The National Center for Victims of Crime is pleased to provide the slides used in our April 18, 2011 Webinar, “Overcoming the Consent and “Big Lie” Defenses: Using DNA in Non-Stranger Sexual Assault Cases.”

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Overcoming the Consent and “Big Lie” Defenses: Using DNA in Non-Stranger Sexual Assault Cases

Patti Powers, J.D.
Public Opinion Influences on Jurors

- Society questions credibility of victims
- Society attributes responsibility to victims
- Negative motivation/ financial incentive
- Implied consent/ assumption of risk/ hidden motivation
- Rape involves weapons and leaves physical injury
- He Said/ She said
Perspective of a trial attorney: Anticipate defense(s) in investigation
Trial in the courtroom of public opinion: Altered reality of the crime
ACCUSER v. ACCUSED
The defendant is on trial... not the victim: How to investigate and try the case
Disclosure and Critical Incident Analysis
IMPEDIMENTS TO DISCLOSURE

• Fear of retaliation
• Blame, disbelief
• Loss of privacy
• Denial or suppression of feelings
• Shame
VICTIM’S IMMEDIATE RESPONSE: Psychological Evidence

- Fear
- Frozen fright
- Physical shock
- Numbness, disorientation
REALITY OF THE CRIME AND EVIDENCE

- Victim’s disclosure
  - Psychological Evidence
  - Related Physical Evidence
  - Environmental Evidence
Connecting with the Jury

• Step by step: re-tracing the offender’s approach
• Step by step: focus on the context and behavior below the surface
• Step by step: offender’s creation of altered reality
• Rape: evidence from the victim, offender and environment
DNA and Evidence of Sexual Assault
DNA and Corroboration

- On surfaces
- Weapons
- Skin
CORE REALITY OF CRIME

- Stranger dimension of offender or “big lie” as to relationship
- Focused premeditation
- Potential for serial offense and other crimes of violence
She never really knew him. . . Do we?
STALKING: The Crime Begins... 

- CONTROL
- DOMINATION
- POWER
- CULTIVATED REALITY
HOW OFFENDERS OPERATE

• INVASION
• IGNORING
• ISOLATION
• INSTINCTS
• INTOXICATION
HOW OFFENDERS VICTIMIZE

• ACCESSIBILITY

• VULNERABILITY

• CREDIBILITY
IMPLICATIONS OF STALKING FOR STRANGER AND NON-STRANGER SEXUAL ASSAULT

• Premeditation and planning of attack
• Multiple strategies to enhance victim vulnerability
• Deliberate use of alcohol
• Violence increased as necessary
• Victims are targets and prey
Similarities between non-stranger and stranger rapists

- Many rapists are serial rapists
- Rape is usually planned in advance
- Victim’s accessibility is primary/key factor
- Victim’s appearance had little/nothing to do with rapist’s decision
- Premeditation = look for vulnerabilities, isolate victim, wear down resistance, attack
Translating the Reality of Rape to a Jury

• Regardless of relationship, she never really knew him
• He was a stranger, abusing trust
• Premeditation and stalking conduct
• Other acts of sexual misconduct and commonalities
BEYOND MISCONCEPTIONS AND STEREOTYPES: THE OFFENDER CAUSED VICTIMIZATION. THE OFFENDER IS ON TRIAL
Translating the reality of rape to a jury: there is no substitute for passion
Thank you

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Victims’ Rights and Services During the Post-Conviction and Exoneration Process

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