if they are looking for one.

Your agency may have a notebook containing all the statutes pertaining to sexual assault in Texas. If not, all Texas statutes are available on the state of Texas's Constitution and Statutes website: <http://www.statutes.legis.state.tx.us/>.

You can use a search engine to look up a statute by bill number, subject, author, committee, or keyword at the Texas Legislature Online website, <http://www.capitol.state.tx.us/>. There is an advanced search available for more specific searches.

Below is a selection of some of the most relevant statutes related to sexual assault. Most sexual assault related statutes fall under Chapters 21, 22 and 43 of the Penal Code. All of the statutes quoted below were copied directly from <http://www.statutes.legis.state.tx.us>. This is not a complete list, so if there is something you are looking for and you do not see it here, be sure to check online.

TEXAS CODE OF CRIMINAL PROCEDURES

CHAPTER 7A. PROTECTIVE ORDER FOR VICTIMS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING

Art. 7A.01. APPLICATION FOR PROTECTIVE ORDER

- (a) The following persons may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender:
- (1) a person who is the victim of an offense under Section 21.02, 21.11, 22.011, or 22.021, Penal Code;
 - (2) a person who is the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or Section 43.05, Penal Code;
 - (3) a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of an offense listed in Subdivision (1) or (2); or
 - (4) a prosecuting attorney acting on behalf of a person described by Subdivision (1) or (2).
- (b) An application for a protective order under this chapter may be filed in a district court, juvenile court having the jurisdiction of a district court, statutory county court, or constitutional county court in:
- (1) the county in which the applicant resides; or
 - (2) the county in which the alleged offender resides.

Art. 7A.02. TEMPORARY EX PARTE ORDER

If the court finds from the information contained in an application for a protective order that there is a clear and present danger of a sexual assault or other harm to the applicant, the court, without further notice to the alleged offender and without a hearing, may enter a temporary ex parte order for the protection of the applicant or any other member of the applicant's family or household.

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Art. 7A.03. REQUIRED FINDINGS; ISSUANCE OF PROTECTIVE ORDER

(a) At the close of a hearing on an application for a protective order under this chapter, the court shall find whether there are reasonable grounds to believe that the applicant is the victim of a sexual assault.

(b) If the court finds reasonable grounds to believe that the applicant is the victim of a sexual assault, the court shall issue a protective order that includes a statement of the required findings.

Art. 7A.035. HEARSAY STATEMENT OF CHILD VICTIM.

In a hearing on an application for a protective order under this chapter, a statement that is made by a child younger than 14 years of age who is the victim of an offense under Section 21.02, 21.11, 22.011, or 22.021, Penal Code, and that describes the offense committed against the child is admissible as evidence in the same manner that a child's statement regarding alleged abuse against the child is admissible under Section 104.006, Family Code, in a suit affecting the parent-child relationship.

Art. 7A.04. APPLICATION OF OTHER LAW

To the extent applicable, except as otherwise provided by this chapter, Title 4, Family Code, applies to a protective order issued under this chapter.

Art. 7A.05. CONDITIONS SPECIFIED BY ORDER

(a) In a protective order issued under this chapter, the court may:

- (1) order the alleged offender to take action as specified by the court that the court determines is necessary or appropriate to prevent or reduce the likelihood of future harm to the applicant or a member of the applicant's family or household; or
- (2) prohibit the alleged offender from:
 - (A) communicating:
 - (i) directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner, or
 - (ii) in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court, if the court finds good cause for the prohibition;
 - (B) going to or near the residence, place of employment or business, or child-care facility or school of the applicant or any member of the applicant's family or household;
 - (C) engaging in conduct directed specifically toward the applicant or any member of the applicant's family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person; and
 - (D) possessing a firearm, unless the alleged offender is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

(b) In an order under Subsection (a)(2)(B), the court shall specifically describe each prohibited location and the minimum distance from the location, if any, that the alleged offender must maintain. This subsection does not apply to an order with respect to which the court has received a request to maintain confidentiality of information revealing the locations.

(c) In a protective order, the court may suspend a license to carry a concealed handgun issued under Section 411.177, Government Code, that is held by the alleged offender.

Art. 7A.06. WARNING ON PROTECTIVE ORDER

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(a) Each protective order issued under this chapter, including a temporary ex parte order, must contain the following prominently displayed statements in boldfaced type, capital letters, or underlined:

"A PERSON WHO VIOLATES THIS ORDER MAY BE PUNISHED FOR CONTEMPT OF COURT BY A FINE OF AS MUCH AS \$500 OR BY CONFINEMENT IN JAIL FOR AS LONG AS SIX MONTHS, OR BOTH."

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

"IT IS UNLAWFUL FOR ANY PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO A PROTECTIVE ORDER TO POSSESS A FIREARM OR AMMUNITION."

(b) Each protective order issued under this chapter, except for a temporary ex parte order, must contain the following prominently displayed statement in boldfaced type, capital letters, or underlined:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR, OR BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE OFFENSE IN ADDITION TO A VIOLATION OF THIS ORDER."

Art. 7A.07. DURATION OF PROTECTIVE ORDER

(a) A protective order issued under Article 7A.03 may be effective for the duration of the lives of the offender and victim or for any shorter period stated in the order. If a period is not stated in the order, the order is effective until the second anniversary of the date the order was issued.

(b) A victim who is 17 years of age or older or a parent or guardian acting on behalf of a victim who is younger than 17 years of age may file at any time an application with the court to rescind the protective order.

(c) If a person who is the subject of a protective order issued under Article 7A.03 is confined or imprisoned on the date the protective order is due to expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement or imprisonment.

(d) To the extent of any conflict with Section 85.025, Family Code, this article prevails.

CHAPTER 12 – LIMITATION

Art. 12.01. FELONIES

Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

- (1) no limitation:
 - (A) murder and manslaughter;

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- (B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or
 - (C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;
- (2) ten years from the date of the commission of the offense:
- (A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;
 - (B) theft by a public servant of government property over which he exercises control in his official capacity;
 - (C) forgery or the uttering, using or passing of forged instruments;
 - (D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;
 - (E) sexual assault, except as provided by Subdivision (1) or (5); or
 - (F) arson;
- (3) seven years from the date of the commission of the offense:
- (A) misapplication of fiduciary property or property of a financial institution;
 - (B) securing execution of document by deception; or
 - (C) a violation under Sections 162.403(22)-(39), Tax Code
- (4) five years from the date of the commission of the offense:
- (A) theft, burglary, robbery;
 - (B) kidnapping;
 - (C) injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;
 - (D) abandoning or endangering a child; or
 - (E) insurance fraud;
- (5) ten years from the 18th birthday of the victim of the offense:
- (A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code;
 - (B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or
 - (C) injury to a child under Section 22.04, Penal Code; or
- (6) three years from the date of the commission of the offense: all other felonies.

Art. 12.02. MISDEMEANORS

An indictment or information for any misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward.

Chapter 15 – Arrest Under Warrant

Art. 15.051. REQUIRING POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED

(a) A peace officer or an attorney representing the state may not require a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(b) If a peace officer or an attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a), the officer or

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attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely:

- (1) because a complainant did not take a polygraph examination; or
 - (2) on the basis of the results of a polygraph examination taken by the complainant.
- (c) A peace officer or an attorney representing the state may not take a polygraph examination of a person who charges or seeks to charge the commission of an offense listed in Subsection (a) unless the officer or attorney provides the information in Subsection (b) to the person and the person signs a statement indicating the person understands the information.
- (d) A complaint may not be dismissed solely:
- (1) because a complainant did not take a polygraph examination; or
 - (2) on the basis of the results of a polygraph examination taken by the complainant.

Chapter 17 – Bail

Art. 17.292. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION

(a) At a defendant's appearance before a magistrate after arrest for an offense involving family violence or an offense under Section 22.011, 22.021, or 42.072, Penal Code, the magistrate may issue an order for emergency protection on the magistrate's own motion or on the request of:

- (1) the victim of the offense;
- (2) the guardian of the victim;
- (3) a peace officer; or
- (4) the attorney representing the state.

(b) At a defendant's appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:

- (1) serious bodily injury to the victim; or
- (2) the use or exhibition of a deadly weapon during the commission of an assault.

(c) The magistrate in the order for emergency protection may prohibit the arrested party from:

- (1) committing:
 - (A) family violence or an assault on the person protected under the order; or
 - (B) an act in furtherance of an offense under Section 42.072, Penal Code;
- (2) communicating:
 - (A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner; or
 - (B) a threat through any person to a member of the family or household or to the person protected under the order;
- (3) going to or near:
 - (A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or
 - (B) the residence, child care facility, or school where a child protected under the order resides or attends; or
- (4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring

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system or allowing participation in the system by an alleged victim or other person protected under the order.

(d) The victim of the offense need not be present in court when the order for emergency protection is issued.

(e) In the order for emergency protection the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted.

(f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.

(f-1) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 85, Subtitle B, Title 4, Family Code, or under Title 1 or Title 5, Family Code, the condition imposed by the order issued under the Family Code prevails.

(f-2) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 83, Subtitle B, Title 4, Family Code, the condition imposed by the order issued under this article prevails unless the court issuing the order under Chapter 83, Family Code:

- (1) is informed of the existence of the order issued under this article; and
- (2) makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.

(g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE OR A STALKING OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

(h) The magistrate issuing an order for emergency protection under this article shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality. If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a

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good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment. The clerk of the court shall send a copy of the order to the victim.

(i) If an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, the magistrate shall send a copy of the order to the child care facility or school.

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order in open court. An order for emergency protection issued under Subsection (a) or (b)(1) of this article remains in effect up to the 61st day but not less than 31 days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the 91st day but not less than 61 days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:

- (1) the order as originally issued is unworkable;
- (2) the modification will not place the victim of the offense at greater risk than did the original order; and
- (3) the modification will not in any way endanger a person protected under the order.

(k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, each municipal police department and sheriff shall establish a procedure within the department or office to provide adequate information or access to information for peace officers of the names of persons protected by an order for emergency protection issued under this article and of persons to whom the order is directed. The police department or sheriff may enter an order for emergency protection issued under this article in the department's or office's record of outstanding warrants as notice that the order has been issued and is in effect.

(l) In the order for emergency protection, the magistrate may suspend a license to carry a concealed handgun issued under Section 411.177, Government Code, that is held by the defendant.

(m) In this article:

- (1) "Family," "family violence," and "household" have the meanings assigned by Chapter 71, Family Code.
- (2) "Firearm" has the meaning assigned by Chapter 46, Penal Code.

(n) On motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. On transfer, the criminal court may modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

Chapter 21 – Indictment and Information

Art. 21.31. TESTING FOR AIDS AND CERTAIN OTHER DISEASES

(a) A person who is indicted for or who waives indictment for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code, shall, at the direction of the court, undergo a medical procedure or test designed to show or help show whether the person has a sexually transmitted disease or has acquired immune deficiency syndrome (AIDS) or human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court may direct the person to undergo the procedure or test on its own motion or on the request of the victim of the alleged offense. If the person refuses to submit voluntarily to the procedure or test, the court shall require the person to submit to the procedure or test. The court may require a defendant previously required under this article to undergo a medical procedure or test on indictment for an offense to undergo a subsequent medical procedure or test following conviction

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of the offense. The person performing the procedure or test shall make the test results available to the local health authority, and the local health authority shall be required to make the notification of the test result to the victim of the alleged offense and to the defendant.

(b) The court shall order a person who is charged with an offense under Section 22.11, Penal Code, to undergo in the manner provided by Subsection (a) a medical procedure or test designed to show or help show whether the person has HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code. The person charged with the offense shall pay the costs of testing under this subsection.

(c) The state may not use the fact that a medical procedure or test was performed on a person under Subsection (a) or use the results of a procedure or test conducted under Subsection (a) in any criminal proceeding arising out of the alleged offense.

(d) Testing under this article shall be conducted in accordance with written infectious disease control protocols adopted by the Texas Board of Health that clearly establish procedural guidelines that provide criteria for testing and that respect the rights of the person accused and any victim of the alleged offense.

(e) This article does not permit a court to release a test result to anyone other than those authorized by law, and the provisions of Section 81.103(d), Health and Safety Code, may not be construed to allow that disclosure.

Chapter 56 – Rights of Crime Victims

Art. 56.01. DEFINITIONS

In this chapter:

(1) "Close relative of a deceased victim" means a person who was the spouse of a deceased victim at the time of the victim's death or who is a parent or adult brother, sister, or child of the deceased victim.

(2) "Guardian of a victim" means a person who is the legal guardian of the victim, whether or not the legal relationship between the guardian and victim exists because of the age of the victim or the physical or mental incompetency of the victim.

(2-a) "Sexual assault" means an offense under section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code.

(3) "Victim" means a person who is the victim of sexual assault, kidnapping, or aggravated robbery or who has suffered personal injury or death as a result of the criminal conduct of another.

Art. 56.02. CRIME VICTIMS' RIGHTS

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed:

(A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event; and

(B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are made public;

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- (4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;
 - (5) the right to provide pertinent information to a probation department conducting a pre-sentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender;
 - (6) the right to receive information regarding compensation to victims of crime as provided by Subchapter B, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment for a medical examination under Article 56.06 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;
 - (7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning a defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior to the parole of any defendant convicted of any crime subject to this subchapter, and to be notified, if requested, of the defendant's release;
 - (8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the offender and the offender's relatives and witnesses, before and during court proceedings;
 - (9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;
 - (10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;
 - (11) the right to request victim-offender mediation coordinated by the victim services division of the Texas Department of Criminal Justice;
 - (12) the right to be informed of the uses of a victim impact statement and the statement's purpose in the criminal justice system, to complete the victim impact statement, and to have the victim impact statement considered:
 - (A) by the attorney representing the state and the judge before sentencing or before a plea bargain agreement is accepted; and
 - (B) by the Board of Pardons and Paroles before an inmate is released on parole;
- and
- (13) for a victim of an assault or sexual assault who is younger than 17 years of age or whose case involves family violence, as defined by Section 71.004, Family Code, the right to have the court consider the impact on the victim of a continuance requested by the defendant; if requested by the attorney representing the state or by counsel for the defendant, the court shall state on the record the reason for granting or denying the continuance.
- (b) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or

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close relative of a deceased victim is afforded the rights granted by this article and Article 56.021 and, on request, an explanation of those rights.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article or Article 56.021. The failure or inability of any person to provide a right or service enumerated in this article or Article 56.021 may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

Art. 56.021. RIGHTS OF VICTIM OF SEXUAL ASSAULT.

- (a) In addition to the right enumerated in Article 56.02, if the offense is a sexual assault, the victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:
- (1) if requested, the right to a disclosure of information regarding any evidence that was collected during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which that information is expected to be disclosed;
 - (2) if requested, the right to a disclosure of information regarding the status of any analysis being performed of any evidence that was collected during the investigation of the offense;
 - (3) if requested, the right to be notified:
 - (A) at the time a request is submitted to a crime laboratory to process and analyze any evidence that was collected during the investigation of the offense;
 - (B) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in a state or federal DNA database; and
 - (C) of the results of the comparison described by Paragraph (B), unless disclosing the results would interfere with the investigation or prosecution of the offense, in which event the victim, guardian, or relative shall be informed of the estimated date on which those results are expected to be disclosed;
 - (4) if requested, the right to counseling regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection;
 - (5) for the victim of the offense, testing for acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS; and
 - (6) to the extent provided by Articles 56.06 and 56.065, for the victim of the offense, the right to a forensic medical examination if, within 96 hours of the offense, the offense is reported to a law enforcement agency or a forensic medical examination is otherwise conducted at a health care facility.
- (b) A victim, guardian, or relative who requests to be notified under Subsection (a)(3) must provide a current address and phone number to the attorney representing the state and the law enforcement agency that is investigating the offense. The victim, guardian, or relative must inform the attorney representing the state and the law enforcement agency of any change in the address or phone number.
- (c) A victim guardian, or relative must designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under Subsection (a)(3).

Art. 56.03. VICTIM IMPACT STATEMENT

(a) The Texas Crime Victim Clearinghouse, with the participation of the Texas Adult Probation Commission and the Board of Pardons and Paroles, shall develop a form to be used by law enforcement agencies, prosecutors, and other participants in the criminal justice system to record the impact of an offense on a victim of the offense, guardian of a victim, or a close relative of a deceased victim and to provide the

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agencies, prosecutors, and participants with information needed to contact the victim, guardian, or relative if needed at any stage of a prosecution of a person charged with the offense. The Texas Crime Victim Clearinghouse, with the participation of the Texas Adult Probation Commission and the Board of Pardons and Paroles, shall also develop a victims' information booklet that provides a general explanation of the criminal justice system to victims of an offense, guardians of victims, and relatives of deceased victims.

(b) The victim impact statement must be in a form designed to inform a victim, guardian of a victim, or a close relative of a deceased victim with a clear statement of rights provided by Articles 56.02 and 56.021 of this code and to collect the following information:

- (1) the name of the victim of the offense or, if the victim has a legal guardian or is deceased, the name of a guardian or close relative of the victim;
- (2) the address and telephone number of the victim, guardian, or relative through which the victim, guardian of a victim, or a close relative of a deceased victim, may be contacted;
- (3) a statement of economic loss suffered by the victim, guardian, or relative as a result of the offense;
- (4) a statement of any physical or psychological injury suffered by the victim, guardian, or relative as a result of the offense, as described by the victim, guardian, relative, or by a physician or counselor;
- (5) a statement of any psychological services requested as a result of the offense;
- (6) a statement of any change in the victim's, guardian's, or relative's personal welfare or familial relationship as a result of the offense;
- (7) a statement as to whether or not the victim, guardian, or relative wishes to be notified in the future of any parole hearing for the defendant and an explanation as to the procedures by which the victim, guardian, or relative may obtain information concerning the release of the defendant from the Texas Department of Corrections; and
- (8) any other information, other than facts related to the commission of the offense, related to the impact of the offense on the victim, guardian, or relative.

(c) The victim assistance coordinator, designated in Article 56.04(a) of this code, shall send to a victim, guardian of a victim, or close relative of a deceased victim a victim impact statement, a victims' information booklet, and an application for compensation under Subchapter B, Chapter 56, along with an offer to assist in completing those forms on request. The victim assistance coordinator, on request, shall explain the possible use and consideration of the victim impact statement at sentencing and future parole hearing of the offender.

(d) If a victim, guardian of a victim, or close relative of a deceased victim states on the victim impact statement that he wishes to be notified of parole proceedings, the victim, guardian, or relative is responsible for notifying the Board of Pardons and Paroles of any change of address.

(e) Prior to the imposition of a sentence by the court in a criminal case, the court, if it has received a victim impact statement, shall consider the information provided in the statement. Before sentencing the defendant, the court shall permit the defendant or his counsel a reasonable time to read the statement, excluding the victim's name, address, and telephone number, comment on the statement, and, with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the statement. If the court sentences the defendant to a term of community supervision, the court shall forward any victim's impact statement received in the case to the community supervision and corrections department supervising the defendant, along with the papers in the case. (f) The court may not inspect a victim impact statement until after a finding of guilt or until deferred adjudication is ordered and the contents of the statement may not be disclosed to any person unless:

- (1) the defendant pleads guilty or nolo contendere or is convicted of the offense; or
- (2) the defendant in writing authorizes the court to inspect the statement.

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(g) A victim impact statement is subject to discovery under Article 39.14 of this code before the testimony of the victim is taken only if the court determines that the statement contains exculpatory material.

(h) Not later than December 1 of each odd-numbered year, the Texas Crime Victim Clearinghouse, with the participation of the Texas Adult Probation Commission and the Board of Pardons and Paroles, shall update the victim impact statement form and any other information provided by the commission to victims, guardians of victims, and relatives of deceased victims, if necessary, to reflect changes in law relating to criminal justice and the rights of victims and guardians and relatives of victims.

(i) In addition to the information described by Subsections (b)(1)-(8), the victim impact statement must be in a form designed to collect information on whether, if the victim is a child, there is an existing court order granting to the defendant possession of or access to the victim. If information collected under this subsection indicates the defendant is granted access or possession under court order and the defendant is subsequently confined by the Texas Department of Criminal Justice as a result of the commission of the offense, the victim services office of the department shall contact the court issuing the order before the defendant is released from the department on parole or mandatory supervision.

Art. 56.04. VICTIM ASSISTANCE COORDINATOR; CRIME VICTIM LIAISON

(a) The district attorney, criminal district attorney, or county attorney who prosecutes criminal cases shall designate a person to serve as victim assistance coordinator in that jurisdiction.

(b) The duty of the victim assistance coordinator is to ensure that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted victims, guardians, and relatives by Articles 56.02 and 56.021 of this code. The victim assistance coordinator shall work closely with appropriate law enforcement agencies, prosecuting attorneys, the Board of Pardons and Paroles, and the judiciary in carrying out that duty.

(c) Each local law enforcement agency shall designate one person to serve as the agency's crime victim liaison. Each agency shall consult with the victim assistance coordinator in the office of the attorney representing the state to determine the most effective manner in which the crime victim liaison can perform the duties imposed on the crime victim liaison under this article.

(d) The duty of the crime victim liaison is to ensure that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted victims, guardians, or close relatives of deceased victims by Subdivisions (4), (6), and (9) of Article 56.02(a) of this code.

(e) The victim assistance coordinator shall send a copy of a victim impact statement to the court sentencing the defendant. If the court sentences the defendant to imprisonment in the Texas Department of Corrections, it shall attach the copy of the victim impact statement to the commitment papers.

(f) The commissioners court may approve a program in which the crime victim liaison or victim assistance coordinator may offer not more than 10 hours of posttrial psychological counseling for a person who serves as a juror or an alternate juror in the trial of an offense under Section 19.02, 19.03, 21.11, 22.011, 22.021, 43.05, 43.25, or 43.251, Penal Code, involving graphic evidence or testimony and who requests the posttrial psychological counseling not later than the 180th day after the date on which the jury in the trial is dismissed. The crime victim liaison or victim assistance coordinator may provide the counseling using a provider that assists local criminal justice agencies in providing similar services to victims.

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Art. 56.045. PRESENCE OF ADVOCATE OR REPRESENTATIVE DURING FORENSIC MEDICAL EXAMINATION.

(a) Before conducting a forensic medical examination of a person who consents to such an examination for the collection of evidence for an alleged sexual assault, the physician or other medical services personnel conducting the examination shall offer the person the opportunity to have an advocate from a sexual assault program as defined by Section 420.003, Government Code, who has completed a sexual assault training program described by Section 420.011(b), Government Code, present with the person during the examination, if the advocate is available at the time of the examination.

(b) The advocate may only provide the injured person with:

- (1) counseling and other support services; and
- (2) information regarding the rights of crime victims under Articles 56.02 and 56.021.

(c) Notwithstanding Subsection (a), the advocate and the sexual assault program providing the advocate may not delay or otherwise impede the screening or stabilization of an emergency medical condition.

(d) The sexual assault program providing the advocate shall pay all costs associated with providing the advocate.

(e) Any individual or entity, including a health care facility, that provides an advocate with access to a person consenting to an examination under Subsection (a) is not subject to civil or criminal liability for providing that access. In this subsection, "health care facility" includes a hospital licensed under Chapter 241, Health and Safety Code.

(f) If a person alleging to have sustained injuries as the victim of a sexual assault was confined in a penal institution, as defined by Section 1.07, Penal Code, at the time of the alleged assault, the penal institution shall provide, at the person's request, a representative to be present with the person at any forensic medical examination conducted for the purpose of collecting and preserving evidence related to the investigation or prosecution of the alleged assault. The representative may only provide the injured person with counseling and other support services and with information regarding the rights of crime victims under Articles 56.02 and 56.021 and may not delay or otherwise impede the screening or stabilization of an emergency medical condition. The representative must be approved by the penal institution and must be a:

- (1) psychologist;
- (2) sociologist;
- (3) chaplain;
- (4) social worker;
- (5) case manager; or

(6) volunteer who has completed a sexual assault training program described by Section 420.011(b), Government Code.

Art. 56.06. MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM; COSTS

(a) If a sexual assault is reported to a law enforcement agency within 96 hours of the assault, the law enforcement agency, with the consent of the victim, a person authorized to act on behalf of the victim, or an employee of the Department of Family and Protective Services, shall request a medical examination of the victim of the alleged assault for use in the investigation or prosecution of the offense. A law enforcement agency may decline to request a medical examination under this subsection only if the person reporting the sexual assault has made one or more false reports of

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sexual assault to any law enforcement agency and if there is no other evidence to corroborate the current allegations of sexual assault.

(b) If a sexual assault is not reported within the period described by Subsection (a), on receiving the consent described by that subsection the law enforcement agency may request a medical examination of a victim of an alleged sexual assault as considered appropriate by the agency.

(c) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all costs of the examination. On application to the attorney general, the law enforcement agency is entitled to be reimbursed for the reasonable costs of that examination if the examination was performed by a physician or by a sexual assault examiner or sexual assault nurse examiner, as defined by Section 420.003, Government Code.

(d) A law enforcement agency or prosecuting attorney's office may pay all costs related to the testimony of a licensed health care professional in a criminal proceeding regarding the results of the medical examination or manner in which it was performed.

(e) This article does not require a law enforcement agency to pay any costs of treatment for injuries.

Art. 56.065. MEDICAL EXAMINATION FOR SEXUAL ASSAULT VICTIM WHO HAS NOT REPORTED ASSAULT; COSTS.

(a) In this article:

- (1) "Crime laboratory" has the meaning assigned by Article 38.35.
- (2) "Department" means the Department of Public Safety.
- (3) "Sexual assault examiner" and "sexual assault nurse examiner" have the meanings assigned by Section 420.003, Government Code.

(b) This article applies to the following health care facilities that provide diagnosis or treatment services to victims of sexual assault:

- (1) a general or special hospital licensed under Chapter 241, Health and Safety Code;
- (2) a general or special hospital owned by this state;
- (3) an outpatient clinic; and
- (4) a private physician's office.

(c) In accordance with Subchapter B, Chapter 420, Government Code, and except as provided by Subsection (e), a health care facility shall conduct a forensic medical examination of the victim of an alleged sexual assault if:

- (1) the victim arrives at the facility within 96 hours after the assault occurred;
- (2) the victim consents to the examination; and
- (3) at the time of the examination the victim has not reported the assault to a law enforcement agency.

(d) The department shall pay the appropriate fees, as set by attorney general rule, for the forensic portion of the medical examination and for the evidence collection kit if a physician, sexual assault examiner, or sexual assault nurse examiner conducts the forensic portion of the examination within 96 hours after the alleged sexual assault occurred. The attorney general shall reimburse the department for fees paid under this subsection.

(e) If a health care facility does not provide diagnosis or treatment services to victims of sexual assault, the facility shall refer a victim seeking a forensic medical examination under Subsection (c) to a health care facility that provides services to those victims.

(f) The department, consistent with Chapter 420, Government Code, may develop procedures regarding the submission or collection of additional evidence of the alleged sexual assault other than through an examination as described by this article.

(g) The department, consistent with Chapter 420, Government Code, shall develop procedures for the transfer and preservation of evidence collected under this article to a crime laboratory or other

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suitable location designated by the public safety director of the department. The receiving entity shall preserve the evidence until the earlier of:

- (1) the second anniversary of the date the evidence was collected; or
 - (2) the date on which written consent to release the evidence is obtained as provided by Section 420.0735, Government Code.
- (h) The victim may not be required to:
- (1) participate in the investigation or prosecution of an offense as a condition of receiving a forensic medical examination under this article; or
 - (2) pay for the forensic portion of the medical examination or for the evidence collection kit.
- (i) The attorney general and the department each shall adopt rules as necessary to implement this article.
- (j) A communication or record that contains identifying information regarding a person who receives a forensic medical examination under this article and that is created by, provided to, or in the control or possession of the department is confidential for purposes of Section 552.101, Government Code. In this subsection, "identifying information" includes:
- (1) information revealing the identity, personal history, or background of the person; or
 - (2) information concerning the victimization of the person.

Art. 56.07. NOTIFICATION.

(a) At the initial contact or at the earliest possible time after the initial contact between the victim of a reported crime and the law enforcement agency having the responsibility for investigating that crime, that agency shall provide the victim a written notice containing:

- (1) information about the availability of emergency and medical services, if applicable;
- (2) notice that the victim has the right to receive information regarding compensation to victims of crime as provided by Subchapter B, Chapter 56, including information about:
 - (A) the costs that may be compensated under that Act and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that Act;
 - (B) the payment for a medical examination for a victim of a sexual assault under Article 56.06 of this code; and
 - (C) referral to available social service agencies that may offer additional assistance;
- (3) the name, address, and phone number of the law enforcement agency's victim assistance liaison;
- (4) the address, phone number, and name of the crime victim assistance coordinator of the office of the attorney representing the state;
- (5) the following statement: "You may call the law enforcement agency's telephone number for the status of the case and information about victims' rights"; and
- (6) the rights of crime victims under Articles 56.02 56.021 of this code.

(b) At the same time a law enforcement agency provides notice under Subsection (a), the agency shall provide, if the agency possesses the relevant information, a referral to a sexual assault program as defined by Section 420.003, Government Code, and a written description of the services provided by that program. A sexual assault program may provide a written description of its services to a law enforcement agency.

Art. 56.08. NOTIFICATION OF RIGHTS BY ATTORNEY REPRESENTING THE STATE

(a) Not later than the 10th day after the date that an indictment or information is returned against a defendant for an offense, the attorney representing the state shall give to each victim of the offense a written notice containing:

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- (1) a brief general statement of each procedural stage in the processing of a criminal case, including bail, plea bargaining, parole restitution, and appeal;
 - (2) notification of the rights and procedures under this chapter;
 - (3) suggested steps the victim may take if the victim is subjected to threats or intimidation;
 - (4) notification of the right to receive information regarding compensation to victims of crime as provided by Subchapter B of this chapter, including information about:
 - (A) the costs that may be compensated under Subchapter B of this chapter, eligibility for compensation, and procedures for application for compensation under Subchapter B of this chapter;
 - (B) the payment for a medical examination for a victim of a sexual assault under Article 56.06 of this code; and
 - (C) referral to available social service agencies that may offer additional assistance;
 - (5) the name, address, and phone number of the local victim assistance coordinator;
 - (6) the case number and assigned court for the case;
 - (7) the right to file a victim impact statement with the office of the attorney representing the state and the pardons and paroles division of the Texas Department of Criminal Justice; and
 - (8) notification of the right of a victim, guardian of a victim, or close relative of a deceased victim, as defined by Section 508.117, Government Code, to appear in person before a member of the Board of Pardons and Paroles as provided by Section 508.153, Government Code.
- (b) If requested by the victim, the attorney representing the state, as far as reasonably practical, shall give to the victim notice of any scheduled court proceedings, changes in that schedule, the filing of a request for continuance of a trial setting, and any plea agreements to be presented to the court.
- (c) A victim who receives a notice under Subsection (a) of this article and who chooses to receive other notice under law about the same case must keep the following persons informed of the victim's current address and phone number:
- (1) the attorney representing the state; and
 - (2) the pardons and paroles division of the Texas Department of Criminal Justice if after sentencing the defendant is confined in the institutional division.
- (d) An attorney representing the state who receives information concerning a victim's current address and phone number shall immediately provide that information to the community supervision and corrections department supervising the defendant, if the defendant is placed on community supervision.
- (e) The brief general statement describing the plea bargaining stage in a criminal trial required by Subsection (a)(1) shall include a statement that:
- (1) the victim impact statement provided by the victim, guardian of a victim, or close relative of a deceased victim will be considered by the attorney representing the state in entering into the plea bargain agreement; and
 - (2) the judge before accepting the plea bargain is required under Section 26.13(e) to ask:
 - (A) whether a victim impact statement has been returned to the attorney; and
 - (B) if a statement has been returned, for a copy of the statement.

Chapter 56, Subchapter C – Address Confidentiality Program for Victims of Family Violence, Sexual Assault, or Stalking

Art. 56.81. DEFINITIONS. In this subchapter:

- (1) "Applicant" means a person who applies to participate in the program.
- (2) "Family violence" has the meaning assigned by Section 71.004, Family Code.
- (3) "Family violence shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

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- (4) "Mail" means first class mail and any mail sent by a government agency. The term does not include a package, regardless of size or type of mailing.
- (5) "Participant" means an applicant who is certified for participation in the program.
- (6) "Program" means the address confidentiality program created under this subchapter.

Art. 56.82. ADDRESS CONFIDENTIALITY PROGRAM

(a) The attorney general shall establish an address confidentiality program, as provided by this subchapter, to assist a victim of family violence or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code, in maintaining a confidential address.

(b) The attorney general shall:

- (1) designate a substitute post office box address that a participant may use in place of the participant's true residential, business, or school address;
- (2) act as agent to receive service of process and mail on behalf of the participant; and
- (3) forward to the participant mail received by the office of the attorney general on behalf of the participant.

(c) A summons, writ, notice, demand, or process may be served on the attorney general on behalf of the participant by delivery of two copies of the document to the office of the attorney general. The attorney general shall retain a copy of the summons, writ, notice, demand, or process and forward the original to the participant not later than the third day after the date of service on the attorney general.

(d) The attorney general shall make and retain a copy of the envelope in which certified mail is received on behalf of the participant.

Art. 56.83. ELIGIBILITY TO PARTICIPATE IN PROGRAM

(a) To be eligible to participate in the program, an applicant must:

- (1) meet with a victim's assistance counselor from a state or local agency or other entity, whether for-profit or nonprofit that is identified by the attorney general as an entity that provides counseling and shelter services to victims of family violence;
- (2) file an application for participation with the attorney general or a state or local agency or other entity identified by the attorney general under Subdivision (1);
- (3) designate the attorney general as agent to receive service of process and mail on behalf of the applicant; and
- (4) live at a residential address, or relocate to a residential address, that is unknown to the person who committed or is alleged to have committed the family violence or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code.

(b) An application under Subsection (a)(2) must contain:

- (1) a signed, sworn statement by the applicant stating that the applicant fears for the safety of the applicant, the applicant's child, or another person in the applicant's household because of a threat of immediate or future harm caused by the person who committed or is alleged to have committed the family violence or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code;
- (2) the applicant's true residential address and, if applicable, the applicant's business and school addresses; and
- (3) a statement by the applicant of whether there is an existing court order or a pending court case for child support or child custody or visitation that involves the applicant and, if so, the name and address of:

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- (A) the legal counsel of record; and
 - (B) each parent involved in the court order or pending case.
- (c) An application under Subsection (a)(2) must be completed by the applicant in person at the state or local agency or other entity with which the application is filed. An applicant who knowingly or intentionally makes a false statement in an application under Subsection (a)(2) is subject to prosecution under Chapter 37, Penal Code.
- (d) A state or local agency or other entity with which an application is filed under Subsection (a)(2) shall forward the application to the office of the attorney general.
- (e) The attorney general by rule may establish additional eligibility requirements for participation in the program that are consistent with the purpose of the program as stated in Article 56.82(a). The attorney general may establish procedures for requiring an applicant, in appropriate circumstances, to submit with the application under Subsection (a)(2) independent documentary evidence of family violence or an offense under Section 22.011, 22.021, 25.02, or 42.072, Penal Code, in the form of:
- (1) an active or recently issued protective order;
 - (2) an incident report or other record maintained by a law enforcement agency or official;
 - (3) a statement of a physician or other health care provider regarding the applicant's medical condition as a result of the family violence or offense; or
 - (4) a statement of a mental health professional, a member of the clergy, an attorney or other legal advocate, a trained staff member of a family violence center, or another professional who has assisted the applicant in addressing the effects of the family violence or offense.
- (f) Any assistance or counseling provided by the attorney general or an employee or agent of the attorney general to an applicant does not constitute legal advice.

Art. 56.84. CERTIFICATION; EXPIRATION

- (a) The attorney general shall certify for participation in the program an applicant who satisfies the eligibility requirements under Article 56.83.
- (b) A certification under this article expires on the third anniversary of the date of certification.

Art. 56.85. RENEWAL

To renew a certification under Article 56.84, a participant must satisfy the eligibility requirements under Article 56.83 as if the participant were originally applying for participation in the program.

Art. 56.86. INELIGIBILITY AND CANCELLATION

- (a) An applicant is ineligible for, and a participant may be excluded from, participation in the program if the applicant or participant knowingly makes a false statement on an application filed under Article 56.83(a)(2).
- (b) A participant may be excluded from participation in the program if:
- (1) mail forwarded to the participant by the attorney general is returned undeliverable on at least four occasions;
 - (2) the participant changes the participant's true residential address as provided in the application filed under Article 56.83(a)(2) and does not notify the attorney general of the change at least 10 days before the date of the change; or

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- (3) the participant changes the participant's name.

Art. 56.87. WITHDRAWAL

A participant may withdraw from the program by notifying the attorney general in writing of the withdrawal.

Added by Acts 2007, 80th Leg., R.S., Ch. 1295, Sec. 1, eff. June 15, 2007.

Art. 56.88. CONFIDENTIALITY; DESTRUCTION OF INFORMATION

- (a) Information relating to a participant:
 - (1) is confidential, except as provided by Article 56.90; and
 - (2) may not be disclosed under Chapter 552, Government Code.
- (b) Except as provided by Article 56.82(d), the attorney general may not make a copy of any mail received by the office of the attorney general on behalf of the participant.
- (c) The attorney general shall destroy all information relating to a participant on the third anniversary of the date participation in the program ends.

Art. 56.89. ACCEPTANCE OF SUBSTITUTE ADDRESS; EXEMPTIONS

- (a) Except as provided by Subsection (b), a state or local agency must accept the substitute post office box address designated by the attorney general if the substitute address is presented to the agency by a participant in place of the participant's true residential, business, or school address.
- (b) The attorney general by rule may permit an agency to require a participant to provide the participant's true residential, business, or school address, if necessary for the agency to perform a duty or function that is imposed by law or administrative requirement.

Art. 56.90. EXCEPTIONS

- (a) The attorney general:
 - (1) shall disclose a participant's true residential, business, or school address if:
 - (A) requested by:
 - (i) a law enforcement agency;
 - (ii) the Department of Family and Protective Services for the purpose of conducting a child protective services investigation under Chapter 261, Family Code; or
 - (iii) the Department of State Health Services or a local health authority for the purpose of making a notification described by Article 21.31, Section 54.033, Family Code, or Section 81.051, Health and Safety Code; or
 - (B) required by court order; and
 - (2) may disclose a participant's true residential, business, or school address if:
 - (A) the participant consents to the disclosure; and
 - (B) the disclosure is necessary to administer the program.
- (b) A person to whom a participant's true residential, business, or school address is disclosed under this section shall maintain the requested information in a manner that protects the confidentiality of the participant's true residential, business, or school address.

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Art. 56.91. LIABILITY

(a) The attorney general or an agent or employee of the attorney general is immune from liability for any act or omission by the agent or employee in administering the program if the agent or employee was acting in good faith and in the course and scope of assigned responsibilities and duties.

(b) An agent or employee of the attorney general who does not act in good faith and in the course and scope of assigned responsibilities and duties in disclosing a participant's true residential, business, or school address is subject to prosecution under Chapter 39, Penal Code.

Art. 56.92 PROGRAM INFORMATION AND APPLICATION MATERIALS

The attorney general shall make program information and application materials available online.

Art. 56.93. RULES

The attorney general shall adopt rules to administer the program.

Chapter 57 – Confidentiality of Identifying Information of Sex Offense Victims

Art. 57.01. DEFINITIONS. In this chapter:

(1) "Name" means the legal name of a person.

(2) "Pseudonym" means a set of initials or a fictitious name chosen by a victim to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.

(3) "Public servant" has the meaning assigned by Subsection (a), Section 1.07, Penal Code.

(4) "Victim" means a person who was the subject of:

(A) an offense the commission of which leads to a reportable conviction or adjudication under Chapter 62; or

(B) an offense that is part of the same criminal episode, as defined by Section 3.01, Penal Code, as an offense described by Paragraph (A).

Art. 57.02. CONFIDENTIALITY OF FILES AND RECORDS

(a) The Sexual Assault Prevention and Crisis Services Program of the office of the attorney general shall develop and distribute to all law enforcement agencies of the state a pseudonym form to record the name, address, telephone number, and pseudonym of a victim.

(b) A victim may choose a pseudonym to be used instead of the victim's name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings. A victim who elects to use a pseudonym as provided by this article must complete a pseudonym form developed under this article and return the form to the law enforcement agency investigating the offense.

(c) A victim who completes and returns a pseudonym form to the law enforcement agency investigating the offense may not be required to disclose the victim's name, address, and telephone number in connection with the investigation or prosecution of the offense.

(d) A completed and returned pseudonym form is confidential and may not be disclosed to any person other than a defendant in the case or the defendant's attorney, except on an order of a court of competent jurisdiction. The court finding required by Subsection (g) of this article is not required to disclose the confidential pseudonym form to the defendant in the case or to the defendant's attorney.

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- (e) If a victim completes and returns a pseudonym form to a law enforcement agency under this article, the law enforcement agency receiving the form shall:
- (1) remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the agency's possession;
 - (2) notify the attorney for the state of the pseudonym and that the victim has elected to be designated by the pseudonym; and
 - (3) maintain the form in a manner that protects the confidentiality of the information contained on the form.
- (f) An attorney for the state who receives notice that a victim has elected to be designated by a pseudonym shall ensure that the victim is designated by the pseudonym in all legal proceedings concerning the offense.
- (g) A court of competent jurisdiction may order the disclosure of a victim's name, address, and telephone number only if the court finds that the information is essential in the trial of the defendant for the offense or the identity of the victim is in issue.
- (h) Except as required or permitted by other law or by court order, a public servant or other person who has access to or obtains the name, address, telephone number, or other identifying information of a victim younger than 17 years of age may not release or disclose the identifying information to any person who is not assisting in the investigation, prosecution, or defense of the case. This subsection does not apply to the release or disclosure of a victim's identifying information by:
- (1) the victim; or
 - (2) the victim's parent, conservator, or guardian, unless the parent, conservator, or guardian is a defendant in the case.

Art. 57.03. OFFENSE

- (a) A public servant with access to the name, address, or telephone number of a victim 17 years of age or older who has chosen a pseudonym under this chapter commits an offense if the public servant knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or the person specified in the order of a court of competent jurisdiction.
- (b) Unless the disclosure is required or permitted by other law, a public servant or other person commits an offense if the person:
- (1) has access to or obtains the name, address, or telephone number of a victim younger than 17 years of age; and
 - (2) knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in an order of a court of competent jurisdiction.
- (c) It is an affirmative defense to prosecution under Subsection (b) that the actor is:
- (1) the victim; or
 - (2) the victim's parent, conservator, or guardian, unless the actor is a defendant in the case.

Texas Penal Code

Chapter 21 – Sexual Offenses

Sec. 21.01. DEFINITIONS.

In this chapter:

- (1) "Deviate sexual intercourse" means:
 - (A) any contact between any part of the genitals of one person and the mouth or anus of another person;
or
 - (B) the penetration of the genitals or the anus of another person with an object.
- (2) "Sexual contact" means, except as provided by Section 21.11, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.
- (3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.
- (4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN.

- (a) In this section, "child" has the meaning assigned by Section 22.011(c).
- (b) A person commits an offense if:
 - (1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and
 - (2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age.
- (c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:
 - (1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;
 - (2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;
 - (3) sexual assault under Section 22.011;
 - (4) aggravated sexual assault under Section 22.021;
 - (5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4); and
 - (6) sexual performance by a child under Section 43.25.
- (d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.
- (e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):
 - (1) is charged in the alternative;
 - (2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or
 - (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).
- (f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

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- (g) It is an affirmative defense to prosecution under this section that the actor:
- (1) was not more than five years older than:
 - (A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or
 - (B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;
 - (2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and
 - (3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:
 - (A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
 - (B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).
- (h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

Section 21.06 was declared unconstitutional by *Lawrence v. Texas*, 123 S.Ct. 2472.

Sec. 21.07. PUBLIC LEWDNESS.

- (a) A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his:
- (1) act of sexual intercourse;
 - (2) act of deviate sexual intercourse;
 - (3) act of sexual contact; or
 - (4) act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.
- (b) An offense under this section is a Class A misdemeanor.

Sec. 21.08. INDECENT EXPOSURE.

- (a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.
- (b) An offense under this section is a Class B misdemeanor.

Sec. 21.11. INDECENCY WITH A CHILD.

- (a) A person commits an offense if, with a child younger than 17 years and not the person's spouse, whether the child is of the same or opposite sex, the person:
- (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
 - (2) with intent to arouse or gratify the sexual desire of any person:
 - (A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or
 - (B) causes the child to expose the child's anus or any part of the child's genitals.
- (b) It is an affirmative defense to prosecution under this section that the actor:
- (1) was not more than three years older than the victim and of the opposite sex;
 - (2) did not use duress, force, or a threat against the victim at the time of the offense; and
 - (3) at the time of the offense:

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- (A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or
 - (B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.
- (c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:
- (1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or
 - (2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.
- (d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT.

- (a) An employee of a public or private primary or secondary school commits an offense if the employee engages in:
- (1) sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works and who is not the employee's spouse; or
 - (2) conduct described by Section 33.021, with a person described by Subdivision (1), regardless of the age of that person.
- (b) An offense under this section is a felony of the second degree.
- (c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.
- (d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

Sec. 21.15. IMPROPER PHOTOGRAPHY OR VISUAL RECORDING.

- (a) In this section, "promote" has the meaning assigned by Section 43.21.
- (b) A person commits an offense if the person:
- (1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is not a bathroom or private dressing room:
 - (A) without the other person's consent; and
 - (B) with intent to arouse or gratify the sexual desire of any person;
 - (2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another at a location that is a bathroom or private dressing room:
 - (A) without the other person's consent; and
 - (B) with intent to:
 - (i) invade the privacy of the other person; or
 - (ii) arouse or gratify the sexual desire of any person; or
 - (3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).
- (c) An offense under this section is a state jail felony.

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- (d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.
- (e) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or transmitted is not sufficient to establish the person's consent under that subdivision.

Chapter 25 – Offenses Against the Family

Sec. 25.02. PROHIBITED SEXUAL CONDUCT.

- (a) A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy:
 - (1) the actor's ancestor or descendant by blood or adoption;
 - (2) the actor's current or former stepchild or stepparent;
 - (3) the actor's parent's brother or sister of the whole or half blood;
 - (4) the actor's brother or sister of the whole or half blood or by adoption;
 - (5) the children of the actor's brother or sister of the whole or half blood or by adoption; or
 - (6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.
- (b) For purposes of this section:
 - (1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person with intent to arouse or gratify the sexual desire of any person.
 - (2) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.
- (a) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(6), in which event the offense is a felony of the second degree.

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, SEXUAL ASSAULT OR ABUSE, OR STALKING CASE.

- (a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, or stalking case and related to the safety of a victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:
 - (1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;
 - (2) communicates:
 - (A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;
 - (B) a threat through any person to a protected individual or a member of the family or household; or
 - (C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the order prohibits any communication with a protected individual or a member of the family or household;
 - (3) goes to or near any of the following places as specifically described in the order:
 - (A) the residence or place of employment or business of a protected individual or a member of the family or household; or

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- (B) any child care facility, residence, or school where a child protected by the order normally resides or attends;
 - (4) possesses a firearm; or
 - (5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order.
- (b) For the purposes of this section:
- (1) "Family violence," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.
 - (2) "Firearm" has the meaning assigned by Chapter 46.
 - (3) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.
 - (4) "Sexual abuse" means any act as described by Section 21.02 or 21.11.
 - (5) "Sexual assault" means any act as described by Section 22.011 or 22.021.
 - (6) "Stalking" means any conduct that constitutes an offense under Section 42.072.
- (c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.
- (d) Reconciliatory actions or agreements made by persons affected by an order do not affect the validity of the order or the duty of a peace officer to enforce this section.
- (e) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.
- (f) It is not a defense to prosecution under this section that certain information has been excluded, as provided by Section 85.007, Family Code, or Article 17.292, Code of Criminal Procedure, from an order to which this section applies.

Text of subsection effective until approval by the voters of H.J.R. 6, 80th Leg., R.S.

- (g) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

Chapter 38 – Obstructing Governmental Operation

Sec. 38.01. DEFINITIONS. In this chapter:

- (1) "Custody" means:
 - (A) under arrest by a peace officer or under restraint by a public servant pursuant to an order of a court of this state or another state of the United States; or
 - (B) under restraint by an agent or employee of a facility that is operated by or under contract with the United States and that confines persons arrested for, charged with, or convicted of criminal offenses.
- (2) "Escape" means unauthorized departure from custody or failure to return to custody following temporary leave for a specific purpose or limited period or leave that is part of an intermittent sentence, but does not include a violation of conditions of community supervision or parole other than conditions that impose a period of confinement in a secure correctional facility.

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- (3) "Economic benefit" means anything reasonably regarded as an economic gain or advantage, including accepting or offering to accept employment for a fee, accepting or offering to accept a fee, entering into a fee contract, or accepting or agreeing to accept money or anything of value.
- (4) "Finance" means to provide funds or capital or to furnish with necessary funds.
- (5) "Fugitive from justice" means a person for whom a valid arrest warrant has been issued.
- (6) "Governmental function" includes any activity that a public servant is lawfully authorized to undertake on behalf of government.
- (7) "Invest funds" means to commit money to earn a financial return.
- (8) "Member of the family" means anyone related within the third degree of consanguinity or affinity, as determined under Chapter 573, Government Code.
- (9) "Qualified nonprofit organization" means a nonprofit organization that meets the following conditions:
- (A) the primary purposes of the organization do not include the rendition of legal services or education regarding legal services;
 - (B) the recommending, furnishing, paying for, or educating persons regarding legal services is incidental and reasonably related to the primary purposes of the organization;
 - (C) the organization does not derive a financial benefit from the rendition of legal services by a lawyer; and
 - (D) the person for whom the legal services are rendered, and not the organization, is recognized as the client of a lawyer.
- (10) "Public media" means a telephone directory or legal directory, newspaper or other periodical, billboard or other sign, radio or television broadcast, recorded message the public may access by dialing a telephone number, or a written communication not prohibited by Section 38.12(d).
- (11) "Solicit employment" means to communicate in person or by telephone with a prospective client or a member of the prospective client's family concerning professional employment within the scope of a professional's license, registration, or certification arising out of a particular occurrence or event, or series of occurrences or events, or concerning an existing problem of the prospective client within the scope of the professional's license, registration, or certification, for the purpose of providing professional services to the prospective client, when neither the person receiving the communication nor anyone acting on that person's behalf has requested the communication. The term does not include a communication initiated by a family member of the person receiving a communication, a communication by a professional who has a prior or existing professional-client relationship with the person receiving the communication, or communication by an attorney for a qualified nonprofit organization with the organization's members for the purpose of educating the organization's members to understand the law, to recognize legal problems, to make intelligent selection of legal counsel, or to use available legal services. The term does not include an advertisement by a professional through public media.
- (12) "Professional" means an attorney, chiropractor, physician, surgeon, private investigator, or any other person licensed, certified, or registered by a state agency that regulates a health care profession.

Sec. 38.112. VIOLATION OF PROTECTIVE ORDER ISSUED ON BASIS OF SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING.

- (a) A person commits an offense if, in violation of an order issued under Chapter 7A, Code of Criminal Procedure, the person knowingly:

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- (1) communicates:
 - (A) directly or indirectly with the applicant or any member of the applicant's family or household in a threatening or harassing manner; or
 - (B) in any manner with the applicant or any member of the applicant's family or household except through the applicant's attorney or a person appointed by the court;
 - (2) goes to or near the residence, place of employment or business, or child-care facility or school of the applicant or any member of the applicant's family or household; or
 - (3) possesses a firearm.
- (b) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.
- (c) An offense under this section is a Class A misdemeanor.

Sec. 38.17. FAILURE TO STOP OR REPORT AGGRAVATED SEXUAL ASSAULT OF CHILD.

- (a) A person, other than a person who has a relationship with a child described by Section 22.04(b), commits an offense if:
- (1) the actor observes the commission or attempted commission of an offense prohibited by Section 21.02 or 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child;
 - (2) the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and
 - (3) the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death.
- (b) An offense under this section is a Class A misdemeanor.

Chapter 39 – Abuse of Office

Sec. 39.04. VIOLATIONS OF THE CIVIL RIGHTS OF PERSON IN CUSTODY; IMPROPER SEXUAL ACTIVITY WITH PERSON IN CUSTODY.

- (a) An official of a correctional facility, an employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if the person intentionally:
- (1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful; or
 - (2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody or, in the case of an individual in the custody of the Texas Youth Commission, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 263, Sec. 62

- (b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony, except that an offense under Subsection (a)(2) is a felony of the second degree if the individual is in the custody of the Texas Youth Commission.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 378, Sec. 3

- (b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony, except that the offense is a felony of the second degree if the offense is committed against a juvenile offender detained in or committed to a correctional facility the operation of which is financed primarily with state funds.
- (c) This section shall not preclude prosecution for any other offense set out in this code.

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- (d) The Attorney General of Texas shall have concurrent jurisdiction with law enforcement agencies to investigate violations of this statute involving serious bodily injury or death.
- (e) In this section:
- (1) "Correctional facility" means:
 - (A) any place described by Section 1.07(a)(14); or
 - (B) a "secure correctional facility" or "secure detention facility" as defined by Section 51.02, Family Code.
 - (2) "Custody" means the detention, arrest, or confinement of an adult offender or the detention or the commitment of a juvenile offender to a facility operated by or under a contract with the Texas Youth Commission or a facility operated by or under contract with a juvenile board.
 - (3) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.
 - (4) "Sexual conduct" and "performance" have the meanings assigned by Section 43.25.
 - (5) "Sexual performance" means any performance or part thereof that includes sexual conduct by an individual.
- (f) An employee of the Texas Department of Criminal Justice, the Texas Youth Commission, or a local juvenile probation department commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who is not the employee's spouse and who the employee knows is under the supervision of the department, commission, or probation department but not in the custody of the department, commission, or probation department.
- (g) An offense under Subsection (f) is a state jail felony.

Chapter 42 – Disorderly Conduct and Related Offenses

Sec. 42.01. DISORDERLY CONDUCT.

- (a) A person commits an offense if he intentionally or knowingly:
- (1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;
 - (2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
 - (3) creates, by chemical means, a noxious and unreasonable odor in a public place;
 - (4) abuses or threatens a person in a public place in an obviously offensive manner;
 - (5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;
 - (6) fights with another in a public place;
 - (7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;
 - (8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;
 - (9) discharges a firearm on or across a public road;
 - (10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or
 - (11) for a lewd or unlawful purpose:
 - (A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;
 - (B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

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- (C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.
- (b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.
- (c) For purposes of this section:
- (1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and
 - (2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.
- (d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.
- (e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section 822.101, Health and Safety Code.

Sec. 42.062. INTERFERENCE WITH EMERGENCY TELEPHONE CALL.

- (a) An individual commits an offense if the individual knowingly prevents or interferes with another individual's ability to place an emergency telephone call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.
- (b) An individual commits an offense if the individual recklessly renders unusable a telephone that would otherwise be used by another individual to place an emergency telephone call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.
- (c) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the actor has previously been convicted under this section.
- (d) In this section, "emergency" means a condition or circumstance in which any individual is or is reasonably believed by the individual making a telephone call to be in fear of imminent assault or in which property is or is reasonably believed by the individual making the telephone call to be in imminent danger of damage or destruction.

Sec. 42.07. HARASSMENT.

- (a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:
- (1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;
 - (2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;
 - (3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;
 - (4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;
 - (5) makes a telephone call and intentionally fails to hang up or disengage the connection;

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- (6) knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or
 - (7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.
- (b) In this section:
- (1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes:
 - (A) a communication initiated by electronic mail, instant message, network call, or facsimile machine; and
 - (B) a communication made to a pager.
 - (2) "Family" and "household" have the meaning assigned by Chapter 71, Family Code.
 - (3) "Obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.
- (c) An offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the actor has previously been convicted under this section.

Sec. 42.072. STALKING.

- (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:
- (1) constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:
 - (A) bodily injury or death for the other person;
 - (B) bodily injury or death for a member of the other person's family or household; or
 - (C) that an offense will be committed against the other person's property;
 - (2) causes the other person or a member of the other person's family or household to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and
 - (3) would cause a reasonable person to:
 - (A) fear bodily injury or death for himself or herself;
 - (B) fear bodily injury or death for a member of the person's family or household;
 - (C) fear that an offense will be committed against the person's property; or
 - (D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.
- (b) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor has previously been convicted under this section.
- (c) In this section, "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.
- (d) In this section:
- (1) "Dating relationship," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.
 - (2) "Property" includes a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code.

Chapter 43 – Public Indecency

Sec. 43.01. DEFINITIONS. In this subchapter:

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- (1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.
- (2) "Prostitution" means the offense defined in Section 43.02.
- (3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.
- (4) "Sexual conduct" includes deviate sexual intercourse, sexual contact, and sexual intercourse.
- (5) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

Sec. 43.02. PROSTITUTION.

- (a) A person commits an offense if he knowingly:
 - (1) offers to engage, agrees to engage, or engages in sexual conduct for a fee; or
 - (2) solicits another in a public place to engage with him in sexual conduct for hire.
- (b) An offense is established under Subsection (a)(1) whether the actor is to receive or pay a fee. An offense is established under Subsection (a)(2) whether the actor solicits a person to hire him or offers to hire the person solicited.
- (c) An offense under this section is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense under this section, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this section, the offense is a state jail felony.

Sec. 43.03. PROMOTION OF PROSTITUTION.

- (a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:
 - (1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or
 - (2) solicits another to engage in sexual conduct with another person for compensation.
- (b) An offense under this section is a Class A misdemeanor.

Sec. 43.23. OBSCENITY.

- (a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.
- (b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.
- (c) A person commits an offense if, knowing its content and character, he:
 - (1) promotes or possesses with intent to promote any obscene material or obscene device; or
 - (2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.
- (d) Except as provided by Subsection (h), an offense under Subsection (c) is a Class A misdemeanor.
- (e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.
- (f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.
- (g) It is an affirmative defense to prosecution under this section that the person who possesses or promotes material or a device proscribed by this section does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

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- (h) The punishment for an offense under Subsection (a) is increased to the punishment for a felony of the third degree and the punishment for an offense under Subsection (c) is increased to the punishment for a state jail felony if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:
- (1) a child younger than 18 years of age at the time the image of the child was made;
 - (2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or
 - (3) an image created, adapted, or modified to be the image of an identifiable child.
- (i) In this section, "identifiable child" means a person, recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature:
- (1) who was younger than 18 years of age at the time the visual depiction was created, adapted, or modified; or
 - (2) whose image as a person younger than 18 years of age was used in creating, adapting, or modifying the visual depiction.
- (j) An attorney representing the state who seeks an increase in punishment under Subsection (h)(3) is not required to prove the actual identity of an identifiable child.

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR.

- (a) For purposes of this section:
- (1) "Minor" means an individual younger than 18 years.
 - (2) "Harmful material" means material whose dominant theme taken as a whole:
 - (A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;
 - (B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and
 - (C) is utterly without redeeming social value for minors.
- (b) A person commits an offense if, knowing that the material is harmful:
- (1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;
 - (2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or
 - (3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).
- (c) It is a defense to prosecution under this section that:
- (1) the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification; or
 - (2) the sale, distribution, or exhibition was to a minor who was accompanied by a consenting parent, guardian, or spouse.
- (d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

Sec. 43.25. SEXUAL PERFORMANCE BY A CHILD.

- (a) In this section:
- (1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.
 - (2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

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- (3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.
- (4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.
- (5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.
- (6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.
- (7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section 43.01.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense is a felony of the second degree if the victim is younger than 14 years of age at the time the offense is committed.

(f) It is an affirmative defense to a prosecution under this section that:

- (1) the defendant was the spouse of the child at the time of the offense;
- (2) the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose; or
- (3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

- (1) personal inspection of the child;
 - (2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;
 - (3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;
 - (4) expert medical testimony based on the appearance of the child engaging in the sexual performance;
- or
- (5) any other method authorized by law or by the rules of evidence at common law.

Sec. 43.251. EMPLOYMENT HARMFUL TO CHILDREN.

(a) In this section:

- (1) "Child" means a person younger than 18 years of age.
- (2) "Massage" has the meaning assigned to the term "massage therapy" by Section 455.001, Occupations Code.
- (3) "Massage establishment" has the meaning assigned by Section 455.001, Occupations Code.
- (4) "Nude" means a child who is:
 - (A) entirely unclothed; or

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- (B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the child is female, or any portion of the genitals or buttocks.
- (5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.
- (6) "Topless" means a female child clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.
- (b) A person commits an offense if the person employs, authorizes, or induces a child to work:
- (1) in a sexually oriented commercial activity; or
 - (2) in any place of business permitting, requesting, or requiring a child to work nude or topless.
- (c) An offense under this section is a Class A misdemeanor.

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY.

- (a) A person commits an offense if:
- (1) the person knowingly or intentionally possesses visual material that visually depicts a child younger than 18 years of age at the time the image of the child was made who is engaging in sexual conduct; and
 - (2) the person knows that the material depicts the child as described by Subdivision (1).
- (b) In this section:
- (1) "Promote" has the meaning assigned by Section 43.25.
 - (2) "Sexual conduct" has the meaning assigned by Section 43.25.
 - (3) "Visual material" means:
 - (A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or
 - (B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.
- (c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.
- (d) An offense under Subsection (a) is a felony of the third degree.
- (e) A person commits an offense if:
- (1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and
 - (2) the person knows that the material depicts the child as described by Subsection (a)(1).
- (f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.
- (g) An offense under Subsection (e) is a felony of the second degree.

Sec. 43.261. ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR.

- (a) In this section:

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- (1) "Dating relationship" has the meaning assigned by Section 71.0021, Family Code.
 - (2) "Minor" means a person younger than 18 years of age.
 - (3) "Produce" with respect to visual material includes any conduct that directly contributes to the creation or manufacture of the material.
 - (4) "Promote" has the meaning assigned by Section 43.25.
 - (5) "Sexual conduct" has the meaning assigned by Section 43.25.
 - (6) "Visual material" has the meaning assigned by Section 43.26.
- (b) A person who is a minor commits an offense if the person intentionally or knowingly:
- (1) by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material; or
 - (2) possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.
- (c) An offense under Subsection (b)(1) is a Class C misdemeanor, except that the offense is:
- (1) a Class B misdemeanor if it is shown on the trial of the offense that the actor:
 - (A) promoted the visual material with intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or
 - (B) except as provided by Subdivision (2)(A), has previously been convicted one time of any offense under this section; or
 - (2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been:
 - (A) convicted one or more times of an offense punishable under Subdivision (1)(A); or
 - (B) convicted two or more times of any offense under this section.
- (d) An offense under Subsection (b)(2) is a Class C misdemeanor, except that the offense is:
- (1) a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted one time of any offense under this section; or
 - (2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of any offense under this section.
- (e) It is an affirmative defense to prosecution under this section that the visual material:
- (1) depicted only the actor or another minor:
 - (A) who is not more than two years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense; or
 - (B) who was the spouse of the actor at the time of the offense; and
 - (2) was promoted or received only to or from the actor and the other minor.
- (f) It is a defense to prosecution under Subsection (b)(2) that the actor:
- (1) did not produce or solicit the visual material;
 - (2) possessed the visual material only after receiving the material from another minor; and
 - (3) destroyed the visual material within a reasonable amount of time after receiving the material from another minor.
- (g) If conduct that constitutes an offense under this section also constitutes an offense under another law, the defendant may be prosecuted under this section, the other law, or both.
- (h) Notwithstanding Section 51.13, Family Code, a finding that a person has engaged in conduct in violation of this section is considered a conviction for the purposes of Subsections (c) and (d).

Texas property code

92.016. Right to vacate and avoid liability following family violence

Sec. 92.016. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING FAMILY VIOLENCE.

- (a) For purposes of this section:
- (1) "Family violence" has the meaning assigned by Section 71.004, Family Code.

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(2) "Occupant" means a person who has the landlord's consent to occupy a dwelling but has no obligation to pay the rent for the dwelling.

(b) A tenant may terminate the tenant's rights and obligations under a lease and may vacate the dwelling and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the dwelling before the end of the lease term if the tenant complies with Subsection (c) and obtains and provides the landlord or the landlord's agent a copy of one or more of the following orders protecting the tenant or an occupant from family violence committed by a cotenant or occupant of the dwelling:

- (1) a temporary injunction issued under Subchapter F, Chapter 6, Family Code;
- (2) a temporary ex parte order issued under Chapter 83, Family Code; or
- (2) a protective order issued under Chapter 85, Family Code.

(c) A tenant may exercise the rights to terminate the lease under Subsection (b), vacate the dwelling before the end of the lease term, and avoid liability beginning on the date after all of the following events have occurred:

- (1) a judge signs an order described by Subsection (b);
- (2) the tenant provides a copy of the relevant documentation described by Subsection (b) to the landlord;
- (3) the tenant provides written notice of termination of the lease to the landlord on or before the 30th day before the date the lease terminates;
- (4) the 30th day after the date the tenant provided notice under Subdivision (3) expires; and
- (5) the tenant vacates the dwelling.

(c-1) If the family violence is committed by a cotenant or occupant of the dwelling, a tenant may exercise the right to terminate the lease under the procedures provided by Subsection (b)(1) or (3) and Subsection (c), except that the tenant is not required to provide the notice described by Subsection (c)(3).

(d) Except as provided by Subsection (f), this section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section.

(e) A landlord who violates this section is liable to the tenant for actual damages, a civil penalty equal in amount to the amount of one month's rent plus \$500, and attorney's fees.

(f) A tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain language substantially equivalent to the following: "Tenants may have special statutory rights to terminate the lease early in certain situations involving family violence or a military deployment or transfer."

(g) A tenant's right to terminate a lease before the end of the lease term, vacate the dwelling, and avoid liability under this section may not be waived by a tenant.

Sec. 92.0161. RIGHT TO VACATE AND AVOID LIABILITY FOLLOWING CERTAIN SEX OFFENSES OR STALKING. (portions are not effective until 1/1/2014)

(a) In this section, "occupant" has the meaning assigned by Section 92.016.

(b) A tenant may terminate the tenant's rights and obligations under a lease and may vacate the dwelling and avoid liability for future rent and any other sums due under the lease for terminating the lease and vacating the dwelling before the end of the lease term after the tenant complies with Subsection (c) or (c-1).

(c) If the tenant is a victim or a parent or guardian of a victim of sexual assault under Section 22.011, Penal Code, aggravated sexual assault under Section 22.021, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual performance by a child under Section 43.25, Penal Code,

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continuous sexual abuse of a child under Section 21.02, Penal Code, or an attempt to commit any of the foregoing offenses under Section 15.01, Penal Code, that takes place during the preceding six-month period on the premises or at any dwelling on the premises, the tenant shall provide to the landlord or the landlord's agent a copy of:

- (1) documentation of the assault or abuse, or attempted assault or abuse, of the victim from a licensed health care services provider who examined the victim;
- (2) documentation of the assault or abuse, or attempted assault or abuse, of the victim from a licensed mental health services provider who examined or evaluated the victim;
- (3) documentation of the assault or abuse, or attempted assault or abuse, of the victim from an individual authorized under Chapter 420, Government Code, who provided services to the victim; or
- (4) documentation of a protective order issued under Chapter 7A, Code of Criminal Procedure, except for a temporary ex parte order

(c-1) If the tenant is a victim or a parent or guardian of a victim of stalking under Section 42.072, Penal Code, that takes place during the preceding six-month period on the premises or at any dwelling on the premises, the tenant shall provide to the landlord or the landlord's agent a copy of: documentation of a protective order issued under Chapter 7A or Article 6.09, Code of Criminal Procedure, except for a temporary ex parte order; or documentation of the stalking from a provider of services described by Subsection (c)(1), (2), or (3) and: a law enforcement incident report; or if a law enforcement incident report is unavailable, another record maintained in the ordinary course of business by a law enforcement agency.

(d) A tenant may exercise the rights to terminate the lease under Subsection (b), vacate the dwelling before the end of the lease term, and avoid liability beginning on the date after all of the following events have occurred:

- (1) the tenant provides a copy of the relevant documentation described by Subsection (c) or (c-1) to the landlord;
- (2) the tenant provides written notice of termination of the lease to the landlord on or before the 30th day before the date the lease terminates;
- (3) the 30th day after the date the tenant provided notice under Subdivision (2) expires; and
- (4) the tenant vacates the dwelling.

(e) Except as provided by Subsection (g), this section does not affect a tenant's liability for delinquent, unpaid rent or other sums owed to the landlord before the lease was terminated by the tenant under this section.

(f) A landlord who violates this section is liable to the tenant for actual damages, a civil penalty equal to the amount of one month's rent plus \$500, and attorney's fees.

(g) A tenant who terminates a lease under Subsection (b) is released from all liability for any delinquent, unpaid rent owed to the landlord by the tenant on the effective date of the lease termination if the lease does not contain language substantially equivalent to the following: "Tenants may have special statutory rights to terminate the lease early in certain situations involving certain sexual offenses or stalking."

(h) A tenant may not waive a tenant's right to terminate a lease before the end of the lease term, vacate the dwelling, and avoid liability under this chapter.

(i) For purposes of Subsection (c) and (c-1), a tenant who is a parent or guardian of a victim described by those subsections must reside with the victim to exercise the rights established by this section.

(j) A person who receives information under Subsection (c), (c-1), or (d) may not disclose the information to any other person except for a legitimate or customary business purpose or as otherwise required by law.

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Texas Family Code

Chapter 261 – Investigation of Report of Child Abuse or Neglect

Sec. 261.001. DEFINITIONS.

In this chapter:

- (1) "Abuse" includes the following acts or omissions by a person:
 - (A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
 - (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
 - (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
 - (E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
 - (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
 - (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;
 - (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
 - (I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
 - (J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; or
 - (K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code.
- (2) "Department" means the Department of Family and Protective Services.
- (3) "Designated agency" means the agency designated by the court as responsible for the protection of children.
- (4) "Neglect" includes:
 - (A) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
 - (B) the following acts or omissions by a person:
 - (i) placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

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- (ii) failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
 - (iii) the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
 - (iv) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or
 - (v) placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or
- (C) the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.
- (5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:
- (A) a parent, guardian, managing or possessory conservator, or foster parent of the child;
 - (B) a member of the child's family or household as defined by Chapter 71;
 - (C) a person with whom the child's parent cohabits;
 - (D) school personnel or a volunteer at the child's school; or
 - (E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.
- (6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.
- (7) "Board" means the Board of Protective and Regulatory Services.
- (8) "Born addicted to alcohol or a controlled substance" means a child:
- (A) who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and
 - (B) who, after birth as a result of the mother's use of the controlled substance or alcohol:
 - (i) experiences observable withdrawal from the alcohol or controlled substance;
 - (ii) exhibits observable or harmful effects in the child's physical appearance or functioning; or
 - (iii) exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

Sec. 261.101. PERSONS REQUIRED TO REPORT; TIME TO REPORT.

- (a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.
- (b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001 or 261.401, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another

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person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only:

- (1) as provided by Section 261.201; or
- (2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

Sec. 261.102. MATTERS TO BE REPORTED.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

Sec. 261.103. REPORT MADE TO APPROPRIATE AGENCY.

(a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

- (1) any local or state law enforcement agency;
- (2) the department;
- (3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
- (4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a)(3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

Sec. 261.104. CONTENTS OF REPORT.

The person making a report shall identify, if known:

- (1) the name and address of the child;
- (2) the name and address of the person responsible for the care, custody, or welfare of the child; and
- (3) any other pertinent information concerning the alleged or suspected abuse or neglect.

Sec. 261.105. REFERRAL OF REPORT BY DEPARTMENT OR LAW ENFORCEMENT.

(a) All reports received by a local or state law enforcement agency that allege abuse or neglect by a person responsible for a child's care, custody, or welfare shall be referred immediately to the department or the designated agency.

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- (b) The department or designated agency shall immediately notify the appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect.
- (c) In addition to notifying a law enforcement agency, if the report relates to a child in a facility operated, licensed, certified, or registered by a state agency, the department shall refer the report to the agency for investigation.
- (d) If the department initiates an investigation and determines that the abuse or neglect does not involve a person responsible for the child's care, custody, or welfare, the department shall refer the report to a law enforcement agency for further investigation. If the department determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the school district in which the employee is employed about the investigation.
- (e) In cooperation with the department, the Texas Youth Commission by rule shall adopt guidelines for identifying a report made to the commission under Section 261.103(b) that is appropriate to refer to the department or a law enforcement agency for investigation. Guidelines adopted under this subsection must require the commission to consider the severity and immediacy of the alleged abuse or neglect of the child victim.

Sec. 261.109. FAILURE TO REPORT; PENALTY.

(a) A person commits an offense if the person is required to make a report under Section 261.101(a) and knowingly fails to make a report as provided in this chapter.

(a-1) A person who is a professional as defined by Section 261.101(b) commits an offense if the person is required to make a report under Section 261.101(b) and knowingly fails to make a report as provided in this chapter.

(b) An offense under Subsection (a) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with an intellectual disability who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

(b) An offense under Subsection (a-1) is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the actor intended to conceal the abuse or neglect.

Sec. 261.110. EMPLOYER RETALIATION PROHIBITED.

(a) In this section, "professional" has the meaning assigned by Section 261.101(b).

(b) An employer may not suspend or terminate the employment of, or otherwise discriminate against, a person who is a professional and who in good faith:

- (1) reports child abuse or neglect to:
 - (A) the person's supervisor;
 - (B) an administrator of the facility where the person is employed;
 - (C) a state regulatory agency; or
 - (D) a law enforcement agency; or
- (2) initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

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- (c) A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of this section may sue for injunctive relief, damages, or both.
- (d) A plaintiff who prevails in a suit under this section may recover:
- (1) actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown;
 - (2) exemplary damages under Chapter 41, Civil Practice and Remedies Code, if the employer is a private employer;
 - (3) court costs; and
 - (4) reasonable attorney's fees.
- (e) In addition to amounts recovered under Subsection (d), a plaintiff who prevails in a suit under this section is entitled to:
- (1) reinstatement to the person's former position or a position that is comparable in terms of compensation, benefits, and other conditions of employment;
 - (2) reinstatement of any fringe benefits and seniority rights lost because of the suspension, termination, or discrimination; and
 - (3) compensation for wages lost during the period of suspension or termination.
- (f) A public employee who alleges a violation of this section may sue the employing state or local governmental entity for the relief provided for by this section. Sovereign immunity is waived and abolished to the extent of liability created by this section. A person having a claim under this section may sue a governmental unit for damages allowed by this section.
- (g) In a suit under this section against an employing state or local governmental entity, a plaintiff may not recover compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses in an amount that exceeds:
- (1) \$50,000, if the employing state or local governmental entity has fewer than 101 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;
 - (2) \$100,000, if the employing state or local governmental entity has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year;
 - (3) \$200,000, if the employing state or local governmental entity has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year; and
 - (4) \$250,000, if the employing state or local governmental entity has more than 500 employees in each of 20 or more calendar weeks in the calendar year in which the suit is filed or in the preceding year.
- (h) If more than one subdivision of Subsection (g) applies to an employing state or local governmental entity, the amount of monetary damages that may be recovered from the entity in a suit brought under this section is governed by the applicable provision that provides the highest damage award.
- (i) A plaintiff suing under this section has the burden of proof, except that there is a rebuttable presumption that the plaintiff's employment was suspended or terminated or that the plaintiff was otherwise discriminated against for reporting abuse or neglect if the suspension, termination, or discrimination occurs before the 61st day after the date on which the person made a report in good faith.
- (j) A suit under this section may be brought in a district or county court of the county in which:
- (1) the plaintiff was employed by the defendant; or
 - (2) the defendant conducts business.

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- (k) It is an affirmative defense to a suit under Subsection (b) that an employer would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee reported child abuse or neglect or initiated or cooperated with an investigation or proceeding relating to an allegation of child abuse or neglect.
- (l) A public employee who has a cause of action under Chapter 554, Government Code, based on conduct described by Subsection (b) may not bring an action based on that conduct under this section.
- (m) This section does not apply to a person who reports the person's own abuse or neglect of a child or who initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of the person's own abuse or neglect of a child.

Texas Education Code

Sec. 37.0831. DATING VIOLENCE POLICIES.

- (a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.
- (b) A dating violence policy must:
- (1) include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Section 71.0021, Family Code; and
 - (2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Sec. 37.217. COMMUNITY EDUCATION RELATING TO INTERNET SAFETY.

- (a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:
- (1) the potential dangers of allowing personal information to appear on an Internet website;
 - (2) the manner in which to report an inappropriate online solicitation; and
 - (3) the prevention, detection, and reporting of bullying or threats occurring over the Internet.
- (b) In developing the program, the center shall:
- (1) solicit input from interested stakeholders; and
 - (2) to the extent practicable, draw from existing resources and programs.

- (c) The center shall make the program available to public schools.

Sec. 38.004. CHILD ABUSE REPORTING AND PROGRAMS.

- (a) The agency shall develop a policy governing the reports of child abuse or neglect required by Chapter 261, Family Code, of school districts, open-enrollment charter schools, and their employees. The policy must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parents if necessary, including investigations by the Department of Family and Protective Services. The policy must require each school district and open-enrollment charter school employee to report child abuse or neglect in the manner required by Chapter 261, Family Code. Each school district and open-enrollment charter school shall adopt the policy.

- (a-1) The agency shall:

- (1) Maintain on the agency Internet website a list of links to websites that provide information regarding the prevention of child abuse; and

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- (2) Develop and periodically update a training program on prevention of child abuse that a school district may use for staff development.
- (b) Each school district shall provide child abuse antivictimization programs in elementary and secondary schools.

Sec. 38.0041. POLICIES ADDRESSING SEXUAL ABUSE AND OTHER MALTREATMENT OF CHILDREN.

- (a) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse and other maltreatment of children, to be included in the district improvement plan under Section 11.252 and any informational handbook provided to students and parents.
- (b) A policy required by this section must address:
 - (1) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by the agency under Section 38.004;
 - (2) actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and
 - (3) available counseling options for students affected by sexual abuse or other maltreatment.
- (c) The methods under Subsection (b)(1) for increasing awareness of issues regarding sexual abuse and other maltreatment of children must include training, as provided by this subsection, concerning prevention techniques for and recognition of sexual abuse and all other maltreatment of children. The training:
 - (1) must be provided, as part of a new employee orientation, to all new school district and open-enrollment charter school employees on a schedule adopted by the agency by rule until all district and open-enrollment charter school employees have taken the training; and
 - (2) must include training concerning:
 - (A) factors indicating a child is at risk for sexual abuse or other maltreatment;
 - (B) likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;
 - (C) internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
 - (D) techniques for reducing a child's risk of sexual abuse or other maltreatment; and
 - (E) community organizations that have relevant existing research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff members, students, and parents.
- (d) For any training under Subsection (c), each school district and open-enrollment charter school shall maintain records that include the name of each district or charter school staff member who participated in the training.
- (e) If a school district or open-enrollment charter school determines that the district or charter school does not have sufficient resources to provide the training required under Subsection (c), the district or charter school shall work in conjunction with a community organization to provide the training at no cost to the district or charter school.
- (f) The training under Subsection (c) may be included in staff development under Section 21.451.
- (g) A school district or open-enrollment charter school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), resulting from an action taken in compliance with this section. The requirements of this section are considered to involve an employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511. Nothing in this section may be considered to limit the immunity from liability provided under Section 22.0511.

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(h) For purposes of this section, "other maltreatment" has the meaning assigned by Section 42.002, Human Resources Code.

Sec. 38.0042. POSTING CHILD ABUSE HOTLINE TELEPHONE NUMBER.

(a) Each public school and open-enrollment charter school shall post in a clearly visible location in a public area of the school that is readily accessible to students a sign in English and in Spanish that contains the toll-free telephone number operated by the Department of Family and Protective Services to receive reports of child abuse or neglect.

(b) The commissioner may adopt rules relating to the size and location of the sign required by Subsection (a).

Sec. 51.9761. CHILD ABUSE REPORTING POLICY AND TRAINING.

(a) In this section, "other maltreatment" has the meaning assigned by Section 42.002, Human Resources Code.

(b) Each institution of higher education shall adopt a policy governing the reporting of child abuse and neglect as required by Chapter 261, Family Code, for the institution and its employees. The policy must require each employee of the institution to report child abuse and neglect in the manner required by Chapter 261, Family Code.

(c) Each institution of higher education shall provide training for employees who are professionals as defined by Section 261.101, Family Code, in prevention techniques for and the recognition of symptoms of sexual abuse and other maltreatment of children and the responsibility and procedure of reporting suspected occurrences of sexual abuse and other maltreatment. The training must include:

- (1) techniques for reducing a child's risk of sexual abuse or other maltreatment;
- (2) factors indicating a child is at risk for sexual abuse or other maltreatment;
- (3) the warning signs and symptoms associated with sexual abuse or other maltreatment and recognition of those signs and symptoms; and
- (4) the requirements and procedures for reporting suspected sexual abuse or other maltreatment as provided by Chapter 261, Family Code.

Government code

Chapter 420. Sexual assault prevention and crisis services

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 420.001. SHORT TITLE.

This chapter may be cited as the Sexual Assault Prevention and Crisis Services Act.

Sec. 420.002. PURPOSE.

The purpose of this chapter is to promote the development throughout the state of locally based and supported nonprofit programs for the survivors of sexual assault and to standardize the quality of services provided.

Sec. 420.003. DEFINITIONS.

In this chapter:

- (1) means a crime laboratory, as that term is defined by Article 38.35, Code of Criminal Procedure, that has been accredited under Section 411.0205.
- (1-a) "Active criminal case" means a case:
 - (A) in which:
 - (i) a sexual assault has been reported to a law enforcement agency; and
 - (ii) physical evidence of the assault has been submitted to the agency or an accredited crime laboratory under this chapter for analysis; and

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(B) for which:

- (i) the statute of limitations has not run with respect to the prosecution of the sexual assault; or
- (ii) a DNA profile was obtained that is eligible under Section 420.043 for comparison with DNA profiles in the state database or CODIS DNA database.

(1-b) "Advocate" means a person who provides advocacy services as an employee or volunteer of a sexual assault program.

(1-c) "Department" means the Department of Public Safety of the State of Texas.

(1-d) "Law enforcement agency" means a state or local law enforcement agency in this state with jurisdiction over the investigation of a sexual assault.

(1-e) "Minimum services" means:

- (A) a 24-hour crisis hotline;
- (B) crisis intervention;
- (C) public education;
- (D) advocacy; and
- (E) accompaniment to hospitals, law enforcement offices, prosecutors' offices, and courts.

(2) "Program" means a sexual assault program.

(3) "Service" means the Sexual Assault Prevention and Crisis Service.

(4) "Sexual assault" means any act or attempted act as described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(5) "Sexual assault examiner" means a person who uses an attorney general-approved evidence collection kit and protocol to collect and preserve evidence of a sexual assault or other sex offense.

(6) "Sexual assault nurse examiner" means a registered nurse who has completed an attorney general-approved examiner training course.

(7) "Sexual assault program" means any local public or private nonprofit corporation, independent of a law enforcement agency or prosecutor's office, that is operated as an independent program or as part of a municipal, county, or state agency and that provides the minimum services to adult survivors of stranger and non-stranger sexual assault.

(7-a) "State sexual assault coalition" means a statewide nonprofit organization that has been identified as a state sexual assault coalition by a state or federal agency authorized to make that designation.

(8) "Survivor" means an individual who is a victim of a sexual assault, regardless of whether a report or conviction is made in the incident.

Sec. 420.004. ADMINISTRATION OF PROGRAM.

(a) The attorney general shall administer the Sexual Assault Prevention and Crisis Services program and may delegate a power or duty given to the attorney general under this chapter to an employee in the attorney general's office.

Sec. 420.005. GRANTS.

(a) For purposes described by Section 420.008, the attorney general may award grants to sexual assault programs, state sexual assault coalitions, and other appropriate local and statewide programs and organizations related to sexual assault.

(b) The attorney general may by rule:

- (1) determine eligibility requirements for any grant awarded under this chapter;
- (2) require a grant recipient to offer minimum services for not less than nine months before receiving a grant and to continue to offer minimum services during the grant period; and
- (3) require a grant recipient to submit financial and programmatic reports..

(c) The attorney general by rule shall require a program receiving a grant to:

- (1) submit quarterly and annual financial reports to the attorney general;
- (2) submit to an annual independent financial audit;
- (3) cooperate with the attorney general during site-monitoring visits; and

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- (4) offer the minimum services described by Subsection (b) for at least nine months before receiving a grant.
- (d) This section does not prohibit a grant recipient from offering any additional service, including a service for sexual assault offenders.
 - (e) A grant is governed by Chapter 783 and rules adopted under that chapter.
 - (f) The receipt of grant money by a program may be suspended in case of a dispute about the eligibility of the program to receive the money under this chapter. A hearing on the dispute must be held within a reasonable time, as established by rule by the attorney general.

Sec. 420.006. SPECIAL PROJECTS.

The attorney general may consult and contract with or award grants to entities described by Section 420.005(a) for special projects to prevent sexual assault and improve services to survivors.

Sec. 420.007. FUNDING.

- (a) The attorney general may receive grants, gifts, or appropriations of money from the federal government, the state legislature, or private sources to finance the grant program created by this chapter.
- (b) The attorney general may not use more than 15 percent of the annual legislative appropriation to the attorney general under Section 420.008(c)(1) for the administration of this chapter.
- (c) The sexual assault prevention and crisis services fund is a special account in the general revenue fund. Money deposited to the credit of the fund may be used only as provided by this subchapter and is not available for any other purpose.

Sec. 420.008. SEXUAL ASSAULT PROGRAM FUND.

- (a) The sexual assault program fund is a special account in the general revenue fund.
- (b) The fund consists of fees collected under:
 - (1) Section 19(e), Article 42.12, Code of Criminal Procedure;
 - (2) Section 508.189, Government Code; and
 - (3) Subchapter B, Chapter 47, Business & Commerce Code, and deposited under Section 47.054.
- (c) The legislature may appropriate money deposited to the credit of the fund only to:
 - (1) the attorney general, for:
 - (A) sexual violence awareness and prevention campaigns;
 - (B) grants to faith-based groups, independent school districts, and community action organizations for programs for the prevention of sexual assault and programs for victims of human trafficking;
 - (C) grants for equipment for sexual assault nurse examiner programs, to support the preceptorship of future sexual assault nurse examiners, and for the continuing education of sexual assault nurse examiners;
 - (D) grants to increase the level of sexual assault services in this state;
 - (E) grants to support victim assistance coordinators;
 - (F) grants to support technology in rape crisis centers;
 - (G) grants to and contracts with a statewide nonprofit organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code of 1986, having as a primary purpose ending sexual violence in this state, for programs for the prevention of sexual violence, outreach programs, and technical assistance to and support of youth and rape crisis centers working to prevent sexual violence; and
 - (H) grants to regional nonprofit providers of civil legal services to provide legal assistance for sexual assault victims;
 - (2) the Department of State Health Services, to measure the prevalence of sexual assault in this state and for grants to support programs assisting victims of human trafficking;
 - (3) the Institute on Domestic Violence and Sexual Assault at The University of Texas at Austin, to conduct research on all aspects of sexual assault and domestic violence;

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- (4) Texas State University, for training and technical assistance to independent school districts for campus safety;
- (5) the office of the governor, for grants to support sexual assault and human trafficking prosecution projects;
- (6) the Department of Public Safety, to support sexual assault training for commissioned officers;
- (7) the comptroller's judiciary section, for increasing the capacity of the sex offender civil commitment program;
- (8) the Texas Department of Criminal Justice:
 - (A) for pilot projects for monitoring sex offenders on parole; and
 - (B) for increasing the number of adult incarcerated sex offenders receiving treatment;
- (9) the Texas Youth Commission, for increasing the number of incarcerated juvenile sex offenders receiving treatment;
- (10) the comptroller, for the administration of the fee imposed on sexually oriented businesses under Section 47.052, Business & Commerce Code; and
- (11) the supreme court, to be transferred to the Texas Equal Access to Justice Foundation, or a similar entity, to provide victim-related legal services to sexual assault victims, including legal assistance with protective orders, relocation-related matters, victim compensation, and actions to secure privacy protections available to victims under law.

Sec. 420.009. REPORT.

Not later than December 10 of each even-numbered year, the attorney general shall publish a report regarding grants awarded under this chapter. The report must analyze the effectiveness of the grants, and include information on the expenditure of funds authorized by this chapter, the services provided, the number of persons receiving services, and any other information relating to the provision of sexual assault services. A copy of the report shall be submitted to the governor, lieutenant governor, speaker of the house of representatives, Legislative Budget Board, Senate Committee on Health and Human Services or its successor committee, and House Committee on Human Services or its successor committee.

Sec. 420.010. CONFIDENTIALITY.

The attorney general may not disclose any information received from reports, collected case information, or site-monitoring visits that would identify a person working at or receiving services from a sexual assault program.

Sec. 420.011. CERTIFICATION BY ATTORNEY GENERAL; RULES.

- (a) The attorney general may adopt rules necessary to implement this chapter. A proposed rule must be provided to grant recipients at least 60 days before the date of adoption.
- (b) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault training program. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a training program that violates this chapter.
- (c) The attorney general shall adopt rules establishing minimum standards for the certification of a sexual assault nurse examiner, including standards for examiner training courses and for the interstate reciprocity of sexual assault nurse examiners. The certification is valid for two years from the date of issuance. The attorney general shall also adopt rules establishing minimum standards for the suspension, decertification, or probation of a sexual assault nurse examiner who violates this chapter.

Sec. 420.012. CONSULTATIONS.

In implementing this chapter, the attorney general shall consult persons and organizations having knowledge and experience relating to sexual assault.

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Sec. 420.013. DEPOSIT BY COMPTROLLER; AUDIT.

(a) The comptroller shall deposit any money received under this subchapter and any money credited to the Sexual Assault Prevention and Crisis Services Program by another law in the sexual assault prevention and crisis services fund.

(b) The sexual assault prevention and crisis services fund is subject to audit by the comptroller. Money expended from the fund is subject to audit by the state auditor.

Sec. 420.014. ATTORNEY GENERAL SUPERVISION OF COLLECTION OF COSTS; FAILURE TO COMPLY.

(a) If the attorney general reasonably believes that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Article 42.12 or 42.18, Code of Criminal Procedure, the attorney general shall send a warning letter to the court or the governing body of the governmental unit in which the court is located.

(b) Not later than the 60th day after the receipt of a warning letter, the court or governing body shall respond in writing to the attorney general specifically addressing the charges in the warning letter.

(c) If the court or governing body does not respond or if the attorney general considers the response inadequate, the attorney general may request the comptroller to audit the records of:

- (1) the court;
- (2) the community supervision office;
- (3) the officer charged with collecting the costs; or
- (4) the treasury of the governmental unit in which the court is located.

(d) The comptroller shall provide the attorney general with the results of the audit.

(e) If the attorney general finds from available evidence that a court or a community supervision office has not properly assessed or made a reasonable effort to collect costs due under Article 42.12 or 42.18, Code of Criminal Procedure, the attorney general may:

- (1) refuse to award grants under this subchapter to residents of the jurisdiction served by the court or community supervision office; or
- (2) in the case of a court, notify the State Commission on Judicial Conduct of the findings.

(f) The failure, refusal, or neglect of a judicial officer to comply with a requirement of this subchapter constitutes official misconduct and is grounds for removal from office.

Sec. 420.015. ASSESSMENT OF SEXUALLY ORIENTED BUSINESS REGULATIONS.

The legislature may appropriate funds for a third-party assessment of the sexually oriented business industry in this state and provide recommendations to the legislature on how to further regulate the growth of the sexually oriented business industry in this state.

SUBCHAPTER B. COLLECTION AND PRESERVATION OF EVIDENCE OF SEX OFFENSE

Sec. 420.031. EVIDENCE COLLECTION PROTOCOL; KITS.

(a) The attorney general shall develop and distribute to law enforcement agencies and proper medical personnel an evidence collection protocol that shall include collection procedures and a list of requirements for the contents of an evidence collection kit for use in the collection and preservation of evidence of a sexual assault or other sex offense. Medical or law enforcement personnel collecting evidence of a sexual assault or other sex offense shall use an attorney general-approved evidence collection kit and protocol.

(b) An evidence collection kit must contain items to collect and preserve evidence of a sexual assault or other sex offense and other items determined necessary for the kit by the attorney general.

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- (c) In developing the evidence collection kit and protocol, the attorney general shall consult with individuals and organizations having knowledge and experience in the issues of sexual assault and other sex offenses.
- (d) A law enforcement agency that requests a medical examination of a victim of an alleged sexual assault or other sex offense for use in the investigation or prosecution of the offense shall pay the costs of the evidence collection kit. This subsection does not require a law enforcement agency to pay any costs of treatment for injuries.
- (e) Evidence collected under this section may not be released unless the survivor of the offense or a legal representative of the survivor signs a written consent to release the evidence.
- (f) Failure to comply with evidence collection procedures or requirements adopted under this section does not affect the admissibility of the evidence in a trial of the offense.

Sec. 420.032. PHOTO DOCUMENTATION REQUIRED FOR CHILD VICTIMS IN CERTAIN COUNTIES.

- (a) In this section:
 - (1) "Child" has the meaning assigned by Section 101.003, Family Code.
 - (2) "Medical professional" has the meaning assigned by Section 91.001, Family Code.
 - (3) "Photo documentation" means video or photographs of a child alleged to be the victim of a sexual assault that are taken with a colposcope or other magnifying camera during the forensic portion of a medical examination of the child.
- (b) In a county with a population of three million or more, the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault must include the production of photo documentation unless the medical professional examining the child determines that good cause for refraining from producing photo documentation exists.
- (c) The photo documentation must include images of the child's anogenital area and any signs of injury apparent on the body of the child.
- (d) If photo documentation is not produced, the medical professional conducting the forensic portion of the medical examination shall document in the child's medical records the reason photo documentation was not produced.
- (e) The fact that the medical professional examining the child did not produce photo documentation in the forensic portion of a medical examination of a child alleged to be the victim of a sexual assault and the reasons behind the lack of photo documentation are admissible at the trial of the alleged sexual assault, but the lack of photo documentation will not affect the admissibility of other evidence in the case.

SUBCHAPTER C. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT

Sec. 420.051. ADVOCATES FOR SURVIVORS OF SEXUAL ASSAULT.

An individual may act as an advocate for survivors of sexual assault for the purposes of Article 56.045, Code of Criminal Procedure, if the individual has completed a sexual assault training program certified by the attorney general and is an employee or volunteer of a sexual assault program.

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Sec. 420.071. CONFIDENTIAL COMMUNICATIONS.

- (a) A communication between an advocate and a survivor, or a person claiming to be a survivor, that is made in the course of providing sexual assault advocacy services to the survivor is confidential and may not be disclosed except as provided by this subchapter.
- (b) A record of the identity, personal history, or background information of a survivor or information concerning the victimization of a survivor that is created by or provided to an advocate or maintained by a sexual assault program is confidential and may not be disclosed except as provided by this subchapter.
- (c) A person who receives information from a confidential communication or record as described by this subchapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the information was obtained.
- (d) This subchapter governs a confidential communication or record concerning a survivor regardless of when the survivor received the services of an advocate or sexual assault program.

Sec. 420.072. EXCEPTIONS.

- (a) A communication or record that is confidential under this subchapter may be disclosed in court or in an administrative proceeding if:
 - (1) the proceeding is brought by the survivor against an advocate or a sexual assault program or is a criminal proceeding or a certification revocation proceeding in which disclosure is relevant to the claims or defense of the advocate or sexual assault program; or
 - (2) the survivor or a person authorized to act on behalf of the survivor consents in writing to the release of the confidential information as provided by Section 420.073.
- (b) A communication or record that is confidential under this subchapter may be disclosed only to:
 - (1) medical or law enforcement personnel if the advocate determines that there is a probability of imminent physical danger to any person for whom the communication or record is relevant or if there is a probability of immediate mental or emotional injury to the survivor;
 - (2) a governmental agency if the disclosure is required or authorized by law;
 - (3) a qualified person to the extent necessary for a management audit, financial audit, program evaluation, or research, except that a report of the research, audit, or evaluation may not directly or indirectly identify a survivor;
 - (4) a person who has the written consent of the survivor or of a person authorized to act on the survivor's behalf as provided by Section 420.073; or
 - (5) an advocate or a person under the supervision of a counseling supervisor who is participating in the evaluation or counseling of or advocacy for the survivor.
- (c) A communication or record that is confidential under this subchapter may not be disclosed to a parent or legal guardian of a survivor who is a minor if an advocate or a sexual assault program knows or has reason to believe that the parent or legal guardian of the survivor is a suspect in the sexual assault of the survivor.

Sec. 420.073. CONSENT.

- (a) Consent for the release of confidential information must be in writing and signed by the survivor, a parent or legal guardian if the survivor is a minor, a legal guardian if the survivor has been adjudicated incompetent to manage the survivor's personal affairs, an attorney ad litem appointed for the survivor, or a personal representative if the survivor is deceased. The written consent must specify:
 - (1) the information or records covered by the release;
 - (2) the reason or purpose for the release; and

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(3) the person to whom the information is to be released.

(b) A survivor or other person authorized to consent may withdraw consent to the release of information by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect information disclosed before the date written notice of the withdrawal was received.

(c) A person who receives information made confidential by this chapter may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the information.

Sec. 420.0735. CONSENT FOR RELEASE OF CERTAIN EVIDENCE.

(a) Consent for the release of evidence contained in an evidence collection kit must be in writing and signed by:

- (1) the survivor, if the survivor is 14 years of age or older;
- (2) the survivor's parent or guardian or an employee of the Department of Family and Protective Services, if the survivor is younger than 14 years of age; or
- (3) the survivor's personal representative, if the survivor is deceased.

(b) For purposes of Subsection (a)(1), a written consent signed by an incapacitated person, as that term is defined by Section 601, Texas Probate Code, is effective regardless of whether the incapacitated person's guardian, guardian ad litem, or other legal agent signs the release. If the incapacitated person is unable to provide a signature and the guardian, guardian ad litem, or other legal agent is unavailable to sign the release, then the investigating law enforcement officer may sign the release.

(c) Consent for release under Subsection (a) applies only to evidence contained in an evidence collection kit and does not affect the confidentiality of any other confidential information under this chapter.

(d) The written consent must specify:

- (1) the evidence covered by the release;
- (2) the reason or purpose for the release; and
- (3) the person to whom the evidence is to be released.

(e) A survivor or other person authorized to consent may withdraw consent to the release of evidence by submitting a written notice of withdrawal to the person or sexual assault program to which consent was provided. Withdrawal of consent does not affect evidence disclosed before the date written notice of the withdrawal was received.

(f) A person who receives evidence made confidential by this chapter may not disclose the evidence except to the extent that disclosure is consistent with the authorized purposes for which the person obtained the evidence.

Sec. 420.074. CRIMINAL SUBPOENA.

Notwithstanding any other provision of this chapter, a person shall disclose a communication or record that is confidential under this chapter for use in a criminal investigation or proceeding in response to a subpoena issued in accordance with law.

Sec. 420.075. OFFENSE.

A person commits an offense if the person intentionally or knowingly discloses a communication or record that is confidential under this chapter, except as provided by this chapter. An offense under this section is a Class C misdemeanor.

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Health and Safety Code

Sec. 250.006. CONVICTIONS BARRING EMPLOYMENT.

(a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
- (3) an offense under Section 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecenty with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery);
- (13) an offense under Section 29.03, Penal Code (aggravated robbery);
- (14) an offense under Section 21.08, Penal Code (indecent exposure);
- (15) an offense under Section 21.12, Penal Code (improper relationship between educator and student);
- (16) an offense under Section 21.15, Penal Code (improper photography or visual recording);
- (17) an offense under Section 22.05, Penal Code (deadly conduct);
- (18) an offense under Section 22.021, Penal Code (aggravated sexual assault);
- (19) an offense under Section 22.07, Penal Code (terroristic threat);
- (20) an offense under Section 33.021, Penal Code (online solicitation of a minor);
- (21) an offense under Section 34.02, Penal Code (money laundering);
- (22) an offense under Section 35A.02, Penal Code (Medicaid fraud);
- (23) an offense under Section 42.09, Penal Code (cruelty to animals); or
- (24) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection.

(b) A person may not be employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date the person is convicted of:

- (1) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;
- (2) an offense under Section 30.02, Penal Code (burglary);
- (3) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;
- (4) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor or a felony;
- (5) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor or a felony;
- (6) an offense under Section 37.12, Penal Code (false identification as peace officer); or
- (7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

(c) In addition to the prohibitions on employment prescribed by Subsections (a) and (b), a person for whom a facility licensed under Chapter 242 or 247 is entitled to obtain criminal history record information may not be employed in a facility licensed under Chapter 242 or 247 if the person has been convicted:

- (1) of an offense under Section 30.02, Penal Code (burglary); or

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(2) under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense under Section 30.02, Penal Code.

(d) For purposes of this section, a person who is placed on deferred adjudication community supervision for an offense listed in this section, successfully completes the period of deferred adjudication community supervision, and receives a dismissal and discharge in accordance with Section 5(c), Article 42.12, Code of Criminal Procedure, is not considered convicted of the offense for which the person received deferred adjudication community supervision.

Chapter 323. Emergency Services For Survivors Of Sexual Assault

Sec. 323.002. PLAN FOR EMERGENCY SERVICES.

Sec. 323.001. DEFINITIONS.

In this chapter:

- (1) "Community-wide plan" means an agreement entered into between one or more health care facilities, entities administering a sexual assault program, district attorney's offices, or law enforcement agencies that designates one or more health care facilities in the community as a primary health care facility to furnish emergency medical services and evidence collection to sexual assault survivors on a community or area-wide basis.
- (2) "Department" means the Department of State Health Services.
- (3) "Health care facility" means a general or special hospital licensed under Chapter 241 or a general or special hospital owned by this state.
- (4) "Sexual assault" means any act as described by Section 22.011 or 22.021, Penal Code.
- (5) "Sexual assault survivor" means an individual who is a victim of a sexual assault, regardless of whether a report is made or a conviction is obtained in the incident.

Sec. 323.002. PLAN FOR EMERGENCY SERVICES.

- (a) Each health care facility that has an emergency department shall comply with Section 323.004. At the request of the department, a health care facility that has an emergency department shall submit to the department for approval a plan for providing the services required by Section 323.004 to sexual assault survivors who arrive for treatment at the emergency department of the health care facility.
- (b) The department shall adopt procedures for submission, approval, and modification of a plan required under this section.
- (c) A health care facility shall submit the plan required by this section not later than the 60th day after the date the department requests the plan.
- (d) The department shall approve or reject the plan not later than the 120th day after the date the plan is submitted.

Sec. 323.003. REJECTION OF PLAN.

- (a) If a plan required under Section 323.002 is not approved, the department shall:
 - (1) return the plan to the health care facility; and
 - (2) identify the specific provisions under Section 323.004 with which the plan conflicts or does not comply.

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(b) Not later than the 90th day after the date the department returns a plan to a health care facility under Subsection (a), the facility shall correct and resubmit the plan to the department for approval.

Sec. 323.004. MINIMUM STANDARDS FOR EMERGENCY SERVICES.

(a) Except as otherwise provided by Subsection (a-2), after a sexual assault survivor arrives at a health care facility following an alleged sexual assault, the facility shall provide care to the survivor in accordance with Subsection.

(a-1) A facility that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors shall inform the survivor that:

- (1) the facility is not the designated facility and provide to the survivor the name and location of the designated facility; and
- (2) the survivor is entitled, as the survivor's option:
 - (A) to receive the care described by subsection (b) at that facility, subject to Subsection (b-1); or
 - (B) to be stabilized by Subsection (b) at a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

(a-2) If a sexual assault survivor chooses to be transferred under Subsection (a-1)(2)(B), after obtaining the survivor's written, signed consent to the transfer, the facility shall stabilize and transfer the survivor to a health care facility in the community designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors, which shall provide care to the survivor in accordance with Subsection (b).

(b) A health care facility providing care to a sexual assault survivor shall provide the survivor with:

- (1) subject to Subsection (b-1), a forensic medical examination in accordance with Subchapter B, Chapter 420, Government Code, if the examination has been approved by a law enforcement agency;
- (2) a private area, if available, to wait or speak with the appropriate medical, legal, or sexual assault crisis center staff or volunteer until a physician, nurse, or physician assistant is able to treat the survivor;
- (3) access to a sexual assault program advocate, if available, as provided by Article 56.045, Code of Criminal Procedure;
- (4) the information form required by Section 323.005;
- (5) a private treatment room, if available;
- (6) if indicated by the history of contact, access to appropriate prophylaxis for exposure to sexually transmitted infections; and
- (7) the name and telephone number of the nearest sexual assault crisis center.

(b-1) A person may not perform a forensic examination on a sexual assault survivor unless the person has the basic training described by Section 323.0045 or the equivalent education and training.

(c) A health care facility must obtain documented consent before providing the forensic medical examination and treatment.

(d) This section does not affect the duty of a health care facility to comply with the requirements of the federal Emergency Medical Treatment and Active Labor Act of 1986 (42.U.S.C. Section 1395dd) that are applicable to the facility.

Sec. 323.005. INFORMATION FORM.

(a) The department shall develop a standard information form for sexual assault survivors that must include:

- (1) a detailed explanation of the forensic medical examination required to be provided by law, including a statement that photographs may be taken of the genitalia;
- (2) information regarding treatment of sexually transmitted infections and pregnancy, including:
 - (A) generally accepted medical procedures;
 - (B) appropriate medications; and
 - (C) any contraindications of the medications prescribed for treating sexually transmitted infections and preventing pregnancy;

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- (3) information regarding drug-facilitated sexual assault, including the necessity for an immediate urine test for sexual assault survivors who may have been involuntarily drugged;
- (4) information regarding crime victims compensation, including:
 - (A) a statement that a law enforcement agency will pay for the forensic portion of the examination; and
 - (B) reimbursement information for the medical portion of the examination;
- (5) an explanation that consent for the forensic medical examination may be withdrawn at any time during the examination;
- (6) the name and telephone number of sexual assault crisis centers statewide; and
- (7) information regarding postexposure prophylaxis for HIV infection.

(b) A health care facility shall use the standard form developed under this section.

(c) An individual employed by or under contract with a health care facility may refuse to provide the information form required by this section for ethical or religious reasons. If an individual employed by or under contract with a health care facility refuses to provide the survivor with the information form, the health care facility must ensure that the information form is provided without delay to the survivor by another individual employed by or under contract with the facility.

Sec. 323.006. INSPECTION.

The department may conduct an inspection of a health care facility to ensure compliance with this chapter.

Sec. 323.0045. BASIC SEXUAL ASSAULT FORENSIC EVIDENCE COLLECTION TRAINING.

- (a) A person who performs a forensic examination on a sexual assault survivor must have at least basic forensic evidence collection training or the equivalent education.
- (b) A person who completes a continuing medical or nursing education course in forensic evidence collection that is approved or recognized by the appropriate licensing board is considered to have basic sexual assault forensic evidence collection training for purposes of this chapter.
- (c) Each health care facility that has an emergency department and that is not a health care facility designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors shall develop a plan to train personnel on sexual assault forensic evidence collection.

Sec. 323.007. SEXUAL ASSAULT SURVIVORS WHO ARE MINORS.

This chapter does not affect participating entities of children's advocacy centers under Subchapter E, Chapter 264, Family Code, or the working protocols set forth by their multidisciplinary teams to ensure access to specialized medical assessments for sexual assault survivors who are minors. To the extent of a conflict with Subchapter E, Chapter 264, Family Code, that subchapter controls.

Sec. 323.008. DATA PUBLICATION.

The department shall post on the department's Internet website a list of all hospitals that are designated in a community-wide plan as the primary health care facility in the community for treating sexual assault survivors.

Human Resources Code

Sec. 42.0426. TRAINING OF PERSONNEL.

- (a) A licensed facility shall provide training for staff members in:
 - (1) the recognition of symptoms of child abuse, neglect, and sexual molestation and the responsibility and procedure of reporting suspected occurrences of child abuse, neglect, and sexual molestation to the department or other appropriate entity;

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- (2) the application of first aid; and
- (3) the prevention and spread of communicable diseases.

(a-1) A licensed facility shall require each employee of the facility who attends a training program required by Subsection (a)(1) to sign a statement verifying the employee's attendance at the training program. The licensed facility shall maintain the statement in the employee's personnel records.

(b) A residential child-care facility shall implement a behavior intervention program approved by the department for the benefit of a child served by the facility who needs assistance in managing the child's conduct. The program must include:

- (1) behavior intervention instruction for staff members who work directly with children served by the facility; and
- (2) training for all employees regarding the risks associated with the use of prone restraints.

(c) Not later than the seventh day after the date an employee begins employment at a day-care center, group day-care home, or registered family home, the employee must complete an orientation to the facility.

Sec. 61.0386. ADVOCACY AND SUPPORT GROUPS.

(a) The commission shall allow advocacy and support groups whose primary functions are to benefit children, inmates, girls and women, the mentally ill, and victims of sexual assault to provide on-site information, support, and other services for children confined in commission facilities.

(b) The commission shall adopt security and privacy procedures for advocacy and support groups that provide on-site information, support, and other services under this section. The security and privacy procedures may not be designed to deny an advocacy or support group access to children confined in commission facilities.

(c) The commission shall adopt standards consistent with standards adopted by the Texas Department of Criminal Justice regarding the confidential correspondence of children confined in commission facilities with external entities, including advocacy and support groups.

Pregnancy

CONTRACEPTION: GUIDE TO THE PROS AND CONS

Efficacy rates provided here are estimates based on a number of different studies. Methods which are more dependent on conscientious use, and therefore more subject to human error, have wider ranges of efficacy than others. For comparison, 60 percent to 80 percent of sexually active women using no contraception would be expected to become pregnant in a year. Because the contraceptive sponge has only been on the market a short time, effectiveness estimates for it are not based on as many studies as those for the other forms of contraception. The information below would not be used alone, but only as a summary of information in the accompanying article.



Emergency Contraception, Ovral, Preven, Plan B ("morning after pill")

Estimated Effectiveness: 97 percent

Risks: Headaches, blurred vision, nausea, chest pain, abdominal pain and leg pain

Non-contraceptive Benefits: None

Convenience: Must start treatment within 72 hours after intercourse

Availability: Over the counter, but not all pharmacies may stock emergency contraception.

Birth Control Pills

Estimated Effectiveness: 97 percent (Mini); 99 percent (Combination pill)

Risks: Not for smokers; blood clots, gall bladder disease, non-cancerous liver tumors, water retention, hypertension, mood changes, dizziness and nausea.

Non-contraceptive Benefits: Less menstrual bleeding and cramping, lower risk of fibrocystic breast disease, ovarian cysts and pelvic inflammatory disease; may protect against cancer of ovaries and of the lining of the uterus.

Convenience: Pill must be taken on daily schedule, regardless of the frequency of intercourse.

Availability: Prescription.

Condom

Estimated Effectiveness: 64 percent to 97 percent

Risks: Rare, irritation and allergic reactions

Non-contraceptive benefits: Good protection against sexually transmitted diseases, including herpes and AIDS.

Convenience: Put on immediately before intercourse.

Availability: Over the counter.

Intrauterine Device (IUD)

Estimated Effectiveness: 95 percent to 99 percent

Risks: Cramps, bleeding, pelvic inflammatory disease, in extreme cases perforation of the uterus.

Non-contraceptive Benefits: None.

Convenience: After insertion, stays in place until physician removes it.

Availability: Prescription.

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Diaphragm with Spermicide

Estimated Effectiveness: 80 percent–98 percent

Risks: Rare, irritation and allergic reactions, bladder infection, constipation; very rarely, toxic shock syndrome.

Non-contraceptive benefits: May give some protection against some sexually transmitted diseases.

Convenience: Inserted before intercourse; can be left in place 24 hours but additional spermicide must be inserted if intercourse is repeated.

Availability: Prescription.

Sponge

Estimated Effectiveness: 80 percent to 87 percent

Risks: Rare, irritation and allergic reactions, difficulty in removal, very rare toxic shock syndrome.

Non-contraceptive benefits: May give some protection against some sexually transmitted diseases.

Convenience: Can be inserted hours before intercourse, left in place up to 24 hours; disposable.

Availability: Over the counter

Vaginal Spermicides (used alone)

Estimated Effectiveness: 70 percent to 80 percent

Risks: Rare, irritation and allergic reactions

Non-contraceptive benefits: May give some protection against some sexually transmitted diseases.

Convenience: Applied no more than one hour before intercourse; can be messy.

Availability: Over the counter.

Natural Family Planning or Rhythm

Estimated Effectiveness: Very variable, perhaps 53 percent to 86 percent Risks: None.

Non-contraceptive Benefits: None.

Convenience: Requires frequent monitoring of body functions and periods of abstinence.

Availability: Instructions from physician or clinic.

Vasectomy (Male Sterilization)

Estimated Effectiveness: Over 99 percent

Risks: Pain for male; infection rare; possible psychological problems.

Non-contraceptive benefits: None.

Convenience: No care after surgery.

Availability: Minor surgery.

Tubal Ligation (Female Sterilization)

Estimated Effectiveness: Over 99 percent

Risks: Surgical complications; some pain or discomfort; possibly higher risk of hysterectomy later in life.

Non-contraceptive benefits: None.

Convenience: No care after surgery.

Availability: Surgery

Sexually Transmitted Infections

Sexual assault survivors are likely to have many health concerns following their assault. One common fear is of contracting a disease from their assailant. The risk of contracting a disease from a single sexual episode is relatively low, however, this does little to alleviate the fear of the survivor and realistically the chance of getting a sexually transmitted disease is always a clear possibility.

THE FACTS ABOUT SEXUALLY TRANSMITTED INFECTIONS (STIS)

STDs are diseases that are passed during sexual contact. Some of the most common STIs include: chlamydia, syphilis, genital herpes, genital warts, gonorrhea, HIV/AIDS and hepatitis B. Hepatitis and HIV/AIDS will be discussed in detail, apart from the other diseases listed above.

Some STIs can make you seriously ill or even kill you. Women are more likely than men to contract many of the STIs because it is easier for germs to get inside a woman's body during sex. Some special health problems for women caused by STIs include: problem pregnancies, pelvic inflammatory disease and a higher risk for cervical cancer.

Some women exhibit physical symptoms of an STI such as: pain during sex, spotting between periods, unusual discharge or vaginal odor, burning during urination, or sores or bumps around the vagina or inner thighs. Unfortunately, many women do not show any sign of a STI and are therefore left untreated and likely to spread the disease to other partners. The Center for Disease Control (CDC) concludes that more than 12 million cases of sexually transmitted diseases are reported in the United States every year. The CDC offers the following summaries of various STIs.

CHLAMYDIA

Chlamydia is the most common bacterial sexually transmitted disease in the United States. It causes an estimated 4 million infections annually, primarily among adolescents and young adults. In women, untreated infections can progress to involve the upper reproductive tract and may result in serious complications. About 75 percent of women infected with chlamydia have few or no symptoms, and the infection may persist for as long as 15 months without testing and treatment. Without treatment, 20 percent to 40 percent of women with chlamydia may develop pelvic inflammatory disease (PID). An estimated 1 in 10 adolescent girls and 1 in 20 women of reproductive age are infected.

GONORRHEA

Gonorrhea is a common bacterial STI that can be treated with antibiotics. Adolescent females aged 15 to 19 have the highest rates of gonorrhea. An estimated 50 percent of women with gonorrhea have no symptoms. Without early screening and treatment, 10 to 40 percent of women with gonorrhea will develop PID.

PELVIC INFLAMMATORY DISEASE (PID)

PID refers to upper reproductive tract infections in women, which often develop when STIs go untreated or are inadequately treated. Each year, PID and its complications affect more than 750,000 women. PID can cause chronic pelvic pain or harm to the reproductive organs. Permanent damage to the fallopian tubes can result from a single episode of PID and is even more common after a second or third episode. As much as 30 percent of infertility in women may be related to preventable complications of past STIs. One potentially fatal complication of PID is ectopic pregnancy, an abnormal condition that occurs when a fertilized egg implants in a location other than inside a woman's uterus—often in a fallopian tube.

HERPES SIMPLEX VIRUS (HSV)

Genital herpes is a disease caused by herpes simplex virus (HSV). The disease may recur periodically and has no cure. Scientists have estimated that about 30 million persons in the United States may have genital HSV infection. Most infected persons never recognize the symptoms of genital herpes; some will have symptoms shortly after infection and never again. A minority of those infected will have recurrent episodes of genital sores. Many cases of genital herpes are acquired from people who do not know they are infected or who had no symptoms at the time of sexual contact.

HUMAN PAPILLOMAVIRUS (HPV)

HPV is a virus that sometimes causes genital warts but in many cases infects people without causing noticeable symptoms. Concern about HPV has increased in recent years after several studies showed that HPV infection is associated with the development of cervical cancer. Approximately 25 types of HPV can infect the genital area. These types are divided into high risk and low risk groups based on whether they are associated with cancer. Infection with a high risk type of HPV is one risk factor for cervical cancer, which causes 4,500 deaths among women each year. No cure for HPV infection exists.

SYPHILIS

Syphilis is a bacterial infection that can be cured with antibiotics. Syphilis cases increased dramatically from 1985 to 1990 among women of all ages. Rates among females were more than twice as high as rates among males in the 15 to 19 age group. African-American women have syphilis rates that are 7 times greater than the female population as a whole. More than 3000 cases of congenital syphilis were reported in 1993. Death of the fetus or newborn infant occurs in up to 40 percent of pregnant women who have untreated syphilis.

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

STI	WHAT TO WATCH FOR	HOW DO YOU GET THIS STI?	WHAT HAPPENS IF YOU DO NOT GET TREATED?
CHLAMYDIA OR NGU	<p>Symptoms show up 7-21 days after having sex. Most women and some men have no symptoms.</p> <p>Women: Discharge from the vagina.</p> <p>Bleeding from the vagina. Burning or pain when you urinate.</p> <p>Pain in abdomen, sometimes with fever and nausea.</p> <p>Men: Watery, white or yellow drip from penis. Burning or pain when you urinate.</p>	<p>Spread during vaginal, anal and oral sex with someone who has chlamydia or NGU.</p>	<p>You can give chlamydia or NGU to your sexual partner(s).</p> <p>Can lead to more serious infection.</p> <p>Reproductive organs can be damaged.</p> <p>Both men and women may no longer be able to have children.</p> <p>A mother with chlamydia can give it to her baby during childbirth.</p>
GENITAL WARTS	<p>Symptoms show up 1-8 months after contact with HPV, the virus that causes genital warts.</p> <p>Small, bumpy warts on the sex organs and anus.</p> <p>Itching or burning around the sex organs.</p> <p>After warts go away, the virus stays in the body. The warts can come back.</p>	<p>Spread during vaginal, anal and oral sex with someone who has genital warts.</p>	<p>You can give genital warts to your sexual partner(s).</p> <p>Warts may go away on their own, remain unchanged, or grow and spread.</p> <p>A mother with warts can give them to her baby during childbirth.</p>

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GONORRHEA	<p>Symptoms show up 2-21 days after having sex.</p> <p>Most women and some men have no symptoms.</p> <p>Women: Thick yellow or white discharge from the vagina.</p> <p>Burning or pain when you urinate or have a bowel movement.</p> <p>Abnormal periods or bleeding between periods.</p> <p>Cramps and pain in the lower abdomen (belly).</p> <p>Men: Thick yellow or white drip from the penis.</p> <p>Burning or pain when you urinate or have a bowel movement.</p> <p>Need to urinate more often.</p>	<p>Spread during vaginal, anal and oral sex with someone who has gonorrhea.</p>	<p>You can give gonorrhea to your sexual partner(s).</p> <p>Can lead to more serious infection.</p> <p>Reproductive organs can be damaged.</p> <p>Both men and women may no longer be able to have children.</p> <p>A mother with gonorrhea can give it to her baby during childbirth.</p> <p>Can cause heart trouble, skin disease, arthritis and blindness.</p>
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SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

<p>HERPES</p>	<p>Symptoms show up 1 to 30 days after having sex.</p> <p>Some people have no symptoms.</p> <p>Flu-like feelings.</p> <p>Small, painful blisters on the sex organs or mouth.</p> <p>Itching or burning before the blisters appear.</p> <p>Blisters last 1 to 3 weeks.</p> <p>Blisters go away, but the disease remains. Blisters can come back.</p>	<p>Spread during vaginal, anal and oral sex with someone who has herpes.</p>	<p>You can give herpes to your sexual partner(s).</p> <p>Herpes cannot be cured.</p> <p>A mother with herpes can give it to her baby during childbirth.</p>
<p>SYPHILIS</p>	<p>1st Stage:</p> <p>Symptoms show up 3 to 12 weeks after having sex.</p> <p>A painless, reddish-brown sore or sores on the mouth, sex organs, breasts or fingers.</p> <p>Sores last 1-5 weeks.</p> <p>Sores go away, but remains syphilis.</p> <p>2nd Stage:</p> <p>Symptoms show up 1 week to 6 months after sore heals.</p> <p>A rash anywhere on the body.</p> <p>Flu-like feelings.</p> <p>Rash and flu-like feelings go away, but you still have syphilis.</p>	<p>Spread during vaginal, anal and oral sex with someone who has syphilis.</p>	<p>You can give syphilis to your sexual partner(s).</p> <p>A mother with syphilis can give it to her baby during pregnancy or have a miscarriage.</p> <p>Can cause heart disease, brain damage, blindness and death.</p>

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VAGINITIS	<p>Some women have no symptoms.</p> <p>Itching, burning or pain in the vagina.</p> <p>More discharge from the vagina than normal.</p> <p>Discharge smells and/or looks different.</p>	<p>Can be spread during vaginal, anal and oral sex.</p> <p>Men can carry vaginitis infections without symptoms.</p>	<p>You can give vaginitis infections to your sexual partner(s).</p> <p>Uncomfortable symptoms will continue.</p> <p>Men can get infections in the penis, prostate gland or urethra.</p>
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HEPATITIS

Hepatitis is generally identified as A, B, or C. Hepatitis B (HBV) is the most likely strain to be spread through sexual contact. Hepatitis B is one of the most common, serious infectious diseases in the world, however, it can be prevented with a safe and effective vaccine. Hepatitis B is 100 times more infectious than the AIDS virus. One out of 20 people in the United States has been infected with Hepatitis B. Each year 300,000 new people will become infected with HBV.

HBV is found in body fluids such as blood, semen and vaginal secretions. Hepatitis B is known as the “Silent Infection” because carriers of HBV may not become noticeably sick and may not realize they have the disease. Whether they have symptoms or not, they can pass the virus onto others. Hepatitis B is so contagious that it is advised that you do not share personal items such as toothbrushes, nail clippers, pierced earrings, or razor with a carrier. **The ABCs of Viral HEPATITIS**

	HEPATITIS A (HAV)	HEPATITIS B (HBV)	HEPATITIS C (HCV)
What is it?	HAV is a virus that causes inflammation of the liver. It does not lead to chronic diseases.	HBV is a virus that causes inflammation of the liver. The virus can cause liver cell damage, leading to cirrhosis and cancer.	HCV is a virus that causes inflammation of the liver. This infection can lead to cirrhosis and cancer.
Incubation period (time from exposure to illness)	15 to 50 days. Average 30 days.	4 to 25 weeks. Average 8 to 12 weeks.	2 to 25 weeks. Average 7 to 9 weeks.

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How is it spread?	Transmitted by fecal/oral route, through close person to person contact (changing diapers without good handwashing), anal-oral sex, or ingestion of contaminated food and water.	Contact with infected blood, seminal fluid, vaginal secretions, contaminated needles, including tattoo/body-piercing tools, infected mother to newborn, human bite, sexual contact.	Contact with infected blood, contaminated IV needles, razors and tattoo/body piercing tools, infected mother to newborn. NOT easily spread through sex.
Symptoms	<p>May have none, especially young children. Symptoms may include light stools, dark urine, fatigue, fever and jaundice (yellow skin). Jaundice by age group</p> <p>< 6 yrs.: < 10%</p> <p>6-14 yrs.: 40-50%</p> <p>> 14 yrs.: 70-80%</p>	<p>May have none, especially young children. Some persons have mild flu-like symptoms, dark urine, light stools, jaundice, fatigue and fever. Jaundice by age groups:</p> <p>< 5 yrs.: < 10%</p> <p>> 5 yrs.: 30-50%</p>	<p>It has symptoms, similar as with HBV. Between 30% with acute HCV develop symptoms and 20 to 30% develop jaundice.</p>
Percent who develop chronic disease	None	<p>Varies by age of onset of infection.</p> <p>< 5 yrs.: 30-90%</p> <p>> 5 yrs.: 2-10%</p>	75%-85%

HIV/AIDS

It is estimated that since 1981, 1.7 million people in the US have been infected with Human Immunodeficiency Virus (HIV). With approximately 1 million people living with the disease, 20% are unaware they are infected. The current estimation is about 50,000 new infections each year and over 620,000 have died due to complications caused by the infection.

One of the most frightening and life threatening problems associated with the epidemic is the possibility that the virus can be transmitted to a victim during an act of sexual assault. Victims of sexual assault often spend many years, or even a lifetime, trying to recover from such physical and psychological traumatization. Moreover, the trauma is magnified and prolonged by the fear of contracting AIDS as a result of the attack.



HIV TESTING FOR DEFENDANTS:

Over the past several years an increasing number of sexual assault survivors are requesting that perpetrators be tested for HIV/AIDS. Texas law allows for testing of adult defendants and juvenile respondents.

Article 21.31 of the Texas Code of Criminal Procedure grants the court the power to order, either on its own motion or on the request of the victim of the alleged offense, that an adult defendant, who has been indicted or waives indictment for an offense under Texas Penal Code §22.11(a)(1) indecency with a child by sexual contact, §22.0112 sexual assault, or §22.021 aggravated sexual assault, undergo a medical procedure or test to show or help show whether the defendant has a sexually transmitted diseases or has HIV or AIDS. The Texas Family Code §54.033 gives the court the same power with a juvenile who has been adjudicated and found to have committed an offense under the same Penal Code statutes. The test results may be disclosed to the survivor and the defendant or juvenile.

HIV POSTEXPOSURE PREVENTION

Post exposure prevention (PEP) is the use of antiretroviral medications as a prophylaxis in reducing a person's risk for acquiring HIV infection after exposure, unlike a vaccine, which prevents future exposures.

It is perceived that there is a window of opportunity where the HIV virus can be killed before the immune system carries the virus to the lymph nodes, where it starts to multiply. Viral replication is believed to occur within 3 to 5 days after exposure.

PEP must start within 72 hours of possible exposure. The term viral load is usually used to describe the amount of HIV in a sample of blood. This is measured using tests called quantitative PCR or branched chain DNA. There are now several different tests or assays, some made commercially and others prepared by local laboratories.

**CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)
RECOMMENDED USE OF PEP:**

- Occupational exposures of health care workers
- One isolated study states that using PEP was 81 percent effective in preventing HIV infection in health care workers.
- Perinatal transmission
- HIV antiretroviral treatment with pregnant HIV positive women and newborns has 98% success rate in preventing perinatal transmission.
- Unanticipated sexual or drug injection-related exposures to HIV

WHAT IS THE PROBABILITY OF HIV TRANSMISSION FROM ONE EXPOSURE?

- Blood transfusions-92.5%
- Intravenous needle exposure-0.63%-2.4%
- Needlestick- 0.13%
- Receptive penile-anal sexual exposure- 0.4%-3.38%
- Receptive vaginal exposure- 0.04%-0.55%
- Receptive oral sex- 0.00%-0.04%

PEP Treatment Protocol:

- Usually a combination of 3 antiretrovirals (ARVs)

Side Effects:

- The most common are nausea, headache, fatigue, vomiting, diarrhea and generally not feeling well. Most side effects are reversed when PEP is discontinued.
- Some drugs used may inhibit the metabolism of other drugs clients are taking and may make their use ineffective such as oral contraceptives.
- Due to side effects statistics for health care workers who start PEP treatment show that 30 to 50 percent discontinue treatment.
- Rates of effectiveness based on the number of hours PEP is started after possible HIV exposure: within one hour, 24 hours, or 72 hours. **Beyond 72 hours PEP is not considered as a preventive treatment, treatment is not 100% effective.**

Follow-up should include:

- Counseling
- Medical evaluation
- Postexposure HIV antibody testing—baseline, 6 weeks, 12 weeks, and 6 months
- Post exposure prophylaxis toxicity monitoring should include a complete blood count, renal & hepatic chemical function tests, and monitoring for anemia and hepatitis before initial treatment and 2 weeks later.

Cost of Medication & Treatment: \$600 to \$1000

- Who is going to provide and pay for treatment and follow up?
- How many victims have a primary care physician?

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

- If the victim has medical insurance, will the insurance cover HIV postexposure treatment?
- Is the victim eligible for assistance through Crime Victims' Compensation?

What is the medical status of the rape victim when he/she arrives in the emergency room and requests a rape exam?

- When was the rape reported?
- HIV status of the perpetrator?
- Number of exposures? Were there multiple exposures over an extended period of time?

Evidence Collection Protocol

SEXUAL ASSAULT EVIDENCE COLLECTION KIT (RAPE KIT)

Required Kit Contents

- Crush-proof box
- white envelopes
- 3 frosted-ended glass slides with new/unused pap smear mailers
- 2 small narrow tooth combs
- purple-top blood tubes;
- 1 red- 10cc blood tube nail file or pick
- 4 swabs for each (Minimum swabs per area)
 - vaginal
 - oral
 - rectal
 - 2 body surface areas
 - TOTAL SWABS: 16
- 2 plain envelopes for any other evidence that needs to be included

Recommended Equipment

In addition to the sexual assault examination kit, the following equipment may be needed:

- urine specimen containers
- Wood's lamp – UV light
- large paper bags
- catheter marking pens
- manila envelopes (preferred)
- white table paper
- sterile water for irrigation
- disposable powder free gloves
- scissors
- forms
- sharpened lead pencil
- blood tubes
- scotch tape
- Colposcope
- sterile test tubes
- hemocult slide
- spot light
- GC culture media
- forced air dryer (fan driven)
- vaginal speculum (sm., med., lg.)
- chlamydia media ruler (with cm measurements)
- pipettes

TEXAS EVIDENCE COLLECTION PROTOCOL

CLOTHING EVIDENCE

Collection Procedures

To minimize loss of evidence, the survivor disrobes over a white cloth or sheet of paper. If survivors cannot undress on their own, and because of their condition it is necessary to cut off items of clothing, the examiner does **not cut through** existing rips, tears, or stains.

Any foreign materials found are collected and put into a small paper envelope, properly labeled and sealed with cellophane tape. If the survivor consents, the clothing is then collected and packaged.

SWABS AND SMEARS

Oral/Collection Procedures

The oral smear can be as important as the vaginal or rectal smears. The purpose of this test is to recover spermatozoa/seminal fluid from recesses in the oral cavity where traces of spermatozoa could survive. This test should be done first, so that the survivor can rinse out her or his mouth as soon as possible. Such a practice will reduce a significant source of unnecessary survivor distress. Oral washings should be restricted to facilities where immediate laboratory analysis can be performed. If washings are utilized, the oral swabs and smears should be performed prior to the washings.

After the procedure is completed, the survivor rinses her/his mouth out with clear water. The survivor should not eat, drink or smoke for 30 minutes. At that time, the saliva sample will be taken to check for secretor status.

Vaginal/Collection Procedures

Vaginal/cervical specimens are collected on four cotton swabs by swabbing the vaginal vault and cervical cuff, but retained in two ways: one specimen is an air-dried smear on a frosted-end slide from the swabbings, the second is retained on the cotton swabs themselves.

The examiner checks for any contraceptive or sanitary device that may be left in the vagina. These are retained for evidence. If a sponge or diaphragm is removed before the prescribed time, morning after treatment should be considered. Any device that is removed should be air dried, packaged in an envelope and labeled as to contents, source, name, date and personnel.

In special cases a vaginal wash or aspirate will be used instead of cotton swabs. No more than 1 cc of normal saline/sterile water should be used if a vaginal wash/aspirate is used instead of swabs. This dilutant should then be placed on a cotton swab and air-dried. If the specimen is obtained in this way, it should be properly labeled as such and packaged in a cardboard tube as other specimens.

Note that under certain circumstances a semen-free vaginal swab may have to be collected from the survivor at a later time in order for the laboratory personnel to interpret genetic

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

marker results in blood specimens. If this is the case, laboratory personnel will notify the appropriate medical personnel.

Immediately following this procedure, the pelvic examination should be performed and medical cultures taken, if indicated.

Penile/Collection Procedures

For the male survivor (both adult and child), the presence of saliva on the penis could indicate that oral-genital contact was made; the presence of vaginal secretions could help corroborate that the penis was introduced into a vaginal vault; and feces or lubricants might be found if rectal penetration occurred. Vaginal secretions cannot reliably be identified microscopically or chemically. However, attempts can be made to detect genetic markers foreign to the male survivor and consistent with the suspect.

The proper method of collecting a penile smear is to use two lightly moistened cotton swabs to thoroughly swab the external surface of the penile shaft and glands. All outer areas of the penis and scrotum where contact is suspected should be swabbed.

These swabs are not, however, for use in the medical diagnosis of a sexually transmitted disease; therefore, they are not be used to swab inside the penile opening.

It is at this time that swabs should be made for detection of possible sexually transmitted disease, if indicated.

Anal/Collection Procedures

The examiner ensures contact is only with the rectum during the collection procedure. After preparing the slide from the swab, it is placed in the cardboard mailer, allowed to air dry, then labeled and sealed.

At this time, any additional examinations or tests involving the anus should be considered.

Other Dried Fluids/Collection Procedures

Saliva, blood and semen are the most common secretions deposited on the survivor by an offender. These secretions can be analyzed by laboratories to aid in the identification of the perpetrator.

It is important that the medical team ask the survivor where any body fluid deposit might be and examine the survivor's body for evidence of foreign matter. A swab should be taken for each secretion.

BITEMARK EVIDENCE

Saliva, like semen, demonstrates blood group factors characteristic to the person they came from. Therefore, the collection of saliva from the bite mark should be made prior to the cleansing or dressing of a wound. If the skin is broken, swabbing of the actual punctures should be avoided when collecting dried saliva. Instead, just the area directly surrounding the bite marks should be swabbed.

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It is important that photographs of bite marks be taken properly. It is recommended that a local law enforcement agency representative be contacted when the hospital protocol is developed, to provide the proper instructions on how to take photographs of bite mark evidence. A ruler should be used to document the size of the bite mark in the photograph.

HAIR EVIDENCE

Combing

Where there is evidence of semen or other matted material on pubic or head hair, collect it by clipping around the matted area and place the sample in a separate white paper envelope and label it matted hair sample from head (pubic) area. It is important to obtain the **survivor's permission** prior to cutting any significant amount of hair. If the sample cannot be cut, it may be collected in the same manner as other dried fluid. The swab is then placed in a small paper envelope and labeled as described above.

The top, back, front and sides of the survivor's head hair should be combed over a piece of paper to collect all loose hairs and fibers. Put the combings and the comb into a folded paper and place in an envelope marked head hair combings, complete the labeling information and then seal the envelope with tape.

A second comb is used to collect any loose hairs or fibers from the pubic area over a piece of paper or paper towel. **Survivors may prefer to do the combing themselves to reduce embarrassment and increase their sense of control.** Fold the pubic hair combings and the comb into the paper and place in a second envelope marked pubic hair combings. After the labeling information is completed the envelope is sealed with tape. Combing is done vigorously and thoroughly to lessen the chance that valuable evidence may be missed.

Pulled Standards

There is a division of opinion among professionals as to the value of hair comparison evidence to successful prosecution, as weighed against the discomfort of the survivor whose known hairs are collected. Each elected district attorney should make a determination whether comparison hair evidence should be collected and when it should be collected and inform their respective medical and law enforcement personnel accordingly.

If your jurisdiction chooses to collect pulled hair standards, care should be taken prior to collection to inform the survivor of the procedures which will be used and why it is being collected at that time. Every effort should be made to reduce the discomfort and stress of the examination to avoid further traumatizing the survivor. Evidence should never be taken without the informed consent of the survivor. If pulled hair standards are to be collected, the following procedures should be followed.

The combing of the survivor's head and pubic hair will remove any foreign hairs which then can be compared to pulled hairs from the survivor and the suspect. It is necessary that the pulled hairs possess roots for a complete and accurate comparison. These collection procedures can be performed by the survivor.

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Additional hairs may be needed at a later time. The absence of pubic or head hairs should be noted.

FINGERNAIL SCRAPINGS

The survivor is asked whether he/she scratched the offender's face, body or clothing. If so, or if fibers or other materials are observed under the survivor's fingernails, the nails are scraped, one hand at a time, using an orange stick, plastic pick, any appropriate hard pointed implement or a small cotton swab lightly moistened with sterile water to clean under the finger nails. This swab would need to be dried prior to packaging. This procedure is at the medical and law enforcement personnel's discretion.

This is a procedure that survivors may want to perform themselves, and they should be encouraged to do so. Scrapings are made for each hand over a separate piece of paper. The paper is folded and placed in small, individual envelopes along with the pick.

The examiner completes the labeling information for each envelope making certain to differentiate between left and right hand on the labels. The flaps are then sealed with tape.

WHOLE BLOOD SPECIMEN

Any semen found on the clothing or in the body cavities of the patient is likely to be mixed with her/his body fluid (vaginal secretions, saliva, etc.). Therefore, a blood sample must be collected from the patient to determine the contribution of her/his genetic markers to the mixture or unidentified stains.

SALIVA SPECIMENS

Survivors are reminded not to chew the swabs; moistening them for a few seconds is usually sufficient. Survivors are instructed to remove the swabs with their own fingers. **The swabs must not be removed by anyone other than the survivor unless a hemostat or a clean gloved hand is used, because the slightest contamination from another person's secretions may be detected by the forensic analyst.**

MEDICAL EXAMINATION DOCUMENTATION

Body Diagrams/Photographs

Photographs of extremely brutal injuries and of bite marks can prove quite beneficial in court; however, many times injuries, such as bruises, will become apparent only after several days. There is no guarantee that photographs will develop to show the actual severity of the injury. Once taken, photographs can be subpoenaed into evidence.

Therefore, any photographs which are taken should be limited to those instances where there is an opportunity to produce clear pictorial evidence of injury, such as bruises or lacerations. If photographs are taken, they should be done **only with the specific consent of the survivor.**

SEXUAL ASSAULT ADVOCATE TRAINING MANUAL

Further, **photographs should not be taken of the genital areas unless the survivor specifically gives permission for this procedure.** Again, drawings accompanied by accurate written descriptions can be as effective in court as photographs.

Finally, it is vital that a competent camera operator take all photographs, preferably of the same sex as the survivor, and that a ruler and color chart be used to indicate the size and nature of each injury. If the examiner is not the one taking the photographs, the examiner should remain in the room while the photographs are being taken.

Toxicology Blood/Urine Screen

Some hospital protocols include the routine procedure of testing for the presence of alcohol and other drugs in the systems of sexual assault patients. Blood/urine screens for determining toxicology should only be done in the following situation in cases of sexual assault:

Prophylactic Treatment For Sexually Transmitted Diseases And Pregnancy

All patients should be given information about the possibility of contracting sexually transmitted diseases from the assault. Only a follow-up test at a later time will confirm any transmission. The patient should be consoled with the fact that because a sexual assault has occurred does not necessarily result in the transmission of a disease of pregnancy. However, a follow-up exam and test six weeks after the assault should be encouraged. Prophylactic treatment for sexually transmitted diseases should be offered routinely at the time of the initial exam.

If the medical team determines that the female patient of child-bearing years is at high-risk for pregnancy, prophylactic treatment for pregnancy should be discussed and offered.

REFERENCE:

Texas Evidence Collection Protocol, 1998. The Office of the Attorney General, Sexual Assault Prevention and Crisis Services Division.

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