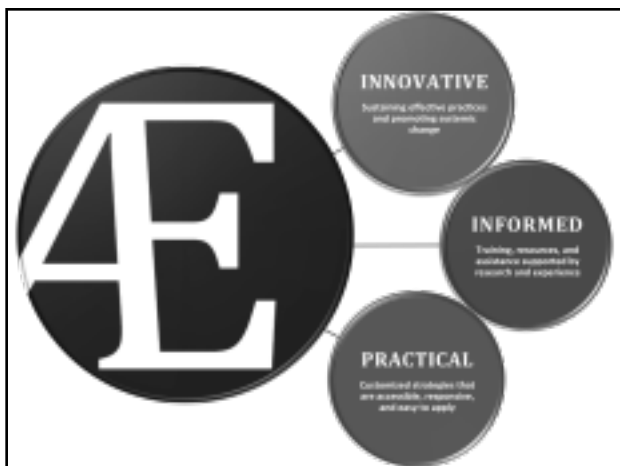


HIGHER EDUCATION

Dispelling Myths to More Effectively Prosecute Campus Rape

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN



AEQUITAS

AVAILABLE 24/7 VIA TELEPHONE AND/OR EMAIL

TECHNICAL ASSISTANCE

- Case Consultations
- Research

TRAININGS

- Live
- Online

RESOURCES

- Recorded Webinars
- Model Briefs, Motions, Expert Reports, etc...
- Sample Voir Dire Questions, Expert Examinations, etc...

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SUPPORT

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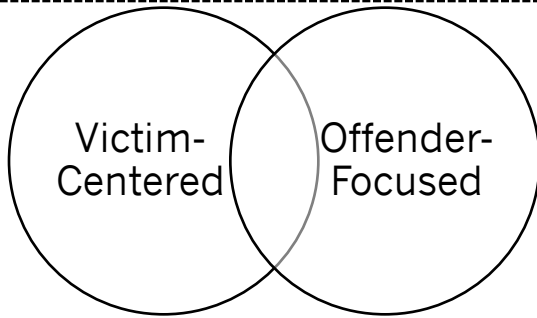
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OBJECTIVES

- Identify predatory behavior and other characteristics of sex offenders.
- Confront realities of sexual assault and the traumatic effects of offender's criminal acts.
- Identify specific challenges that exist where sexual assaults occur on college campuses or involve college students.

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MISSION



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VICTIM-CENTERED

- Victim/survivors are central to the criminal justice system
- Consideration of the victim's safety, privacy, and well-being must be paramount throughout the process
- Ensure access to services and information

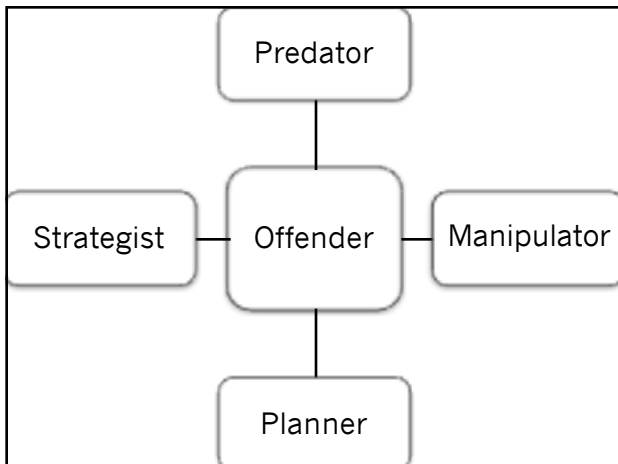
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OFFENDER-FOCUSED

- Keep the focus on the actions, behaviors, characteristics, and intent of the offender
- Offenders target victims whom they believe they can assault without consequence
- Myths about sexual assault help offenders avoid accountability

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THE UNDETECTED RAPIST

Dr. David Lisak

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120 of 1,882 men self-reported sexual acts met legal definitions of rape or attempted rape but were never prosecuted

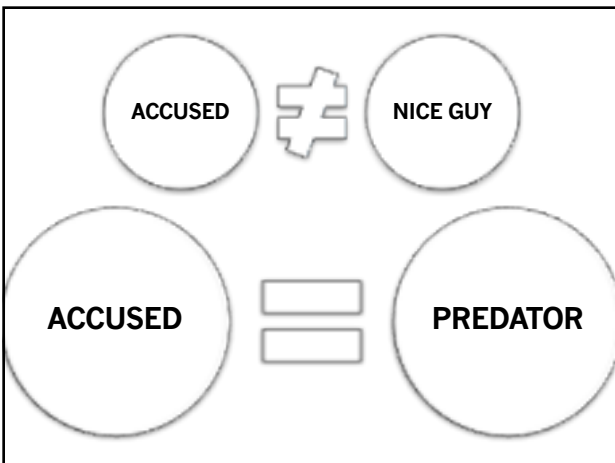
97 out of 120 admitted to drug or alcohol-facilitated sexual assault

76 of the 120 averaged 5.8 rapes each

Lisak & Miller, *Repeat Rape and Multiple Offending Among Undetected Rapists*, 17 (1) VIOLENCE AND VICTIMS (2002)

What predatory behavior is exhibited in the video?

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NONTRADITIONAL WEAPONS

PREMEDITATION

PLANNING

BETRAYAL OF TRUST

MANIPULATION

DECEIT

ALCOHOL

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THE TRUTH ABOUT RAPE

- Most are nonstrangers
- Rapists don't usually use deadly weapons or cause physical injury
- Victims behave in many different ways
- False reports are a small minority of cases
- It is not the victim's fault

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REALITY: VICTIMS MAY...

- Freeze during the assault
- Not resist "fiercely"
- Delay reporting
- Disclose partially
- Decide not to cooperate
- Maintain contact with assailant

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OVERCOMING MYTHS

Sexual violence is NOT a result of:

- “Low self-esteem”
- One’s own victimization
- “Boys will be boys”
- “Curiosity”
- Sexual identity problems
- Drinking or drugs

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OFFENDERS

Create in victims the symptoms later used against them:

- Deception
- Emotional instability
- Memory problems
- Substance abuse

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OFFENDER COUNTS ON SOCIETY BELIEVING

- ◉ She was dressed “provocatively”
- ◉ She is promiscuous
- ◉ She wants attention
- ◉ She’s a gold-digger
- ◉ She made it up to “cover” for cheating on her boyfriend
- ◉ “Buyer’s remorse”
- ◉ Mad at offender’s lack of interest

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MYTHS IMPACT VICTIMS TOO

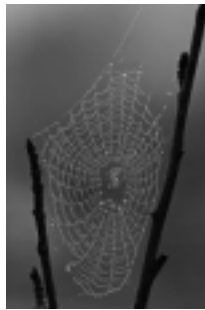
Almost 1/2 of the women who were characterized as victims of a completed rape by the National College Women Sexual Victimization Survey did not consider themselves to be victims of rape.

BONNIE S. FISHER, FRANCIS T. CULLEN & MICHAEL G. TURNER, THE SEXUAL VICTIMIZATION OF COLLEGE WOMEN (2000)

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THINGS THAT ARE DIFFERENT FOR SEX OFFENDERS

- Garner trust
- Make suspicions uncomfortable
- Blame others
- Become the victim
- Deny
- Camouflage
- Consensual relationships



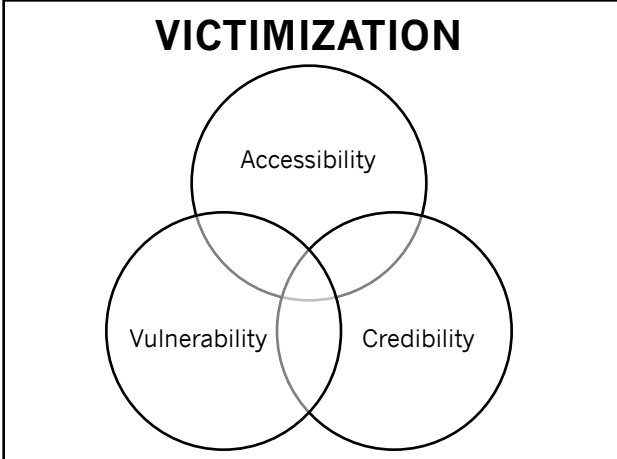
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"...you're waking up to a guy whom you met in person for the first time the night before and found likable and drank at least moderately with... and whom you're now looking at smiling at you across the pillow, contemplating that he might also have just raped you. I mean, for most of us this does not fit the profile: good-looking [guys] who live in fancy high-rises are not rapists.."

Moe, *Can Rapists Get You Off? Our Questions About How Serial Rapist Jeffrey Marsalis Got Away With It, Answered*, JEZEBEL (Oct. 15, 2007), <http://jezebel.com/311016/can-rapists-get-you-off-our-questions-about-how-serial-rapist-jeffrey-marsalis-got-away-with-it-answered>

...So I think it's possible to understand pretty easily how in the cloud of the next morning her intellectual self might overtake her instinct. And since he for the most part did not really betray any overt violence after the initial night, for those who allowed him into their lives subsequently one can see how these women might convince themselves they were initially wrong, that the memory was flawed."

Moe, *Can Rapists Get You Off? Our Questions About How Serial Rapist Jeffrey Marsalis Got Away With It, Answered*, JEZEBEL (Oct. 15, 2007), <http://jezebel.com/311016/can-rapists-get-you-off-our-questions-about-how-serial-rapist-jeffrey-marsalis-got-away-with-it-answered>



VULNERABILITY

- No vulnerability without danger
- Offender uses vulnerability to facilitate rape
- Offender may have knowledge or sense of victim's vulnerability
- Offender can create the vulnerability with drugs and / or alcohol

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COMBATTING THE MYTHS

- Educate yourself and others
- Speak to allied professionals, including advocates providing support for victims of sexual assault
- Do not let myths and misconceptions impact the investigation
- Prosecutors can use expert testimony at trial

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DISCLOSURE

- Is difficult
- Most victims never report to authorities
- Confusing options
- Sets in motion a daunting process



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CAMPUS-SPECIFIC ISSUES

- | | |
|--|--|
| <ul style="list-style-type: none">◦ Prevalence of alcohol and drug use◦ Privacy issues◦ Greek life◦ Scholarship status◦ Residential life | <ul style="list-style-type: none">◦ Microcosm of society◦ Athletics◦ Cultural/diversity issues◦ Disciplinary process◦ Social media |
|--|--|

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ALCOHOL-FACILITATED SEXUAL ASSAULT RESOURCES



http://www.ndaa.org/pdf/pub_prosecuting_alcohol_facilitated_sexual_assault.pdf



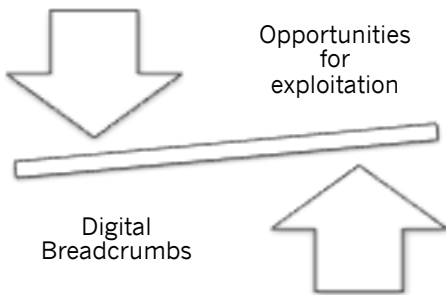
http://www.ndaa.org/pdf/toxicology_final.pdf

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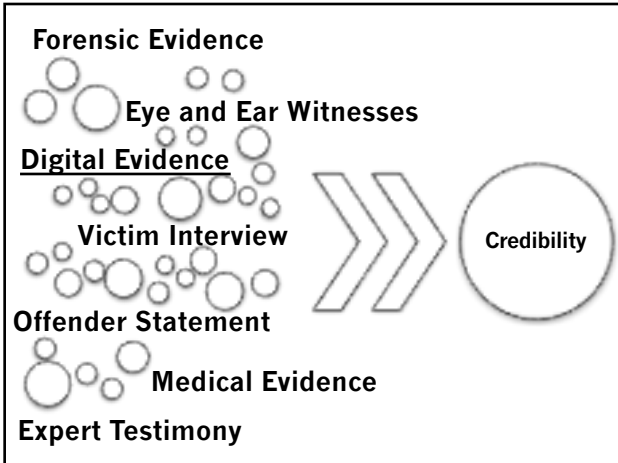
TECHNOLOGY AND SEXUAL ASSAULTS

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DIGITAL NATIVES



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OVERCOMING CHALLENGES

- Thorough investigations
- Understanding evidence
- Trauma-informed interviews
- Coordination with service providers

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IDENTIFY CHALLENGES

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IDENTIFY SOURCES OF EVIDENCE

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EVIDENCE COLLECTION

CRIME SCENE	OTHER PHYSICAL EVIDENCE
<ul style="list-style-type: none"> • Blood • Hair • Urine • Vomit • Semen • Sheets • Clothing • Condom 	<ul style="list-style-type: none"> • Surveillance tapes • Social media, cell phones • Glasses, punch bowls • Receipts or credit card charges • Medical exam

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WITNESSES

Life Before	Days Surrounding Incident	Life After
Friends	Bartender	Friends
Family	Others at party / bar / game	Family
Roommates	Friends	Roommates
Intimate partner	Cab / Uber / Lyft Driver	Intimate partner
Teachers		Teachers

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SEXUAL ASSAULT NURSE EXAMINER

(SANE)

- Incapacitated patients are statistically significantly less likely to have genital and non-genital trauma than patients who were not incapacitated at the time of the assault
- Most common non-genital injury = bruising to the arms and legs

ANDRE ROSAY & TARA HENRY, FINAL REPORT: ALASKA SEXUAL ASSAULT NURSE EXAMINER STUDY (Oct. 2008)

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VICTIM STATEMENTS

Expect inconsistencies

- Victim may fear getting in trouble
- Different (types of) interviews by different interviewers
- Alcohol can impair victim's memory and ability to perceive
- Memory will be affected by trauma Victim may be embarrassed

Inconsistencies can be evidence of sexual assault

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EFFECTS OF TRAUMA

- There is no "blue print" on how trauma impacts an individual
- Cognition and behavior are affected by trauma
- Recognizing some *common* reactions to trauma can assist us in responding to victims of sexual assault

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“Traumatic events are extraordinary, not because they occur rarely but rather because they overwhelm the ordinary human adaptation to life.”

Judith Herman, Center for Nonviolence and Social Justice

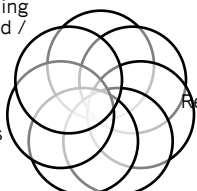
COMMON REACTIONS

Trouble concentrating and making decisions

Range of affect, including being calm, crying, and / or laughing

Withdrawal and / or dependence on others

Changes in hygiene, sleeping, and eating behaviors



Recanting and / or minimizing

Returning to "normal" life, including engaging in consensual sex

Difficulty accessing memories and / or memory lapses

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REMINDER

- Offender inflicted trauma on victim
- Offender is responsible for the victim's reaction to that trauma

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TRAUMATIC MEMORY

...the story can come out in bits and pieces and fits and starts and cycle back over on itself, or, "Oh wait a minute, I remembered this detail." It comes out in a very disorganized way...

Interview with Dr. Rebecca Campbell, NAT'L INSTITUTE OF JUSTICE (Jun. 18, 2012), <http://nij.ncjrs.gov/multimedia/video-campbell.htm>

INTERVIEW BASICS

- Disclosure is a process
- Avoid asking for specific details or timelines during initial conversation
- Consider impact of questions on the victim
- Don't force details
- Ask directed, open-ended questions
- Don't interrupt

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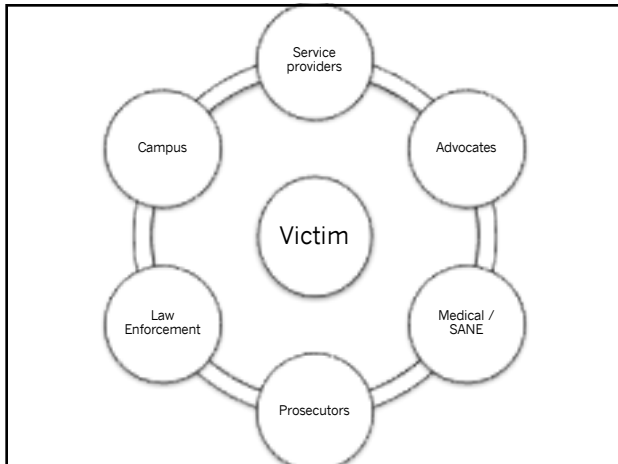
TIPS

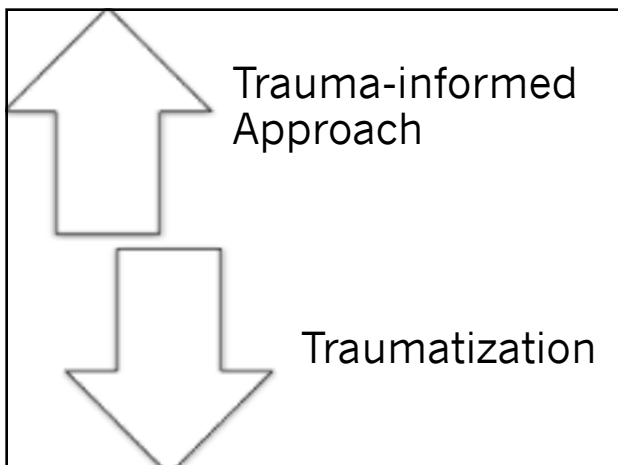
- Magic word = "able"
- Sensory memories are stronger than other memories after a traumatic event
- Ask about when the victim knew he or she was in danger

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WORKING COLLABORATIVELY

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TRUE COLLABORATION

- Provides victim with holistic support, including safety planning
- Demonstrates systematic engagement
- Improves communication
- Identifies gaps
- Enhances participation
- Educates each partner about each others' expertise
- Encourages mutual respect

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GOING FORWARD

- Keep victims at the center of campus sexual assault cases
- Focus on the offender's predatory actions
- Coordinate with allied professionals, on campus and off, to identify and preserve all corroborating evidence, provide services to victims, and educate others

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