


Forcible Rape

A Manual for Patrol Officers

Police Volume II

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 National Institute of Law Enforcement and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

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**National Institute of Law Enforcement and Criminal Justice
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ABSTRACT

Since the initial police contact is the most important source of evidence in a rape case, this manual has been developed to aid police patrol officers with interviews, evidence gathering, and suspect apprehension. Most of the evidence necessary for successful prosecution of a rape case is available only at the crime scene, placing a special responsibility on the patrol officer responding to the initial call. Other than the physical evidence, the most important source of information will be the interview with the victim. Techniques for evaluating the reliability of the testimony, psychological problems peculiar to rape investigations, and methods for establishing rapport with the victim are discussed. Special techniques are given for interviewing the elderly, adolescents, and those who are quite young. Offender search techniques and methods of generating a pool of suspects are also discussed.

Rape brings special police problems. News media are usually very interested and policies have to be developed for dealing with reporters. In addition, community groups often request police speakers on the subject of rape prevention and personnel must be prepared to fulfill this role. Rape cases also require unusually close cooperation between the police and the prosecuting attorney due to the particularly sensitive legal issues involved. The patrol officer should be aware of the prosecutor's needs so he can obtain the necessary evidence at the crime scene. Finally, because of the serious physical and psychological trauma that rape often poses for the victim, sympathetic treatment by patrol officers and close cooperation with hospitals and rape crisis centers is also encouraged.

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NOTE:

The complete results of this project are included in 11 research products. This volume represents the findings of one part of a comprehensive study of rape and the criminal justice system response. Additional research findings and recommendations are available in the following publications and reports. Copies may be purchased from the Government Printing Office.

Forcible Rape: A National Survey of the Response by Police (Police Volume I)

Forcible Rape: A Manual for Sex Crimes Investigators (Police Volume III)

Forcible Rape: Police Administrative and Policy Issues (Police Volume IV)

Forcible Rape: A National Survey of the Response by Prosecutors (Prosecutors' Volume I)

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PREFACE

This manual is the result of a two-year research project funded by the Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice. During the first year of this research, 208 law enforcement agencies and 150 prosecutor's offices of all sizes and from all parts of the country were surveyed regarding their procedures for handling rape cases. In addition, the criminal justice response to rape in the Seattle-King County (Washington) area was thoroughly examined. This effort included interviews with police department administrators; members of the department's sex crimes investigation unit; 75 officers assigned to patrol duty; a sample of prosecutors, judges, and defense attorneys experienced in trying rape cases; 69 reporting and 27 non-reporting rape victims; and an evaluation of all 308 rapes reported to the Seattle Police Department during 1974. In addition, so as to expand further the data base established during the first year of research, a sample of 1974 rape cases reported to the Phoenix and New Orleans Police Departments was also obtained for evaluation.

During the second year of this research, six additional cities were selected for further study using the techniques developed in Seattle. Interviews with 30 police administrators, 86 sex crimes unit detectives, 214 patrol officers, 20 deputy prosecutors, 15 prosecution policy-makers, and 48 rape victims were completed in Austin, Detroit, Kansas City, Memphis, Oakland, and Washington, D.C. In addition, samples of the 1975 rape reports made to the Detroit and Kansas City (Missouri) Police Departments were also obtained for study.

This manual is primarily intended for use by patrol officers. Since the operating procedures of some police agencies require patrol officers to assume broad responsibilities in the handling of rape cases, those police personnel who conduct extensive preliminary investigations in rape cases, or are interested in obtaining more detailed information regarding the investigation, administration, or prosecution of rape cases, should also consult the appropriate publication listed above.

CHAPTER 1. INTRODUCTION

Usually a rape victim who reports the crime or seeks medical attention is subjected to degradation and humiliation at the hands of police officers and hospital personnel. Most police officers have a stereotyped view of a rape victim's reactions. They expect her to be hysterical. If she is calm, although it may be a sign of shock, they are likely to believe rape never took place. Equally absurd, if a woman shows no signs of being badly beaten, the police often decide she has been a willing participant.

—Dr. Dorothy Hicks, Director
Hospital Rape Center ¹

During the last few years the public, largely through the activities of women's groups, has been made acutely aware of the poor treatment often accorded rape victims by the criminal justice system. Because of the seriousness of rape and the large amount of public concern that has been generated, criminal justice administrators have been assigning an increasingly higher priority to the development of effective procedures for the handling of this offense.

In response to the high levels of concern expressed about the reform of procedures for processing rape cases, large sums of money have been expended on research in this area.² Studies have been conducted relating to (1) the methods currently being used to handle rape cases, and (2) the effectiveness of those methods. These studies have produced various recommendations regarding the reform of existing procedures and the adoption of new ones. One recommendation in particular has appeared in many of the research results that have been published to date. It has been repeatedly suggested that all police personnel who deal with rape victims should have special training.

What these studies have failed to recognize, however, is that for most criminal justice agencies a rape case is an unusual event. Even though an estimated total of 56,093 offenses were reported during 1975, forcible rape comprised but 5.5 percent of all violent crimes and only 0.50 percent of the total Index of Crime for the United States.³ Although rape is a serious crime that commands a high investigative priority, for most law enforcement agencies it is also a low-volume crime. It is to be expected, therefore, that most of the patrol officers called upon to handle a rape case have limited training and experience in dealing with this type of crime. The purpose of this manual is to provide insight into the procedures and techniques that have been shown to be most successful in the handling of rape cases.

The need for the dissemination of such information was demonstrated by the survey of police procedures conducted during the first year of this project. Police and sheriff's departments serving city, county, and university jurisdictions ranging in size from under 25,000 to over 250,000 inhabitants were surveyed by mail. Analysis of the data provided revealed certain major problems relating to the investigation of rape cases. For example, interpretation of data relating to case outcome showed that fewer than 3 percent of the crimes reported as rape ever resulted in a conviction for this offense. Data provided by prosecutors indicated that many cases were not filed or were plea-bargained to lesser offenses because of insufficient evidence to prove the charge of rape. Data from police personnel substantiated the difficulties encountered with the development of strong cases. Additional information from police related to the problems associated with the identification of those who perpetrated this offense.

This manual is intended to assist patrol officers develop skills that will contribute to the number of convictions for the crime of rape.⁴ Therefore this manual discusses the value of an investigative strategy that stresses establishing the existence of each element of the crime of rape. The manual focuses on achieving successful interactions with rape victims. Since much of the most valuable information in a rape investigation must be secured at the time of a victim's initial report, initial response procedures are thoroughly discussed. Information relating to the interview of victims, including those who are elderly and those who are very young, is presented in detail. To help patrol officers anticipate the needs of investigators and prosecutors, this manual presents a discussion concerning the development of evidence to prove the crime of rape. The concluding chapter discusses the usefulness and establishment of productive relations with outside agencies including prosecutor's offices, health facilities, and victims' groups.

NOTES

¹ Nancy Gager and Cathleen Schurr, *Sexual Assault: Confronting Rape in America* (New York: Grosset and Dunlap, 1976), p. 72.

² Since 1970 the Law Enforcement Assistance Administration has funded 33 research studies dealing with forcible rape. The total cost of these projects as of June 1, 1976, has been \$19,309,775. Of these projects the 11 dealing exclusively with rape cost \$2,270,186. Source: "L.E.A.A. Non-Block Awards Relating to Rape Programs," PRO-FILE (Grant Profile System), Law Enforcement Assistance Administra-

tion, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

³ Federal Bureau of Investigation, *Uniform Crime Reports for the United States* (Washington, D.C.: United States Government Printing Office), p. 49.

⁴ Also see: Charles E. O'Hara, *Fundamentals of Criminal Investigation* (2nd ed.; Springfield, N.Y.: Charles C Thomas, 1970); Brodyaga et al., op. cit., Chapter III "Suggested Guidelines for Police," pp. 24-52.

CHAPTER 2. THE ORGANIZATION OF RAPE INVESTIGATION

Rape is a crime that may be associated with many diverse situations.¹ In addition, the statutory definitions of this crime are substantially different from state to state. No single definition of rape can be applied to all the situations which could be properly reported as rape according to one statutory definition or another. In order to present a coherent discussion of the various techniques for the handling of rape cases, it is necessary to adopt certain conventions to govern the organization of this manual. First, it is necessary to adopt a standard definition of the crime of rape. Second, it is necessary to adopt a particular response model in order to discuss the division of labor between the officers whose responsibility it is to conduct an initial investigation and those whose responsibility it is to conduct a follow-up investigation. In addition, to facilitate the presentation of specific techniques which may be used to develop rape cases with a high degree of prosecutive merit, it is desirable to adopt a particular scheme for classifying cases.

2.1 The Definition of Rape

Although the statutes which define rape vary from state to state, these laws have all evolved from a common source, the English Common Law. The Common Law definition of rape is "carnal knowledge of a woman by force and without her consent." At one time, every state defined rape in this way. In 1952, the American Bar Association drafted a criminal code to serve as a standard for legislatures interested in revising their states' criminal laws. The rape statute included in this Model Penal Code eliminated the "against her will" element of the crime. This element was replaced with language requiring that a victim be compelled "to submit by force or threat . . ." Although this Model Penal Code definition of rape was adopted in many states, other trends have also been observed.

The legislatures of some states have passed statutes which define rape in terms of criminal circumstances like sexual penetration accomplished through the use of a weapon, or sexual penetration of a victim who is under a specified age, unconscious, or mentally deficient. The main purpose of such statutes is to avoid altogether the issue of victim consent by focusing on the criminal nature of the perpetrator's actions. Other states have adopted statutes which replace the word "rape" with terms like "sexual battery" or "criminal sexual conduct." Some new statutes define rape as an offense

which can be committed by, or against, a member of either sex. Most newer statutes contain sections specifying when the charge of rape may be brought based on the age or mental characteristics of the victim. In addition, a few rape statutes contain provisions which prevent the publication of the victim's name, limit the admissibility of certain kinds of evidence, and either require or prohibit the use of certain jury instructions.

In order to facilitate the general discussion of rape as a crime, this manual concentrates on the basic elements which constitute this offense, rather than any specific definition. To apply the materials presented in this manual, it is necessary for readers to understand thoroughly the rape statute which applies in their own jurisdictions. Although statutes differ in content and construction, to obtain a conviction for the crime commonly conceptualized as rape, judicial interpretations have consistently required three elements to be established beyond a reasonable doubt: sexual penetration, the identity of the perpetrator, and lack of victim consent. This manual focuses on the development of an investigative framework which defines rape in terms of these three elements and emphasizes the development of sufficient evidence to prove each of them.

Sexual penetration. Traditionally, penetration has been defined as entry, however slight, of a female's sexual organs by the genitals of a male. In some statutes this element may also include acts of oral or anal intercourse between members of either sex. Newer statutes may also include the penetration of a victim's genital, anal, or oral orifices by any body part or other object except for a bona fide medical purpose.

Identification of the perpetrator. The evidence required to prove the identification of a perpetrator in a rape case is generally the same as that required to prove the identification of the accused in any other offense defined by a state's criminal code. Obtaining such evidence may be particularly complicated in a rape case because some victims never see their attacker. In such cases, the same kinds of evidence of identification could be used as in a robbery or homicide in which there were no witnesses who could make a visual identification of the perpetrator.

Lack of consent. In most states it is still necessary to prove lack of consent on the part of the victim in order to obtain a conviction for rape. Some states allow this as an assumption if it can be proven that sexual penetration occurred under specified circumstances. Nonetheless,

proving sexual penetration occurred against the will of the victim is a basic element of the crime of rape.

2.2 Response Models

There are several response models utilized to organize the procedures that law enforcement agencies use to handle rape reports. The response model used by a particular department is dictated by the number of rape reports it receives and the size of the jurisdiction the department serves. In departments which utilize the *traditional model*, the most readily available patrol officer is responsible for the completion of a preliminary investigation. The follow-up investigation is conducted some time later by a detective from a different departmental division who is not necessarily experienced in rape cases. In the *patrol specialist model*, specific patrol officers are designated to conduct the preliminary investigation of rape cases. In some departments these are officers who have received special training of some type; in others they are exclusively females. In the *special unit model*, the initial investigation is conducted by the most readily available patrol officer, but the follow-up investigation is conducted by a detective who is a member of a special unit and specializes in rape cases.

The division of labor between individual patrol officers and follow-up investigators is determined by their department's response model. In order to distinguish between these two roles, this manual utilizes a "modified special unit" response model. In general, this model requires the most readily available patrol officer to respond to the scene of the complaint, and a detective from a specialized unit to enter the case as soon as practical. Further details of this model are presented in Chapter 4.

2.3 Classifying Rape Cases

Law enforcement agencies utilize various schemes to classify rape cases. The most common of these is the type and outcome classification specified by the Federal Bureau of Investigation for completion of Uniform Crime Reports. In a special handbook,² the FBI defines 29 classifications which encompass all crimes from "criminal homicide" to "runaway." The handbook also defines the three outcome classifications: "unfounded," "cleared by arrest," and "exceptionally cleared."³ Most police agencies also use an internal classification scheme of some type. Categories like "active," "suspended," and "closed" are commonly used to monitor the progress of individual cases. In addition, cases can be assigned various designations to assist in their investigation. These informal classifications are generally used to organize cases into categories which promote their more efficient investigation.

Traditional investigative designations. One of the most

common schemes for assigning an investigative designation to rape cases is based on a subjective evaluation of the prosecutive merit of the case. A so-called "good rape" is a case which involves a clear lack of consent on the part of the victim. Significant resistance, injuries to the victim, the presence of a weapon, breaking and entering, or an abduction off the street are all possible elements of a *good rape*. A "bad rape" is one in which the issue of consent is ambiguous. Cases involving (1) hitchhiking, (2) parties who have had a previous relationship, and (3) individuals who met while at a bar, tavern, or other social gathering, are generally classified as a *bad rape*. The designations "good" and "bad" have nothing to do with the seriousness of the case, but rather its prosecutive merit based on the element of consent.

Another scheme for assigning investigative designations to rape cases is based on an ostensibly objective determination. Specifically, cases are designated as "stranger" or "acquaintance" based on whether the perpetrator and the victim were known to each other prior to the time of the rape. *Stranger rapes* consist of attacks by unknown assailants which often involve abduction, breaking and entering, or possibly some form of deception on the part of the perpetrator. *Acquaintance rapes* involve any circumstances in which the victim and the perpetrator are even slightly known to each other through hitchhiking, a social encounter, a previous relationship, etc. Although this scheme uses an apparently objective criterion for assigning investigative designations, the element of consent continues to be an underlying issue. Stranger rapes are generally the only cases in which the circumstances of the case dictate a clear lack of consent on the part of the victim. In contrast, acquaintance rapes often involve circumstances in which lack of consent might be questionable.

There are other schemes for the assignment of investigative designations to rape cases. For example, some police officers differentiate between the various types of cases by means of labels that describe the circumstances of the report. Boyfriend-girlfriend, bar rape, hitchhike, breaking and entering, and alley rape are all labels describing circumstances which frequently accompany rape reports. Unlike the good/bad and the stranger/acquaintance schemes, this method focuses on the circumstances of the initial contact between the victim and her assailant.

All of these schemes are potentially useful. All allow police officers to organize cases in a conceptual framework. However, each of these tends to minimize the importance of the elements of sexual penetration and identification of the perpetrator. In addition, they fail to stress the development of the strongest possible case. To emphasize case development, a classification scheme

should more positively direct the activities of police officers by assisting them to conceptualize cases as a prosecutor would. Doing so maximizes the likelihood of obtaining sufficient evidence to prove each element of the crime beyond a reasonable doubt.

The legalistic model. The use of the legalistic model is an alternative means to assign investigative designations to criminal cases. This scheme categorizes cases according to what defense the accused perpetrator is apt to offer if ever apprehended. This model affords specific advantages in the investigation of all criminal offenses, and it provides a particular advantage for rape cases. The legalistic model facilitates the development of cases with substantially enhanced prosecutive merit. It also encourages officers to secure evidence to prove each element of the crime. This has the effect of closing off each possible defense the accused might offer. This is accomplished by helping police officers anticipate how the accused perpetrator will respond to the charge of rape. In addition, the legalistic model assists most officers with the organization of evidence-gathering activities by providing insight as to what evidence will have the greatest potential use at trial. Unlike traditional schemes for assigning investigative designations, the legalistic model focuses on promoting the successful prosecution of every type of rape case.

2.4 Defenses to the Charge of Rape

There are many legal defenses which can be offered by an individual accused of a criminal offense. For every offense there are defenses which are particularly applicable. Generally these are based on the specific elements of the crime, but they may also be based on the characteristics of the accused. In rape cases, defenses are generally based on lack of sexual penetration, insufficient identification of the accused, or victim consent. They may also be based on the psychological condition of the accused. The following are the four defenses that are almost always offered in rape cases.

Penetration defense. Individuals using this defense stipulate that they were with the victim at the time of the alleged offense, but they claim that there was no sexual penetration. If medical evidence of recent penetration is obtained, the accused will deny being the source of that evidence. (In this event, the accused is essentially switching to an identity defense.)

Technically speaking, sworn testimony from the victim regarding the existence of sexual penetration and the identity of the individual responsible for it would be sufficient to defeat this defense in most states. However, if the victim and the defendant present conflicting testimony on this issue, the point becomes a question of fact to be decided by the court or the jury. In such instances, the presentation of evidence, witnesses, or circumstances

that would tend to corroborate the victim's account is necessary to defeat this defense.

Identification defense. Those using this defense will simply deny that they are the individual who raped the victim. As described above, they may admit being with the victim, or possibly knowing that she was sexually penetrated, but they will deny responsibility for that penetration. In other cases, the accused will completely deny being with the victim at the time of the crime. The accused may or may not admit knowing the victim, but he will completely deny that he was the individual who committed the rape.

To substantiate this defense, the accused may offer some type of alibi. More frequently the accused will simply rely on the victim's inability to make a positive identification of the individual who raped her. This defense is neutralized by developing either physical or testimonial evidence linking the accused to the scene of the crime. Depending on the specifics of the defendant's statement, this may require either placing the accused at the scene of the crime, or establishing that the accused was the source of the medical evidence of penetration. When appropriate, this defense may also be defeated by developing evidence which contradicts the alibi offered by the accused.

Consent defense. Individuals using this defense will stipulate that they were with the victim at the time of the alleged offense, and that the sexual activity in question actually occurred, but they will claim that all penetration occurred with the consent of the victim. Of the defenses derived from the three basic elements of the crime, the consent defense is the most common and the most difficult to disprove. Even in cases involving strangers, the invention of a defense based on consent is still a possibility for the accused. Rather than presenting a defense based on mistaken identity, the accused can admit consummating sex acts with the victim but deny the existence of force or coercion. If the victim sustained injuries during the assault, the accused can merely ascribe them to passion rather than physical abuse.

Variations of the consent defense are based on a prior sexual relationship with the victim, prior unchaste behavior by the victim, victim precipitation, or the existence of an unremunerated act of prostitution.

Rape reports involving individuals who have had a previous sexual relationship are not uncommon. In such instances a defense based on consent should always be expected. In some of these cases, proving lack of consent might be difficult. However, if the victim did not consent to the sexual activity and she was overcome by force or coercion, the existence of a previous relationship with the accused is irrelevant.

Under certain circumstances, a defense based on a previous relationship could be valid. Some states specifi-

cally exempt an individual from charges of rape brought by a spouse. If the principals in a rape case are lawfully married at the time of the event in question, even though they may be separated, charges of rape may not be possible. In states exempting spouses from charges of rape and recognizing common-law marriage, an accused person could offer an affirmative defense based on these statutory provisions. In some newer statutes rape may be charged if one spouse has initiated proceedings for the dissolution of the marriage: In situations where both the circumstances of the incident and the statutes so dictate, an evaluation must be made as to the appropriateness of a rape charge. However, even if rape cannot be charged, if a victim's resistance was overcome by force or coercion, charging some other form of assault might be appropriate.

Occasionally an individual accused of rape will claim that knowledge of a woman's reputation for unchaste behavior caused him to believe the victim's protestations were not in earnest. A victim's previous sexual experience with others can never be a defense to rape. Yielding to overpowering or potential force is submission, not consent. The law recognizes that force or coercion can overcome the will of the victim irrespective of her sexual history.⁴

Another form of consent defense involves an accused individual who claims his victim precipitated or otherwise invited sexual relations verbally and through gestures.⁵ These cases usually involve principals who initially came into contact with one another as a result of hitchhiking or a social situation in a bar or tavern, or at a party. In some instances the victim will have voluntarily accompanied the accused to some other location. She may have freely engaged in some sort of preliminary sexual activity prior to the penetration consummated against her will. However, just as in any other rape case, the existence of force or coercion constitutes the crime, not the activity of the victim prior to her assault.

Many perpetrators believe that a record for prostitution effectively prevents a victim from bringing charges of rape. Some believe that merely accusing a woman of prostitution will nullify a charge of rape that she might make. It is true that a jury might be extremely reluctant to return a conviction for rape based on testimony from a woman who has been arrested for prostitution. However, even victims actively engaged in prostitution can be, and often are, raped.

All defenses based on the existence of the victim's consent can be defeated by developing evidence supporting the allegation that the sexual penetration at issue occurred as a result of force or coercion. In some cases the question of consent is a legitimate issue. In a few it may be a valid defense. In most rape cases, a defense of

consent is the easiest one to make and the most difficult one to disprove. Effectively closing off the use of a fallacious defense based on this element is the most difficult challenge facing a police officer.

Psychiatric defense. The use of this defense involves a plea of not guilty by reason of insanity. This defense is not used in a large number of cases. When it is used, it is generally offered by an individual accused of multiple offenses committed over a period of time. Police officers should, therefore, expect this type of defense when working on cases involving so-called "pattern rapists." As these cases are investigated, all possible evidence to close off the effective use of a psychiatric defense should be obtained. Generally, this involves developing evidence which shows that the accused was acting rationally and/or with premeditation.

2.5 Predicting the Likely Defense

It is not possible to isolate any one factor that will unalterably be responsible for the choice of a defense by an individual accused of rape. However, the one factor most likely to affect the selection of a defense by the accused is the existence of a previous acquaintanceship with the victim. By simply determining whether the victim knew the accused prior to the time of her assault, police officers can predict with great accuracy what defense will be offered if the alleged assailant is ultimately apprehended.

Unknown assailants. If the victim and her assailant are completely unknown to each other—if the victim believes that she has never even seen the accused prior to the assault—an identity defense should be anticipated. Penetration or consent defenses are possible, but highly unlikely. Unless the assault under investigation fits a pattern of similar crimes, a psychiatric defense is also unlikely.

In cases which involve unknown assailants, the most difficult task of the police is identifying the perpetrator. These cases generally involve breaking and entering, street attack, or possibly an abduction. Under such circumstances, the victim is usually able to offer very little, if any, information regarding the identity of the suspect. In some instances, the victim never has the opportunity to see her attacker. In all instances involving unknown assailants, the police should emphasize avenues of investigation intended to establish the identity of an unknown individual. Although sexual penetration must be established in these cases, lack of consent is almost never an issue.

Known assailants. In cases involving principals who are known to each other, even slightly, a consent defense should be predicted. In these cases there is also a chance

that a penetration defense will be offered, but this possibility can be closed off through the use of medical evidence. A psychiatric defense in a case with a known assailant would be extremely unlikely.

In cases involving a known assailant, the most difficult task of the police will be to develop sufficient evidence that the victim both did not consent, and that force or coercion was used to overcome her will. Establishing a clear lack of consent becomes more and more difficult with increasing degrees of personal relationship between the victim and the accused. In these cases, the main avenues of investigation to be followed are those which will corroborate the use of force to obtain submission. In cases involving a known assailant, the possibility of a penetration defense must be closed off through the use of medical evidence, but the possibility of an identification defense is nonexistent.

2.6 Summary

Rape is characterized by the diversity of the circumstances under which it is committed and by the difficulties associated with the investigation and prosecution of this crime. The statutes which define this offense differ considerably and require police officers to be very familiar with the laws in their own jurisdictions. However, to obtain a conviction for rape it is always necessary to prove the three basic elements of sexual penetration, lack of victim consent, and identity of the perpetrator. By viewing rape in terms of these elements, the probable defense of an individual accused of rape can be predicted. This allows all officers to view cases as a prosecutor does, encourages the development of stronger cases, and increases the likelihood of obtaining rape convictions.

NOTES

¹ For many excellent examples of the diversity of rape taken from actual case reports, see John M. Macdonald, *Rape: Offenders and Their Victims* (Springfield, Illinois: Charles C Thomas, 1975). Kurt Weis and Sandra Borges in "Victimology and Rape: The Case of the Legitimate Victim," *Issues in Criminology*, 8, No. 2 (1973), 71-115, extensively discuss the variability of nonstranger rape cases.

² Federal Bureau of Investigation, *Uniform Crime Reporting Handbook* (Washington, D.C.: U.S. Government Printing Office, 1974).

³ Survey results have shown there is great disparity in how the FBI's

classification procedures are implemented by individual law enforcement agencies. See: Battelle Law and Justice Study Center, "Classification Methods," *Forcible Rape: A National Survey of the Response of Police* (Washington, D.C.: U.S. Government Printing Office, 1977), pp. 15-18.

⁴ See International Association of Chiefs of Police, "Rape," *Legal Points*, 6, No. 66 (1976).

⁵ For further information on this topic see: Lynn A. Curtis, "Victim Precipitation and Violent Crime," *Social Problems*, 21 (1974), 598 ff.

CHAPTER 3. RAPE AND ITS VICTIMS

There are many myths about the crime of rape. Rape victims and offenders are also the subject of numerous stereotypes. Because most police officers deal with relatively few rape cases during their careers, their perceptions of this crime are often unduly biased by these myths and stereotypes. In order to help avoid being influenced by them, police personnel must be aware of society's attitudes towards rape, and they must know the actual circumstances of rape cases. To improve the quality of their investigations, officers must also be able to deal more effectively with rape victims. A thorough understanding of the emotional response experienced by most victims is very important to the ability of all officers to relate to women who have been raped.

3.1 Social Attitudes Regarding Rape

There can be no doubt that a brutal rape would be a terrifying and traumatic experience for any woman. Rape victims frequently sustain acute and potentially longlasting emotional and physical injuries as a result of their assault.¹ Often these women are also victimized by social attitudes and negative personal perceptions regarding this crime.² To help increase their knowledge of this offense and improve their treatment of victims, it is necessary for officers to be aware of the popular myths regarding rape.³

"Women want to be raped." One popular myth suggests that all women secretly want to be raped. Some people theorize that all women fantasize about being raped. They believe that only women who want to be raped are raped. People who accept this myth believe that since women subconsciously desire to be raped, they do not resist the assault. These beliefs are reinforced by the fact that many rape victims are not injured and do not show marks of the attack. The fact is, however, that one out of three rape victims is faced with a deadly weapon, and in many reported offenses the victim received little or no warning that she is about to be attacked.

"Women cry rape." Another myth suggests that a high percentage of rape reports are fabricated. This stereotype suggests that women "cry rape" for revenge, or to explain an unexpected pregnancy, venereal disease, or an illicit affair. When asked, most patrol officers indicated that they believe one-half of all rape reports received by the police are false. However, investigation showed that only 15 percent of the rape complaints made in the United States in 1975 were unfounded.⁴ It is difficult to assess the number of rape reports actually

falsified, but there is little evidence to prove that rape victims lie any more than victims of other crimes.⁵

"Women ask for it." There is also a popular conception that victims provoke their own assault. According to this stereotype, women precipitate rape by wearing suggestive clothing or behaving improperly. Some people even associate the increased rape rate with new fashions and modes of dress. Contrary to these beliefs, many rape victims report wearing bulky sweaters, blue jeans, and heavy coats at the time of their attack. Rather than behaving improperly, many women are attacked while asleep in their own beds, en route to or from work, or while actually on the job.⁶

"Rapists are maniacs." Some people envision all rapists as sex-crazed maniacs. These people believe that men are driven to rape as a result of physical or emotional abnormalities, or because they do not have any normal outlets for their sex drives. Actually, studies of convicted rapists have shown them to be very "normal" individuals. In fact, many of them were married or had other regular sexual partners at the time of their offenses.

"Men can't help themselves." Another common stereotype regarding rape characterizes it as a crime of sexual impulsiveness. According to this myth, rape reports are usually made by women who are unable to avoid the further advances of men they have purposely aroused. Information from studies of convicted rapists can also be used to show the fallacy of this belief. Rapists frequently have a plan which they use again and again to take advantage of women while they are vulnerable. Rather than responding to powerful impulses, many rapists arrange their crimes well in advance.⁷

3.2 The Circumstances of Rape

The fallacies of the myths regarding this offense can be further seen by means of an examination of rape reports. An analysis of the rapes reported to the authorities has provided many insights about this offense. A more complete understanding of circumstances surrounding rape reports can help police officers avoid many common misconceptions. Although there is considerable variation among rape reports, certain factors are common to many of these offenses.⁸

Age and ethnicity. Most rape victims are under the age of 21 years. Elderly women rarely report rape offenses. In fact, few women over the age of 30 are victimized. Offenders are usually presumed to be in their twenties and approximately five years older than their victims.

Most rape victims are white. However, minority women are raped more than would be predicted from their relative proportion in the general population.

Previous relationship. Most victims are raped by complete strangers.⁹ In roughly a quarter of the reported cases, the offender and the victim are acquaintances or have had a limited social relationship. In comparatively few cases the accused is a close friend or relative of the victim.

Initial contact. The two most common places victims report first encountering their assailant are in their own homes or on the street. In many cases, victims report that force is used against them immediately. Quite surprisingly, hitchhiking is involved in less than 15 percent of the reported rapes.¹⁰

Use of force. Weapons are used in approximately one-half of all reported rapes. Knives or guns are most widely employed, but such items as bottles, rocks, and lighted cigarettes are also used as weapons. Some type of strong-arm force is used against almost all victims. These victims often report being overpowered and held down, and choking and beating are not uncommon.

Resistance. Most women report offering some type of verbal or other form of passive resistance. Victims fight with their assailants in roughly one-half of all cases. Many of the victims who physically resisted report that their opposition had no apparent effect on their assailants; most of them report that their physical resistance caused the accused to become more violent and aggressive.

Injuries. About one-half of all women who report being raped sustain physical injuries of some type. In most cases, these injuries consist of minor cuts, scratches, and bruises. Few victims are seriously injured. Of the women who are injured, one-half report that their resistance was the cause of the injury. Almost all victims indicate they believe further injuries would have resulted had they provided additional resistance.

Additional crimes. About half of all women who are raped are also victims of additional offenses. Theft, fellatio, cunnilingus, anal intercourse, and multiple acts of vaginal intercourse are most commonly reported.

3.3 Rape Trauma Syndrome

Emotional responses displayed by rape victims can be varied and perplexing. Rape is frequently a severe crisis-inducing experience for the victim.¹¹ The psychological reactions that women experience when they are raped may be similar to the emotional reaction experienced by people in other types of crisis situations like automobile accidents, deaths in the family, or serious personal injury. The sequential pattern of emotional response displayed by rape victims immediately after, and during the weeks and months that follow their assault,

has come to be known as the rape trauma syndrome.¹² Not all victims follow the identical pattern of response or experience symptoms with the same intensity. However, virtually all victims experience some of the following reactions:

Acute phase. For the first several days following their rape, the response of many victims is characterized by various extreme psychological reactions.¹³ Frequently, victims enter a state of emotional shock. They cannot believe the rape occurred and they may be unable to comprehend what has happened or what they should do. As a result, some victims act in what appears to be an illogical or irrational manner. For example, victims may not contact the police for hours or days, they may repeatedly bathe or wash their clothes, or they may display other unexpected behavioral responses.¹⁴

All victims generally experience some degree of fear. The rape itself is most often perceived as a life-threatening event rather than a sexual intrusion. Most victims are roughly handled and threatened with death. In many instances, victims are assaulted with a deadly weapon. As a consequence, victims normally have a fear of injury, mutilation, or permanent bodily damage.

In addition to fear, victims are likely to express a variety of other reactions, such as anger, shame, guilt, helplessness, anxiety, revenge, powerlessness, humiliation, and embarrassment. It is common for victims to experience severe and abrupt mood changes immediately after the rape. For example, during an interview, a victim might unexpectedly display a surge of anger followed by a sudden expression of guilt or self-blame. Such mood changes can be as surprising and unexpected to the victim as they are to the interviewer.

Rather than expressing their emotions, some victims respond to a rape with a calm, composed demeanor or "controlled reaction."¹⁵ These victims do not wish to display strong emotions, especially in front of a stranger or authority figure like a police officer. Psychologically it is important to these victims to demonstrate that they can handle stress in a mature and adult manner. Unfortunately, this type of response occasionally causes others to doubt their account of the rape.

Adjustment phase. Following their intense emotional reaction to the rape, victims often give every appearance that they have learned to cope with their experience.¹⁶ Very often they accomplish this by blocking out all thoughts regarding their rape and rearranging their daily life so that they are not reminded of it. This denial period is usually a temporary stage of outward adjustment for the victim. However, this process can interfere with criminal justice proceedings. During this period some victims indicate they wish to withdraw their complaints, or they become uncooperative with investigators and prosecutors.

During this phase, many victims appear to cope successfully with the emotional trauma of being raped. However, this may be a superficial adjustment. Some victims do not fully come to terms with their experience. For these victims, fundamental problems may remain, only to emerge at a later time.

Integration phase. The final stage of dealing with rape trauma occurs over a long period of time and requires the victim to integrate her experience into her life as a whole.¹⁷ Because it so dramatically upsets the normal routines of a victim's life, a rape can produce a period of self-evaluation and new decisions. Many facets of the victim's life may be different after the rape. Some women find it necessary to change residences in an effort to achieve a feeling of safety. This is a particularly common behavior for women who were raped in their own homes. Other women spend a great deal of time, energy, and money to secure their present homes with new locks, bolts, or alarm systems.

Victims may perceive themselves differently following a rape because they feel stigmatized. Many victims find it difficult to return to their normal responsibilities at school or work. For some victims this means a decision to change schools or find a new job. Occasionally a victim's emotional difficulties following her assault will lead to her dismissal. In either case, making a change in work or school frequently compounds the difficulties the victim is already experiencing.

Family support can be crucial at this time. Unfortunately, family members can respond in ways that are not helpful to the victim. Victims describe husbands, boyfriends, and parents who doubt their account of rape. Consistently, victims report that their relationship with their husband or boyfriend is strained during the time immediately after the rape. Most victims also severely limit their outside social activities for extended periods following their assault.

Criminal justice implications. The effects of rape trauma syndrome can have a great influence on a victim's interaction with the criminal justice system. There are many specific ways in which a victim's emotional defense mechanisms can interfere with the procedures that have been established to investigate and prosecute rape cases. By being aware of such potential difficulties, officers can help victims resolve each crisis as it arises. Assisting victims in this way substantially increases the likelihood of completing a successful investigation and avoids the possibility of having victims withdraw their complaints.¹⁸

Following their assault, some victims revert to a state of dependence or helplessness. Decision-making can become an ordeal. For some victims, it is easier and safer

to seek direction and protection from friends and family members. These victims can become extremely susceptible to pressure. This suggestibility can be important if, for example, a relative or a friend has a strong opinion that the victim should or should not prosecute the accused. Victims also become very sensitive to the attitudes and behavior of the patrol officers, investigators, and prosecutors involved with their cases. Lack of support from criminal justice personnel is likely to cause victims to become even more confused and uncooperative.

Victims often respond to the rape with reactions indicating guilt. Some victims exaggerate their own responsibility for not avoiding a potentially dangerous situation or for failing to resist successfully. These feelings are often reinforced when the victim is questioned about her inability to escape. The victim may need some help understanding that with hindsight, one is always able to make better judgments. With proper emotional support, the majority of victims can eventually come to understand that they probably did the best they could under the circumstances.

Many victims report significant disruptions in their daily routines. Some women, for example, are unable to sleep at night and are easily awakened by noises that would not normally bother them. Frequently, women also report loss of appetite. Others find that eating causes nausea, especially if they were forced to perform oral sex. The victim's ability to concentrate may be greatly diminished and her attention span temporarily shortened. In general, the victim's ability to perform normally may be severely altered, particularly when she is exposed to the further stresses of criminal justice procedures.

Nightmares are a common experience for women who have been raped. The dreams often consist of vivid pictures in which the victim relives the terror of the rape situation. The paralyzing feeling of doom is recreated with such reality that the victim often awakens to the same frightening powerlessness, loss of autonomy, and life-threatening fear of the rape itself. These dreams act to reinforce the victim's anxiety that she is no longer able to protect herself and may induce her to request that her case be dropped.

Women who have been raped sometimes experience phobic reactions to circumstances or characteristics that they relate to their assault. An example might be a victim who was raped on a stairwell and who subsequently finds it very difficult to use any stairs. Police and prosecutors should be aware of such phobic reactions, particularly if the victim is asked to return to the scene of the crime or to view evidence from the rape.

Phobic reactions and recurring nightmares are natural methods for coping with severe trauma. Rape victims,

however, may be very worried that they are going crazy, that they can no longer cope, or that they will never be normal again. It is important that victims be able to talk to someone about these fears. Police and prosecutors can help by sharing their knowledge about the reactions that victims normally experience. Because criminal justice personnel are seen as authority figures, their actions have an especially important impact on victims. By demonstrating sensitivity and concern, police officers can increase a victim's ability to recover quickly from the trauma of being raped and facilitate the investigation and prosecution of her case.

3.4 Summary

Most police officers deal with relatively few rape cases during their careers. As a result, social attitudes and myths regarding rape tend to have an undue effect on their perceptions regarding this offense. It is, therefore, very important for patrol officers to have an accurate view of the circumstances that actually surround most rapes. In addition, it is very important for officers to understand the behavioral pattern known as rape trauma syndrome because the enormous emotional impact of rape can reduce the ability of victims to meet the demands of the criminal justice system.

NOTES

¹ Ann Wolbert Burgess and Lynda Lyttle Holmstrom, *Rape: Victims of Crisis* (Bowie, Maryland: Robert J. Brady Company, 1974); Malkah T. Notman and Carol C. Nadelson, "The Rape Victim: Psychodynamic Considerations," *American Journal of Psychiatry*, 133 (1976), 408-13.

² See Diana E. H. Russell, *The Politics of Rape: The Victim's Perspective* (New York: Stein and Day, 1975); Mary Meyer, "Rape: The Victim's Point of View," *Police Law Quarterly*, 3, No. 3 (1974), 38-44.

³ Julia R. Schwendinger, Herman Schwendinger, "Rape Myths: In Legal, Theoretical, and Everyday Practice," *Crime and Social Justice: A Journal of Radical Criminology*, 1 (1974), 18-26.

⁴ Federal Bureau of Investigation, *Uniform Crime Reports for the United States* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 24.

⁵ Lynn A. Curtis, "Victim Precipitation and Violent Crime," *Social Problems*, 21 (1974), 601.

⁶ Carroll M. Brodsky, "Rape at Work," *Sexual Assault: The Victim and the Rapist*, eds. Marcia J. Walker and Stanley L. Brodsky (Lexington, Massachusetts: Lexington Books, 1976), pp. 35-51.

⁷ John M. Macdonald, M.D., *Rape: Offenders and Their Victims* (Springfield, Illinois: Charles C. Thomas, 1975), p. 141 ff.

⁸ For information regarding cases other than those analyzed during this research, see: Menachem Amir, *Patterns in Forcible Rape* (Chicago: The University of Chicago Press, 1971); Duncan Chappell et al., "Forcible Rape: A Comparative Study of Offenses Known to the Police in Boston and Los Angeles," *The Sociology of Sex*, ed. J. M. Henslin (New York: Appleton-Century-Crofts, 1971), pp. 169-90; Duncan Chappell and Susan Singer, "Rape in New York City: A Study of Material in the Police Files and Its Meaning," *Rape: A Critical Anthology*, eds. Duncan Chappell, Robley Geis, and Gilbert Geis (New York: Columbia University Press, in press).

⁹ Various research projects have attempted to determine the proportion of reported and unreported rapes that are stranger-to-stranger crimes. The results of this research have ranged from a low of 56 percent stranger-to-stranger crimes to a high of 94 percent. For more specific information, see: Battelle Law and Justice Study Center, *Forcible Rape: A Nationwide Survey of the Response by Police* (Washington, D.C.: U.S. Government Printing Office, 1977), p. 20; Battelle Law and Justice Study Center, *Appendices to "Research and Development of Model Procedures for Criminal Justice System Involvement with the Crime of Forcible Rape"* (Seattle, Washington: Battelle Human Affairs Research Centers, 1975), p. 65; Chappell et al., "Forcible Rape: A Comparative Study of Offenses Known to the Police in Boston and Los Angeles," op. cit., p. 187; Arthur Frederick Schiff,

M.D., "Statistical Features of Rape," *Journal of Forensic Sciences*, 14, No. 1 (1969), 102-109; National Crime Panel, *Criminal Victimization Surveys in 13 American Cities* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 12, 30, 48, 68, 86, 104, 122, 142, 162, 182, 202, 220, 240; National Crime Panel, *Criminal Victimization Surveys in the Nation's Five Largest Cities* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 84.

¹⁰ For a discussion of rape reports made to the Berkeley, California Police Department which involved victims who were hitchhiking, see: Steve Nelson and Menachem Amir, "The Hitchhike Victim of Rape: A Research Report," *Victimology: A New Focus*, Vol. 5, "Exploiters and Exploited: The Dynamics of Victimization," Israel Drapkin and Emilio Viano, eds. (Lexington, Massachusetts: Lexington Books, 1975), p. 47-64.

¹¹ Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Crisis and Counseling Requests of Rape Victims," *Nursing Research*, 23, No. 3 (1974), 196-202; Sharon L. McMombie, "Characteristics of Rape Victims Seen in Crisis Intervention," *Smith College Studies in Social Work*, 46 (1976), 137-58; Sandra Sutherland Fox and Donald J. Schere, "Crisis Intervention With Victims of Rape," *Social Casework*, 57, No. 4 (1976), 245-53; International Association of Chiefs of Police, *Training Key Number 209—Crisis Intervention* (Gaithersburg, Md.: International Association of Chiefs of Police, 1974).

¹² Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Rape Trauma Syndrome," *American Journal of Psychiatry*, 131, No. 9 (September, 1974), 981-86.

¹³ John Stratton, "Law Enforcement and Participation in Crisis Counseling for Rape Victims," *The Police Chief*, 43 (1976), 49-56.

¹⁴ For a description of the "frozen-fright reaction" displayed by some rape victims and an excellent discussion of passive resistance, see Martin Symonds, "The Rape Victim: Psychological Patterns of Response," *The American Journal of Psychoanalysis*, 36, No. 1 (Spring, 1976), 27-34.

¹⁵ Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "The Rape Victim in the Emergency Ward," *American Journal of Nursing*, 73, No. 10 (October, 1973), 1744.

¹⁶ Sandra Sutherland and Donald Scherl, "Patterns of Response Among Victims of Rape," *American Journal of Orthopsychiatry*, 40 (1970), 507-08.

¹⁷ *Ibid.*, pp. 508-09.

¹⁸ Ann Wolbert Burgess and Lynda Lyttle Holmstrom, "Rape Victim Counseling: The Legal Process," *Journal of the National Association for Women Deans, Administrators, and Counselors* (Fall, 1974), pp. 24-31.

CHAPTER 4. THE INITIAL RESPONSE

All law enforcement agencies have established procedures to answer calls for service. The response models established in most cities call for personnel from separate departmental divisions to conduct the preliminary and follow-up investigations for all crimes except homicide. In most cases when a rape report is received, a patrol officer is dispatched to take an initial report and a detective is later assigned to conduct the follow-up investigation. The purpose of this section is to describe the activities which are normally performed as part of the initial response.

4.1 Operating Procedures

Because most patrol officers are seldom called upon to investigate a rape case, they are frequently unfamiliar with the procedures established by their departments to handle this offense. For example, many police agencies have established special procedures for the notification of the personnel responsible for the follow-up investigation of rape reports. Because these procedures differ from those used in most other types of cases, a significant number of patrol officers fail to remember them. Patrol officers must ensure that when they are dispatched to obtain the initial report of a rape, all special procedures are followed. In particular, they must make certain that follow-up investigators are notified at the time and in the manner prescribed.

4.2 Notification of Investigators

Virtually all police agencies dispatch patrol officers to the scene of every rape complaint to obtain an initial report. Follow-up investigators are normally brought into cases in one of three ways. In some departments, they are notified directly by the agency's communications section; in others, they are notified from the scene of the complaint by the patrol personnel dispatched to take the initial report; and, in many agencies, investigators are not normally notified prior to the time they receive a written report through intradepartmental channels. For the purpose of this manual, it is assumed that investigators are notified from the scene of every rape complaint by the patrol officers dispatched to complete the initial report. It is further assumed that once the investigators have been notified, departmental procedures call for them to enter the case as soon as practical. Thus, according to the priority of the case and their current work demands, follow-up investigators might choose to (1) respond directly to the scene of the complaint, (2)

meet the patrol officer and the victim at the hospital where she will be examined for evidence of the crime, or (3) wait to receive the report through channels.

4.3 Response Levels

The circumstances of rape reports govern whether they should receive an *emergency response*, a *high priority response*, or a *routine response*. The nature of some rape reports requires an emergency response from law enforcement authorities. In these cases, serious injuries to the victim, a fleeing suspect, or other exigent circumstances dictate the need for an emergency response. When emergency conditions are not present, it is necessary to assess the need for a high priority response. Although the early involvement of follow-up investigators and the use of special crime scene search teams always improves the likelihood of the successful disposition of a case, it is not possible to provide a high priority response for every rape case. Therefore, it is important for law enforcement agencies to establish criteria to determine which cases should receive a high priority response. Although it would be preferable to assign all rape cases an equally high priority, sometimes it is necessary to differentiate between cases for the purpose of deciding the order in which they will be handled. Obviously no one factor can be used to assign a priority to a case; a combination of variables must be used.

4.4 Priority Criteria

Aggravated, stranger-to-stranger rapes that are promptly reported should receive top priority. As with other offenses, the greater the degree of aggravation, the higher the priority. The degree of seriousness associated with a particular case should be assigned on the basis of physical violence, the age of the victim, the use of a weapon, the simultaneous commission of additional crimes, the presence of accomplices, or any other aggravating circumstances. In assessing aggravation, the degree to which a particular case fits into a pattern or series of similar offenses should not be overlooked. In addition, the likelihood that the particular case will attract media and public attention should also be evaluated.

Stranger-to-stranger rapes should be given priority over offenses in which the victim and the assailant are well known to each other. Because unknown assailants must be identified through investigation, the immediate involvement of a detective usually increases the chances of apprehending a suspect. In most cases, known assail-

ants can be named by the victim and often located through information which she is able to provide. Cases involving individuals who are known to each other should not be considered any less important than stranger-to-stranger rapes; however, this latter category of offenses should be assigned a higher priority when such decisions must be made.

The promptness of the victim's report should be considered only in terms of the collection of medical evidence, the processing of crime scenes, and the locating of witnesses. A prompt complaint permits the equally prompt collection of all physical evidence. There is a much greater chance of locating witnesses who might be able to provide some type of useful information. In addition, having the opportunity to interview victims while their recollections of the event are still fresh is usually an advantage. It is also true that prompt reports strengthen cases that come to trial. However, a delay in reporting a rape should never be the sole cause for unounding a case or otherwise according it less than a full investigative follow-up.

4.5 Assigning the Level of Response

The level of response a specific rape report receives will usually be assigned in one of three ways. In almost all cases, the communications personnel receiving the first notification regarding a rape have sufficient information to determine if an emergency response is indicated. Whether a case should receive high priority or routine handling is a decision that should be made by a sex crimes investigator contacted from the scene of the complaint by the patrol officers dispatched to handle the case. If sex crimes investigators are not on duty, first-line supervisors should be consulted regarding the response level assigned to specific rape reports unless it is obvious the case should receive an emergency or high priority response. If they are on duty, nonemergency, "walk-in" rape complainants should be referred directly to sex crimes investigators. This is also true of victims who have substantially delayed their report.

4.6 Response Personnel

Departmental procedures specify which personnel might be dispatched to the scene of a rape report. The priority of the case, as well as the circumstances of the crime, determine who must actually be sent as part of the initial response to a rape report. The following are the personnel who are likely to be involved in the initial response to rapes which are promptly reported.

Communications personnel. Police communications personnel are frequently the first representatives of the criminal justice system with whom victims come into contact when they phone to report being raped. Their

role in the initial response includes more than merely obtaining the name and address of the complainant. If the crime has recently been committed, communications personnel must instruct the victim not to destroy any evidence either by cleaning herself or the crime scene. In addition, if there is a chance to apprehend a fleeing suspect, the dispatcher has the pivotal role in the information gathering and distribution process. However, the most important service communications personnel can perform is to keep victims on the line and calm them until the first patrol unit arrives at the scene.

Patrol officers. At least two patrol officers should be dispatched to handle a rape report. Preferably, one of them should be female, and they should be deployed as two units each with a single officer. One of the officers dispatched to the scene should assume exclusive responsibility for dealing with the victim. The other officer should be responsible for (1) locating and securing the crime scene, (2) coordinating the search for possible suspects who might still be in the vicinity, and (3) arranging for the completion of other tasks, such as canvassing for witnesses. These patrol officers should continue to perform their assigned tasks until relieved by a supervisor or the detective in charge of the follow-up investigation.

Evidence technicians. In many departments, special personnel are available to process crime scenes. Whenever such personnel are available, they should be utilized in rape cases. In most instances, personnel who are specially trained in the collection and preservation of evidence are not only much better equipped to accomplish this task, but they are also more familiar with the procedures necessary to maintain an unbroken chain of custody for items to be used as evidence.

Supervisors. Supervisors have an important role in the initial response to a rape report. Especially if there is an opportunity to apprehend a fleeing suspect, a large number of police personnel must be coordinated. Even when there is no need to search for a suspect, a reported rape has a tendency to draw a large group of officers, a number of whom are merely curious. One of the most important tasks of supervisors during the initial response to a rape report is to insure that superfluous police personnel, including themselves, do not overrun either the crime scene or the location where the victim is being interviewed.

Investigators. Depending on a department's response model and operating procedures, follow-up investigators may or may not be among the police personnel who normally respond to the scene of a rape complaint. However, in most departments, rape cases are sufficiently important and uncommon to call for the participation of a detective. For the purposes of the response model hypothesized in this manual, it is assumed that follow-up

investigators will be a part of the initial response whenever practical.

4.7 Prioritizing Tasks

Once patrol personnel arrive at the scene of a reported rape, there are many activities which must be undertaken. To ensure that all of the appropriate tasks are accomplished, it is important for police personnel to establish task priorities. It is not possible to establish in advance a precise formula to determine priorities for every situation. There are, however, guidelines that can be applied to almost all situations.¹

Apprehending a fleeing suspect. At times, police receive reports of rapes still in progress. This is a most unusual circumstance, but one that cannot be discounted. As the first units arrive on the scene, officers should be aware of the possibility of intercepting fleeing suspects before they have the opportunity to leave the immediate area of the report. Should officers discover that an attack is still in progress, obviously their first priority would be to stop it. (Also see Section 8.1.)

Rendering first aid. Once it has been established that the victim is out of physical danger, the first thing that should be determined is whether the victim is in need of immediate medical treatment. This might mean rendering simple first aid, or it might mean instituting life-saving measures while waiting for the emergency response of an ambulance. In cases where the victim appears to be uninjured, there is a tendency for police officers to fail to inquire if the victim is hurt. Especially in rape cases where serious injuries may be hidden by clothing, the first officers on the scene should ask the victim if she is injured before posing any other questions. Whatever action officers at the scene must take as a result of the victim's injuries should be recorded as part of their official report. In particular, any statements the victim might make concerning even minor injuries, and any treatment rendered at the scene, including simple first aid should also be recorded.

Searching for possible suspects. Once it has been established that a victim is willing and able to talk, an attempt should be made to obtain further information which might be helpful in the attempt to apprehend a fleeing suspect. If the complainant is making an immediate report, some basic information about the crime will have already been obtained by communications personnel. Additional information the victim might be able to provide should be obtained by officers at the scene and either relayed directly to those in the field by radio broadcast, or conveyed by land line to communications personnel for broadcasting. If the suspect is well known to the victim, and a consent defense is predicted, discretion should be exercised in broadcasting a pick-up request, especially if the whereabouts of the named suspect

can be predicted and it is not likely that he will attempt to flee the jurisdiction.

Locating and securing crime scene. If the complainant is reporting from the actual scene of the crime, extreme care should be taken to avoid contamination or destruction of evidence. If the complainant is reporting from a location other than the crime scene, police personnel should be deployed to locate and secure the actual crime scene. In addition, any vehicles which might have been involved in the crime should be located and secured. If locating the crime scene requires the assistance of the victim, as it might in a case involving a rape committed out-of-doors, her help should be sought following the completion of the initial interview.

Initial interview. The initial interview of the victim should be conducted by only one officer. The purpose of this interview is to obtain the minimum information necessary to complete the initial crime report and process the crime scene. No attempt should be made to obtain the sexual details of the assault. Beyond a simple declaration by the victim regarding what crime was committed, detailed information pertaining to sexual acts is not necessary to, and should not be part of, the initial report. Information regarding what parts of the victim's body should be examined for biological evidence of penetration can be obtained directly by medical personnel as part of the protocol for the physical examination of rape victims. The time of the victim's last consensual sex acts, if any, should also be obtained by medical rather than police personnel (see Section 5.1, "Sexual History"). In addition, officers should carefully note the victim's emotional and physical condition. Preferably these observations should be recorded in the body of the crime report (see Section 6.3, "Patrol Officers"). Officers should also include a thorough description of the victim's emotional condition and physical appearance in their field notes. (Complete information on interviewing is contained in Chapter 5.)

Area canvass. It is very important to conduct an immediate canvass of all areas in which possible witnesses to the reported offense might be located. The area canvass is the most effective way to uncover relevant testimonial evidence regarding the incident under investigation. If the victim makes an immediate report, canvassing should be made as soon as possible in order to locate witnesses before they depart the area. If the victim makes a delayed report, it is often helpful to conduct the area canvass on the same day of the week and at the same hour of the day as when the crime was committed.² In conducting an area canvass in a rape case, personnel should neither identify the complainant by name nor indicate that she was the victim of a sex crime (see Section 5.5[5]). When preparing reports concerning the outcome of the canvass, personnel should make certain

that negative as well as positive results are recorded.

Crime scene processing. Whenever possible, known and available crime scenes should be processed by special evidence technicians. However, in some departments this task is the responsibility of either the patrol personnel assigned to handle the initial response or the detective assigned to handle the follow-up investigation. Regardless of who is undertaking this task, there are two precepts which should be followed. (1) Every attempt should be made to continue efforts to limit the number of police personnel with whom the victim must interact. Information regarding the areas and items that should be processed for evidence can be obtained from the victim by the one individual who is conducting the initial interview, and conveyed to those who have the responsibility for crime scene processing. (2) The utmost effort should be devoted to maintaining the shortest possible chain of custody for all items of evidence which are collected. One means of doing this is to make one individual responsible for collecting, marking, and logging all evidence, regardless of who might locate the particular item (see Section 6.2, "Obtaining Physical Evidence").

Medical examination. Sexually assaulted victims should receive a medical examination for two purposes. First, the examination is an indispensable source of medical evidence of sexual penetration. Second, all sexually assaulted persons should have the benefit of receiving medical treatment for injuries, venereal disease, and possible pregnancy. Medication to prevent pregnancy can be administered successfully up to 72 hours following an assault.³ In addition, medical information and physical evidence can sometimes be obtained from a victim long after the assault has taken place.⁴ Therefore, even if days have elapsed since the victim was assaulted, she should still have the opportunity to receive medical treatment and an examination for evidence of the attack (see Section 7.2).

The victim should be transported to the appropriate medical facility by an officer with whom she has had the opportunity to interact. Preferably the plain-clothes investigator in charge of the case should take the victim to the hospital. Alternatively, other plain-clothes personnel or the patrol officer to whom she gave her initial report should provide the transportation. In any case, requiring the victim to interact with additional police personnel should be avoided. With juvenile victims, officers should also ensure that an adult who can give permission for medical treatment accompanies the victim to the medical facility. (Also see Section 7.1, "Victim's Clothing.")

Prior to the examination, the officer transporting the victim for medical treatment should brief the physician concerning what kinds of evidence are likely to be available from the victim's person. This might include information about areas of her body that should be examined

for evidence of penetration, physical injury, or other signs of force. If the officer transporting the victim for medical treatment is anyone other than the individual in charge of the investigation, medical personnel should be requested to question the victim regarding the parts of her body that should be examined for signs of penetration if this information cannot be obtained by a means other than further interview. In no case should any police personnel question the victim regarding her virginity or any other aspect of her previous sexual experience. Questions regarding her most recent consensual sexual contact, her last menstrual period, or whether she is pregnant should be posed by hospital personnel as part of her medical history.

4.8 Report Writing

The adequacy of the police work done by individual officers is frequently judged by the quality of their written reports. Such judgments are made not only by fellow officers, but also by superiors when considering personnel for promotion. In general, the quality of an investigation is equated with the quality of the reports written about it. Since outside individuals like prosecutors and defense attorneys will have access to them, patrol officers should take special care when preparing written reports.

Conciseness. Police reports, while not necessarily short, do need to be concise. That is, they should express much in a few words. One way to help achieve this is to avoid unneeded phrases and police jargon. The use of numbered lists can also help to make reports more concise.

Accuracy. Reports need to be both factual and accurate. Special care should be taken to ensure the accuracy of numeric information like dates, phone numbers, social security numbers, etc. Business as well as residence addresses and phone numbers should be obtained. In addition, it is often helpful to obtain the name, address, and phone number of a close friend or relative of victims and important witnesses. These friends and relatives can frequently help to locate individuals who might change residences before a case comes to trial.

Description of police activity. The entire description of all police activity undertaken as part of the preliminary investigation should be collected by one officer into a single, unified report. This report should be compiled from the separate reports independently written by each officer involved in the initial response. Although individual officers should first write their separate reports, assigning one officer the responsibility of combining all of these individual reports helps to avoid confusion regarding the completion of specific tasks. In the preparation of their individual reports, officers should take special care to record all activities, even those that failed

to produce positive results. This simple device can be a great timesaver for others working on the same case. It can also help close loopholes which might otherwise be exploited by the defense, particularly during cross-examination.

4.9 Summary

The initial response given a rape complaint is critical

to the ultimate success of the case. Individual departments must develop procedures to govern the handling of rape reports by all line personnel. The many tasks that must be performed as a part of the initial response should be completed according to their priority and reported on by the officers who have preliminary responsibility for the case. In all, the thoroughness with which the preliminary investigation of a rape complaint is conducted has a major impact on the ultimate outcome of the case.

NOTES

¹ See Peter B. Bloch and Donald R. Weidman, *Managing Criminal Investigations* (Washington, D.C.: U.S. Government Printing Office, 1975), pp. 23 ff.

² This technique is known as "round-and-round the clock surveillance."

³ G. Richard Braen, M.D., *The Rape Examination* (North Chicago, Illinois: Abbott Laboratories, 1976), p. 10.

⁴ Joseph C. Rupp, M.D., Ph.D., "Sperm Survival and Prostatic Acid Phosphatase Activity in Victims of Sexual Assault," *Journal of Forensic Sciences*, 14, No. 2 (April, 1969), 177-183.

CHAPTER 5. INTERVIEWING

In rape cases, patrol officers conduct interviews to obtain information regarding specific incidents and to help resolve conflicts which may be included in the statements made by various victims, witnesses, informants, and suspects. Interview techniques for rape cases are different from those used in other types of violent crime. To the experienced officer, some of these techniques may be second nature. However, most patrol officers have little experience dealing with rape victims. The purpose of this section is to acquaint all officers with some of the techniques that have been found to be particularly successful by police personnel highly experienced in the investigation of sex crimes.

5.1 Initial Victim Statement

One of the most important aspects of the initial response to a rape complaint is the collection of basic information from the victim. This initial interview will both establish the validity of the victim's report for further investigation and provide information essential to the processing of her complaint. In addition, the initial interview has the potential to lay a foundation for good cooperation between the victim and the criminal justice system. If rapport with the victim is established during the initial interview, chances are good that the victim will cooperate throughout the criminal justice process. If the initial interview is not handled well, there is every likelihood that the victim will withdraw her complaint and, in the process, develop negative attitudes regarding the competence and adequacy of the police. It is, therefore, the obligation of every police officer to conduct the initial interview of a rape victim not only in accordance with the demands of duty, but also with compassion, understanding, and professionalism.¹

Establishing priorities. As explained in the previous chapter, the patrol officers dispatched to obtain a rape report must first be aware of the possibility of intercepting a suspect fleeing from the scene of the complaint. They must then determine if the victim is both physically and emotionally able to be interviewed. In some cases, a rape victim may not be able to undergo an initial interview. If the victim indicates that she does not feel up to being interviewed, it is imperative that all questioning cease. Unless the victim is stable both physically and emotionally, the initial interview should be postponed.

Obtaining a crime report from a rape victim requires an extremely high level of personal sensitivity. Securing

the facts of a terrifying and traumatic sexual assault is a task requiring skill, tact, and discretion. Interviewing a victim who has been both physically and emotionally assaulted is a most demanding task even under the best of circumstances. In rape cases, reports must often be taken under circumstances which are far from ideal.

Initial impressions. In rape cases, initial impressions are sometimes formed very quickly by both officers and victims. The impressions formed by officers are the product of their personal attitudes, professional experience, and general reaction to the specific victim to be interviewed. The same is true of victims. If for any reason it becomes obvious that an officer is experiencing difficulties establishing rapport with the victim, a change of interviewer should immediately take place.

Interview setting. In most instances, victims must be interviewed in their homes or at medical facilities. In many instances it is not possible to control the physical characteristics of the interview setting. However, insofar as it can be, the appropriateness of the locations to interview rape victims should be maximized. Doing so will facilitate obtaining a better initial report.

The privacy of the interview setting should receive top priority. The setting should be visually private as well as reasonably soundproof. The victim should know that others will not be able to see or hear her. Rape victims frequently cry during interviews; maximizing their privacy will minimize their further embarrassment. If possible, portable radios carrying police broadcasts should be turned off, and interruptions should be avoided.

Observers. If department regulations so require, the interview should be chaperoned. Even if this is not necessary as a precaution, the presence of another woman may help the victim to feel more comfortable. However, it is advised that the third party be a policewoman, nurse, social worker, or victim advocate. Having friends or relatives of the victim present during the actual interview is not acceptable because these individuals inhibit the victim's willingness to speak freely. If regulations do not require a chaperone, and if the victim does not express the desire for another woman to be present, it is preferable to conduct the interview in complete privacy. This practice helps achieve the goal of limiting the number of different police personnel with whom rape victims are required to come in contact, and helps to reduce their embarrassment.

Physical comfort. Although most officers are aware that a victim's emotional condition might prevent an

initial interview from taking place, some officers do not realize that *physical* problems might make it difficult for women to be interviewed. For example, although a victim may not be in need of immediate medical attention, she may be very uncomfortable as a result of being physically assaulted. Her injuries might make it difficult for her to sit comfortably. If she was raped out-of-doors, she may be physically dirty. She may have been sodomized or urinated upon. Under such conditions, it is easy to understand that a victim's highest priority would be to wash and change clothes. In instances such as these, questioning should be held to an absolute minimum until the victim's personal needs have been met.

Crisis intervention techniques. The same crisis intervention techniques that are appropriate for use in other types of assaults are valuable in rape cases. Before beginning the interview, officers should make certain they have introduced themselves, preferably with their first names and without their titles or ranks. This helps victims view police officers as individuals rather than authority figures. Officers should interview victims from a sitting position that permits eye contact with the victim but does not make the victim feel uncomfortable because of physical proximity. If regulations permit, officers should remove their hats and not carry night sticks while interviewing rape victims. Officers should also remember that the apparent calmness of some rape victims belies their true emotional condition. Interviewing should always proceed slowly and without pressure.

Introductory remarks. To many rape victims, the officer conducting the interview represents both society and a criminal justice system that has traditionally been skeptical of rape victims. As such, the interviewer may pose a significant threat to the victim. The introductory remarks made by the officer who conducts the interview will determine the course of the entire process to follow. The interviewer should explain to the victim that it is the goal of the police to apprehend and prosecute her assailant through the use of the information she is able to provide. By conveying both their sympathy and professional interest, officers can assist the victim to more freely discuss her assault.

General description. To begin the initial report, officers should ask victims to provide a general description of their assault. In some cases responding officers may not even know that a rape has occurred. Occasionally victims are too embarrassed to tell the police operator or communications personnel that they were raped. Indeed, police are frequently dispatched to obtain a crime report without knowing exactly what kind of crime is to be investigated. Conversely, a call dispatched as a rape report may turn out to be something else. Whenever an officer is sent to the scene of what is, or could be, a rape,

the victim should be asked some preliminary questions to determine exactly what kind of crime has been committed. For example, asking, "can you tell me what happened to you?" is often a good way to begin an interview with a possible rape victim.

Follow-up questions. While the victim is providing an uninterrupted description of how she was raped, the interviewer should be taking appropriate notes and considering what kinds of follow-up questions will be necessary. Officers should concentrate on questions which help establish the facts of the crime. When asking their follow-up questions, interviewers should avoid placing victims in positions which require them to justify either their statements or their actions. Interviewers can accomplish this by avoiding "why" questions. Instead, interviewers should pose questions in descriptive terms. The extensive use of questions regarding the perpetrator's actions, rather than her own, will help the victim fully relate the facts of her assault without feeling she is being forced to defend herself. In considering their follow-up questions, officers should pay particular attention to obtaining information to establish all of the elements of the crime.

Sexual penetration. Although it is necessary to establish that sexual penetration occurred, patrol officers should not ask questions relating to the sexual details of the crime. A simple statement by the victim that she was raped is sufficient to initiate a police investigation. Detailed descriptions of sexual acts are not a necessary part of the initial report and should not be included. Only the personnel responsible for the follow-up investigation of the case should question the victim regarding the intimate aspects of her assault. Limiting questioning regarding the sexual details of the crime to the follow-up investigators spares the victim much embarrassment.

Identification of the perpetrator. To obtain a conviction for rape, the accused must be identified beyond a reasonable doubt. This can either be through direct visual identification or by indirect identification through the use of physical evidence. During the interview, the patrol officer should establish the degree to which the victim is able to provide a direct, visual identification of her assailant. In addition, if there is any known physical evidence linking an unknown defendant to the commission of the crime, these items should be specified by the victim as being appropriate.

Lack of consent. Sexual penetration must be accomplished without the consent of the victim and consummated through the use of force or coercion. Any evidence that can be obtained at the time of the initial report to prove the existence of force will be of great value at the time of trial. This fact should be explained to the victim and then she should be told, "I need to know more about how this happened to you." The officer

should then attempt to determine what kinds of evidence of force might be available. For example, it should be determined if the perpetrator used a weapon during the assault or if the victim used anything for a weapon to defend herself. If so, an effort should be made to locate and collect these objects as evidence. In addition to items of physical evidence, the names of any fresh-complaint or corroborating witnesses should also be obtained. However, throughout the process of obtaining information regarding the element of consent, great care must be taken to avoid giving the impression that the interviewer doubts the victim's story.

Sexual history. Patrol officers should not attempt to obtain any information regarding the victim's sexual history. Questions regarding previous sexual experiences, pregnancy, venereal disease, and her most recent consensual intercourse should be asked by medical, not police, personnel. Neither should officers probe into the possibility of a previous sexual relationship between the victim and the accused. If the victim should spontaneously report such information, it should be recorded as part of the initial report. Otherwise, follow-up investigators will deal with this issue at a later time. During the initial report, the interviewer's main concern should be to develop leads which might contribute to the identification of a suspect.

Apprehension information. One of the most important functions of the initial interview is the development of information which will assist in the identification of possible suspects. Despite the fact that most reported rapes are stranger-to-stranger crimes, the majority of attacks are premeditated. In many cases the victim has known or seen the accused prior to the assault. If the victim does know her assailant, she should be asked to provide all relevant information regarding his current whereabouts, habits, and associates. If the accused is unknown to the victim, any recollections she may have which might lead to the identification of the accused should be obtained. In addition, it should be determined whether anyone else was present prior to or during the assault. If so, complete information about these parties should be obtained. Any vehicles belonging to the accused or his associates should be thoroughly described. Witnesses who may have seen the accused or his vehicle should also be identified. In general, every attempt should be made to gather information which might lead to the identification of possible suspects.

Initial contact. Another important function of the initial interview involves obtaining the circumstances of the initial contact between the victim and the perpetrator on the occasion of the assault. Obtaining this information is necessary to help predict the defense the accused is likely to offer. It is also of great potential value in establishing lack of consent. To avoid adding to the victim's emo-

tional trauma, this point should not be the subject of lengthy interviewing. However, some information regarding how the victim was first encountered by the accused should be included in every initial rape report.

Discrepancies. At the time of their initial interviews, most victims will be experiencing high levels of fear and complex emotional reactions like those described in Chapter 3. Some women believe circumstances might have existed which either contributed to their victimization or might otherwise reflect negatively upon them. These victims may wish to either repress or conceal these facts. It is possible that a victim's general description of her assault will contain some discrepancies. These discrepancies may be the result of the woman's emotional response to her assault. In any case, they should be tactfully pointed out to the victim. This can be achieved by asking the victim to reiterate the portion of her account which is inconsistent. However, she should not be asked to repeat her entire story. If there is a question regarding a particular part of the victim's account, that fact should be candidly stated. The tactic of trying to trap the victim should never be used. If necessary, the interviewer should repeat the parts of the victim's statement that are not clear and ask the victim to make her meaning more thoroughly understood. Throughout the interview, the officer should help the victim express the facts of what happened rather than require her to justify any of her behavior.

Discrepancies in the victim's account may also be in the form of unexpected behavioral responses displayed at the time of her assault, the initial report, or possibly during a subsequent interview. These behaviors take many different forms. A victim might describe something she did at the time of her assault that would not be consistent with what might be expected from a victim in a rape situation. For example, a victim may have bathed after being asked not to do so, or she may have returned to the crime scene to retrieve some seemingly unimportant article instead of making an escape. A victim may appear to be more worried about property damage done by the accused than interested in talking to officers about being raped. Victims, particularly adolescents, may giggle or otherwise appear not to be taking their assault seriously. Interviewers should understand that many people under stress frequently exhibit such behavior.

Exculpatory evidence. During the initial interview, police personnel should not purposely interrogate victims regarding the authenticity of their complaints. If such questions do become necessary, they should be asked by follow-up investigators at the appropriate time. However, officers should always report any circumstances, statements, or other possibly exculpatory evidence for use by those conducting follow-up investigations.

Concluding the initial interview. Initial interviews

should not be long. Lengthy or detailed accounts of the offense or the events that preceded it are not necessary. The purpose of the initial report is to establish probable cause to believe a crime has been committed, and to determine what evidence is available to help prove each element of the offense. As soon as these goals have been achieved, the interview should be brought to a close. In doing so, the victim should be asked if she is satisfied with her statement.

Further procedures. Before terminating the interview, officers should make certain victims have a good understanding of the further procedures that are part of the initial reporting process. They should fully understand what will be happening to them next and why. The details involved with obtaining a medical examination, and why it is necessary, should be clearly explained. In addition, victims should be told what role follow-up investigators will have in their case. They should be told how and when they should expect to come in contact with these personnel, and what they should do if follow-up investigators fail to contact them.

Referrals. Following the conclusion of the interview, the investigator should provide the victim with referrals to obtain assistance from appropriate sources. Rape victims frequently suffer emotional disturbances that may arise at various points following their assault. Even victims who initially refuse emotional help sometimes decide to accept it at a later time. The investigator should explore the possibility of providing the victim with a referral to a (1) mental health center, (2) victim assistance group, (3) clergyman, (4) social welfare agency, (5) public health clinic, or (6) other appropriate source.

5.2 Elderly Rape Victims

Comparatively few older women ever report being the victim of a rape or an attempted rape. For that reason, most patrol officers will seldom have occasion to handle a case involving an elderly victim. Nonetheless, rape complaints from women in their eighties and nineties are received from time to time.² Merely trying to obtain a description of the assault from an older victim can present major problems. The emotional impact of the rape may be more pronounced as victims advance into old age. Following their victimization, these women sometimes develop an incapacitating sense of fear. Frequently these victims have trouble remembering significant aspects of their attack. Failing sensory acuity makes the identification of possible suspects particularly difficult for them. Even such things as enhanced interest by the news media can cause difficulties when an elderly woman reports being raped. In many ways, the problems associated with a rape case involving especially old victims are analogous to those encountered in cases involving especially young victims.

There are few solutions to the special problems that arise when an elderly woman is raped. An officer's basic strategy should be to expect more than the usual number of problems associated with a rape case and prepare to handle each difficulty as it arises. Police officers should be prepared to alter their vocabulary when interviewing elderly victims. They should expect a greater need for crisis intervention techniques. The victim's physical infirmities might require investigating officers to rely much more heavily on means of suspect identification other than visual recognition by the complainant. In general, when called upon to handle a rape involving an elderly victim, patrol officers should recognize the potential for problems posed by these cases and proceed accordingly.

5.3 Adolescent Victims

A great number of victims who report being raped are juveniles. In many jurisdictions, over half of all rape victims are under the age of 20. The interview of an adolescent victim should be conducted in much the same way as the interview of an adult. However, officers should be aware of certain additional issues when interviewing a rape victim who is a teenage juvenile.

Level of understanding. Especially with young teenagers, it is important to establish the victim's level of understanding of sexual matters. Older teenagers from more conservative backgrounds may also be surprisingly uninformed. Most teenagers do not have extensive medical or anatomical vocabularies. Therefore, it is necessary to determine not only the level of the victim's understanding of sexual matters, but also the degree to which the victim understands the technical terms which might be used during an interview. However, officers should not be surprised to discover that individual victims have a considerable knowledge of the appropriate vocabulary and no small amount of familiarity with the subject of sex.

Unusual circumstances. Rape reports from adolescent victims sometimes involve remarkably unusual circumstances. When handling a rape case involving circumstances that are especially out of the ordinary, the victim should be interviewed with particular care. While any rape report involving especially unusual circumstances should arouse the curiosity of the police, experienced sex crimes investigators recommend close questioning of juvenile victims who may be in need of an alibi for improper behavior. Experienced detectives further advise that stories involving abductions which are either too elaborate or too vague often signal the need for added caution when evaluating the validity of rape complaints made by adolescents.

While special attention is advised when interviewing teenage rape victims, officers should also be aware of the possible existence of a generation gap between them-

selves and the interviewee. Without realizing it, the attitudes of adults sometimes cloud their objectivity. When interviewing a juvenile victim, police officers should be especially conscious of this possibility. They should realize that juveniles can be naively involved in situations that are particularly unbelievable when viewed from an adult perspective. Regrettably, the inexperience of teenagers sometimes blinds them to the potential dangers of certain circumstances. When evaluating a juvenile's story, officers should be careful but not unreasonably skeptical.

Special problems. There are certain special problems involved with the investigation of rape cases with adolescent victims. Some of these difficulties relate to such things as obtaining permission for a medical examination from parents whom victims do not want notified. Another difficulty which is sometimes encountered relates to victims who wish to withhold certain information pertaining to their assault. Such information may involve activities about which they do not wish their parents, or, possibly, the police, to become aware. Under-aged drinking and marijuana use are typical examples of these activities. When special difficulties involving parents are encountered, officers should help adolescents deal with both the problem and the parents. When the difficulties involve what could be police matters, officers should explain to the adolescent that their function is to apprehend and prosecute the accused rapist, not the victim.

5.4 Child Victims

A significant number of pre-adolescent and young children are reported to be the victims of sexual assault. Patrol officers are frequently called upon to interview these young victims. Interviewing a child who has been the victim of a sexual assault is usually a most difficult task. Quite naturally, most police officers feel an increased degree of disgust when dealing with a case involving an especially young rape victim. In addition to difficulties which sometimes arise as a result of personal feelings regarding such cases, the extreme youth of the victim is a direct cause of many problems. Insufficient vocabulary and lack of understanding of sexual matters are but two of the most obvious difficulties which are likely to be encountered. If the accused is a loved one or family member, the child may be ambivalent about getting the perpetrator "into trouble." The child may also fear punishment or retaliation.

Contrary to the beliefs of some people, an active imagination is rarely the source of a sexual assault complaint from a child. The facts of the incident under investigation may be blurred by psychological defense mechanisms, but few young children have sufficient knowledge about sexual matters to invent an explicit description of a sexual assault.

Interviewing young rape victims can present many problems. The younger the victim, the more difficult the task. Many valuable perspectives regarding the interview of child and other young victims of rape were obtained by surveying experienced sex crimes detectives. The following is a digest of the information received from these officers.³

Preparing the interview. Prior to interviewing a young rape victim, officers should make some initial preparations. Frequently the authorities learn of rape cases involving a child from indirect sources such as family members, teachers, medical personnel, or social workers. As soon as the police learn of the alleged assault of a child, measures should be taken to ensure that a description of the event is not repeated in front of the child by the adults involved in the case. Children's recollections of the event should not be influenced by having the story of the assault told and retold in their presence.

The experienced detectives who were interviewed regarding this topic made many specific suggestions regarding the actual interview of child rape victims. Most of these officers agreed that parents should be excluded from the interview, presumably to avoid inhibiting the child. However, this was not a unanimous opinion. In some instances, the presence of parents might be necessary to help calm the child. The suggestion was also made that some children should be interviewed twice: once privately, and once in the presence of their parents. In any case, the goal of investigators should be to work with parents, not against them. If parents are interfering with interviewing, giving them a task to perform frequently helps divert them.

Experienced detectives also suggested that in most cases only one officer should interview a child. When possible, the interviewer should sit close to, and at the eye level of, the child. During the interview, touching the child occasionally sometimes helps to provide further reassurance. Officers should be prepared to use much patience and sensitivity when interviewing children. If possible, a determination should be made as to whether the child would prefer to talk to a female investigator. A few of the experienced detectives surveyed recommended using women to interview child victims as a standard practice.

Child development. Before beginning the interview, investigators should prepare themselves to talk at the child's level. The age, maturity, and educational level of the victim should all be considered in planning the words and expressions that will be used during the interview. Officers should consider the development of the child in terms of the demands that are to be made. For example, young children may not be able to provide accurate information about the hour of an assault, but they may be able to remember what television program was on at the

time. Although the interviewer may prefer the child to describe the assault, or a series of assaults, in chronological order, young victims may not be able to do so. Attention spans of children vary, but they are always limited. Interviewers should stick to the most important issues and avoid tiring children with questions pertaining to minor details. When they begin to answer most questions with "I don't know," or "I can't remember," police officers should be aware that children are no longer interested in continuing the interview. In addition, officers interviewing young children should avoid being too indirect. Failing to ask concrete questions confuses children and further shortens their attention span.

Beginning the interview. The first goal to be accomplished during the actual interview is the establishment of rapport with the child. Discussing one's own children, relatives, neighbors, etc., who are the same age as the interviewee sometimes helps to achieve this. Very early in the interview children should be assured that they have done nothing wrong. They should be made to understand that they are not in any kind of "trouble." Once the child thoroughly understands this, the officer should turn to a discussion of general topics. An attempt should be made to have the child see the interviewer as a friend rather than a police officer. Good rapport can usually be established by discussing the child's friends, school, pets, favorite television programs, brothers and sisters, ambitions, etc.

Substantive interviewing. Once the officer is confident that rapport has been established with the child, the conversation should be turned to the subject of the assault. The specific matter of the assault can often be introduced by asking children, "Do you know why I want to talk to you?" Alternatively, officers can say something like, "Now I want to talk about who is bothering you." Once the topic of the sexual assault is actually introduced, expert detectives recommend that the seriousness of the matter should be neither undermined nor overemphasized. Officers should attempt to discuss the assault without doing any lasting psychological damage to the child.

The specific details of the assault should be obtained by asking the child to describe in his or her own words what happened. If necessary, victims should be reassured that they did not do anything wrong. Victims should also be reassured that they are safe from the assailant. In cases involving young victims, the child is often threatened and may have a substantial fear of reprisal.

Follow-up questions. Invariably it will be necessary to ask the interviewee follow-up questions. More often than not it is necessary to draw things out of the child. When doing so, asking questions that require more than a yes or no answer is often helpful. Asking "What else hap-

pened?" or "Then what did he do?" will generally bring a better response than asking "Did he . . .?" questions. If a child is likely to have difficulty naming anatomical structures, the victim can be asked to point out body parts on boy and girl dolls.

5.5 Interviewing Witnesses

Eyewitnesses are rarely available in rape cases. However, there are many more kinds of witnesses besides those who actually observe the crime being committed. The first person to whom a victim reports being raped can provide very important testimony regarding the victim's response to the assault. Hospital personnel are generally able to supply additional testimony regarding this issue. Neighbors, passersby, and other individuals will frequently be a source of highly persuasive corroborating testimony. Some cases are solved as a result of information provided by identification witnesses who are able to place a suspect at the scene of an assault. Alibi witnesses must often be interviewed regarding statements made by suspects. Few rape investigations involve interviewing an eyewitness. There are, however, other types of witnesses to be interviewed in almost every rape case (see Section 6.3).

General techniques. All witness interviews differ in some respects. However, the general purpose of interviews with witnesses is to obtain information which is of official interest to the police. In some instances, witnesses must be interrogated because they are reluctant to make a full disclosure of the information they possess or because they are suspected of being implicated in the commission of the crime. Regardless of whether an officer is preparing an interview or an interrogation, there are some general guidelines which are usually of great potential value:

- (1) Record pertinent information. Officers should take great care to record all the information that investigators will need to locate witnesses who may give further statements. The kind of information the witness can provide should also be reported.

- (2) Avoid catchwords. Obtaining even an informal statement from some people can cause difficulties if they fear that "getting involved" might result in a court appearance. Avoiding words like "witness" and "testify" as well as allusions to the possibility of being subpoenaed frequently decreases such difficulties.

- (3) Encourage reluctant witnesses. Some witnesses are reluctant to supply information which might "cause trouble." This problem must usually be solved on a case-by-case basis. Sometimes appealing to a witness's ego needs or feigning the need of information for "confirmation" purposes helps encourage reluctant witnesses.

(4) Keep witnesses separated. While waiting to give statements, witnesses as well as suspects should be kept apart from one another, if possible in different rooms.

(5) Respect the victim's privacy. All victims, and especially those who have been raped, appreciate maintaining as much privacy as possible. When interviewing potential witnesses, identifying either the victim or the specific crime that was committed should be avoided. Indeed, it is sometimes easier to obtain information from potential witnesses regarding a suspect who "broke into a residence," "stole a purse," or "threatened a neighbor" than it is to obtain cooperation in a "rape" investigation.

(6) Maximize inquiries. Many witnesses are reluctant to come forward with information. Others may not realize the importance of the information they possess. Maximizing the number of inquiries that are made will increase the number of potential witnesses who are identified.

(7) Plan ahead. Plan the questions to be asked of witnesses. Basic questions establishing the facts in chronological order are always helpful.

(8) Establish the elements of the crime. Witnesses should be asked questions to establish the existence of the elements of the crime. Appropriate follow-up questions to jog memories or help adjust exaggerations are also necessary in most instances.

(9) Separate facts from inference. Simple, direct questions can be used to separate facts from inference, opinions, and speculation.

(10) Select appropriate language. Vocabulary, language, and style should be suited to specific interview situations. Jargon and legalistic questions should be avoided. Friendly chitchat may be initially helpful, but once the formal interview has begun, encourage the witness to stick to the subject.

(11) Use a question-answer format for witness statements. This format is frequently the most effective way to obtain the specific information in written statements. Most written statements from witnesses consist of undirected narratives. An alternative method for obtaining witness statements involves writing out a specific question on the witness's statement form and then requesting the witness to provide a written response directly beneath it.

(12) Provide necessary advisements. Frequently witnesses have reasons to provide information which is not completely accurate. Some such statements result from an attempt to conceal complicity in a crime. Particularly in

rape cases, alibi witnesses may be helping a friend conceal the truth. Whenever it is indicated, an appropriate advisement of rights should be provided to the witness prior to the beginning of the interview. When doing so, citing local law concerning false statements from witnesses and administering the advisement in writing may help to underscore the seriousness of the situation.

5.6 Interviewing Rape Suspects

Patrol officers generally do not have occasion to interview individuals who have been arrested and identified as accused rapists. However, they frequently have occasion to question possible suspects who are stopped in the vicinity of the crime scene. When undertaking such interviews, patrol officers should rely on the same techniques they use in dealing with other suspected felons.⁴ In particular, officers should concentrate on questions to establish whether the suspect is actually the individual being sought. As in all other cases, once sufficient probable cause is developed to take the suspect into custody, he should be properly advised of his constitutional rights.

5.7 Summary

Interviewing the victim to obtain a formal statement is a critical part of the investigation of a rape case. The information supplied by the victim will direct the entire course of all police activities. The way in which the interview is conducted will have a direct bearing on the victim's willingness to continue to cooperate in the investigation and prosecution of her case. Although it may be necessary to obtain embarrassing personal information from the victim, good interview techniques can be used to do so with sensitivity, discretion, and professionalism. Regardless of the victim's age, officers can develop interview skills that will maximize the amount of useful information which is obtained while minimizing further emotional trauma for the victim.

Although there are few eyewitnesses to rapes, there are almost always other types of witnesses to be interviewed. In cases involving victims who immediately report being raped, the first person they notify can testify as a fresh-complaint witness. Other people can usually corroborate some aspect of a victim's account of her assault. Witnesses of all types are very important to the development of successful rape prosecutions. Enhancing skills to interview witnesses is as important as developing techniques for interviewing victims.

Patrol officers seldom have occasion to interrogate arrestees who have been identified as accused rapists. However, they are frequently called upon to question possible suspects stopped near the scene of a rape. When conducting such interviews, officers should utilize the same procedure as would apply in any other serious felony.

NOTES

¹ International Association of Chiefs of Police, *Training Key Number 210—Interviewing the Rape Victim* (Gaithersburg, Md.: International Association of Chiefs of Police, 1974).

² Charles R. Hayman, M.D., "Sexual Assaults on Women and Girls," *Annals of Internal Medicine*, 72, No. 2 (1970), 277.

³ Also see C. J. Flammang, "Interviewing Child Victims of Sex Offenses," *Police*, 16, No. 6 (February, 1972), pp. 24-28; Interna-

tional Association of Chiefs of Police, *Training Key Number 224—Interviewing the Child Sex Victim* (Gaithersburg, Md.: International Association of Chiefs of Police, 1975).

⁴ See Charles E. O'Hara, *Fundamentals of Criminal Investigation* (2nd ed.; Springfield, Ill.: Charles C Thomas, 1970), Chapter 10, "Admissions, Confessions, and Written Statements," pp. 126-141, and Appendix I, "Interrogation Techniques," pp. 814-831.

CHAPTER 6. EVIDENCE

Evidence consists of the objects, documents, and statements by witnesses which are used to further an investigation or establish the facts of a case in a court of law. Material objects are known as physical evidence, while statements by witnesses are known as testimonial evidence. Evidence may be used either to prove or disprove the existence of the elements of a crime. The successful conclusion of every criminal investigation depends on the value of the evidence that can be collected and developed.

6.1 Sufficiency of Evidence

Police officers must frequently make decisions regarding the volume of evidence sufficient to establish an element of a crime. Prosecutors generally encourage police to collect every possible piece of physical evidence and interview all potential witnesses. However, resource limitations prevent such extensive efforts except in the most serious of cases. Predicting the defense an accused rapist is likely to offer helps resolve this dilemma. Patrol officers should concentrate on developing evidence that will prove the element that is most likely to be the basis of the defense offered by the accused. If it is likely that the accused will offer an identification defense, special efforts should be expended to develop evidence to establish the identification of the perpetrator. The same principle holds for consent, penetration, and insanity defenses.

6.2 Physical Evidence

In rape cases, physical evidence can be used to corroborate (1) sexual penetration, (2) the identity of the perpetrator, and (3) lack of victim consent. In practice, however, the primary use of physical evidence is to prove a case against a suspect who has been identified through other means.¹ As a rule, physical evidence seldom leads to the identification of an unknown suspect. It is rarely, if ever, the only source of proof presented in a rape prosecution. In fact, technical problems frequently prevent items from being admitted as evidence because they have not been properly obtained, collected, or processed.

Obtaining physical evidence. The first problem involved in obtaining physical evidence is locating it. Depending on the circumstances of the crime and how promptly it was reported, physical evidence may be found at any of several different places. The following are locations which could be processed by the appropri-

ate personnel for the presence of physical evidence:

- (1) crime scene—the location where sexual penetration actually occurred;
- (2) the venue—the general vicinity of the crime scene, including the curtilage and other rooms in the same house or building;
- (3) the location of initial contact—the place where the victim was first contacted by her assailant;
- (4) the route of travel—the path taken by the victim and her assailant from the location of first encounter to the crime scene;
- (5) vehicles—any means of transportation the victim and her assailant used to travel from the location of first encounter to the crime scene;
- (6) the victim—the victim's person, including her external body surfaces from which latent fingerprints of the assailant may be lifted (see Section 8.3, "Fingerprints"), her clothing, her hair, and the areas of her body subjected to sexual contact;
- (7) the accused—the body and clothing of any suspect; and
- (8) the property of the accused—the home and vehicles of the accused frequently yield valuable physical evidence even if they were not used during the commission of the crime (see Section 7.1 "Suspect's Clothing," and 9.3 "Tom Clothing.")

Obviously, when dealing with physical evidence obtained from the suspect, his residence, or his vehicles, it is necessary to observe all of the relevant law concerning search and seizure. Items are frequently suppressed as evidence because of an improper search or unlawful seizure. To avoid such problems, warrants or court orders should be used whenever possible. As a general rule, warrantless searches of a suspect's residence or vehicle should never be conducted, even if that search is incident to an arrest. Sealing the premises or impounding the vehicle while a warrant is obtained places the burden of proof on the defense in the event of a suppression hearing. Similarly, obtaining a court order before removing evidence which requires a significant intrusion of the defendant's person likewise affirms the legality of the seizure. Failing to obtain a warrant or a court order frequently results in the suppression of irreplaceable evidence.

Also of great importance are certain other factors which should be taken into consideration when articles to be used as evidence are obtained from the victim or her residence. Items impounded as evidence are frequently held for extended periods of time. In addition, laboratory

procedures sometimes ruin articles which are submitted for analysis. Holding items for extended periods or damaging them beyond use can cause a substantial hardship for some victims. Whenever it is necessary or desirable to impound property belonging to the victim, the consequences of doing so should be discussed with her in advance. She should be told how, when, and in what condition she can expect the return of her property. She should also be told what impact withholding items is likely to have on the successful prosecution of her case.

Collecting physical evidence. Physical evidence must be properly collected and maintained to insure both its admissibility and value. A frequent source of difficulty in criminal prosecution is the failure of police, medical, laboratory, and custodial personnel to maintain an unbroken chain of custody. To avoid this difficulty, patrol personnel should ensure that procedures to maintain the chain of custody for items of evidence are carefully followed.

The best method to preserve a chain of custody is to minimize the number of people required to handle items. For example, when conducting a crime scene search, only one officer should be responsible for collecting and labeling evidence, irrespective of who located the item. Ideally the officer assigned to collect and label evidence should be a specially trained evidence technician. In any case, every effort should be made to maintain the shortest possible chain of custody.

All items of physical evidence should be collected, labeled, and preserved so as to avoid damage and contamination. Providing specific procedures to accomplish this is beyond the scope of this manual. To obtain such information, the reader is referred to the following:

Bloch, Peter. B and Donald R. Weidman. *Managing Criminal Investigations* (Washington, D.C.: U.S. Government Printing Office, 1975);

Fox, Richard H. and Carl L. Cunningham. *Crime Scene Search and Physical Evidence Handbook* (Washington, D.C.: U.S. Government Printing Office, 1973); and

Federal Bureau of Investigation. *Handbook of Forensic Science* (Washington, D.C.: U.S. Government Printing Office, 1974).

6.3 Testimonial Evidence

In rape cases, testimonial evidence—the statement made by a witness under oath—is often more valuable than physical evidence. This is because testimonial evidence is usually much more readily available than physical evidence. In most states, a rapist could theoretically be convicted using nothing more than the testimony of the victim. However, in practice, a successful prosecution for rape is normally impossible without a substantial amount of corroborating evidence. The most valuable source of such corroboration is the testimonial evidence

which may be obtained from various kinds of witnesses.

Patrol officers. The witnesses of greatest potential value in a rape prosecution are the first police officers to contact the victim following her report. These officers can provide indispensable testimony regarding the victim's lack of consent. As trained observers, these personnel can report on the emotional condition of the victim as well as her personal appearance. Both of these are highly relevant evidence pertaining to the element of consent. For this reason, patrol officers should take great care to make complete field notes regarding their observation of these factors. In particular, the first officer to come in contact with the victim, and the officer who takes the victim's initial statement should make good field notes regarding their observations of the victim's physical appearance and emotional condition. More importantly, a description of these factors should be included in the body of the initial crime report. (Also see Sections 4.7, "Initial Interview," and 9.4, "Patrol Officers.")

Medical personnel. The medical personnel who deal with a victim immediately following her assault can be very valuable witnesses in a rape prosecution. These personnel can help prove both the element of sexual penetration and the lack of victim consent. The doctor who performs the pelvic examination of the victim is an expert witness who can testify regarding both of these elements. Other medical personnel who can testify regarding the victim's emotional condition, injuries, or physical appearance also make valuable witnesses. Patrol officers should insure that the names of the medical personnel who treat rape victims are recorded for use by follow-up investigators.

Other witnesses. Many other witnesses can be called to corroborate various aspects of the victim's account of her assault. Sometimes these witnesses can provide direct evidence that the defendant did in fact commit the crime of which he is accused. Other times, witnesses can do nothing more than help reduce doubt that the defendant is guilty. The value of this kind of testimony should not be underestimated. In addition, locating witnesses who can corroborate portions of the victim's statement and thus enhance her credibility can also be of great value in a rape prosecution. Patrol officers should always make special efforts to locate potential witnesses and record their identity, how they can be reached, and what information they can provide.

6.4 Summary

The successful outcome of rape cases depends on the value of the evidence that is collected during the course of the preliminary investigation. Most physical evidence must be collected at the time of the initial report or it will be lost. Evidence can be of either positive or negative

value. That is, specific evidence can be used to prove that either a crime was committed or that it was not; evidence may be used to help prove that a particular suspect was the perpetrator of the crime or it can be used to eliminate an individual from further suspicion. Some evidence can provide direct proof of an element of the crime, while other evidence can only help to eliminate doubt. In view

of this consideration, police personnel should always attempt to obtain any evidence that might be of value. However, since the resources that can be devoted to the collection and development of evidence are limited, police officers should selectively collect the evidence that will be of greatest potential use in neutralizing the defense the accused is most likely to offer.

NOTES

¹ Peter B. Bloch and Donald R. Weidman, *Managing Criminal Investigations* (Washington, D.C.: U.S. Government Printing Office, 1975), p. 25.

CHAPTER 7. EVIDENCE TO ESTABLISH SEXUAL PENETRATION

In order to establish that a rape has been committed, it is necessary to prove that sexual penetration has taken place. Technically, the only evidence necessary to prove the existence of this element is the testimony of the victim. However, corroborating the victim's testimony through other means helps not only to provide added proof relating to this element, but it also adds credibility to the victim's testimony regarding the remaining elements of the crime. At the time of the victim's initial report, police officers should concentrate on collecting evidence to establish this element of the crime. The two primary sources of such evidence are the crime scene and the victim's medical examination. In addition, various sources of testimonial evidence of sexual penetration are also available. Attention should be devoted to collecting evidence of sexual penetration in all rape cases, but particularly those in which the predicted defense is based on this element.

7.1 Crime Scene Evidence

A considerable amount of evidence of sexual penetration is usually available from the scene of a rape and other related sources. In most cases, if this evidence is not obtained at the time of a victim's initial report, it will be lost. As a result, the officers involved in the initial response to a rape complaint must ensure that such evidence is collected. In addition, officers should remember this kind of evidence is actually proof of emission rather than penetration. For that reason, negative findings can be interpreted to mean a perpetrator either did not ejaculate or perhaps wore a condom. Moreover, when items stained with body fluids (blood, semen, etc.) are obtained, they should be dried and collected into paper bags, *not* plastic bags, in order to prevent putrefaction.¹

Bedding, etc. Semen stains can usually be located at the scene of a rape. Depending on where the crime actually occurred, these stains may be found on bedding, furniture cushions, auto upholstery, and even in dirt samples in the case of offenses committed out-of-doors. An effort should always be made to recover items from the crime scene which are likely to contain evidence of seminal emission. However, as a courtesy to the victim, before any of her personal property is collected for analysis, she should be told why the items are needed. Further, it is preferable not to remove anything from the victim's home without her knowledge and permission.

Towels and tissues. Frequently individuals involved in rapes wipe sexual secretions from their bodies with

towels, tissues, etc. The victim should be asked if she is aware of any item that may have been used for this purpose by either herself or the accused. If so, she should be asked for her permission to collect such items so they may be analyzed for evidence of sexual penetration.

Victim's clothing. A rape victim's clothing, particularly her underwear, will usually be stained with semen. All of the victim's clothing, but especially her panties, should always be collected and analyzed for the presence of semen stains. Before going to the hospital, the victim should be told that she will need a change of clothes and why.

Suspect's clothing. If a suspect is arrested before he has the opportunity to change, it is likely that semen stains will be found on his clothes. Even if the suspect has changed, if the clothes he was wearing during the assault can be recovered before they have been laundered, semen stains are likely to be found.

Photographs. Photographic evidence of sexual penetration is sometimes recovered at the scene of a rape. This is most likely to be true of crimes that involve accomplices. In addition, victims who have been taken to the perpetrator's residence or some type of a "club house" are sometimes photographed while they are being assaulted. If the victim knows that she was photographed or if circumstances indicate that a camera found at a crime scene might contain photographs of the offense, appropriate measures should be taken to seize such items as evidence.

7.2 Medical Examination

A medical examination immediately following an assault is the best means of establishing the existence of sexual penetration.² Such medical examinations yield two types of evidence of sexual penetration. (1) Physical evidence may be collected from the victim's body which can be examined to provide proof of penetration and how much time has elapsed since it occurred. (2) The physician who performs the examination can testify as an expert witness regarding the physical signs of penetration that are observed.

Rape kits. Many police agencies utilize so-called rape kits to obtain medical evidence in sexual assaults. These kits generally contain the cotton swabs, microscope slides, test tubes, paper bags, etc. necessary to examine rape victims and collect the appropriate evidence. Patrol officers should ensure that existing procedures for the use of rape kits are carefully followed. In some jurisdictions,

patrol officers are required to obtain used rape kits from hospital personnel and deliver them to specified locations, either for analysis or storage. In such instances, officers should be particularly careful to observe procedures involving the handling of perishable medical specimens.

Vaginal samples. Samples taken from the victim's vagina can be microscopically examined for the presence and motility—the degree of movement—of sperm. The existence of sperm cells in these samples is positive proof of sexual penetration. The number and motility of sperm cells can be used to determine how recently the sexual penetration occurred. However, the absence of sperm cells is not necessarily evidence that sexual penetration did not occur. The perpetrator might have been born sterile, had a vasectomy, or he might have used a condom. It is also possible that the perpetrator failed to ejaculate.

Acid phosphatase. Acid phosphatase is characteristically found in seminal fluid. A sufficient concentration of this enzyme in the specimens taken from the victim's vagina is evidence of sexual penetration. This test can be used to prove penetration in cases involving victims who have douched and not been examined for many hours since their assaults. In one case positive evidence of penetration was found in a woman who had douched thoroughly and not been examined for 22 hours. Another involved a victim who was not examined until 34½ hours after being assaulted.³

Wood's lamp. Seminal fluid is fluorescent. A Wood's lamp can be used to detect the presence of seminal stains on the victim's clothing, body surfaces, or at the crime scene. However, many substances are fluorescent, including petroleum jelly lubricants.⁴ Therefore, laboratory analysis is always necessary to confirm that a stain contains semen.

Visual observation. An experienced physician's visual observations during the pelvic examination of a rape victim can be a good source of evidence of sexual penetration. The condition of the victim's hymen as well as other portions of her genitalia can provide definite evidence of sexual contact. The value of a medical examination for obtaining evidence should always be explained to victims, and, more importantly, they should be made aware of the necessity of such examinations to their personal health and well-being.

7.3 Testimonial Evidence

A statement from the victim regarding the sexual aspects of the assault should always be obtained. In some cases, the accused is willing to admit to having had sexual relations with the victim. This is particularly true when a defendant is contemplating a defense based on consent. Such statements by a suspect should be recorded for use as evidence. In addition to statements made by the victim and the perpetrator, other persons may be able to provide testimonial evidence relating to the element of sexual penetration. These individuals may be accomplices who are willing to testify for the prosecution, or they may be eyewitnesses to the crime.

7.4 Summary

To obtain a conviction for rape it is always necessary to establish the element of sexual penetration. Proving this element of the crime is usually established through the use of medical evidence. In addition, items of evidence recovered from the crime scene can also be used to corroborate sexual penetration. Despite the fact that comparatively few accused rapists offer a defense based on lack of penetration, sufficient evidence to prove this element must always be obtained.

NOTES

¹ For instructions on how to handle crime scene evidence in rape cases see: International Association of Chiefs of Police, *Training Key Number 137—Physical Evidence—Semen* (Washington, D.C.: International Association of Chiefs of Police, 1970).

² For descriptions of medical procedures for examining rape victims see: *American College of Obstetricians and Gynecologists Technical Bulletin*, No. 14, "Suspect Rape" (ACOG, 1 East Wacker Drive, Chicago, Illinois 60601, 312/222-1600); G. Richard Braen, M.D., *The Rape Examination* (North Chicago, Illinois: Abbott Laboratories, 1976); W. F. Enos, M.D., J. C. Beyer, M.D., and G. T. Mann, M.D., LL.D., "The Medical Examination of Cases of Rape," *Journal of Forensic Sciences*, 17, No. 1 (1972), 50-56; Charles R. Hayman,

"Sexual Assaults on Women and Girls," *Annals of Internal Medicine*, 72, No. 2 (1970); Jack H. McCubbin, M.D. and Daniel E. Scott, M.D., "Management of Alleged Sexual Assault," *Texas Medicine*, 69 (September 1973), 59-64; Louis R. Vitullo, "Physical Evidence in Rape Cases," *Journal of Police Science and Administration*, 2, No. 2 (1974), 160-163.

³ Joseph C. Rupp, M.D., Ph.D., "Sperm Survival and Prostatic Acid Phosphatase Activity in Victims of Sexual Assault," *Journal of Forensic Sciences*, 14, No. 2 (April 1969), 177-83.

⁴ David M. Paul, "The Medical Examination in Sexual Offenses," *Medicine, Science, and the Law*, 15, No. 3 (July 1975), 156.

CHAPTER 8. EVIDENCE TO ESTABLISH IDENTITY

To obtain a conviction for any criminal offense, the identity of the perpetrator must be proven beyond a reasonable doubt. Developing such proof can be especially difficult in rape cases. Many rapes are stranger-to-stranger crimes in which the victim is the only witness able to identify the accused. However, victims are sometimes unable to provide a visual identification of the perpetrator because many rapists are careful to conceal their identity. In these cases it is particularly important to gather evidence to prove identity because the defense offered by the perpetrator will probably be based on this element. There are many techniques which can be used for (1) apprehending fleeing assailants, (2) generating pools of possible suspects, and (3) confirming the identification of arrestees. Experienced sex crimes detectives and patrol personnel were surveyed regarding the relative effectiveness of these investigative techniques. The data provided by these officers are incorporated in the information presented below.

8.1 Apprehending Fleeing Assailants

Police are at the scene of a large majority of reported rapes within 1 hour of the time they are committed; they are at the scene of many within 10 minutes. There is, therefore, a significant chance that an accused rapist can be apprehended in the vicinity of a crime scene. The following techniques can be used to increase the likelihood of arresting a fleeing assailant. Patrol officers should be aware of these techniques and ensure that they are fully utilized during the initial response to a rape report.

Radio lookout. In cases that involve an immediate report, a description of the assailant should always be broadcast. The procedures to accomplish this should be established by individual police agencies. Ideally, a preliminary description of the accused should be transmitted *after* a unit has been assigned to handle the initial investigation. By assigning a unit first, and broadcasting the description second, the responding officers can be on the lookout for a fleeing suspect as they approach the crime scene. In addition, the responding officers can be en route to the scene while communications personnel are obtaining description information. A further description may be aired at the appropriate time by the officers dispatched to the scene.

Area search. In all cases involving an immediate report, the venue of the crime should be searched. The assailant's direction and mode of travel, if known,

should guide these efforts. In addition, the time elapsed since the commission of the crime should help to determine how far from the crime scene the assailant may have been able to travel. Personnel coordinating an area search should always make certain that logical escape routes are covered, as well as the immediate vicinity of the crime.

Back-up units. Additional patrol units should not proceed to the scene of a rape report unless further assistance is specifically requested. Observing this procedure not only helps victims preserve their privacy, but it can also improve the chances of apprehending fleeing suspects. In many instances, officers flood the immediate area of the crime with radio cars. This often adds to the victim's embarrassment, but does little to locate suspects. Especially when a description of the suspect and/or his vehicle is immediately broadcasted, officers in the patrol districts which surround the crime scene should be aware of the possibility that a suspect might flee into their areas. Rather than speeding to the scene as back-up, patrol units should take positions from which they can monitor major intersections and arterial roadways for possible suspects.

Foot searches. Some of the officers directed to respond to the area of a rape report should be assigned to conduct foot searches. Many suspects who could avoid detection from a patrol car cannot hide from officers on foot. Foot searches of the venue of the crime should include other areas of the same building in which the crime was committed; logical hiding places around the premises; and visits to neighborhood bars, cafes, and other open businesses into which suspects might have fled.

Helicopter surveillance. The value of helicopters in rape cases is largely the same as it is in other major felonies. Their value is primarily associated with pursuit and search functions. Beyond these specific applications, helicopters do not seem to be of any added value in rape investigations.

Tracking dogs. Many police agencies have access to tracking dogs. In cases involving an immediate report, dogs can substantially increase the likelihood of locating fleeing or hiding suspects. The nature of a rape dictates that the assailant will leave a large amount of scent at the scene of the crime. If tracking dogs are brought into the case promptly, they are of great potential value.

Serving warrants. Many law enforcement agencies have formal and informal procedures by which patrol

officers assist investigators in serving arrest warrants on accused rapists. Even in departments where such procedure do not exist, patrol officers can and should contact detectives regarding the possibility of being of assistance in locating an accused rapist for whom an arrest warrant has been obtained. Frequently investigators welcome such cooperation. In many instances patrol officers can arrest defendants that investigators had been unable to locate. In general, patrol personnel should always feel free to contact detectives regarding possible cooperation on the apprehension of suspects.

8.2 Generating Pools of Possible Suspects

There are many techniques which can be used to generate pools of possible suspects in rape cases. Most of these are investigative techniques which are used exclusively by detectives. However, some of these techniques require the direct assistance of patrol personnel in order to be successful. The following are some of the investigative techniques which cannot be successfully utilized without the active cooperation of patrol officers.

Composite pictures. Composite pictures can be of great value in the investigation of rape cases. They can be used to help identify possible suspects and locate witnesses. In many instances follow-up investigators will post or distribute composite pictures of individuals accused of rape. Patrol officers have a very important role in identifying possible suspects through the use of these pictures. Most individuals accused of rape have police records for previous arrests, particularly for violent and assaultive crimes. The chances are good, therefore, that patrol officers will recognize composite pictures of a suspect with whom they have had previous contact.

Area canvass. Many expert detectives believe that the area canvass is the most effective way to identify possible suspects in a rape case. The venue of the crime, the route of travel, and the location of first encounter should all be canvassed as dictated by the circumstances of the offense. Canvassing should be done immediately. However, recon canvassing with a composite picture of the perpetrator can be especially helpful. Conducting the canvass on the same day of the week and at the same hour as when the individual being sought was thought to have been in the area is also of value. The details of every canvass, including both positive and negative results, should be reported for future reference by all personnel involved with the case. Patrol officers are frequently asked to conduct area canvasses both at the time of the initial report and on later occasions. The leads patrol personnel develop while canvassing frequently make cases for prosecution.

File suspects. In all rape investigations involving unknown assailants, detectives utilize various types of files containing (1) names of previous offenders, (2) *modus*

operandi information, (3) photographs of arrestees, (4) descriptions of suspects, (5) motor vehicle registrations, and other similar types of information to generate pools of possible suspects. Patrol officers can contribute to the successful use of these files by providing information to be catalogued, and assisting detectives in locating the possible suspects that are identified from these sources.

Intradepartmental communications. Detectives often utilize various types of intradepartmental communications to inform patrol officers about suspects who are wanted for questioning in rape cases. Composite pictures and flyers describing specific rapes are frequently used, especially in cases which appear to be part of a pattern. However, in any type of case, patrol officers should contact the appropriate investigator any time potentially valuable information is obtained. Providing follow-up investigators with information helps establish channels of communication which can mutually benefit both patrol and investigative personnel.

Second sightings. Experienced detectives have reported the value of second sightings in identifying a rape suspect. Witnesses and victims should be instructed to make the appropriate notifications if they subsequently sight the accused on the street or elsewhere. In addition, it is often valuable to make periodic visits with the victim to locations where there is a possibility of sighting a suspect. Patrol officers can contribute to the success of this technique by (1) being prepared to respond to calls involving victims who report sighting an accused rapist, and (2) making themselves available to accompany victims while they look for their assailants from unmarked police vehicles.

Informants. Since most rapists are solitary offenders who do not make the commission of their crime known to others, informants are seldom available in rape cases. Sometimes informants can be found for cases involving multiple offenders. When informants are located, they generally prove to be very valuable. Patrol officers should attempt to develop leads regarding suspects whenever possible. However, they are more likely to discover citizen-informants able to provide leads on reluctant witnesses rather than suspects. Neighborhood officers should make special efforts to obtain information from citizens which might be of value in establishing any element of a rape.

Stakeouts and decoys. In some instances the use of a stakeout or decoy is indicated. Such operations are time-consuming and expensive. Their success is directly related to the accuracy with which the hour and place of attacks can be predicted. When these operations are in progress, patrol activity should look as "normal" as possible so as not to alert perpetrators who might be attempting to coordinate their attacks with police movements. The personnel in charge of a stakeout or decoy

operation should normally brief patrol officers regarding the kind of cooperation they desire.

Arranged meetings. Rapists can sometimes be arrested through the stakeout of an arranged meeting between the accused and the victim. At the time of the crime, some perpetrators ask their victims for dates or otherwise attempt to arrange future meetings. In these cases, victims frequently agree to the plan proposed by the accused to facilitate their release. Whenever victims seem emotionally strong enough to do so, they should be asked to keep such appointments so stakeout officers can arrest the accused.

Recent arrests. Many suspects are repeat offenders, both as rapists and as the perpetrators of other crimes.¹ As a result, patrol officers should be aware of the possibility of identifying a suspected rapist among individuals who have been arrested for other offenses. Indeed the same individuals sometimes commit more than one type of offense during a continuous criminal episode. Patrol officers should be cognizant of the possibility of linking crimes based on time and place. Particular attention should be paid to crimes like prowling and window peeping because such individuals might actually be involved in rapes.

Field interrogation cards. Almost all police agencies utilize some kind of form to report interrogations of suspicious individuals encountered in the field. These files frequently provide investigators with possible suspects in rape cases. Patrol officers should make every effort to complete field interrogation reports on any individuals who are behaving suspiciously, especially in areas where rapes have been known to occur.

Suspicious vehicle reports. Another very useful tool for investigators attempting to generate suspects in rape cases is the file of suspicious vehicle reports completed by patrol officers. Many rapists park their vehicles in the vicinity of their attacks. Some rapes are actually committed in vehicles. Patrol officers should be well aware of the possibility that suspicious vehicles they discover might be involved in the commission of a rape.

Third-party reports. Third-party reports are unofficial rape complaints made to police agencies through third parties by victims who do not wish to be identified. These reports are usually conveyed through an established channel such as a local rape crisis line or victim services organization. Experienced sex crimes detectives have indicated that third-party reports are rarely of any value in identifying possible suspects in rape cases because unidentified victims cannot be contacted to obtain further information. Patrol officers should be aware of the existence of any third-party reporting system in their own jurisdictions.

8.3 Confirming the Identification of Arrestees

Once a pool of possible suspects (or a specific suspect) has been identified, it is necessary to develop sufficient evidence to prove which, if any, of the suspected individuals actually perpetrated the offense under investigation. Many techniques may be used to accomplish this. In some instances such proof may be achieved exclusively through the use of physical evidence. In others it may be achieved through the use of testimonial evidence alone. In all instances, the more evidence of identity that is developed, the stronger the case. Therefore, patrol officers should assist with the development of all possible evidence to confirm the identification of any arrestees.

Some of the identity evidence in rape cases will provide direct proof as to the identity of the perpetrator of the offense. Other evidence will only help to reduce doubt. The purpose of some evidence will be to eliminate certain suspects or exculpate others. Regardless of its purpose, all identity evidence should be thoroughly developed and evaluated for its potential use in the prosecution of the case. The following techniques to prove the identification of arrestees are all impacted by the performance of patrol officers.

Fingerprints. As in other criminal proceedings, fingerprints can provide indisputable evidence of identity. When indicated by the circumstances of the case, thoroughness dictates that rape crime scenes should be processed for the presence of latent fingerprints. Failure to do so could introduce a substantial amount of doubt in the minds of a judge or jury as to the validity of other identification evidence. However, experience has shown that few usable fingerprints are ever found at the scene of stranger-to-stranger rape cases, and even fewer suspects are ever identified through the use of these fingerprints. Nonetheless, in all cases involving unknown assailants, at least the most obvious portions of rape crime scenes should be processed for fingerprints. If this is not done, the reasons why should be explained in an official report which will be available to dispell any doubts that might be introduced by the defense at the time of trial.

The primary use of fingerprints in a rape prosecution is to prove a case against a suspect identified through other means, rather than to identify possible suspects. In some cases, this proof is constituted by finding the fingerprints of the accused at the crime scene, the location of initial contact, or some other significant place. In other cases, this proof is established through the discovery of the victim's fingerprints in the suspect's vehicle, residence, or some other location under his control. Patrol officers

who are responsible for processing crime scenes for evidence should take care to examine all of the different locations in which either the suspect's or victim's fingerprints may be located.

Some crime laboratories have established procedures for lifting latent fingerprints from the body surfaces of living victims. These procedures involve special techniques using iodine vapor.² Such advanced techniques are neither widely available nor applicable in every case. In jurisdictions where such procedures are available, officers should see to it that the proper steps are taken to avoid damaging impressions which might be lifted from the victim's skin.

When obtaining fingerprint evidence, officers should always be conscious of their impact on victims. For example, most citizens are very aware that police procedures usually include searching for fingerprints. If this is not done, rape victims may wonder why; they may even get the feeling the failure to look for fingerprints is an indication that officers do not believe them. When a victim's home is dusted for fingerprints, officers should be careful to clean up after themselves. If usable fingerprints are found, it is necessary to obtain a set of the victim's fingerprints. This should be done so as to cause a minimum of inconvenience to the victim. Whenever fingerprints are obtained from a victim, great care should be taken to treat her respectfully and avoid making her feel like a criminal. If attempts are made to lift impressions left by the accused on the victim's body surfaces, all involved personnel should make special efforts to preserve both the victim's modesty and her dignity—she should never be made to feel that she is nothing more than one more piece of evidence.

Blood typing. Most police personnel are aware of the investigative uses of ABO blood types determined from blood samples found at the scene of a crime or in other locations. In rape cases, blood types take on an added significance because they can be determined from the samples of the semen, saliva, and other body fluids of the 80 percent of the population known as "secretors."³ Thus, the perpetrator's blood type can usually be determined by analyzing specimens from the victim's vagina. Although ABO blood type cannot be used to identify an individual to the exclusion of all others, it can be used to eliminate suspects either because they are not secretors, or because their blood type does not match that of the perpetrator. In all cases, but especially those involving rare blood types, such evidence can provide convincing proof to help reduce the amount of doubt in the minds of a judge or jury. To ensure the fullest potential use of this type of evidence, patrol officers should determine the capabilities of their own crime laboratories in identifying and typing (1) stains on bite marks and items of physical evidence, and (2) vaginal specimens. In addition, when

collecting items to be processed for the presence of blood type secretions, officers must be very careful not to contaminate specimens with oils from their own hands.

Pollens, soils, fibers, and stains. Evidence derived from the presence of pollens, soils, fibers, or stains on various items belonging to either the suspect or the victim is frequently underutilized. This is generally a result of the limited resources available for the analysis of physical evidence. Although it is preferable to avoid "fishing expeditions," when there is a good reason to believe evidence of this type may be available, every effort should be made to collect it.

Hairs. Hairs can be of potential evidentiary value in rape cases.⁴ Like certain other types of evidence, most of the information obtainable through the analysis of hairs is generic data which cannot be used to identify an individual to the exclusion of all others. However, in cases involving victims who never saw their assailant, this could be the only descriptive information available. Bedcovers and clothing are the two most common sources of hair evidence. When collecting these objects to be processed for the presence of hairs, officers should take great care to roll and fold items so as not to dislodge any hairs which might be adhering to them. In cases involving the arrest of a suspect who has not had the opportunity to wash, his body should be examined for the presence of the victim's hairs. Depending on local procedures, arresting officers might be required to undertake this task themselves, or, more commonly, they might request jailers make this inspection.

Injuries to the suspect. At the time of the initial report, the victim should be asked if she knows whether the accused was injured in any way. Such information can provide leads regarding the suspect's need to seek medical treatment. In addition, knowing the type and location of any injuries inflicted upon the perpetrator can help to confirm the identification of a suspect who might be located.

Miscellaneous left/taken evidence. In some cases, convincing evidence has resulted from analysis of items either left at or taken from the scene of a crime by either the perpetrator or the victim. Buttons from either the victim's or the suspect's clothing are sometimes found at the venue of the offense or in vehicles used during the crime. Matches and matchbooks, cellophane strips removed when opening packages of cigarettes, or articles of clothing either taken from or left at the scene of a crime can help to prove the perpetrator's identity. Frequently, individuals committing multiple rapes will collect items of their victim's clothing. When possible, the residences, vehicles, and places of employment of suspects should be searched for concealed items which may have been taken from victims or inadvertently left at crime scenes. In addition, if a search conducted during

the course of routine patrol duty should uncover items that might have been taken from the scene of a rape or series of rapes, further investigation should be immediately conducted.

Castings and impressions. In rapes involving breaking and entering, impressions left by tools used to force open doors or windows should not be overlooked. In all cases involving forcible entry, officers should consider utilizing the same techniques that would be appropriate in a burglary investigation. Occasionally, perpetrators leave footprints or tire tracks at the scene of a rape. When available, castings of toolmarks, footprints, or tire tracks can provide valuable evidence to prove the identification of an arrestee. When responding to the scene of a recently committed rape, officers should exercise care to avoid damaging tracks or impressions which may have been left there by the perpetrator. Particularly in cases involving outdoor crime scenes that are approached in a patrol car or on foot, great care should be taken to avoid contamination of evidence.

Lineups. In addition to conventional live lineups, officers responding to rape reports sometimes have occasion to detain possible suspects for an on-scene identification. Most departments have specific procedures for conducting this type of showup. Usually it must be conducted

within about one hour of the commission of the crime and at a reasonable location. Besides the legal requirements for conducting an on-scene identification, officers should also consider the impact of this procedure on the victim. If a victim is suffering an acute reaction to the rape, conducting a showup may not be a good idea. If a showup is to take place, it should be done with the utmost attention to the welfare and feelings of the victim.

8.4 Summary

To obtain a conviction for any type of crime, the accused must be apprehended and positively identified. Various techniques for apprehending fleeing assailants, generating pools of possible suspects, and confirming the identification of arrestees are particularly useful in rape cases. The success of many of these techniques is largely dependent upon cooperation and input of patrol officers. Although communications between patrol and investigative personnel frequently need improvement, all officers should endeavor to unify their efforts to effect the arrest and conviction of accused rapists. The collection of evidence to establish the identity of a suspect is a vital part of the patrol involvement in all rape cases. It is particularly important when the accused is likely to offer a defense based on the victim's inability to identify him.

NOTES

¹ Battelle Law and Justice Study Center, *Forcible Rape: A National Survey of the Response by Police* (Washington, D.C.: U.S. Government Printing Office, 1977), p. 24.

² F. Trowell, "A Method for Fixing Latent Fingerprints Developed with Iodine," *Journal of the Forensic Science Society*, 15, No. 3 (1975), 189-95.

³ Milton Helpern, M.D., and Alexander S. Wiener, M.D., "Group-

ing of Semen in Cases of Rape," *Fertility and Sterility*, 12, No. 6 (1961), pp. 551-553. Also see: Margaret Pereira and P.D. Martin, "Problems in the Grouping of Saliva, Semen, and Other Body Fluids," *Journal of the Forensic Science Society*, 16, No. 2 (April 1976), pp. 151-54.

⁴ Federal Bureau of Investigation, "Don't Miss a Hair," *FBI Law Enforcement Journal* (May 1976).

CHAPTER 9. EVIDENCE TO ESTABLISH LACK OF VICTIM CONSENT

Lack of victim consent is the most difficult element to prove in the majority of rape prosecutions. In rape cases involving principals who are known to each other, a defense based on this element should always be expected. In rapes which involve strangers, variations of the consent defense are also common. Specifically, an accused rapist may claim (1) he is being falsely accused by a prostitute attempting to extort an additional payment, (2) the victim precipitated the crime by hitchhiking or other risk-taking behavior, or (3) he may try to escape censure by impugning the victim's chastity.

Even in rapes involving strangers, a defense based on this element is sometimes possible. For example, an individual who rapes a woman after gaining entrance to her home through deception may later claim sexual penetration was accomplished without the use of force or coercion. In cases involving individuals who have recently met in a social setting, establishing lack of consent may be extremely difficult because the issue is truly clouded by circumstances like the willing use of alcohol or drugs, and voluntary sexual petting. To help establish the actual facts of a case and prevent the use of a fallacious defense, it is necessary to obtain the maximum amount of evidence to establish that sexual penetration occurred without the victim's consent. Patrol officers can make a significant contribution to the development of a substantial amount of this evidence.

9.1 The Victim's Initial Statement

The statement made by the victim at the time of her initial report is one of the most important pieces of evidence to establish lack of consent. By obtaining certain basic information during the initial interview, the existence of lack of consent can be established. However, interviewing on this issue should be held to a minimum, and it should be undertaken with great discretion (1) to avoid increasing the victim's emotional trauma, and (2) to prevent giving the victim the impression she is not believed.

Circumstances of initial contact. In most stranger-to-stranger crimes, the victim's lack of consent is obvious from the circumstances of her initial contact with the perpetrator. However, evidence of this element must still be developed. In particular, it is necessary to know if the accused encountered the victim as a result of an abduction, breaking and entering, deception (e.g., claiming to

need the use of the victim's telephone), impersonation (e.g., claiming to be a repairman of some type), or if their initial contact occurred under voluntary circumstances.

Force and coercion. The use of any force or coercion should be generally documented in the victim's initial statement as evidence of lack of consent. If the accused used a weapon against the victim, it should be described in the initial report and located if possible. If the victim reports the use of any strong-arm force against her, that fact should also be included in the initial report. If applicable, the setting of the crime should be briefly described to demonstrate any advantage the perpetrator may have gained as a result of geographical isolation or surprise. The presence of accomplices or accessories should be mentioned in the initial report. Finally, if the victim relates any threats used against her, these should also be included verbatim in the initial report as evidence of lack of consent.

Resistance and escape. Most courts consider resistance and attempts to escape by the victim to be essential evidence of lack of consent. Frequently evidence that the victim resisted, attempted to defend herself, or tried to escape is available at the crime scene. If it is not collected at the time of the initial report, it will probably be lost. For that reason, the victim should be told of the need to locate and collect any available evidence of resistance and escape attempts. She should then be asked some simple questions intended to discover what evidence of this type might be available. When doing so, however, officers should ensure that the victim understands that such information is sought to assist with the collection of evidence and not because her account of the assault is questioned in any way.

9.2 Medical Evidence of Force

The most persuasive proof of lack of victim consent is generally medical evidence of force used against the victim. Most of this evidence is in the form of testimony provided by the medical personnel who treat the victim for her injuries. In particular, the physician who examines the victim is usually the source of the major portion of such evidence. By helping to make certain that victims receive a medical examination, patrol officers can ensure the availability of this kind of evidence to establish lack of consent.

Physical examination. When a rape victim is transported to a medical facility, she should receive more than a pelvic examination. She should be examined from head to toe for injuries and signs of force. Even the slightest cuts and bruises should be reported by the examining physician. In addition, experienced physicians may be able to provide testimony regarding the force used against the victim from the condition of the victim's pubic area.

Photographs. At the time of trial, color photographs of the victim's injuries have a major impact in proving lack of consent. Injuries that are visible at the time of the examination will generally disappear before the case is prosecuted. In addition, some injuries may not become apparent until two or three days later. In all cases involving physical abuse, permission from victims should be sought to make arrangements for appropriate personnel to take color pictures of their injuries. Preferably, injuries should be photographed both at the time of the victim's physical examination and again after bruises have become more visible.

9.3 Crime Scene Evidence

The crime scene often yields excellent evidence of lack of consent. In some cases the location of the crime scene may help convince a jury of the victim's lack of consent. In many cases, the condition of the crime scene and items of physical evidence can be used to establish the existence of this element. In all cases, patrol officers should make certain that established procedures for the protection and processing of the crime scene are always carried out.

Signs of a struggle. In all cases involving victims who report resisting their assailant, crime scenes should be examined for signs of a struggle. In many instances, such evidence is highly obvious. In other cases, especially those involving offenses committed in vehicles or out-of-doors, signs of a struggle are more difficult to discern. Whenever it is available, evidence of a struggle should be photographed for use at trial.

Damaged clothing. Torn or stretched clothing constitutes excellent evidence of force. Items of damaged clothing should always be collected as evidence of lack of consent. In addition, clothes belonging to the accused may also be damaged by the victim. If circumstances so indicate, appropriate steps should be taken to recover items of torn clothing belonging to the suspect.

Weapons. Efforts should always be made to locate any weapons used during a rape, particularly those items which may have been used as improvised weapons, either by the accused or by the victim in defense of herself. Objects thrown during a struggle should not be overlooked.

Bloodstains. Bloodstains at the scene of the crime have an obvious value as evidence of physical force. In addition, the clothing of the accused, and even his vehicle and residence, should also be searched for bloodstains if the victim reports that there were injuries to either herself or the assailant.

Bindings or blindfolds. If the victim was bound or tied in any way, an attempt to recover the bindings should be made. Frequently rapists will cover their victim's eyes. Items used for this purpose should also be collected as evidence. When victims are interviewed regarding the possible existence of such evidence, officers should explain the value of these items in the prosecution of the accused. In addition, if articles used to bind or blindfold the victim are her personal property, as a courtesy her permission to impound them as evidence should be obtained.

9.4 Testimonial Evidence

Witnesses are often valuable sources of evidence of lack of victim consent. Besides testimony from the physician who examines the victim, other witnesses may be able to corroborate the use of force against the victim or otherwise help establish her lack of consent. Maximizing the sources of testimony regarding this element will help officers develop cases which can be successfully prosecuted.

Fresh-complaint witnesses. Fresh-complaint witnesses (also known as "res gestae" or "hue-and-cry" witnesses) are the individuals to whom victims first report being raped. The existence of an immediate report by a rape victim is evidence of lack of consent. Victims should always be interviewed regarding the first person they told about being raped. These individuals should then be identified and located as potential fresh-complaint witnesses.

Corroborating witnesses. Any number of individuals may be able to help corroborate the victim's lack of consent. Attempts should be made to locate witnesses who heard screams, items being broken, or other sounds of a struggle. Sometimes witnesses can be located who actually observed the victim struggling with the perpetrator. In addition, many other individuals who are involved with the case can provide testimonial evidence relevant to the victim's lack of consent. For example, tape recordings of her conversation with police communications personnel can provide convincing evidence regarding the victim's emotional condition when she reported being raped. Hospital personnel can frequently testify regarding the victim's physical appearance. Evidence technicians can be called upon to describe the condition of the crime scene as well as their evidence-gathering activities. Service people who repaired broken

windows or other property damaged during the assault may be able to provide relevant testimony regarding force.

Patrol officers. The first police personnel to have contact with the victim are almost always able to provide testimony which can help to prove lack of consent. The first patrol officers who see the victim are the source of much persuasive evidence regarding the element of consent. The value of testimony regarding the victim's physical appearance and apparent emotional condition are frequently underestimated. Police procedures should ensure that this evidence is recorded either as field notes or part of the initial crime report. In addition, the personnel who made these observations should be called upon for testimony at the time of trial.

9.5 Other Evidence to Establish Lack of Consent

Patrol officers should always be alert for items which might help to establish the lack of the victim's consent. Careful consideration of the victim's initial statement regarding the assault may suggest the existence of some unusual piece of evidence relating to this element. For example, the victim might report that the perpetrator tore some hair from her head, or that she was able to scratch the assailant. Signs of these injuries might be discovered at the scene of the crime or on the perpetrator's body if

he is arrested promptly. Physical evidence of these injuries, such as a wad of torn scalp hair or skin cells under the victim's fingernails, may also be available. In addition, specific circumstances might exist which would help convince the jury of the victim's lack of consent. In all cases, officers should be mindful of the possible existence of any type of evidence to help establish lack of consent.

9.6 Summary

Obtaining evidence to establish lack of victim consent is often the most difficult task in a rape investigation. Much of the most valuable evidence of lack of consent can be collected only at the time of the victim's initial report. Patrol officers have a vital role in the preservation and collection of this evidence. Some evidence relating to lack of consent is contained in statements made to patrol officers during their initial response. Much of the most valuable evidence to establish lack of consent comes from medical sources. Evidence from the crime scene, which sometimes includes unusual items suggested by the victim's initial statement, is always indispensable to the establishment of lack of consent. The testimony of various witnesses can also be very important in proving this element. Because so much evidence to establish lack of consent can be gathered as part of the preliminary investigation, patrol officers have a vital role in proving the existence of this element.

CHAPTER 10. RELATIONSHIPS WITH OUTSIDE ORGANIZATIONS

The successful investigation and prosecution of rape cases requires the cooperation of many organizations. The formal policies regulating the tasks performed by the involved organizations are determined by various administrators. However, the police officers who deal with outside organizations on a day-to-day basis must (1) understand the operation of these organizations, (2) attempt to work effectively with representatives of outside groups, and (3) provide input to superiors regarding the possibility of improving cooperation with outside agencies.

10.1 Office of the Prosecuting Attorney

Police personnel and deputy prosecutors must interact frequently during the course of a rape investigation. Effective cooperation between these groups is important to the successful prosecution of all cases. Good cooperation on rape cases is especially important because of the seriousness and complexity of this offense. Developing good relationships with the prosecutor's office requires an understanding of the problems experienced by both groups as well as some of the potential solutions to these problems.

Common complaints. Police and prosecutors have voiced many complaints about one another. Many of these criticisms may be endemic to all police-prosecutor relations and not specifically related to rape. Nonetheless, the problems that do exist can constitute a significant impediment to successful prosecution. For example, prosecutors complain that police are sloppy in their investigation of crimes. They point out that police often miss important evidence or improperly seize, mark, or store items that are gathered. Prosecutors further point out that police often fail to locate corroborating witnesses or interview them properly. In the opinion of many trial deputies, police officers cannot be relied upon for further assistance once a case has been filed.

Many police officers voice a significant amount of criticism about the prosecutors with whom they must work. Some detectives have argued that prosecutors review cases superficially and make filing and plea-bargaining decisions without consultation or regard for the quality of the investigation. Officers have complained that prosecutors do not provide adequate guidance but at the same time expect the police to file perfect cases. Patrol officers and investigators alike have complained

about the condescending attitude displayed by some prosecutors despite the fact that police personnel frequently have more criminal justice experience than have the prosecutors.

Case coordination. Police and prosecutors must recognize that many problems are caused by the scheduling conflicts which often occur. Officers who work irregular hours often have difficulty reaching prosecutors, who must contend with the heavy demands of trial schedules. One good device police officers can use to minimize difficulties caused by missed appointments and cancelled court appearances is to check with the prosecutor's office on the day of any scheduled meeting or court appearance.

10.2 Medical Facilities

The procedures used by medical facilities to treat rape victims are a common source of complaints from police officers. The inexperience of medical personnel, reluctance of physicians to become involved in rape cases, rotation of hospital staffs, and long waiting periods caused by the high level of demand for medical services all contribute to the difficulties experienced by officers handling rape cases. The solution to most of these problems falls beyond the purview of patrol officers. However, by paying special attention to certain factors, individual officers can maximize the cooperation received from medical personnel.

Adherence to procedures. Special procedures for treating rape victims which include the physical examination protocol must be established by appropriate police and hospital officials. Once in operation, officers should ensure that such procedures are followed by themselves and hospital personnel alike. Rape victims must be examined properly in order to establish the element of sexual penetration. Failure to follow established procedures could result in the loss of irreplaceable evidence, or even worse, in serious damage to the victim's health.

Waiting periods. The length of time victims must wait before they receive medical treatment is a frequent source of complaint from victims and police personnel alike. If procedures exist which specify rape victims are to receive priority treatment, officers should make every effort to obtain compliance with this policy. Even under the best of circumstances, lengthy waiting periods can be anticipated at least some of the time. Patrol officers can

make a significant contribution to the welfare of victims by trying to reduce their emotional distress during waiting periods.

Generally, victims should not be left alone while they are waiting for medical treatment. Even if police personnel are able to wait with them, victims should be asked if they would like to arrange for a friend, relative, or victim services worker to be present. If so, this person should be contacted immediately. If a victim wishes to do so, one device to help pass the time is to request her to write out a complete account of the assault. This statement can be of great use to follow-up investigators, and it can also help the victim ventilate her emotions. However, it must be emphasized that this technique should only be used in cases involving victims who are emotionally stable and willing to spend this time writing out a statement.

Preexamination conference. It is desirable for the personnel transporting the victim to the hospital to confer with the examining physician prior to the victim's treatment. Specifically, the doctor should be briefed on the details of the crime, including the sites where evidence of sexual penetration should be sought. (If the officers accompanying the victim to the hospital do not have this information, they should ask the physician to obtain it directly from the victim.) During this conference, officers should also explain to the physician that a thorough examination and detailed report might result in a stipulation from the defense which eliminates the need for a court appearance by the doctor. In addition, officers should remain available in case they are needed for consultation during or after the victim's treatment.

Medical evidence. The procedures established to preserve the chain of custody for items of evidence obtained by medical personnel must be scrupulously followed. Many prosecutions have been substantially damaged by the improper handling of evidence. Patrol officers can help avoid such difficulties by seeing to it that medical evidence is properly obtained, marked, processed, and stored.

10.3 Victim Services Groups

In recent years, rape crisis lines and other types of victim services groups have opened in many cities. These organizations differ widely from jurisdiction to jurisdiction. Some victim services organizations are sponsored by politically active community groups, while others are operated with public funds as adjuncts of the police department or prosecutor's office. Although the characteristics of these organizations are substantially varied, and their formal relations with police agencies are equally diverse, some aspects of these groups are substantially the same.

Victim support. The main purpose of victim services groups is to provide support for women who have been

raped. If the rape victim chooses to become involved with the criminal justice system, the rape crisis workers can assist law enforcement in many ways. In some instances, they can act as fresh-complaint witnesses. More commonly these personnel become involved during the later stages of rape cases. Under these circumstances, their main function is to provide continuing support to victims. They have a major role in helping victims overcome the effects of rape trauma syndrome. Victim advocates can also provide more direct assistance. They can act as a communications link between victims and the criminal justice system. Frequently victim services workers make themselves available to accompany victims to interviews with investigators and prosecutors, and to court appearances. In general, they can be very helpful in encouraging victims to continue cooperating with the criminal justice procedures which are necessary during the prosecution process.

Referral procedures. All victim services groups will refer victims to the police if they wish to report being raped. Similarly, police officers should not hesitate to utilize these groups to provide support and counseling for the victims. Many victim services groups have professional staffs who counsel rape victims or provide special training for volunteer advocates. Officers should recognize how potentially valuable the assistance provided by these groups can be. Every victim who is not already in contact with a victim services group should be provided with an appropriate referral to use as she sees fit.

Education program. Most victim services groups conduct public education programs. In some communities such programs have had a positive impact on citizens who may ultimately serve as jurors assigned to hear a rape case. These public education programs are also intended to inform women about how to avoid being victimized. In addition, to promote mutual understanding and improved working relationships, police personnel and victim services group workers frequently provide training sessions for one another. The rape crisis workers assist police improve their skills in dealing with victims, and police instruct victim services volunteers regarding the criminal justice system.

10.4 News Media

Representatives of the various news media, particularly journalists, often have a significant interest in obtaining stories dealing with sex crimes. Especially in smaller jurisdictions where rape cases are "big news," reporters are likely to be most inquisitive about sex offenses. Police officers should be familiar with, and follow, their departmental procedures for dealing with the press. Generally speaking, all information regarding the victim should be kept confidential. However, in some cases the news media can be of great assistance in

generating suspects, especially when a series of similar offenses has been committed.

10.5 Community Groups

Police departments are frequently requested to provide personnel to speak before various community groups. Women's clubs, school groups, neighborhood associations, and other organizations all appreciate having police speak on the topic of personal safety. Accepting such engagements helps achieve the police purpose in several ways. (1) Providing information regarding women's security helps reduce the crime rates. (2) Explaining criminal justice procedures often helps to dispel misapprehensions about the police. (3) Such information encourages victims to report assaults which do occur. (4) The public image of law enforcement is upgraded. (5) A department's overall community relations are usually improved. Whenever possible, police officers should cooperate with efforts made to educate the public regarding the prevention of rape and the procedures established for handling victims.

10.6 Input to Superiors

Patrol officers can help improve relations with outside

agencies by keeping their superiors informed about difficulties and recurring problems. Providing this kind of input can also improve both internal and external procedures for handling rape cases. However, the command structure of most police departments requires input from patrol officers to be submitted through channels. Although the use of these channels often consumes a significant amount of time, personnel are nonetheless encouraged to make their suggestions known to their superiors.

10.7 Summary

Establishing procedures for dealing with outside agencies falls outside the responsibility of patrol personnel. However, since line officers must deal with outside agencies on a day-to-day basis, they have an important role in maintaining and improving relations with outside agencies. In particular, the procedures set up to interface the functions of the police with the prosecutor's office, medical facilities, victim services groups, and the community in general are of special importance. Patrol officers should not only make every effort to follow procedures which have already been established; they should also provide suggestions and input regarding the improvement of procedures to their superior officers.

CHAPTER 11. SUMMARY AND CONCLUSIONS

Public interest in the crime of rape has increased dramatically in recent years. Sensitized by the women's movement, wide media interest, and public fear regarding the general increase in crime and violence throughout the nation, many communities have exhibited a keen interest in developing programs to improve the treatment given rape victims. However, despite the large number of women who report being raped each year, for the average law enforcement agency a rape case is an unusual event. Although rape is a high priority crime, it is also a low volume offense. Thus the sophisticated response expected, even demanded, by the public is not economically feasible in most jurisdictions. The goal of this manual is to provide information which will be useful to the police officers called upon to handle rape cases, regardless of the size of their departments or the number of these reports they receive per year.

The crime of rape is variously defined in the criminal codes of the different states. However, all of the definitions of this crime contain three common elements which must be proven to convict an individual of rape. In every state, sufficient evidence must be developed to establish beyond a reasonable doubt the elements of (1) sexual penetration, (2) identity of the perpetrator, and (3) lack of victim consent (see Section 2.1). In conducting an investigation of a rape, it is productive to conceptualize the case in terms of the defense that would most likely be offered by the accused (2.4). Doing so directs the activities of police officers and facilitates the development of sufficient evidence to prove the existence of the elements of the crime (2.5).

More so than with any other crime, the investigation of rape cases should center on the victim and her needs. In no other offense is the psychological damage done to the victim so profound and potentially long-lasting. In many ways, women who report being raped are victimized first by their assailant and then by the attitudes of society (3.1). Social perceptions about rape have caused victims to feel both humiliated and disgraced, despite the fact that the actual circumstances of rape are quite different from what many people believe (3.2). The total effect of being raped manifests itself in many women as the rape trauma syndrome. This is a complex emotional response which must be understood by the personnel assigned to handle rape cases (3.3). Police officers must be fully conscious of the social-psychological impact of this crime so that they can improve the quality of their

interactions with rape victims and increase the effectiveness of their investigations (3.4).

The initial response given to a rape report is critical to the ultimate success of the case. The first police personnel to reach the scene of a rape complaint have an indispensable role in the investigation of the case (4.1). Depending on the seriousness of the specific offense, a rape investigator may enter the case immediately, or wait for the crime report to pass through channels (4.2). Regardless of whether the investigator enters the case at the time of the initial report, a preliminary investigation must be conducted (4.7). The results of this preliminary investigation will determine the course of the remainder of the case (4.9).

Interviewing is one of a police officer's most valuable tools. Officers are continually called upon to determine the facts of an incident from the perspectives provided by separate observers. They must also obtain official statements from many of the principals in a rape case. With respect to rape victims, this task can be particularly difficult. However, there are specific techniques which can be of great assistance when interviewing all victims (5.1), but especially those who are elderly (5.2), teen-aged (5.3), or quite young (5.4). Certain other methods are especially valuable when obtaining information from witnesses (5.5) and suspects (5.6).

The successful prosecution of a rape case is dependent upon the value of the evidence which can be developed to prove the existence of each element of the crime (6.1). There are basically two types of evidence. Physical evidence is constituted by the material objects which have a value in proving facts (6.2). Testimonial evidence is constituted by the statements of witnesses who can provide information useful in determining the truth. Physical evidence may be obtained from various locations. Once it has been located, it must be properly collected, marked, and stored. To be of value in a prosecution, evidence must be processed by an expert technician. Testimonial evidence can also be obtained from several sources. The use of this type of evidence is often more necessary in rape cases than in other criminal offenses (6.3).

To obtain a conviction for rape, there are special techniques which can be used to establish the elements of the crime. Sexual penetration can be proven through the use of medical evidence, crime scene evidence, and testimonial evidence (Chapter 7). Identity can be established

through the use of many techniques to generate suspects and confirm identifications (Chapter 8). Lack of victim consent may be established through the use of the victim's statement, medical evidence, testimonial evidence, and crime scene evidence (Chapter 9). Because so much of the evidence to establish all the elements of the crime is available at the time of the preliminary investigation, patrol officers have a vital role in the handling of rape cases.

The successful prosecution of a rape case requires the concerted efforts of many agencies. Although the development of the formal policies establishing the activities to be performed by various organizations is beyond their purview, individual patrol officers must still promote good day-to-day working relationships. The high level of interaction between police officers and deputy prosecutors understandably causes some problems which must be solved (10.1). Cooperation with medical personnel is also vital to the successful outcome

of a rape prosecution (10.2). Victim services groups have a role in rape prosecution which can be of great potential value in accomplishing the police purpose (10.3). Representatives of the news media, especially journalists, are usually very interested in rape cases and must be dealt with according to departmental procedures (10.4). In addition, many community groups request police personnel to make personal appearances to discuss women's security (10.5).

Rape investigations are among the most difficult ones undertaken by police personnel. The complexity of this offense and its impact on victims require high levels of specialization on the part of the officers who handle these cases. Although economic constraints prevent the universal adoption of highly sophisticated models to manage rape cases, all police officers can benefit from the lessons learned by highly experienced rape detectives and patrol personnel. The purpose of this manual is to facilitate the sharing of those lessons.