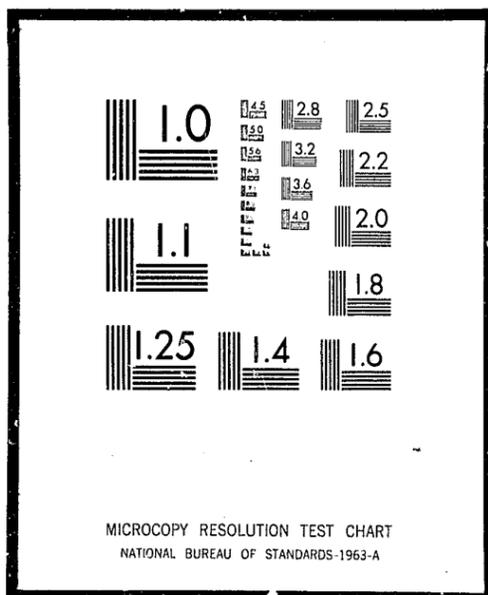


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Date filmed

1/28/76

SOUTH CAROLINA LAW ENFORCEMENT ETV TRAINING PROGRAM

BASIC CRIMINAL LAW

(Rape and Related Subjects)

PART II

STUDY WORKBOOK

Prepared by SOUTH CAROLINA LAW ENFORCEMENT DIVISION • in cooperation with SOUTH CAROLINA EDUCATIONAL TELEVISION NETWORK

SOUTH CAROLINA

LAW ENFORCEMENT-ETV TRAINING PROGRAM

FROM CRIME TO COURT

Basic Criminal Law,

Part II 2 - *Revised Related Subjects,*
Study Workbook

STUDY WORKBOOK

LAW ENFORCEMENT - E.T.V. TRAINING PROGRAM

"Basic Criminal Law"

Part II

By

C.T. Goolsby, Jr.
Assistant Attorney General
(South Carolina)

Sponsored by

South Carolina Law Enforcement Division
in cooperation with
South Carolina Educational Television Network

Endorsed by

South Carolina Governor, Robert E. McNair
South Carolina Sheriffs' Association
South Carolina Law Enforcement Officers' Association
South Carolina Police Chiefs' Executive Association
South Carolina F.B.I. National Academy Associates
South Carolina Southern Police Institute Associates

Program Objectives

This material will deal with a number of topics which extend the topic of "basic criminal law":
Common Law Rape - Statutory Rape - Lewd Act
Against a Minor Child - Assault with Intent to
Ravish - Indecent Exposure - Incest - Fornication -
Adultery - and Buggery (Sodomy).

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After you have filled in all of the blanks which are contained in an item, slide the blank paper down from its position, even with the stars, just far enough to reveal the numbered correct answer or answers. These will be the answers which you have already filled in during the group discussion period. The numbers on these answers will correspond to the numbered blank or blanks which you will have just filled in at home.

Next, slide the blank paper down past the printed material of the following item until you come to the next set of three stars. Stop the blank paper there so as not to reveal the answers. Answer the item by filling the blanks. Proceed throughout the Workbook as just described.

By using this method at home, you can both (1) check to see how well you have learned the content of the associated television program and you can (2) find out immediately, item by item, whether the answer you have given is correct.

Even after the workbook has been filled in, both in the blanks contained in the body of the item and between the dashed lines, it provides an excellent means for review.

An EXAMPLE of how to use the Study Workbook at home is as follows:

The offense of (1) _____ is defined by Section 16-71 of the South Carolina Code.

*** NOTE: Throughout the Workbook, the three stars indicate that, when working at home, you should not slide your blank paper farther down the page until you have given your answer or answers by filling in all the blanks in the item --after you have written your answer or answers, slide the blank paper on down to reveal the correct answer.

Answer: (1) rape+ (see footnote at bottom of page)

Note: Although the answer is printed in on this page of examples, ordinarily this page would not contain the answer until you write it in during the group discussion period.

An another example, an item might call for more than one answer:

(Now, slide the blank paper down past the next item, stopping when you come to the three stars, and proceed, as above.)

The (2) _____ definition of rape is merely declaratory of the (3) _____ definition.

Answers: (2) Statutory (3) common law

+ Note: In some cases there may be other words which mean the same thing as those given you as the answer. When this is true, the important fact is whether you have given an answer which does not differ significantly in meaning from the one given as the "correct" answer.

If there are any further questions about how to use the Study Workbook, either during the group discussion period or at home, please do not hesitate to ask your group discussion leader for additional directions.

Now to proceed with your review!

Rape is defined at common law as follows: It is "the unlawful

(4) _____ of a woman by a man forcibly and against her will."

Answer: (4) _____

Sexual intercourse may be defined as "a full penetration of the female organ by the male organ and there is an emission by the male." Considering this definition, the terms "sexual intercourse" and "carnal knowledge" are/are not (5) _____ the same.

Answer: (5) _____

An (6) _____ is not necessary to complete the crime of rape.

Answer: (6) _____

The first element of rape is simply that there must be a (7) _____ by the male organ.

Answer: (7) _____

Just as there need not be an emission for rape to have occurred, neither is it a requirement that there be a (8) _____ of the female organ.

Answer: (8) _____

The slightest penetration of the female organ by the male organ is sufficient, whether the man ejaculates or not.

Suppose a man has an emission, although he does not penetrate the female organ. This would/would not (9) _____ support a rape charge.

Answer: (9) _____

An unlawful intercourse occurs when a couple (10) _____ or commits (11) _____.

Answers: (10) _____ (11) _____

Fornication and adultery, as defined by law, are committed by a man and a woman who engage in (12) _____ and who are not (13) _____ to each other.

Answers: (12) _____ (13) _____

Lawful intercourse can only occur between (14) _____

Answer: (14) _____

Suppose that a man forcibly requires that his wife have intercourse with him. Legally, rape has/has not (15) _____ been committed.

Answer: (15) _____

The law states that in order to have rape, the intercourse must be (16) _____

Answer: (16) _____

Intercourse between a husband and his wife is (17) _____
Consequently, a man cannot be guilty of rape upon his wife.

Answer: (17) _____

Suppose that a couple living together did not have a ceremonial marriage. They may be considered, by common law, to be husband and wife. A common law wife can/cannot (18) _____ be considered to be raped by her common law husband.

Answer: (18) _____

Suppose that a man's wife is under the statutory age of consent. In such a case, it would/would not (19) _____ be possible for the husband to be guilty of raping his wife.

Answer: (19) _____

As long as a woman is a person's (20) _____, whatever her age and however they were married, she cannot charge her husband with (21) _____

Answers: (20) _____ (21) _____

A third element of rape is the "carnal knowledge must be of
(22) _____.

Answer: (22) _____

A man can/cannot (23) _____ rape another man.

Answer: (23) _____

Consider the following cases: a woman who is not a virgin; an immoral woman; a prostitute; an unchaste woman; and a man's mistress. In all of these instances, rape can/cannot (24) _____ be committed.

Answer: (24) _____

Another element in rape is that the carnal knowledge of the woman must be by a "man". To be considered a rapist, the male need/need not (25) _____ be over twenty-one.

Answer: (25) _____

To be considered a rapist, it is not necessary that the male be an adult; but he must have reached the age of (26) _____.

Answer: (26) _____

A woman can/cannot (27) _____ be guilty of an actual rape of another woman.

Answer: (27) _____

Force is a necessary ingredient to common law rape. (28) _____ particular amount is required.

Answer: (28) _____

It is/is not (29) _____ required that the woman be put in fear of death for rape to have occurred.

Answer: (29) _____

If the female against whom force is administered has reason to consider resistance either (30) _____ or (31) _____, then whatever force is used will be held sufficient.

Answers: (30) _____ (31) _____

The term "force" refers to that which is used to overcome (32) _____

Answer: (32) _____

Force may take the form of actual (33) _____ or it may consist of a (34) _____.

Answers: (33) _____ (34) _____

Force, whether actually employed, such as by striking the woman, or threatened, such as by pointing a gun at a woman and telling her that she'll be shot if she doesn't submit, will be considered sufficient if it created real apprehension of dangerous consequences or great bodily harm.

Force is said to be constructive where the victim is (35) _____

Answer: (35) _____

In such cases as when the female is asleep, intoxicated, drugged, or when she is mentally incompetent, force is said to be (36) _____.

Answer: (36) _____

Another element of rape is that the carnal knowledge must be "without the female's consent." Resistance is not an essential element of rape; however, resistance bears upon the issue of consent.

A female need only resist to the defendant's force as seems reasonable under the circumstances, having regard to:

- (37) _____
- (38) _____
- (39) _____
- (40) _____

Answers: (37) _____ (38) _____ (39) _____ (40) _____

(Answers may be in any order)

The sexual act must be without the woman's consent and against her will.

Where the consent is given at any time prior to the penetration, the subsequent intercourse will/will not (41) _____ be regarded as rape irrespective of how (42) _____ the consent was given and irrespective of how much (43) _____ was used.

Answers: (41) _____ (42) _____
(43) _____

The yielding to overpowering force is (44) _____,
not consent.

Answer: (44) _____

Suppose a woman does consent to intercourse after forceable penetration
has been completed. The male in this case would be considered to have
committed (45) _____.

Answer: (45) _____

A consent afterwards comes too late. The consent must precede the
penetration, and the consent must be (46) _____. If it is
given, it must be by a female who is (47) _____ and
(48) _____ capable of giving her consent.

Answers: (46) _____ (47) _____
(48) _____

A husband cannot actually rape his wife by having relations with her
forcibly and against her will. When a woman marries a man, she is deemed
to have given up her body to her husband, and to no one else. Her body
is his personal right, but it is only a personal right.

Were a husband to aid, abet, and encourage or assist another person
in the rape of his wife, he will be deemed an (49) _____
before the fact of a (50) _____ and treated as a principal by
virtue of Section 16-1 of the Code.

Answers: (49) _____ (50) _____

The same rule, as just stated, would/would not (51) _____ be
applicable to a woman who aids, abets, and encourages a man in the rape of
another woman.

Answer: (51) _____

In South Carolina, statutory rape is "the unlawful carnal knowledge of
a female under the age of (52) _____ years, (53) _____
_____ her consent.

Answers: (52) _____ (53) _____

To establish that "statutory rape" has occurred, the state would have to prove the following two things:

(54) _____

(55) _____

Answers: (54) _____

(55) _____

In statutory rape, there must be, as in common law rape, a

(56) _____ of the female organ by the male organ.

(57) _____ degree of penetration meets the requirement.

Answers: (56) _____ (57) _____

If a male and a minor female were married at the time of intercourse, by consent or by force, the male has/has not (58) _____ committed a crime.

Answer: (58) _____

If a male and a minor female marry each other after an intercourse by force or by consent has occurred, such a marriage would/would not

(59) _____ constitute a defense to statutory rape.

Answer: (59) _____

Suppose a minor, but married, female, had intercourse with a man who was not her husband. Such a man would be guilty of (60) _____

Answer: (60) _____

Suppose a man had intercourse with a female not knowing that she was under sixteen. It is a/is not (61) _____ defense that a defendant did not know that the female was under the statutory age of consent.

Answer: (61) _____

Statutory rape differs from common law rape in that neither (62) _____ nor (63) _____ is an element.

Answers: (62) _____
(63) _____

In a statutory rape case, it is no defense that the female gave her consent to the intercourse or that the defendant did not use force.

Suppose that a male uses force to engage a minor female in sexual intercourse. In such a case, an officer probably would be safe in charging a defendant with (64) _____.

Answer: (64) _____

Statute Section 16-413.1 states "it shall be unlawful for any person over the age of fourteen years to willfully and lewdly commit or attempt any lewd or lascivious act upon or with the body, or any part or members thereof, of a child under the age of fourteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child."

Statute 16-413.1 can be analyzed or broken down into the following seven elements: (any order)

- (65) _____
- (66) _____
- (67) _____
- (68) _____
- (69) _____
- (70) _____
- (71) _____

- Answers: (65) _____
(66) _____
(67) _____
(68) _____
(69) _____
(70) _____
(71) _____

Regardless of how lustful a young child might be, he could not violate Section 16-413.1 because of its provision that (72) _____

Answer: (72) _____

Suppose a mother discovers her young daughter and the next door neighbor's little boy exploring the body of one another. The children would/would not (73) _____ be guilty of violating Section 16-413.1.

Answer: (73) _____

To violate Section 16-413.1, it makes no difference whether the person is a man or a woman, just so long as the person is (74) _____

Answer: (74) _____

Where a person negligently rubbed against a child under the age of fourteen, this statute could not be violated. The reason is the act must be done (75) _____

Answer: (75) _____

The word "lewd" is synonymous with obscene. It signifies sexual impurity. Some other words which mean about the same thing as lewd are: (76) _____; (77) _____; (78) _____; (79) _____; (80) _____; (81) _____

Answers: (76) _____ (77) _____
(78) _____ (79) _____
(80) _____ (81) _____

For one to simply conduct himself wilfully and lewdly is not sufficient. To violate Section 16-413.1, he must commit or attempt a (82) _____

Answer: (82) _____

It would/would not (83) _____ be sufficient for the defendant to simply commit an indecent act upon his own body in the presence of the child to violate this statute.

Answer: (83) _____

It is not necessary that the indecent act encompass the entire body of the child. Such an act committed against any portion of the child's body, such as his hands or neck, is all that is required.

If the act is performed upon the body of a child (84) _____ years of age or over, then this statute has not been violated.

Answer: (84) _____

Another element of Section 16-413.1, and one which ties in with the element regarding wilfulness and lewdness, is that the act must be done with the intent of arousing (85) _____

Answer: (85) _____

If the act is done to appeal to or gratify the lust or sexual desires of (86) _____ the defendant or the child or both, then Section 16-413.1 has been violated.

Answer: (86) _____

About all this statute requires is that there be a touching of a child under the age of fourteen, by a person over the age of fourteen, with a lustful, indecent, and obscene intent. Notice, too, that the absence of consent is not an element of this crime. Also, there is no requirement that an emission be proved.

An assault with intent to ravish may be broadly defined as an assault that is made under such circumstances that the act of sexual intercourse, had it been accomplished, would have been rape. The offense contains only two elements.

The two elements which must be present for "assault with intent to ravish" to have been committed are one, an (87) _____; and two, a specific (88) _____.

Answers: (87) _____ (88) _____

An assault is any rude offer to do (89) _____ to the person of another, which offer is coupled with a present ability to carry out that offer.

Answer: (89) _____

With respect to the second element, that of intent, it must be shown that the defendant had the specific intent to commit rape, which is nothing more than showing that the defendant intended to accomplish sexual intercourse at the time of the assault by force and against the woman's will.

Should a person intend to rape a woman but he commits no (90) _____, then he is not guilty of this offense. Additionally, if the person assaults a woman but does not have the (91) _____ of raping her, that person is not guilty.

Answers: (90) _____ (91) _____

In an "assault with intent to ravish", the state does not have to prove either intercourse or penetration. It does/does not (92) _____ have to prove that the body of the woman was touched.

Answer: (92) _____

Suppose the woman consents to the assault, or after the assault she yields voluntarily to the man. There can be no "assault with intent to ravish" where the woman/ who is a person (93) _____ of consenting, consents to the assault; however, if she lacked the capacity to give such consent, either because of age or for some other reason, such consent is (94) _____

Answers: (93) _____ (94) _____

Where a male has made an assault with an intent to commit rape and the woman, after resistance, submits voluntarily, the crime of (95) _____ has not been committed; however, the offense of (96) _____ has been, since the ultimate consent of the woman does not have a retroactive effect and does not operate to condone the crime which has become complete.

Answers: (95) _____ (96) _____

If a man walked up to a woman on the street and asked her to have sexual intercourse with him, he would/would not (97) _____ be guilty of "assault with intent to ravish".

Answer: (97) _____

The crime of indecent exposure is defined by Section 16-413 of the Code, as amended. That statute reads: "Any person who shall be guilty of wilful and malicious exposure of his person in any public place or to the view of any person shall be guilty of a misdemeanor..."

The elements of the crime of "indecent exposure" are that the act be (98) _____ and that there be an (99) _____

Answers: (98) _____ (99) _____

In Section 16-413, the phrase "exposure of his person" means an obscene exhibition of (100) _____.

Answer: (100) _____

The crime of "indecent exposure" can be committed only by males/by either males or females (101) _____.

Answer: (101) _____

Because wilfulness is an element, a mere accidental exposure of the person would not be a crime. Wilfulness relates to the specific intent of a person to exhibit himself or herself; that intent may be inferred from the (102) _____.

Answer: (102) _____

To establish "indecent exposure", you do/do not (103) _____ have to prove that the person intended to expose himself or herself to any particular person or group of persons.

Answer: (103) _____

Another element of "indecent exposure" is that the person must have acted maliciously - that is, the person must have acted with a wicked or perverse disposition. Thus, one may wilfully expose himself, but he would not be guilty of this crime unless he acted (104) _____

Answer: (104) _____

A person urinating by the side of the road acts (105) _____ but not (106) _____, thus is not guilty of "indecent exposure".

Answers: (105) _____ (106) _____

Another element in "indecent exposure" is that the exposure must be done in a public place or in the view of any person. Generally speaking, a public place is (107) _____

Answer: (107) _____

A "public place" could be a square, street, or private residence, for that matter. It is a place where other people are present. Of course, if a person wilfully and maliciously exposed himself in a private place in the view of one one, he is not guilty.

Where the exposure is done in a private place at (108) _____ request or with another person's (109) _____, the crime of "indecent exposure" has not occurred.

Answers: (108) _____
(109) _____

Incest is defined in Section 16-402 of the Code, and, generally, may be defined as (110) _____ between people who are related to one another.

Answer: (110) _____

Intercourse between a father and daughter, or brother and sister, involves the crime of (111) _____.

Answer: (111) _____

Adultery and fornication are defined by Section 16-407 and 16-408.

Adultery may be generally defined as habitual intercourse between a man and woman where either the man or woman is (112) _____

Answer: (112) _____

Fornication is the habitual intercourse between a man and woman and (113) _____

Answer: (113) _____

Buggery is also called (114) _____

Answer: (114) _____

Buggery is mentioned by Section 16-412 as follows: "Whosoever shall commit the abominable crime of buggery whether with mankind or with beast shall be guilty of (a) felony . . ."

The language of Section 16-412 includes only unnatural sex relations between people and (115) _____ and (116) _____ penetrations between two men or a man and a woman.

Answers: (115) _____ (116) _____

"Per os" means with the (117) _____

Answer: (117) _____

Section 16-412, covering "buggery" or "sodomy", probably does not cover sexual relations, per os, between two men, between two women, or between a man and a woman.

- (45) rape
- (46) voluntary
- (47) physically
- (48) mentally (either order)
- (49) accessory
- (50) felony
- (51) would
- (52) sixteen
- (53) with or without
- (54) that there was unlawful carnal knowledge of a female
- (55) that she was under the age of sixteen
(answers in either order)
- (56) penetration
- (57) any
- (58) has not
- (59) would not
- (60) statutory rape
- (61) is no
- (62) want of consent
- (63) use of force (either order)
- (64) either common law rape or statutory rape
- (65) there must be a person over the age of fourteen
- (66) such a person must act wilfully and lewdly
- (67) the nature of the act which the person attempts or commits must be lewd
- (68) it must be committed upon the body or a portion of the body of the child
- (69) the child against whom the act is committed must be under the age of fourteen
- (70) the act must be done with an intent of arousing or gratifying sexual passion
- (71) the act must relate to the passions of either, or both, the person committing the act or the child.
- (72) the person be over fourteen years of age
- (73) would not
- (74) over age fourteen
- (75) wilfully and lewdly
- (76) lecherous
- (77) sensual
- (78) lustful
- (79) foul
- (80) filthy
- (81) indecent
- (82) lewd act
- (83) would not
- (84) fourteen
- (85) sexual passions
- (86) either
- (87) assault
- (88) intent to commit rape
- (89) violence
- (90) assault
- (91) intention
- (92) does not
- (93) capable
- (94) insufficient
- (95) rape
- (96) assault with intent to ravish
- (97) would not

"Basic Criminal Law"

Part II

Group Discussion Leader's Study Workbook Answer Key

- (1) rape
- (2) statutory
- (3) common law
- (4) carnal knowledge
- (5) are not
- (6) emission
- (7) penetration of the female organ
- (8) full penetration
- (9) would not
- (10) fornicated
- (11) adultery
- (12) intercourse
- (13) married
- (14) a husband and his wife
- (15) has not
- (16) unlawful
- (17) lawful
- (18) cannot
- (19) would not
- (20) wife
- (21) rape
- (22) a woman
- (23) cannot
- (24) can
- (25) need not
- (26) puberty
- (27) cannot
- (28) no
- (29) is not
- (30) dangerous (either order)
- (31) useless
- (32) resistance
- (33) physical violence
- (34) threat of violence
- (35) unable to give her consent
- (36) constructive
- (37) relative strength of the parties
- (38) age and condition of the female
- (39) uselessness of resistance
- (40) degree of force manifested or used
(answers in any order)
- (41) will not
- (42) reluctantly
- (43) force
- (44) submission

- (45) rape
- (46) voluntary
- (47) physically
- (48) mentally (either order)
- (49) accessory
- (50) felony
- (51) would
- (52) sixteen
- (53) with or without
- (54) that there was unlawful carnal knowledge of a female
- (55) that she was under the age of sixteen
(answers in either order)
- (56) penetration
- (57) any
- (58) has not
- (59) would not
- (60) statutory rape
- (61) is no
- (62) want of consent
- (63) use of force (either order)
- (64) either common law rape or statutory rape
- (65) there must be a person over the age of fourteen
- (66) such a person must act wilfully and lewdly
- (67) the nature of the act which the person attempts or commits must be lewd
- (68) it must be committed upon the body or a portion of the body of the child
- (69) the child against whom the act is committed must be under the age of fourteen
- (70) the act must be done with an intent of arousing or gratifying sexual passion
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- (83) would not
- (84) fourteen
- (85) sexual passions
- (86) either
- (87) assault
- (88) intent to commit rape
- (89) violence
- (90) assault
- (91) intention
- (92) does not
- (93) capable
- (94) insufficient
- (95) rape
- (96) assault with intent to ravish
- (97) would not

- (98) wilful
- (99) malicious exposure of one's person
- (100) one's private parts
- (101) by either males or females
- (102) circumstances
- (103) do not
- (104) with an evil intent
- (105) wilfully
- (106) maliciously
- (107) any place where the act could be observed by a number of casual observers
- (108) another persons
- (109) consent
- (110) carnal intercourse
- (111) incest
- (112) married to some other person
- (113) neither is married
- (114) sodomy
- (115) animals
- (116) per annum (anal)
- (117) mouth

END