

## **Effective Report Writing: using language of non-consensual Sex**

### **(2.0 Hours)**

Training for law enforcement often focuses on investigating sexual assault cases with an eye toward successful prosecution. Yet we know that many sexual assault cases do not result in formal charges, and even those cases that go to trial often end up in an acquittal. Why is this?

In television dramas, the prosecution often loses its case because the defense produces evidence or a witness that was missed by the police investigation. This often happens at the last minute, with a dramatic conclusion that the defendant is actually innocent.

In real life, however, defense attorneys rarely uncover evidence or witnesses that were missed during the law enforcement investigation. Rather, defense attorneys often win these cases because they attack the credibility of the victim (based on societal myths and misunderstandings) or because they attack the credibility of the investigation itself. Unfortunately, this attack is all too often based on ammunition that comes from the investigator's own reports.

In other words, although there are many reasons why sexual assault cases often do not result in formal charges or guilty verdicts, one factor is that police reports are all too often poorly written. This is particularly unfortunate when the law enforcement investigation was done well, but the investigator's written report fails to communicate effectively to prosecutors, judges, and jurors. The truth is that no matter how good a law enforcement investigation is – no matter how thoroughly the crime scene evidence was processed, how well the victim was interviewed, or how good the suspect's statement was for prosecution – sexual assault cases will not result in formal charges or guilty verdicts if the investigator's report is poorly written or is missing important information.

Clearly, law enforcement professionals must conduct a thorough investigation and provide the prosecutor with the type of thorough, written report that is needed to support the charges filed. Yet very few have been provided the training in how to do this effectively, especially in the area of sexual assault.

This module is designed to address this problem. Of course, these issues of effective report writing are relevant for any type of investigation. However, they are especially critical for sexual assault cases because of the many societal myths and misunderstandings that surround this particular crime. The report prepared by a law enforcement investigator must therefore confront these myths and misunderstandings.

## **Learning Objectives**

- Recognize the purposes of police reports in sexual assault cases.
- Utilize report writing techniques that successfully support the prosecution of sexual assault cases.
- Summarize all of the evidence uncovered during the course of the investigation.
- Recreate the reality of the sexual assault from the victim's perspective.
- Record witness statements, especially those that corroborate the victim's account.
- Document suspect statements, especially those that corroborate the victim's account or provide an implausible or even absurd version of reality.
- Tape interviews with victims, witnesses, and suspects.
- Utilize report writing techniques that successfully overcome the three primary strategies used by the defense in sexual assault, including: Impeachment by omission, Impeachment by contradiction and Motions to suppress.

## **This Presentation's History**

**October 2001 – Present** – San Diego Police Regional Law Enforcement Academy for the following menu classes, Sex Crimes Investigations, Victimology of Sex Crimes, First Responders to Sex crimes, Crime Scene Investigations, Cold Case Sexual Assault Investigations (CODIS Hits), Stalking, California Sex Crimes Laws and Drug Facilitated Sexual Assaults, Investigations 101 and Basic Interviewing & Interrogations.

**April 2010** – Naval Criminal Investigative Service/JAG Corps Officers, United States Naval Base 32<sup>Nd</sup> Street, *“Innovative Investigative Responses to Sexual Assault Cases”*

**April 2010** – San Diego County Sexual Assault Investigator's Association, *“Innovative Investigative Responses to Sexual Assault Cases”*

**March 2011** – California Sexual Assault Investigator's Association Spring Training, *“Innovative Investigative Responses to Difficult Sexual Assault Cases”*

**July 2011** - California Sexual Assault Investigator's Association Training, *“Innovative Investigative Responses to Difficult Sexual Assault Cases” “Sexual Assault Victimology” “Pre-Text Phone Calls”*

**April 2014** – **End Violence Against Women International**, “Investigating Difficult Sexual Assault Cases” “Contesting the “He said, She said” defense – **Seattle**

**April 15, 2015** – **End Violence Against Women International**, “Investigating Difficult Sexual

Assault Cases” “Contesting the “He said, She said” defense – **New Orleans**

**April 22, 2015 – West Virginia State’s Attorney’s Office**, 15<sup>th</sup> Annual West Virginia Sexual Assault & Stalking Symposium, “Investigating Difficult Sexual Assault Cases” and “False Reporting” - **West Virginia**

**June 2016 – Live Violence Free – “Sexual Assault Investigations” & “False Reports”** one-day training for local law enforcement and Domestic Violence & Sexual Assault advocates.  
**South Lake Tahoe County**

**May 10, 2015 – Present – Department of Defense**, “Sexual Assault Investigations” & “False Reports” two-week training for United States JAG Corps. **Army Base Fort Leonard Wood, MO.**

**April 5, 2018 – End Violence Against Women International**, “Investigating Difficult Sexual Assault Cases” “Contesting the “He said, She said Defense.” – **Chicago**

**April 17, 2018 – Conference on Crimes Against Women**, “False Reporting; Moving Beyond the Issues” “Investigating Sexual Assault by Intoxication” “In Their Own Words, Practical Tools & Techniques for Obtaining Post-Arrest Communications in Cases of Intimate Partner Violence & Human Trafficking.” – **Dallas**

**September 6, 2018 – 23<sup>rd</sup> International Summit on Violence, Abuse & Trauma Across the Lifespan** – “Pretext Phone Calls as an Investigative Tool.” “Blurred Lines: The Difference between Sexual Harassment and Sexual Assault.” – **San Diego**

**June 10, 2019 – United States Army Reserve Special Victims Command Training**, “Investigating Sexual Assault by Intoxication Cases” “False Reporting; Moving Beyond the Issues” – **United States Air Force Academy, Colorado Springs, Colorado**

**June 19, 2019 – Northeast South Dakota Conference**, Brown County State’s Attorney’s Office, “Investigating Sexual Assault by Intoxication Cases” “Effective Communication with Difficult Victims” – **Aberdeen, South Dakota**

### **Presenter’s History**

I have presented this presentation, in full or in part, for the following law enforcement agencies, Department of Defense (All branches of the United States military) and civilian organizations; Center for Community Solutions in San Diego, (SAVI & SARC Programs) for the United States Military, Sexual Assault Examiner Training for Health Care Professionals Training, Sexual Assault Examiner Training for Healthcare Professionals, National Sexual Assault Institute, *“Pursuing Justice through Civil Legal Remedies*, *“Sexual Assault by Intoxication, Credibility & Consent,”*

**May 2013 – United States Marine Corps, JAG Training, Pacific & Western Regions TCAP Training**, *“Proving the Intoxication 120 Case”* **Long Beach, California**

**April 18 – 20, 2017 – End Violence Against Women International**, Start by Believing: “Can I Really Say I Start by Believing?” “What about Perceptions of Bias and Objectivity?” **Orlando, Florida**

- Jerald Monahan, Chief of Police of Yavapai College, Prescott, Arizona
- Herbert Tanner Jr, JD, Consultant Trainer, HR Tanner Consulting, Portland Maine
- Miriam Falf, JD, Assistant Attorney General, Prosecutor for Domestic Violence and sexual assault, Wisconsin Department of Justice, Madison, Wisconsin
- Roger Canaff, Esq., Legal Expert, Child Protection and Special Victims Advocate, New York, New York

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