

Basic Course Workbook Series



# Learning Domain 10

## Sex Crimes

*Version 7.0*

COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING

**Basic Course Workbook Series**  
**Student Materials**  
**Learning Domain 10**  
**Sex Crimes**  
**Version 7.0**

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## **THE MISSION OF POST**

The mission of the California Commission on Peace Officer Standards and Training is to continually enhance the professionalism of California law enforcement in serving its communities.

## **THE ACADEMY TRAINING MISSION**

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

## **FOREWORD**

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.  
Executive Director

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### **Student Workbooks**

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

### **Regular Basic Course Training Requirement**

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

### **Student Workbook Elements**

The following elements are included in each workbook:

- Chapter contents, including a synopsis of key points,
- Supplementary material, and
- A glossary of terms used in this workbook.

## HOW TO USE THE WORKBOOK

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### Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning, for test preparation, and for remedial training.

### Workbook Format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Introduction and How to Use the Workbook, which provides an overview of how the workbook fits into the POST Basic Course Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary section for a definition of important terms. When first referenced these terms will be bolded and underlined (e.g., <b><u>term</u></b> ).



# Chapter 1

## Identifying and Classifying Sex Crimes

### OVERVIEW

#### Learning Need

Arrest and successful prosecution depend on the development of probable cause. Peace officers must know the elements required to arrest for sex crimes, and to correctly categorize these crimes as misdemeanors and felonies.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to	Objective ID
<ul style="list-style-type: none"><li>Recognize the crime elements required to arrest for:<ul style="list-style-type: none"><li>Rape</li><li>Sodomy</li><li>Oral copulation</li><li>Penetration with a foreign object</li><li>Assault with intent to commit rape or other crimes Specified in Penal Code Section 220</li><li>Sexual battery</li><li>Indecent exposure</li></ul></li></ul>	<ul style="list-style-type: none"><li>10.01.1</li><li>10.01.8</li><li>10.01.5</li><li>10.01.6</li><li>10.01.2</li><li>10.01.9</li><li>10.01.3</li></ul>
<ul style="list-style-type: none"><li>Recognize the crime classifications as a misdemeanor or felony</li></ul>	10.01.11

## In This Chapter

This chapter focuses on recognizing, naming, and categorizing sex crimes. Refer to the following chart for specific topics.

Topic	See Page
The Issue of Consent	1-3
Rape	1-8
Sodomy	1-11
Oral Copulation	1-14
Penetration with a Foreign Object	1-18
Assault with Intent to Commit Rape and Other Specified Crimes	1-21
Sexual Battery	1-23
Indecent Exposure	1-26
Workbook Learning Activities	1-28

## THE ISSUE OF CONSENT

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### Introduction

Consent is a key issue in many sex crimes including rape, oral copulation, penetration with a foreign object, sodomy and sexual battery. It is often the lack of consent that defines the action as a crime. (*Penal Code Section 261.6*)

### Policing in Our Communities

Knowledge regarding the effect of a sexual assault on the victim will help prevent further victimization. Sexual assault victims may be reluctant to make police reports for fear of retaliation by the perpetrator or because of feelings of shame and embarrassment. Victims sometimes blame themselves, doubt their own judgment, and often feel responsible. Peace officers can create partnerships with the community and social agencies to educate the public on the value and confidentiality of the reports.

### Ethics

It is the obligation of law enforcement to respond to, investigate, and report sexual assault as a violent crime. Circumstances such as the use of alcohol and drugs or self-blaming by the victim should not be used against the victim in determining the validity of the report.

### Definition

**Consent** means positive cooperation in act or attitude pursuant to an exercise of free will.

In other words, consent means agreeing to an action freely and voluntarily and with knowledge of the nature of the act or transaction involved. (*Penal Code Section 261.6*)

A person cannot consent to an act when that person does not understand the nature of the act.

A person under the age of 18 is not considered capable of giving consent under the law.

## Consent vs Compliance

A victim's compliance with a sexual act does not mean consent. A victim, who in no way consents, may comply with an attacker to avoid further injury or perceived harm to self or others.

NOTE: Resistance and/or injury is not a required element of rape.

## Terms Implying Lack of Consent

A sexual act committed under any of the following circumstances is considered to be nonconsensual.

**Against a person's will** means without the consent of the person.

**Threatening to retaliate** means a threat to kidnap or falsely imprison, inflict extreme pain, serious bodily injury, or death. (*Penal Code Section 289(1)*)

**Menace** means any threat, declaration, or act which shows an intention to inflict injury upon another. (*Penal Code Section 261*)

**Duress (force or fear)** means a direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed or acquiesce in an act to which one otherwise would not have submitted. (*Penal Code Section 261*)

NOTE: Verbal threats are not critical to a rape conviction. Threats can be implied from the circumstances or inferred from the perpetrator's conduct.

NOTE: A special instance of duress is that exerted by a **public official**, which is defined to be a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another.

NOTE: During consenting sexual activity, a person may withdraw consent at any time. If the sexual activity continues without consent, a crime has occurred.

## Other Circumstances That Equal Lack of Consent

In determining whether a crime has been committed, peace officers must answer two questions about consent: Could the victim consent under the law and, if so, did the victim consent? The following table illustrates circumstances defining lack of consent.

<b>Circumstance Defining Lack of Consent</b>	<b>Particular Instances</b>	<b>Examples</b>
Victim cannot give consent under the law.	When the victim is incapable due to mental disorder, or developmental or physical disability. <i>Penal Code Section 261(a)(1)</i>	An intellectually disabled woman with an appointed guardian cannot give consent under the law.
	Minor below the age of 18 <i>Penal Code Section 261.5</i>	A 17-year-old adolescent is not considered capable of giving consent under the law.

Circumstance Defining Lack of Consent	Particular Instances	Examples
Victim can normally give consent but is considered not to have done so.	<p>When the victim is unconscious of the nature of the act because the victim is:</p> <ul style="list-style-type: none"> <li>• Unconscious or asleep,</li> <li>• Not aware, knowing, perceiving, or cognizant that the act occurred, or</li> <li>• Not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the person's fraud (in fact), or</li> <li>• Not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the perpetrator's fraudulent representation that the sexual penetration served a professional purpose when it served no professional purpose.</li> </ul> <p><i>Penal Code Section 261(a)(4)</i></p>	<ul style="list-style-type: none"> <li>• A sleeping victim cannot give consent.</li> <li>• A comatose victim cannot give consent.</li> <li>• A victim deceived by a doctor for medical reasons cannot give consent.</li> </ul>
	<p>When the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance and this condition is, or should have been, known to the person.</p> <p><i>Penal Code Section 261(a)(3)</i></p>	<ul style="list-style-type: none"> <li>• A victim who is too drunk to resist is not considered to have given consent.</li> <li>• A victim who has been deliberately drugged is not considered to have given consent.</li> </ul>

NOTE: *Penal Code Section 261(a)(3)* does not mean that the perpetrator either directly applied a substance to the body of another person or used or procured the other person to take the substance into his or her system. The perpetrator only has to know, or reasonably should have known, of the condition.

### **Circumstances Insufficient to Constitute Consent**

*Penal Code Section 261.6* states that a current or previous marital or dating relationship between the victim and perpetrator is not sufficient to constitute consent (if it is an issue in a prosecution under *Penal Code Section 261, 286, 287, or 289*).

*Penal Code Section 261.7* states that a victim's request that a perpetrator use a condom or other birth control device does not constitute consent without additional evidence of consent (if it is an issue in a prosecution under *Penal Code Section 261, 286, 287, or 289*).

## Definition

**Rape** is an act of penile/vaginal intercourse accomplished with a person and without the consent of the person.

## Leadership

As first responders, peace officers are tasked with helping victims regain a sense of control of their lives and beginning the healing process. Peace officers who do this limit the possibility of the victim being further victimized by the criminal justice system. A sensitive and understanding peace officer can have an important positive impact on the victim of this kind of crime.

## Penal Code Section

Rape is covered under *Penal Code Section 261*.

## Sexual Penetration

Penetration, however slight, completes the act of rape (*Penal Code Section 263*). Absent penetration, a peace officer should evaluate for an assault with **attempt** to commit rape. (*Penal Code Section 220*)

## Crime Elements

To arrest a subject for rape, the necessary crime elements include:

- An act of sexual intercourse
- Without consent of the person

NOTE: Sexual intercourse is defined as any penetration, no matter how slight, of the vagina/genitalia by the penis.

NOTE: Verbal threats are not critical to a rape conviction. Threats can be implied from the circumstances or inferred from the perpetrator's conduct.



## Classification

The crime of rape is a felony.

## Examples

A man knew the victim was intoxicated by drugs or alcohol and was unable to give consent. The man had penile/vaginal intercourse with the victim; the crime of rape was committed against the victim.

Because the victim felt physically threatened by a man she knew, she agreed to have sex with him to avoid injury, providing he used a condom. The crime of rape was committed.

A man who had sexual intercourse with a woman who initially consented, but revoked consent during sex, committed the crime of rape, when the man did not stop when asked.

## Expanded Penal Code Sections

The table below shows the sections of the code which deal with particular instances of the crime.

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
A person who is not the spouse of the person committing the act is incapable, because of mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act	261(a)(1)
The act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	261(a)(2)
The victim is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition is known, or reasonably should be known to the person committing the act	261(a)(3)

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is unconscious of the nature of the act, and this is known, or reasonably should be known to the person committing the act	261(a)(4)
The victim submits under the belief that the person committing the act is someone known to the victim other than the accused	261(a)(5)
The act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person	261(a)(6)
The act is accomplished against a victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another person	261(a)(7)

### Definition

**Sodomy** is sexual conduct in which there is contact between the penis of one person and the anus of another with any penetration, however slight.

### Penal Code Section

Sodomy is covered under *Penal Code Section 286*.

### Crime Elements

To arrest a subject for sodomy, the necessary crime elements include:

- Sexual penetration, however slight, of
- The anus of one person
- By the penis of another person
- Under the conditions outlined in the chart at the end of this section

### Classification

The crime of sodomy is a felony.

### Examples

A man who contacted, with slight penetration, another person's anus with his penis, against that person's will, has committed the crime of sodomy.

## Expanded Penal Code Sections

The table below shows the sections of the penal code that address the crime of sodomy:

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is under 18 years of age	286(b)(1)
The victim is under 16 years of age and suspect is over 21 years of age	286(b)(2)
The victim is under 14 years of age and is more than 10 years younger than the suspect	286(c)(1)
The act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	286(c)(2)(A)
The victim is under 14 years of age and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	286(c)(2)(B)
The victim is a minor 14 years of age or older and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	286(c)(2)(C)
The act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person	286(c)(3)
Sodomy in concert against the victim's will by means of force, fear, or threats of retaliation	286(d)(1)
Sodomy in concert against the victim's will by means of force or fear and the victim is under 14 years of age	286(d)(2)

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
Sodomy in concert against the victim's will by means of force or fear and the victim is a minor 14 years of age or older	286(d)(3)
Sodomy where a person is confined in a state prison or local detention facility	286(e)
The victim is unconscious of the nature of the act, and this is known, or reasonably should be known to the person committing the act	286(f)
The victim is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known, or reasonably should be known to the person committing the act	286(g)
The victim and suspect are confined in a mental hospital or facility	286(h)
The victim is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition is known, or reasonably should be known to the person committing the act	286(i)
The victim submits under the belief that the person committing the act is someone known to the victim other than the accused	286(j)
The act is accomplished against a victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another person	286(k)

## ORAL COPULATION

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### Definition

**Oral copulation** is the act of copulating (uniting) the mouth of one person with the sexual organ or anus of another person.

### Penal Code Section

Oral copulation is covered under *Penal Code Section 287*.

### Crime Elements

To arrest a subject for oral copulation, the necessary elements are:

- The act of copulating the mouth of one person
- With the sex organ or anus of another person,
- Without consent of the victim

NOTE: Just touching the mouth to the sexual organ or anus of another completes the offense. Penetration is not necessary.

### Classification

The crime of oral copulation is a felony.

## Related Terms

Peace officers need to know the following term:

**Copulating** is an act of coupling or uniting two things.

The crime of oral copulation is completed simply by touching (i.e. coupling) the mouth of one person to the sexual organ or anus of another.

## Examples

A man who forced a woman to kiss his genitals by threatening to kill her family members committed the crime of oral copulation.

A woman who performed oral sex on an intellectually disabled man who was unable to understand the act, committed the crime of oral copulation.

## Expanded Penal Code Sections

The table below shows the sections of the code which deal with particular instances of the crime.

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is under 18 years of age	<i>287(b)(1)</i>
The victim is under 16 years of age and the suspect is over 21	<i>287(b)(2)</i>
The victim is under 14 years of age and is more than 10 years younger than the suspect	<i>287(c)(1)</i>
The act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	<i>287(c)(2)(A)</i>

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is under 14 years of age and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	287(c)(2)(B)
The victim is a minor 14 years of age or older and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	287(c)(2)(C)
The act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person	287(c)(3)
Oral copulation in concert against the victim's will by means of force, fear, or threats of retaliation, or where the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known, or reasonably should be known to the person committing the act	287(d)(1)
Oral copulation in concert against the victim's will by means of force or fear and the victim is under 14 years of age	287(d)(2)
Oral copulation in concert against the victim's will by means of force or fear and the victim is a minor 14 years of age or older	287(d)(3)
Oral copulation where a person is confined in a state prison or local detention facility	287(e)



<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is unconscious of the nature of the act, and this is known, or reasonably should be known to the person committing the act	287(f)
The victim is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known, or reasonably should be known to the person committing the act	287(g)
The victim and suspect are confined in a mental hospital or facility	287(h)
The victim is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition is known, or reasonably should be known to the person committing the act	287(i)
The victim submits under the belief that the person committing the act is someone known to the victim other than the accused	287(j)
The act is accomplished against a victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another person	287(k)

## PENETRATION WITH A FOREIGN OBJECT

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### Definition

**Penetration with a foreign object** is an act in which the genital or anal opening of a person is penetrated by any instrument, substance, device, or unknown object.

### Penal Code Section

Penetration with a foreign object is covered under *Penal Code Section 289*.

### Crime Elements

To arrest a subject for penetration with a foreign object, the necessary crime elements include:

- The use of a foreign or unknown object for purposes of sexual arousal, gratification, or abuse
- To penetrate, however slight,
- The genital or anal openings
- Against the person's will or causes another person to penetrate
- Under the conditions outlined in the chart at the end of this section

### Related Terms

Peace officers need to know the following related terms:

A **foreign object** is any instrument, substance, device, or part of the body, except a sexual organ.

An **unknown object** includes any foreign object, substance, instrument, device, or any part of the body, including a penis, (if it is not known what object penetrated the opening).

## Classification

The crime of penetration with a foreign object is a felony.

## Examples

A man who penetrated a woman's vagina with the barrel of a gun against her will commit the crime of penetration with a foreign object.

A man who penetrated a victim's anus with his fingers against the will of the victim committed the crime of penetration with a foreign object.

## Expanded Penal Code Sections

The table below shows the sections of the code which deal with particular instances of the crime.

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	289(a)(1)(A)
The victim is under 14 years of age and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	289(a)(1)(B)
The victim is a minor 14 years of age or older and the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person	289(a)(1)(C)
The act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person	289(a)(2)

<b>Circumstances of the Crime</b>	<b><i>Penal Code Section</i></b>
The victim is incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known, or reasonably should be known to the person committing the act	289(b)
The victim and suspect are confined in a mental hospital or facility	289(c)
The victim is unconscious of the nature of the act, and this is known, or reasonably should be known to the person committing the act	289(d)
The victim is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition is known, or reasonably should be known to the person committing the act	289(e)
The victim submits under the belief that the person committing the act is someone known to the victim other than the accused	289(f)
The act is accomplished against a victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another person	289(g)
The victim is under 18 years of age	289(h)
The victim is under 16 years of age and the suspect is over 21 years of age	289(i)
The victim is under 14 years of age and is more than 10 years younger than the suspect	289(j)

## ASSAULT WITH INTENT TO COMMIT RAPE AND OTHER SPECIFIED CRIMES

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### Definition

Assault with **intent** to commit **mayhem**, rape, sodomy, oral copulation, rape in concert, lewd acts with a child, or penetration with a foreign object refers to an incomplete attempt to commit these acts.

### Penal Code Section

Assault with intent to commit mayhem, rape, sodomy, oral copulation, rape in concert, lewd acts with a child, or penetration with a foreign object is covered under *Penal Code Section 220*.

### Crime Elements

To arrest a subject for intent to commit rape or crimes covered under *Penal Code Section 220*, the necessary elements include:

- Assault
- With specific intent
- To commit mayhem, rape, sodomy, oral copulation, rape in concert, lewd acts with a child, or penetration with a foreign object

NOTE: The crime of assault with intent to commit crimes identified in *Penal Code Section 220* is complete if an assault is made and, at any moment during the assault, the perpetrator intends to commit one of the crimes listed in *Penal Code Section 220*.

NOTE: “Rape,” listed in *Penal Code Section 220*, includes spousal rape.

NOTE: The terms, application of force and apply force, mean to touch in a harmful or offensive manner. The slightest touching can be enough if it is done in a rude or angry way. Making contact with another person, including through his or her clothing is enough. The touching does not have to cause pain or injury of any kind.

## Classification

The crime of assault with intent to commit rape and other related crimes is a felony.

## Other Related Facts

Attempts to commit other crimes not included in this section are identified under *Penal Code Section 664*, attempt.

## Nuances of Assault with Intent to Commit Rape

Through questioning, evidence, behavior, admission, or a totality of the circumstances, peace officers must establish that the subject had specific intent to commit a specified sex crime or mayhem.

## Examples

A man wrestled a female to the ground in a dark carport with intent to rape her. The headlights of an approaching car frightened him off before he could complete the sex act. The man committed assault with intent to commit rape. (*Penal Code Sections 220(a)*)

A man restrained a male victim and pulled his pants off while stating his intent to sodomize the victim. The victim, however, was stronger and fought the man off. The man committed assault with intent to commit sodomy. (*Penal Code Sections 220(a)*)

## SEXUAL BATTERY

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### Definition

**Sexual battery** is the act of touching another person's intimate parts for the purpose of sexual arousal, sexual gratification, or sexual abuse, against the will of the victim.

### Penal Code Section

Sexual battery is covered under *Penal Code Section 243.4*.

### Crime Elements

To arrest a subject for sexual battery, the necessary crime elements include:

- The victim's or person's intimate part is touched
- Without consent of the victim, and
- With specific intent to achieve sexual arousal, sexual gratification, or sexual abuse

NOTE: For felony sexual battery, the victim must be unlawfully restrained, and the intimate part (either victim or person) must be touched, meaning physical contact with the skin of the victim whether accomplished directly or through the clothing of the person committing the offense. *Penal Code Section 243.4(f)*

NOTE: For a misdemeanor sexual battery direct touching of the skin of the victim or the suspect is not required. *Penal Code Section 243.4(e)(2)*

### Related Terms

To understand the crime of sexual battery, peace officers need to become familiar with the following term.

**Intimate parts** (private parts) refer to the sexual organ, anus, groin, or buttocks of any person or the breast of a female.

## Classification

The following chart is designed to show the differences between classifications.

<b>Conditions of Crime Classification</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Any person who touches and intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse	Felony/Misdemeanor (wobbler)	243.4(a)
Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated	Felony/Misdemeanor (wobbler)	243.4(b)
The victim is at the time unconscious of the nature of the act because the perpetrator fraudulently represented that the touching served a professional purpose	Felony/Misdemeanor (wobbler)	243.4(c)



<b>Conditions of Crime Classification</b>	<b>Crime Classification</b>	<b><i>Penal Code Section</i></b>
Any person who causes another against that person's will while that person is unlawfully restrained either by the accused or an accomplice, or is institutionalized for medical treatment and is seriously disabled or medically incapacitated, to masturbate or touch an intimate part of either of those persons or a third person	Felony/Misdemeanor (wobbler)	243.4(d)
Any person who touches an intimate part of another person, if the touching is against the will of the person touched and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse or the defendant was an employer, and the victim was an employee of the defendant	Misdemeanor	243.4(e)(1)

### **Examples**

A woman who placed her hand inside a man's pants and fondled his penis without his consent committed the crime of misdemeanor sexual battery.

A man who pushed a woman up against a wall, reached into her blouse and fondled her bare breasts, committed the crime of felony sexual battery.

## INDECENT EXPOSURE

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### Definition

**Indecent exposure** is an act in which a person willfully and lewdly exposes his or her person, or the private parts thereof, in any public place, or in any place where there are present other individuals to be offended or annoyed thereby.

### Penal Code Section

Indecent exposure is covered under *Penal Code Section 314*.

### Crime Elements

To arrest a subject for indecent exposure, the crime elements include:

- Every person who willfully and lewdly,
- Exposes their private parts where there are others present to be offended

### Related Terms

To understand indecent exposure, peace officers need to become familiar with the following terms.

**Willfully** means an act done intentionally, knowingly, purposely, and without justifiable excuse.

**Lewdly** means with specific intent to direct public attention to one's genitals for the purpose of sexual gratification of themselves or others or to sexually offend another person.

**Private parts** (intimate parts) mean the sexual organ, anus, groin, or buttocks of any person and the breast of a female.

These terms are important since both willfulness and lewdness are required elements of this crime.

## Classification

The crime of indecent exposure is a misdemeanor, except as noted in the table below.

Conditions of Crime Classification	Crime Classification
Prior conviction for: <ul style="list-style-type: none"><li>- Lewd acts with a child (<i>Penal Code Section 288(a)</i>)</li><li>- Indecent exposure (<i>Penal Code Section 314</i>)</li></ul>	Felony
When the person enters an inhabited dwelling house, trailer coach, or inhabited portion of any building and entry was made without consent	Felony
All other circumstances	Misdemeanor

## Examples

A woman who sneaked into a home and exposed herself to the occupants committed felony indecent exposure.

A man who approached a woman in a shopping mall, exposed himself and masturbated, committed the crime of indecent exposure. Classification as a felony or misdemeanor will depend on prior convictions.

## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. What are the crime elements that distinguish sodomy from oral copulation?
2. Describe at least three instances in which it can be determined that a person who did not actively fight off a rape suspect did not give consent.

3. A male surprises a woman as she is trying to unlock the door to her home. He physically forces her inside and threatens her with a knife. He says he will kill her if she does not comply with his wishes. He pushes her to the floor, tears open her dress and fondles her bare breast. He then pulls off her underwear, spreads her vagina with his fingers, and unzips his pants. At that instant, he hears a key turning in the front door. Surprised, he flees through the back door. As the first peace officer on the scene, what crimes do you believe have taken place? What questions might you try to ask the victim for clarification?
  
4. A man stands at his large picture window inside his house, naked and masturbating, while two adults walk past his home. He shouts to get their attention. What, if any, crime is he committing? If he is committing a crime, is it a felony or a misdemeanor?



# Chapter 2

## Interacting with the Victim

### OVERVIEW

#### Learning Need

The manner in which peace officers interact with the victim of a sex crime may influence the quality of information the victim is willing to provide. A compassionate and professional interaction can benefit both the victim and the investigation.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none"><li>• Give examples of assessing a victim's physical state in order to make them as comfortable as possible, and secure the necessary medical attention</li></ul>	10.02.1
<ul style="list-style-type: none"><li>• Describe common emotional and physical reactions victims experience and the pressures associated with reporting a sex crime</li></ul>	10.02.2
<ul style="list-style-type: none"><li>• Describe a peace officer's own emotional and attitudinal reactions to sex crimes</li></ul>	10.02.3

## In This Chapter

This chapter focuses on interacting with the victim. Refer to the following chart for specific topics.

Topic	See Page
Physical State of the Victim	2-3
Victim Reactions and Pressures	2-5
Peace Officer Attitudes	2-8
Workbook Learning Activities	2-10



## PHYSICAL STATE OF THE VICTIM

### Introduction

There is emotional trauma associated with sexual assault. It is key to remember that the victims may have been physically affected and may even have been injured. Before any other actions can be taken with victims of sexual assault, their physical and medical needs must be assessed and addressed.

### Assessing Medical Needs

Once the peace officer's and victim's safety has been assured, the medical needs of the victim must be assessed. The following table shows appropriate peace officer actions for a range of victim conditions.

If the victims...	The peace officer should...
Are unconscious or injured,	<ul style="list-style-type: none"><li>• Secure transportation to an acute care facility, and</li><li>• Perform first aid required to stabilize them until emergency personnel arrive.</li></ul>
State they are in no pain and have no injuries requiring immediate attention, and the crime has occurred within 120 hours, or longer depending on circumstances,	<ul style="list-style-type: none"><li>• Make victims as comfortable as possible,</li><li>• Get a preliminary statement,</li><li>• Make sure victims are transported to a medical facility, and</li><li>• Preserve potential sources of evidence.</li></ul>
Have special needs related to age or a physical or developmental condition,	<ul style="list-style-type: none"><li>• Assess specific needs and tend to these before taking a statement.</li></ul>

Remember, a peace officer is not a doctor and should never overrule a victim's request to receive medical care.

## **Victim's Needs Assessment**

If a victim is conscious, they can be the best source of information of their own medical needs since many injuries may be concealed by clothing.

## **Asking the Victim About Medical Needs**

While in some instances simply asking the victim, "Are you okay?" may prompt the victim to tell the peace officer about medical needs, peace officers should be aware that a victim of sexual assault is not "okay." They have undergone a traumatic assault. "Are you okay?" may be interpreted kindly, or it may produce an emotional outburst in a victim.

Other phrases peace officers might consider are:

- Are you injured?
- Do you need immediate medical attention?

## **Medical/Legal Exam**

Even if the victim has no apparent injuries and denies needing medical attention, peace officers must explain the importance of a medical/legal exam. Some victims may be reluctant to consent to an invasive medical exam. This exam may be necessary to collect evidence required to make a case against the suspect. This exam should be offered if the sexual assault occurred within 120 hours or longer depending on circumstances. Injuries beyond 120 hours should be evaluated by an appropriate medical professional.

## VICTIM REACTIONS AND PRESSURES

### Introduction

Sex crimes are under reported. Many victims fail to seek necessary medical attention or to make a report.

### Peace Officers' Role

Peace officers' interaction with a sex crime victim plays a critical role in the success of the investigation. Compassion and professionalism are essential. A peace officer should assure the victim that they made the right decision to disclose/report.

### Possible Emotional and Physical Responses

People respond differently to emotional and physical stress. The table below shows some emotional and behavioral symptoms a victim may experience.

Possible Emotional Reactions	<ul style="list-style-type: none"><li>• Fear</li><li>• Shame</li><li>• Embarrassment</li><li>• Guilt</li><li>• Depression</li><li>• Shock</li><li>• Anger/betrayal</li><li>• Feeling of being dirty</li><li>• Self-blame</li><li>• Hopelessness</li><li>• Anxiousness</li></ul>
Possible Manifestations of Emotional Reactions	<ul style="list-style-type: none"><li>• Delayed reporting</li><li>• Lack of emotion</li><li>• Denying or minimizing the crime</li><li>• Loss of control or ability to make decisions</li><li>• Acting protectively toward suspect</li><li>• Extreme or inappropriate response (e.g. shouting, physically expressing anger or pain, or laughter)</li><li>• Adding or leaving out information</li></ul>

## Individualized Reactions

A victim of sexual assault may experience some, all, or none of the reactions shown above. Victim reactions may shift rapidly and may start at any time after the assault.

## Addressing the Emotional State of the Victim

While each situation is different, below are some recommendations for addressing the victim's emotional state.

The peace officer could:

- Reassure victims that
  - They are safe,
  - The peace officer is there to help,
  - Everything will be done to ensure a thorough investigation will occur, and
  - They didn't deserve what happened
- Use a gentle tone of voice.
- Make sure that their own body language is appropriate (e.g., sit down with victims, don't stand over them to talk, remove sunglasses).
- Demonstrate compassion for the victim.
- Allow victims to act out and vent their emotions.
- Assure victims that their **confidentiality** will be maintained if they desire. (*Penal Code Section 293*)

## Peace Officer Statements

The following examples are reassuring statements peace officers should consider making to the victim.

- “My partner checked your apartment and the suspect is gone.”
- “We will take special steps to protect your identity.”
- “I’m sorry this happened to you. I’ll do everything I can to help.”

NOTE: Remember to use a gentle, professional tone and allow the victim to regain control.

The following statements are examples of what statements peace officers should **NOT** to say to a victim.

- “I understand how you feel.”
- “I promise we will catch this guy.”

## Special Needs

Considerations should be given to victims who have special physical, developmental, or communication needs.

## PEACE OFFICER ATTITUDES

### Introduction

The nature of sex crimes may evoke strong emotional responses in peace officers as well as victims. To maintain a compassionate and professional demeanor, peace officers must be aware of their emotional reactions and attitudes about the crime they are investigating. Remember, the impression a peace officer makes on a victim is critical.

### Objectivity and Emotional Control

Sexual assaults can be overwhelming to victims and challenging to peace officers. At all times, peace officers need to maintain **objectivity** and emotional control. The table below offers some suggestions.

Peace officers should....	And try to avoid...
Be aware of how their own preconceptions and experiences can give them biased views	<ul style="list-style-type: none"><li>• Anger</li><li>• Overreaction</li><li>• Overzealousness</li><li>• Apathy</li><li>• Excessive sympathy</li></ul>

### Objective vs Subjective

It is the peace officers' job to remain objective. Peace officers should recognize that they cross the line into subjectivity every time they think, "If this had been me or someone I know." No victim response should affect objectivity. Peace officers can be compassionate and still remain objective.

## **Personalization**

Personalization is the act of putting oneself in the victim's place. Peace officers should not personalize the crime when dealing with the victim.

This crime did not happen to the peace officer; the peace officer is there to help. If peace officers personalize a crime, they have lost their objectivity.

## **Nonverbal Signals**

Peace officers should show compassion and professionalism regardless of their own emotional reactions to the crime being investigated. Conveying these attitudes takes more than just being aware of their own emotions and knowing the correct words to use.

It is not just what peace officers say to a victim that matters. A victim's impression of the peace officers throughout the entire investigative experience is shaped by nonverbal signals as much as by what is said. Peace officers should realize their nonverbal signals can work to help show compassion and a desire to help, or they can work to contradict the most reassuring words.

## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. Consider each of the sex crimes in the example statements below. Describe some of the appropriate peace officer responses to each incident.
  - a. You enter an apartment after receiving a phone call of a disturbance. As you enter, you see a naked woman trying to get up off the floor.
  
  
  
  
  
  
  
  
  
  
  - b. A man describes being restrained by two attackers while he is sodomized.
  
  
  
  
  
  
  
  
  
  
  - c. An 18-year-old college freshman describes drinking several beers at a fraternity party. The next thing she remembers is waking up naked in a man's bedroom. She describes a vaginal discharge and believes someone has had sex with her.



2. List five possible emotional reactions victims may have to being sexually assaulted, then describe how you would respond to each reaction.

3. You respond to a disturbance, enter a house and find a woman sitting on the sofa crying. She tearfully whispers that she has been raped. As a peace officer, how would you proceed, taking her emotional state into consideration?

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# Chapter 3

## Investigating Sex Crimes

### OVERVIEW

#### Learning Need

To complete a thorough investigation, peace officers must be sensitive to the fact that sexual assaults pose unique problems because of the emotional state of the victim, and the complexity of the investigative procedures.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• Discuss factors that set a positive tone for the victim interview	10.03.1
• Select questions to be asked during the victim interview	10.03.2
• Identify the purpose of a medical/legal exam	10.03.3
• Explain victim's rights	10.03.4
• Discuss the types of evidence to be collected from the crime scene, victim, and suspect	10.03.5
• Describe the services available to sexual assault victims	10.03.6

## In This Chapter

This chapter focuses on investigating sexual assaults. Refer to the following chart for specific topics.

Topic	See Page
Setting the Tone	3-3
Interviewing the Victim	3-5
Collecting Crime Scene Evidence	3-8
Medical/Legal Exam	3-9
Available Services for the Victim	3-13
Workbook Learning Activities	3-15

## SETTING THE TONE

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### Introduction

Because sexual assaults are traumatic and generate severe emotional stress the information collected depends on how well the peace officer interacts/relates to the

### Initial Contact with the Victim

From the very first meeting, the way the victim is treated will set the tone for the entire investigation. Below are some guidelines to assist in setting the tone for the initial interview.

Peace officers need to be aware of...	In order to...
Their everyday terminology	Avoid confusing the victim with legal terms and jargon.
Their body language	Assure the victim that they are concerned, but calm and confident.
The language they use	Convey compassion to the victim about what happened.
Their demeanor	Communicate that they are a professional and that they are comfortable with talking about the subject (not indicating surprise, distaste, embarrassment, etc.).

## Initial Investigation

There is a procedure peace officers should follow when beginning the interview with the victim.

Peace officers should:

- Make the victim as physically comfortable as possible; consider the best physical location and need for privacy
- Let the victim know that everything possible will be done to help
- Reassure the victim that it is understood that this is a difficult situation
- Notify the victim that they can have a support person (family, friends, or advocate, depending on agency policy and resources) to be present during the interview
- Establish rapport and explain the investigative process and the need for asking the victim questions

## INTERVIEWING THE VICTIM

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### Introduction

The key to gathering information about the crime is to interview the victim with compassion and care. However, peace officers must ask questions appropriately to establish the elements of a crime and maintain rapport.

### Questions for the Victim

When investigating a sexual assault, possible questions a peace officer can ask are:

- Where did the crime occur?
- When did the crime occur?
- What was the appearance of the suspect (i.e., pants unzipped, naked)
- Did the suspect ejaculate?
- Did the suspect have an erection?
- Did the suspect wear a condom? If so, where was it disposed of?
- Did the suspect say anything? If so, what was said?
- Were any threats made? If so, what threat?
- Were any tools, weapons, or other objects used by the suspect?
- Can the victim identify the suspect?
- Is there a relationship with the suspect?
- To whom did the victim first tell about the assault?
- Did the suspect take anything belonging to the victim (or is anything missing)?
- Did you leave anything?

## Determine What Crimes Were Committed

Each act of penetration or contact may be considered a separate crime and carries a separate penalty. Peace officers must obtain complete chronological statements. Although the victim may consider the violent act as a single crime, peace officers need to determine specifically what crime or crimes have been committed.

NOTE: The peace officer should consider other possible crimes when investigating sexual assault cases. (e.g. domestic violence, burglary, kidnapping, theft, criminal threats, dissuading a victim)

## Types of Sex Crimes

The types of sex crimes that may occur during an assault include:

- Rape
- Sodomy
- Oral copulation
- Penetration by a foreign object,
- Sexual battery, or
- Assault with intent to commit specified sex crimes or mayhem

NOTE: Be sure to clarify the terminology (e.g., slang terms) used by the victim to describe the assault. Use the victim's exact words when documenting his or her statements.



## Follow-up

Following the interview process, the peace officer needs to:

- Provide case number and peace officer's contact information to the victim
- Ask where the victim may be reached (address, phone number, and email) in the immediate future and thereafter

## Confidentiality Laws

Per *Penal Code Section 293(a)*, the peace officer is responsible for informing the victim that the victim's name will become a matter of public record unless the victim requests confidentiality. The confidentiality notification and victim's response shall be documented in the peace officer's report. The victim's address, however, will never be disclosed to anyone not authorized or required by law to have this information.

NOTE: The defense attorneys may obtain the victim's name and address; however, attorneys are not allowed to disclose it to anyone, even their clients. If contacted, the victim is not required to talk to the defense attorney.

## COLLECTING CRIME SCENE EVIDENCE

### Introduction

To successfully prosecute the offender, it is essential to collect a variety of evidence from the crime scene, including biological evidence from the victim and the offender.

### Evidence

The peace officer should identify and secure the crime scene(s). For an investigation of a sexual assault case, the peace officer may need to collect evidence such as the following:

For evidence...	That needs to be collected...
From the scene(s)	<ul style="list-style-type: none"><li>• Discarded items or articles,</li><li>• Contraceptives of any form and their packaging,</li><li>• Binding or other restraint materials (do not untie or cut knots),</li><li>• Fingerprints,</li><li>• Hair and debris (e.g. Fibers, dirt, etc.)</li><li>• Lubricants,</li><li>• Materials such as bedding, clothing and towels, and</li><li>• Biological fluids (i.e., semen, blood)</li></ul>
From the victim and/or suspect	<ul style="list-style-type: none"><li>• Medical/legal exam(s)</li><li>• Fingerprints</li><li>• Dna sample(s)</li><li>• Blood sample for alcohol testing and drug screening</li><li>• Protentional additional swabs for trace/biological evidence</li><li>• Clothing</li></ul>
Additional evidence	<ul style="list-style-type: none"><li>• Items believed to have been taken by the suspect</li><li>• Electronic evidence (e.g. Photographs, social media, cell phones, surveillance footage)</li></ul>

### Introduction

Evidence from the victim and/or the suspect's body will be collected by the medical professionals administering the forensic medical exam.

### Medical/Legal Exam

State law prescribes minimum standards and protocol regarding the forensic medical exam and the collection of evidence. This forensic medical exam consists of a full body exam for signs of assault, including taking samples of such items as bodily fluid, DNA, and hair. Photographs and documentation are obtained during the exam that may help the investigation.

### Purpose of the Forensic Medical Exam

The purpose of a medical/legal exam is to collect, preserve, and document evidence. The exam should be conducted if the sexual assault occurred within 120 hours or longer depending on the circumstances.

The forensic exam may:

- Determine if there are physical signs of injuries
- Document the type and location of injuries
- Determine if there is evidence of recent sexual activity
- Determine if the physical findings are consistent with the time frame and victim's statement

## **Collection of Biological Samples**

During the forensic medical exam evidence in the form of biological samples may be collected.

Biological samples include:

- Bodily fluids
- Foreign hairs and fibers
- Hair samples, or
- DNA

## **Location of Exam**

The forensic medical exam must be conducted according to state protocol at a designated facility by specialized medical teams trained for this purpose.

Conducting the exam at the hospital or by a multidisciplinary team provides:

- The opportunity to use special equipment, if needed
- Privacy and support for the victim
- An exam by experienced medical professionals
- Provides law enforcement with thorough documentation
- Secondary statement provided to a medical professional

## **Peace Officer Responsibilities for the Legal Medical Exam**

Though the actual medical/legal exam will be conducted by medical professionals, peace officers have several responsibilities regarding the exam.

Peace officers should:

- Explain the importance of the exam to the victim. The victim must consent to the exam. The victim may withdraw their consent at any time during the exam.  
Provide victim rights pursuant to Marsy's law
- Ensure the victim has transportation to the designated facility
- Brief the designated medical professional
- Authorize the exam
- If feasible, obtain briefing from the medical professional at the conclusion of the exam
- Ensure the victim is returned to a safe location after the exam
- Secure and submit the evidence in accordance with agency policy

## **Victim's Right to Counsel and Support Person**

*Penal Code Section 264.2* states that a peace officer, or their agency, must immediately notify the local rape victim counseling center whenever a victim of an alleged violation of specified sex offenses is transported to a hospital for any medical evidentiary or physical exam.

- The victim has the right to have a sexual assault victim counselor and at least one other support person of the victim's choosing present at any medical evidentiary or physical exam and notice of this right shall be provided orally or in writing to the victim by the attending medical provider prior to the commencement of any initial medical evidentiary or physical exam arising out of a sexual assault
- *Penal Code Section 679.04(a)* allows a victim to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authority, district attorneys or defense attorneys. However, the support person may be excluded from an interview by law enforcement if determined that their presence would be detrimental to the purpose of the interview
- *Penal Code Section 264.2(b)(4)* enables a peace officer or a medical professional to exclude a support person from a medical exam if the person would be detrimental to the exam

## **Medical Professional Interviews**

The victim is interviewed and examined by medical professionals. The collected evidence is provided to the investigating agency.

Medical expertise allows trained doctors and nurses to:

- Document the victim's injuries,
- Collect biological evidence,
- Provide appropriate medical treatment, and
- Provide expert testimony

## AVAILABLE SERVICES FOR THE VICTIM

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### Introduction

Peace officers must be familiar with the local resources available to the victims of sexual assault.

### Programs For Victim Assistance

There are many types of programs available for victim assistance. Two of the most popular are noted in the chart below.

Program	Service
Rape Crisis Centers	<ul style="list-style-type: none"><li>• Available throughout California</li><li>• Provide services to assist with:<ul style="list-style-type: none"><li>- Hospital accompaniment</li><li>- Liaison with the criminal justice system in some counties</li></ul></li></ul>
State Victim/Witness Services	<ul style="list-style-type: none"><li>• Available throughout California</li><li>• Provides services to assist with:<ul style="list-style-type: none"><li>- Financial compensation and possible associated expenses,</li><li>- Liaison with the criminal justice system, and</li><li>- Information pertaining to the situation</li></ul></li></ul>

## **Victim's Right to a Support Person**

*Penal Code Section 679.04(b)(1)* requires law enforcement, prior to the commencement of the initial interview, to notify the victim orally or in writing that he or she has the right to have victim advocates and a support person of the victim's choosing present at the interview.

NOTE: Per *Penal Code Section 679.04(c)*, an initial investigation by law enforcement to determine whether a crime has occurred, and the identity of the suspects is not the interview specified in *Penal Code Section 679.04(b)(1)*.

## **Victim Assistance Brochure**

Per *Penal Code Section 264.2(a)*, the peace officer is required to provide the victim with a "Victims of Domestic Violence" brochure, or the agency's card developed for sexual assault victims pursuant to *Penal Code Section 680.2(a)*, whichever is more applicable. These brochures contain information about victim services.



## WORKBOOK LEARNING ACTIVITIES

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### Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

### Activity Questions

1. You are the first peace officer on the scene responding to a call from a victim who says she has been raped by her boyfriend. The victim is obviously shaken. Describe what you would say to the victim in the first few minutes of your meeting. Then, describe any other actions you might take to set the tone for the victim interview.
2. An 18-year-old male victim says that two men broke into his apartment and one “raped” him while the other restrained him. What questions would you ask to help determine exactly what happened and what crimes have been committed?

3. You have just responded to a sexual assault call. You have recommended a sexual assault forensic medical exam to the victim. List some of the reasons the victim should undergo the exam.
4. You are in charge of the crime scene investigation in the case of a woman who says as she was leaving the shopping mall, she was forced into her own car and raped. What types of evidence would you look for?

# Chapter 4

## Sex Offender Registration

### OVERVIEW

#### Learning Need

*Penal Code Section 290* is intended to allow law enforcement agencies to track the whereabouts of known sex offenders.

#### Learning Objectives

The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none"><li>Identify the requirements for sex offender registration under <i>Penal Code Section 290</i></li></ul>	10.04.1
<ul style="list-style-type: none"><li>Recognize violations of <i>Penal Code Section 290</i></li></ul>	10.04.2

## In This Chapter

This chapter focuses on sex offender registration as required under *Penal Code Section 290*. Refer to the following chart for specific topics.

Topic	See Page
Sex Offender Registration Conditions and Requirements	4-3
Workbook Learning Activities	4-8

## SEX OFFENDER REGISTRATION CONDITIONS AND REQUIREMENTS

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### Sex Offender Registration Conditions

*Penal Code Section 290* states: “ Every person (convicted sex offender)..... while residing in California... or while attending school or working... shall be required to register with the chief of police or sheriff of the city or county in which they are living....” The requirement to register is for the period of 10 years, 20 years, or life.

If the person is convicted of a sex crime including...	Or he or she is...	Then the offender is required to register within five working days upon...
<ul style="list-style-type: none"> <li>• Rape,</li> <li>• Rape in concert,</li> <li>• Oral copulation,</li> <li>• Penetration with a foreign object,</li> <li>• Lewd acts upon a child,</li> <li>• Spousal rape (formerly <i>Penal Code Section 262</i>),</li> <li>• Sodomy,</li> <li>• Assault with attempt to commit any of the above,</li> <li>• Indecent exposure,</li> <li>• Incest,</li> <li>• Sexual battery,</li> </ul>	<ul style="list-style-type: none"> <li>• Ordered by the court to register under <i>Penal Code Section 290</i>, or</li> <li>• Is ordered to register by a judge when the conviction offense involves a sexual compulsion or for the purpose of sexual gratification (e.g., <i>PC 272</i> involving lewd conduct)</li> </ul>	<ul style="list-style-type: none"> <li>• Moving to a new jurisdiction,</li> <li>• Moving to a new residence in the same jurisdiction,</li> <li>• The registrant's birthday (annually).</li> <li>• Attending an institution of higher learning must also register with college, university police department or local law enforcement agency</li> </ul>

If the person is convicted of a sex crime including...	Or he or she is...	Then the offender is required to register within five working days upon...
<ul style="list-style-type: none"> <li>• Kidnapping with intent to commit sexual assault,</li> <li>• Child pornography (<i>Penal Code Section 311.2</i>)</li> <li>• Misdemeanor child annoying/molestation (<i>Penal Code Section 647.6(a)</i>)</li> <li>• Aggravated sexual assault of a child (<i>Penal Code Section 269</i>), or</li> <li>• Kidnapping with intent to commit sexual assault</li> </ul>		<ul style="list-style-type: none"> <li>• Residing outside of California, but working or attends school in California</li> <li>• A change of name</li> <li>• Release from incarceration for more than thirty (30) days</li> </ul>

NOTE: Sex offender registration laws do not include search conditions.

## Transient Registration Conditions

*Penal Code Section 290.011* states: every transient required to register as a sex offender who is physically present in a jurisdiction shall register every thirty calendar days. A transient is defined as a person who has no residence. They must provide a list of places where they may sleep, eat, frequent and engage in leisure activity.

NOTE: A transient shall register within five working days of their birthday, even if it falls between the thirty-day period.

## Multiple Registration Conditions

A person convicted of a sex crime and ordered to register under *Penal Code Section 290* shall be required to register with multiple jurisdictions when the following conditions apply:

- Lives in more than one jurisdiction (regardless of days and nights spent in each jurisdiction)
- Enrolled as a student at an institution of higher learning (including online courses)

NOTE: Student registration is required when a registrant first enrolls in courses and when they have completed taking classes.

## Sexually Violent Predator Registration Conditions

*Penal Code Section 290.012* requires a sexually violent predator (SVP) to register every ninety calendar days.

NOTE: An SVP shall register within five working days of their birthday even if it falls between the ninety-day period.

## Examples

A man convicted of sodomy must register annually within five working days of his birthday.

A registrant who has moved from Sacramento to Escondido must register within five working days with Sacramento and Escondido law enforcement authorities.

A registrant from Beverly Hills who is taking a two-week vacation in Fresno must register within five working days with Fresno law enforcement authorities.

### Sex Offender Violation Evidence

The following items can be considered violation evidence:

- Recorded witness statement (spouse, significant other, family, roommate(s), neighbor(s), new resident(s))
- Statement from suspect
- Mail with suspect address
- Rental receipts, utility bills

### Classification

Violations of *Penal Code Section 290* can be classified as either felonies or misdemeanors, depending upon the prior record of the offender. The table below shows when violations are felonies and when they are misdemeanors.

Prior Conviction	Crime Classification	Penal Code Section
Misdemeanor sex crime conviction	Misdemeanor	290.018(a)
Felony sex crime conviction	Felony	290.018(b)
Prior conviction for failing to register	Felony	290.018(c)
Transient registration (30-day update)	<ul style="list-style-type: none"><li>• Misdemeanor (shall not be charged more than once in a 90-day period)</li><li>• Third or subsequent violation shall be punished in accordance with either 290.018(a) or (b)</li></ul>	290.018(g)
SVP registration (90-day update)	Wobbler	290.018(f)



## Public Access to Information

The public may receive information on sex registrants:

- By calling the Department of Justice to inquire whether a particular person is a sex offender
- By accessing [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov) (Megans Law)
- If, in compliance with its own policy, a law enforcement agency disseminates offender information proactively

NOTE: Sex registrants are classified in Megans Law by three main categories:

- Full disclosure (complete address)
- Zip Code only
- No post (offender information will not be accessible to public)

## Introduction

## Activity Questions

1. You have just been informed by law enforcement authorities from a neighboring county that a person convicted of entering a home and exposing himself to children moved to your jurisdiction approximately two months ago. You have received no complaints about this individual. Has the person committed a crime? What should you do?
2. While on patrol, you have probable cause to stop a transient male. During

3. As a result of a routine traffic stop, you discover that the driver of the car has a past conviction for sexual battery. He was also convicted of violation of Penal Code Section 290. His current driver's license was issued two months ago and shows an address in your jurisdiction. How would you proceed and why?



# Glossary

## Introduction

The key vocabulary terms for Learning Domain 10: Sex Crimes are listed below with the definitions as they apply to this workbook.

## Against A Person's Will

Without the consent of the person

## Assault

An unlawful attempt, coupled with a present ability to commit a violent injury on the person of another

## Attempt

An incomplete effort to commit an act (e.g., rape)

## Color Of Authority

Acting as a public official

## Consent

Positive cooperation in act or attitude pursuant to an exercise of free will

## Confidentiality

Confidentiality in sex crimes refers only to the fact that the victim's name and address will be withheld from public record

## **Copulating**

An act of coupling or uniting two things

## **Duress (force or fear)**

A direct or implied threat of force, violence, danger, or retribution sufficient to coerce a reasonable person of ordinary susceptibilities to perform an act which otherwise would not have been performed or acquiesce in an act to which one otherwise would not have submitted.

## **Foreign Object**

Any instrument, substance, device, or part of the body, except a penis

## **Indecent Exposure**

An act in which a person willfully and lewdly exposes his or her person, or the private parts thereof, in any public place or in any place where there are present other individuals to be offended or annoyed thereby

## **Intent**

Purposeful commission or omission of an act that the law declares to be a crime

## **Intimate Parts**

Intimate parts (private parts) refers to the sexual organs, anus, groin, buttocks of any person or the breasts of a female

## **Lewdly**

With specific intent to direct public attention to one's genitals for the purpose of sexual gratification

**Mayhem**

The act of removal or disablement of a portion of a person's body to include permanent disfigurement

**Menace**

Any threat, declaration, or act which shows an intention to inflict injury upon another

**Objectivity**

Reality rather than personal feelings

**Oral Copulation**

The act of copulating or uniting the mouth of one person with the sexual organ or anus of another person

**Penetration With a Foreign Object**

An act in which the genital or anal opening of a person is penetrated by any instrument, substance, or device other than a penis

**Private Parts**

Private parts (intimate parts) refers to the sexual organs, anus, groin, or buttocks of any person and the breast of a female

**Public Official**

A person employed by a governmental agency, who has the authority, as part of that position, to incarcerate, arrest, or deport another

## **Rape**

An act of sexual intercourse committed without consent of the victim

## **Sexual Battery**

The act of touching the skin of another person's intimate part(s) for the purpose of sexual arousal, gratification, or abuse, against the person's will

## **Sexual Intercourse**

Is defined as any penetration, no matter how slight, of the vagina/genitalia by the penis.

## **Sodomy**

Sexual conduct in which there is contact between the penis of one person and the anus of another with any penetration, however slight

## **Threatening To Retaliate**

Any threat to kidnap or falsely imprisons, or inflict extreme pain, serious bodily injury, or death

## **Unknown Object**

Any foreign object, substance, instrument, device, or any part of the body, including a penis

## **Willfully**

An act done intentionally, knowingly, purposely, and without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly, and inadvertently