

Basic Course Workbook Series Student Materials

Learning Domain 10

Sex Crimes

Version 5.6

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Student Materials
Learning Domain 10
Sex Crimes
Version 5.6

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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

LD 10: Sex Crimes

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Preface

Introduction

**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 Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. You may use the workbook 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: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST training program 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	Begin reading 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. The terms appear throughout the text and are bolded and underlined (e.g., <u>term</u>).

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">Recognize the crime elements required to arrest for:<ul style="list-style-type: none">RapeAssault with intent to commit rape or other crimes Specified in Penal Code Section 220Indecent exposureOral copulation,Penetration with a foreign objectSodomySexual battery	10.01.1 10.01.2 10.01.3 10.01.5 10.01.6 10.01.8 10.01.9
<ul style="list-style-type: none">Recognize the crime classifications as a misdemeanor or felony	10.01.11

Continued on next page

Overview, Continued

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

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The Issue of Consent

Introduction

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

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.

Continued on next page

The Issue of Consent, Continued

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 direct or implied threat of force, violence, danger, hardship, or retribution sufficient to coerce a reasonable person of ordinary susceptibility to perform an act to which one would otherwise 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 anytime. If the sexual activity continues without consent, a crime has occurred.

Continued on next page

The Issue of Consent, Continued

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.

Circumstance Defining Lack of Consent	Particular Instances	Examples
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>	A severely retarded 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.

Continued on next page

The Issue of Consent, Continued

**Other
circumstances
that equal lack
of consent**
(continued)

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 <i>of the nature of the act</i> because the victim is:</p> <ul style="list-style-type: none"> - unconscious or asleep, - not aware, knowing, perceiving, or cognizant that the act occurred, or - not aware, knowing, perceiving, or cognizant of the essential characteristics of the act due to the person's fraud (in fact). <p><i>Penal Code Section 261(a)(4)</i></p>	<ul style="list-style-type: none"> - A sleeping victim cannot give consent. - A comatose victim cannot give consent. - A victim deceived by a doctor for medical reasons cannot give consent.
	<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"> - A victim who is too drunk to resist is not considered to have given consent. - A victim who has been deliberately drugged is not considered to have given consent.

Continued on next page

The Issue of Consent, Continued

**Other
circumstances
that equal lack
of consent**
(continued)

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, 262, 286, 288a, 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, 262, 286, 288a, or 289*).

Rape

Definition	<u>Rape</u> is an act of penile/vaginal intercourse accomplished with a person, not the spouse of the perpetrator, 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. Officers who do this limit the possibility of the victim being further victimized by the criminal justice system. A sensitive and understanding officer can have an important positive impact on the victim of this kind of crime.
Penal code section	Rape is covered under <i>Penal Code Section 261</i> .
Sexual penetration	Penetration, however slight, completes the act of rape (<i>Penal Code Section 263</i>). Absent penetration, an officer should evaluate for an assault with <u>attempt</u> to commit rape. (<i>Penal Code Section 220/261</i>)
Crime elements	<p>To arrest a subject for rape, the necessary crime elements include:</p> <ul style="list-style-type: none">• an act of penile/vaginal intercourse which is committed• with a person, not the spouse of the perpetrator, and• without consent of the person. <p>NOTE: Verbal threats are not critical to a rape conviction. Threats can be implied from the circumstances or inferred from the perpetrator's conduct.</p>
Classification	The crime of rape is a felony.

Continued on next page

Rape, Continued

Examples

- | | |
|----------|--|
| Example: | 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. |
| Example: | 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. |
| Example: | A man who had penile/vaginal intercourse with a woman who consented, but who then had a change of heart and revoked consent after initial penetration, committed the crime of rape, because the man did not stop when asked. |
-

Assault with Intent to Commit Rape and Other Related Crimes

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.

Continued on next page

Assault with Intent to Commit Rape and Other Related Crimes, Continued

Classification	The crime of assault with intent to commit crimes is a felony.	
Other related facts	Attempts to commit other crimes not included in this section are identified under <i>Penal Code Section 664</i> , 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 sex crime.	
Examples	Example:	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. (<i>Penal Code Sections 220(a)</i>)
	Example:	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. (<i>Penal Code Sections 220(a)</i>)

Indecent Exposure

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,
 - expose 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.

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.

Continued on next page

Indecent Exposure, Continued

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

Conditions of Crime Classification	Classification
Prior conviction for: - lewd acts with a child (<i>Penal Code Section 288(a)</i>) - indecent exposure (<i>Penal Code Section 314</i>)	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

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

Example: 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.

Oral Copulation

Definition

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

**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. Officers can create partnerships with the community and social agencies to educate the public on the value and confidentiality of the reports.

**Penal
code
section**

Oral copulation is covered under *Penal Code Section 288a*.

**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.

Continued on next page

Oral Copulation, Continued

Related term

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

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

Example: A woman who performed oral sex on a severely retarded 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.

Circumstances of the Crime	Penal Code Section
Participating in the act with another person under 18 years of age	288a(b)(1)
Victim is under 16 years of age and the suspect is over 21	288a(b)(2)

Continued on next page

Oral Copulation, Continued

**Expanded
penal
code
sections**
(continued)

Circumstances of the Crime	<i>Penal Code Section</i>
A suspect participates in an act of oral copulation with another person under 14 and is more than 10 years younger than the suspect	288a(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 of the victim or another person	288a(c)(2)
The act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person	288a(c)(3)
Oral copulation in concert	288a(d)
Oral copulation where a person is confined in a state prison or local facility	288a(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	288a(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	288a(g)
Oral copulation where both the victim and perpetrator are confined in a mental hospital	288a(h)

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Oral Copulation, Continued

**Expanded
penal
code
sections**
(continued)

Circumstances of the Crime	<i>Penal Code Section</i>
The victim is prevented from resisting by any intoxicating or anesthetic substance or controlled substance and this condition is known, or reasonably should have been known, by the suspect	288a(i)
The victim submits under the belief that the person committing the act is his or her spouse	288a(j)
The act is committed by a public official under threat of incarceration, arrest, or deportation of the victim or another person	288a(k)

Penetration with a Foreign Object

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.

Continued on next page

Penetration with a Foreign Object, Continued

Examples

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

Continued on next page

Penetration with a Foreign Object, Continued

Expanded penal code sections

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

Circumstances of the Crime	<i>Penal Code Section</i>
Against the victim's will by force, fear, or retaliation	289(a)(1)
Victim incapable of consent due to mental disorder or developmental physical disability	289(b)
Person and victim confined in state hospital	289(c)
Victim is unconscious of the act	289(d)
Victim is prevented from resisting by intoxicating or anesthetic substance or any controlled substance, and this condition was known, or reasonably should have been known, by the person	289(e)
Person induces the belief that he or she is the victim's spouse	289(f)
Under the <u>color of authority</u>	289(g)
Victim under 18 years of age	289(h)
Victim under 16 years of age and suspect over the age of 21	289(i)
Victim under 14 years of age and suspect more than 10 years older	289(j)

Sodomy

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 conduct consisting of
 - contact between
 - the penis of one person and
 - the anus 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

Example: 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.

Continued on next page

Sodomy, Continued

Expanded penal code sections

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

Circumstances of the Crime	<i>Penal Code Section</i>
Victim is under 18 years old	286(b)(1)
Victim is under 16 years old and person is over 21	286(b)(2)
Victim is under 14 years old and is more than 10 years younger	286(c)(1)
Act is accomplished against victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or any other person	286(c)(2)
Sodomy in concert	286(d)
Sodomy while imprisoned	286(e)
Victim is unconscious of the nature of the act, and this is known to the perpetrator	286(f)
Victim 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	286(g)
Sodomy while in a mental hospital	286(h)
Victim is prevented from resisting by any intoxicating or anesthetic substance or any controlled substance, and this condition is known, or reasonably should have been known, by the accused	286(i)
Sodomy by inducing the belief that the person is the victim's spouse	286(j)
Sodomy under color of authority	286(k)

Sexual Battery

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 person.

Penal code section

Sexual battery is covered under *Penal Code Section 243.4(a)*.

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.

Related term

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

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

Continued on next page

Sexual Battery, Continued

Classification

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

Conditions of Crime Classification	Classification	Penal Code Section
- 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, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, sexual gratification or sexual abuse	felony/misdemeanor (wobbler)	243.4(b)
- Any person who touches an intimate part of another person for the purpose of sexual arousal, sexual gratification or sexual abuse, and 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)

Continued on next page

Sexual Battery, Continued

Classification (continued)

Conditions of Crime Classification	Classification	Penal Code Section
<ul style="list-style-type: none">- For the purpose of sexual arousal, sexual gratification, or sexual abuse, 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)
<ul style="list-style-type: none">- 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 <p style="text-align: center;">or</p> <ul style="list-style-type: none">- the defendant was an employer and the victim was an employee of the defendant	misdemeanor	243.4(e)(1)

According to *Penal Code Section 243.4(e)(2)*, touches means the physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.

Continued on next page

Sexual Battery, Continued

Examples

- | | |
|----------|--|
| Example: | 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. |
| Example: | A male high school student who pushed a female high school student up against a locker, reached into her blouse and fondled her breasts, committed the crime of felony sexual battery. |
-

Chapter Synopsis

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.
Rape [10.01.1, 10.01.11]	Rape is generally covered under <i>Penal Code Section 261</i> .
Assault with intent to commit rape and other specified crimes [10.01.2, 10.01.11]	Sexual assault with intent to commit mayhem, rape, sodomy, oral copulation, rape in concert, child molest, or penetration with a foreign object is covered under <i>Penal Code Section 220</i> .
Indecent exposure [10.01.3, 10.01.11]	Indecent exposure is covered under <i>Penal Code Section 314</i> .
Oral copulation [10.01.5, 10.01.11]	Oral copulation is covered under <i>Penal Code Section 288a</i> .

Continued on next page

Chapter Synopsis, Continued

**Penetration
with a foreign
object
[10.01.6,
10.01.11]**

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

**Sodomy
[10.01.8,
10.01.11]**

Sodomy is covered under *Penal Code Section 286*.

**Sexual
battery
[10.01.9,
10.01.11]**

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

Workbook Learning Activities

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.

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

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 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?

Workbook Corrections

Suggested corrections to this workbook can be made by going to the POST website at: www.post.ca.gov

Continued on next page

Workbook Corrections, Continued

Student notes

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 positive contact will affect the victim beneficially; a negative contact will adversely impact the victim.

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

Continued on next page

Overview, Continued

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
Chapter Synopsis	2-11
Workbook Learning Activities	2-12

Physical State of the Victim

Introduction

Most people are quick to recognize the emotional trauma associated with sexual assault. It is key to remember that the victims have been physically affected and may be 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">- secure transportation to an acute care facility, and- perform first aid required to stabilize them until emergency personnel arrive.
state they are in no pain and have no injuries requiring immediate attention, and the crime has occurred within 72 hours, or longer depending on circumstances	<ul style="list-style-type: none">- make victims as comfortable as possible,- get a preliminary statement, and- make sure victims are transported to a medical facility.
have special needs related to age or a physical or developmental condition,	<ul style="list-style-type: none">- assess specific needs and tend to these before taking a statement.

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

Continued on next page

Physical State of the Victim, Continued

Victim's needs assessment

Peace officers should be aware 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 officer about medical needs, peace officers should be aware that a victim of sexual assault is not “okay.” They have undergone a physical assault. “Are you okay?” may be interpreted kindly, or it may produce an emotional outburst in a traumatized victim. Other phrases officers might consider are:

- Are you hurt?
 - Do you need medical attention?
-

Legal/ medical exam

Even if the victim has no apparent injuries and denies needing medical attention, peace officers must explain the necessity for a medical/legal exam. This exam is necessary for the well being of the victim and to collect evidence required to make a case against the subject. This exam should be conducted if the sexual assault occurred within 72 hours or longer depending on circumstances. Pain or soreness beyond 72 hours should be evaluated by a legal medical examination.

Victim Reactions and Pressures

Introduction

Sex crimes may be under reported for a variety of reasons, including embarrassment or disbelief. This can result in a victim failing 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. Sensitivity and tact are essential. The first peace officer on the scene must assure the victim that they made the right decision to call.

It is important that peace officers recognize that sexual assault may involve manipulation, power, and control or violence rather than just a sexual act.

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	Possible Manifestations of Emotional Reactions
<ul style="list-style-type: none">- Fear- Shame- Embarrassment- Guilt- Depression- Shock- Anger/Betrayal- Feeling of being dirty- Self-blame	<ul style="list-style-type: none">- Delayed reporting- Lack of apparent response- Denial that the crime occurred- Loss of control or ability to make decisions- Acting protectively toward suspect- Acting out (e.g. shouting , physically expressing anger or pain, or laughter)- Intentionally adding or leaving out key information

Continued on next page

Victim Reactions and Pressures, Continued

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.

Treating the emotional state of the victim

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

The peace officer could:

- reassure victims that
 - they are safe,
 - the officer is there to help,
 - everything will be done to positively identify the person, and
 - this is not their fault.
 - use a gentle tone of voice.
 - express empathy that this has happened to the victim.
 - make sure that their own body language is not aggressive (e.g., sit down with victims, don't stand over them to talk).
 - allow victims to act out and vent their emotions.
 - assure victims that their **confidentiality** will be maintained if they desire. (*Penal Code Section 293*)
-

Continued on next page

Victim Reactions and Pressures, Continued

Officer statements

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

- “It’s okay, my partner’s checked out your apartment and he’s 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 officers should **NOT** 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 evokes strong emotional responses in peace officers as well as victims. To maintain a supportive, yet professional demeanor, peace officers must be aware of their emotional reactions and attitudes about the crime they are investigating. Remember, the professional impression the officers make on the victims is critical.

Primary role

Peace officers must remember their primary role is rendering first aid, (if needed) securing the victim's cooperation, documenting the crime, collecting evidence, and preparing a case for prosecution.

Objectivity and emotional control

Sexual assaults can be overwhelming to peace officers and victims. 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">- anger.- overreaction.- overzealousness.- apathy.- excessive sympathy.
consider the crime as a violent or aggressive act, rather than a sexual one	

Objective versus subjective

It is the peace officers' job to remain objective. Officers should recognize that they cross the line into subjectivity every time they think, "If this had been me or someone I know." Remember, no victims' responses should affect objectivity. Officers can be sympathetic and still remain objective.

Continued on next page

Peace Officer Attitudes, Continued

Empathy versus personalization

Empathy is an act of identifying with another's feelings to offer support. Officers must be able to convey empathy to a sexual assault victim.

Personalization is the act of putting oneself in the victim's place. Officers should take care not to personalize the crime when dealing with the victim.

Remember, this crime **did not** happen to the peace officer; the officers are there to help. If officers personalize a crime, they have lost their objectivity.

Focus beyond the sexual nature of the crime

Sexual assaults may seem less overwhelming to peace officers who remember that, though sex crimes can be sexually motivated, aggression, dominance and physical abuse are the primary factors. In fact, a significant number of sex offenses involve hostility, rather than sexual gratification, as the primary motivation.

Nonverbal signals

Peace officers should show empathy and professionalism regardless of their own emotional reactions to the crime being investigated. However, 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 officers and the entire investigative experience is shaped by the officers' nonverbal signals as much as by what is said. Officers should realize that their nonverbal signals can work to help convey sympathy and a desire to help, or they can work to contradict the most reassuring words.

Continued on next page

Peace Officer Attitudes, Continued

Nonverbal signals (continued)

The table below shows three key nonverbal communicators.

Peace officers should be aware of their...	Peace officers should try to...
body language.	- maintain a <u>nonaggressive</u> stance.
facial expressions.	- remain calm, and - focus on the victim visually (make eye contact, do not just listen and write).
tone of voice.	- maintain a soft voice and an understanding tone.

Chapter Synopsis

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 positive contact will affect the victim beneficially; a negative contact will adversely impact the victim.

**Physical state of the victim
[10.02.1]**

Once the peace officers' and victims' safety have been assured, peace officers must immediately assess the medical needs of the victims.

**Victim reactions and pressures
[10.02.2]**

People respond differently to emotional and physical stresses.

**Peace officer attitudes
[10.02.3]**

Sexual assaults can be overwhelming to peace officers as well as to victims, but at all times, peace officers need to maintain their objectivity and emotional control.

Workbook Learning Activities

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. Write down your personal first impression of each incident and how your reactions might be apparent to the victim.
 - 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.

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

2. List five possible emotional reactions to being sexually assaulted, then describe how you would handle 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?

Continued on next page

Workbook Learning Activities, Continued

Student notes

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

Continued on next page

Overview, Continued

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	3-6
Collecting Crime Scene Evidence	3-9
Medical/Legal Exam of Victim	3-10
Available Services for the Victim	3-13
Chapter Synopsis	3-14
Workbook Learning Activities	3-16

Setting the Tone

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 victim.

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 alienating the victim with legal terms and jargon.
their body language	assure the victim that they are concerned, but calm and confident.
the words they use	convey their sensitivity 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.).
the language they use	be aware of possible misperceptions of police procedures.

Continued on next page

Setting the Tone, Continued

Beginning the interview

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

Peace officers should:

- establish rapport and explain the investigative process and the need for asking the victim questions.
 - reassure the victim that it is understood that this is a difficult situation and that the officer conducting the interview is there to help.
 - make the victim as physically comfortable as possible; consider the best physical location and need for privacy.
 - ask if the victim wants an officer to contact a support person (family, friends, or advocate, depending on agency policy and resources) to be present during the interview.
 - let the victim know that everything possible will be done to help.
-

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 examination.

Continued on next page

Setting the Tone, Continued

Victim's right to counsel and support person (continued)

- 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 examination, 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 examination arising out of a sexual assault.
 - the victim has the right to have victim advocates present at any interview by law enforcement authorities, district attorneys, or defense attorneys.
 - *Penal Code Section 679.04(a)(1)* enables an officer to exclude a support person from a medical exam if the person would be detrimental to the examination."
-

Confidentiality laws

Per *Penal Code Section 293(a)*, the 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 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.

Polygraph testing

Penal Code Section 637.4(a) prohibits the officer from requesting that the victim undergo a **polygraph** examination.

Interviewing the Victim

Introduction

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

Determine what crimes were committed

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.

Because each act of penetration or contact is considered a separate crime and carries a separate penalty, officers must ascertain:

- if any of these acts occurred during the assault and, if so,
 - how many times and in what sequence.
-

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 sex crime.

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.

NOTE: The officer should consider other possible crimes when investigating sexual assault cases.

Continued on next page

Interviewing the Victim, Continued

Details of the assault

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

- 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?
-

Other questions for the victim

Once the nature of the crime has been determined, the answers to several other questions can help the officer gain additional information needed to investigate the crime. The following chart lists possible questions to ask and the rationale for asking them.

Possible Questions	Because the officer needs to...
Can the victim identify the suspect?	decide who is responsible for the crime.
What is the past relationship with the suspect? If the suspect is known to the victim, what was the nature of the relationship (e.g., stormy, friendly, etc.)?	determine if the victim and suspect are: <ul style="list-style-type: none">• strangers,• acquaintances,• dating or married,• relatives, or• teenagers.

Continued on next page

Interviewing the Victim, Continued

Other questions for the victim (continued)

Possible Questions	Because the officer needs to...
To whom did the victim first tell about the assault?	to corroborate the victim's statement and additional information that the victim may have forgotten. Statements may be admissible as exception to hearsay rule.
Is the victim sexually active? If yes, has victim been recently sexually active?	assess the presence of possible injury. separate the DNA from the consensual partner from that of the suspect.
Did the suspect take anything belonging to the victim (or is anything missing)?	be able to link the suspect with the victim.
Will the victim provide fingerprints?	have elimination prints to compare to the other prints at the crime scene.

Follow-up

Following the interview process, the officer needs to establish how the victim can be contacted. This is done in two ways.

- Ask where the victim may be reached (address number and phone number) in the immediate future and thereafter.
 - Ask for the name, address, and phone number of a relative or close friend who is likely to know the whereabouts of the victim.
-

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.

Crime scene evidence

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

For evidence...	That needs to be collected...
from the scene itself,	<ul style="list-style-type: none">discarded items or articles,contraceptives of any form and their packaging,binding or other restraint materials (do NOT untie or cut knots),fingerprints,hair and debris (e.g. fibers, dirt, etc.)lubricants,materials such as bedding, clothing and towels, andbiological fluids (i.e., semen, blood)
from the victim,	<ul style="list-style-type: none">sexual assault medical examination (refer to Chapter 3)fingerprints
from the offender,	<ul style="list-style-type: none">suspect sexual assault kitblood sample for DNAblood sample for alcohol testing and drug screening
not at the scene	<ul style="list-style-type: none">items believed to have been taken by the offender

Medical/Legal Exam of Victim

Introduction

Evidence from the victim's body will be collected by the medical professionals administering the legal medical examination.

Medical/legal examination

State law prescribes minimum standards and protocol regarding victim examination and the collection of evidence. This medical/legal exam requires a full body examination for signs of attack, including taking samples of such items as bodily fluid and hair found on the victim. Photographs and documentation developed during the exam that will help the investigation.

Purpose of the legal medical examination

The purpose of a medical/legal examination is to collect, preserve, and document evidence. It is essential that the victim receive a proper medical/legal examination. The exam should be conducted if the sexual assault occurred within 72 hours or longer depending on the circumstances.

The forensic examination may also help:

- 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 history.
-

Collection of biological samples

During the legal medical examination evidence in the form of biological samples may be collected.

Biological samples include:

- bodily fluids,
 - foreign hairs and fibers found on the victim, or
 - hair samples of the victim.
-

Continued on next page

Medical/Legal Exam of Victim, Continued

Location of exam

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

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

- the opportunity to use special equipment, if needed.
 - privacy and support for the victim.
 - an examination by experienced medical professionals.
 - provides law enforcement with thorough documentation.
-

Peace officer responsibilities for the legal medical examination

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 necessity of the examination to the victim. The victim must consent to the examination. The victim may withdraw their consent at any time during the examination. Detection of all injuries provides evidence to prosecute the crime.
 - obtain verbal agreement from the victim for a forensic examination.
 - ensure the victim has transportation to the designated facility.
 - brief the designated medical professional.
 - request the examination.
 - obtain briefing from the medical professional at the conclusion of the exam.
 - remember that the suspect may also be subject to a sexual assault examination.
-

Continued on next page

Medical/Legal Exam of Victim, Continued

Peace officer responsibilities for the legal medical examination (continued)

- ensure the victim is returned to a safe location after the exam.
- submit the evidence to the property room.

NOTE: *Penal Code Section 679.04(a)* states: “allows a victim to have victim advocate and support person at any interview by law enforcement authority, District Attorney or Defense attorneys. Support person may be excluded from an interview if determined that their presence would be detrimental to the purpose of the interview”.

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

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">• Available throughout California• Provide services to assist with:<ul style="list-style-type: none">- hospital accompaniment- liaison with the criminal justice system in some counties
State Victim/Witness Services	<ul style="list-style-type: none">• Available throughout California• Provides services to assist with:<ul style="list-style-type: none">- financial compensation and possible associated expenses,- liaison with the criminal justice system, and- information pertaining to the situation

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. This brochure contains information about victim services.

Chapter Synopsis

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.
Setting the tone [10.03.1]	Sexual assault can be traumatic and generate severe emotional stress.
Interviewing the victim [10.03.2]	Once the nature of the crime has been determined, the answers to several other questions will aid in the investigation of the case.
Legal medical examination of victim [10.03.3]	The purpose of a legal medical examination is to collect, preserve, and document evidence.
Victim's rights [10.03.4]	<p>Per <i>Penal Code Section 293(a)</i>, the officer is responsible for informing the victim that the victim's name will become a matter of public record <i>unless the victim requests confidentiality</i>. The confidentiality notification and victims response shall be documented in the officer's report.</p> <p><i>Penal Code Section 637.4(a)</i> prohibits the officer from requesting that the victim undergo a polygraph examination.</p>
Collecting crime scene evidence [10.03.5]	For an investigation of a sexual assault case, the officer should determine the need to collect items as evidence from the scene.

Continued on next page

Chapter Synopsis, Continued

**Available
services for
the victim
[10.03.6]**

Per *Penal Code Section 264.2(a)*, the peace officer is required to provide the victim with a “Victims of Domestic Violence” brochure. The brochure also contains information about victim services.

Workbook Learning Activities

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 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?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. Assume you have just been the victim of a sexual assault and the responding peace officer has just explained to you that for your health as well as evidence, you need to undergo a medical/legal examination. As the victim, what questions would you want answered before you agree?
4. You are in charge of the crime scene investigation in the case of a woman who says that as she was leaving the shopping mall, she was forced into her own car and raped. What types of evidence would you look for in and around the car?

Continued on next page

Workbook Learning Activities, Continued

Student notes

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
• Identify the requirements for sex offender registration under <i>Penal Code Section 290</i>	10.04.1
• Recognize violations of <i>Penal Code Section 290</i>	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	4-2
Chapter Synopsis	4-7
Workbook Learning Activities	4-8

Sex Offender Registration Conditions and Requirements

Sex offender registration conditions

Penal Code Section 290 states: “ Every person (convicted sex offender).....for the rest of their life 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....”

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 of...
<ul style="list-style-type: none">- rape,- rape in concert,- oral copulation,- penetration with a foreign object,- lewd acts upon a child,- spousal rape,- sodomy,- assault with attempt to commit any of the above- indecent exposure,- incest,- sexual battery, or- kidnapping with intent to commit sexual assault.	ordered by the court to register under <i>Penal Code Section 290</i> ,	<ul style="list-style-type: none">- moving to a new jurisdiction,- moving to a new residence in the same jurisdiction,- the registrant's birthday (annually).- attending an institution of higher learning must also register with college, university police department or local law enforcement agency- leaving the law enforcement jurisdiction (i.e., visiting, temporary employment)

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Sex Offender Registration Conditions and Requirements,

Continued

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 days. A transient is defined as a person who has no residence.

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 one jurisdiction
 - Works in another jurisdiction
 - Enrolled as a student at an institution of higher learning.
-

Other registration conditions

NOTE: *Penal Code Section 290* also requires the registration of anyone convicted of crimes against children including:

- Child pornography (*Penal Code Section 311.2*),
- Misdemeanor child molestation (*Penal Code Section 647.6(a)*), or
- Aggravated assault of a child (*Penal Code Section 269*).

NOTE: *Penal Code Section 290* requires a sexually violent predator (SVP) to verify their address, place of employment, and name of employer every ninety days with the Department of Justice. Failure to comply with the ninety day requirement is a felony.

Sex Offender Registration Conditions and Requirements,

Continued

Other registration conditions

- NOTE: Oral copulation and sodomy where victim is over 14, the court has the discretion to order an offender to register.
- NOTE: A transient shall register annually within five working days of their birthday. They must provide a list of places where they may sleep, eat, frequent and engage in leisure activity.
-

Examples

- Example: A man convicted of misdemeanor sexual battery must register annually within five working days of his birthday.
- Example: A registrant who has moved from Sacramento to Fresno must register within five working days with Fresno law enforcement authorities.
- Example: A registrant from Sacramento who is taking a two-week vacation in Fresno must register within five working days with Fresno law enforcement authorities.
-

Registration requirements

- Penal Code Section 290*, requires sex offender registrants to:
- sign a notice of registration requirement issued by the Department of Justice standard form SS-8102S
 - be fingerprinted,
 - be photographed,
 - list the license plate numbers of any vehicle they own or that is registered in their names, or regularly driven by the registrant
 - give the name and address of employer, or the school they are attending,
 - give address to place of employment, if different than employer address,
 - DNA
-

Continued on next page

Sex Offender Registration Conditions and Requirements,

Continued

Sex offender violation evidence

The following items can be considered violation evidence:

- Recorded witness statement (spouse, significant other, family, roommate(s), neighbor(s), new residents)
- Statement from suspect
- Mail with suspects 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">• misdemeanor (shall not be charged more than once in a 90 day period)• third or subsequent violation shall be punished in accordance with either (290.018(a) or 290.018(b))	290.018(g)

Disseminating information to the public

Agencies disseminating information to the public shall maintain records of the means and dates of dissemination for a minimum of five years.

Sex Offender Registration Conditions and Requirements,

Continued

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 (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)

Chapter Synopsis

Learning need

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

**Sex offender
registration
conditions
[10.04.1]**

Penal Code Section 290 requires a person convicted of a sex-related offense to register with local law enforcement in the jurisdiction in which he or she lives, goes to school, or works.

**Classifying
the crime
[10.04.2]**

Violations of *Penal Code Section 290* can be classified as either felonies or misdemeanors, depending upon the prior record of the person.

Workbook Learning Activities

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 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. Neighbors of a person living in the jurisdiction have called the local law enforcement agency to complain that a relatively new member of their community seems to be overly friendly with their children and has even tried to lure some of the younger ones inside with the promise of a snack. What steps might you take to find out more information about this individual?

Continued on next page

Workbook Learning Activities, Continued

**Activity
questions**
(continued)

3. A person previously convicted of spousal rape and registered in Sacramento is planning to take a week-long (7 day) vacation in Palm Springs. What is this individual's obligation under *Penal Code Section 290*? How does this change if the person chooses to stay for a second week?

4. 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?

Continued on next page

Glossary

Introduction

The following glossary terms apply only to Learning Domain 10: Sex Crimes.

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, hardship, or retribution sufficient to coerce a reasonable person of ordinary susceptibility to perform an act to which one would otherwise not have submitted

empathy

Identifying with another's feelings to offer support

Continued on next page

Glossary, Continued

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
nonaggressive	Not offensive or pushy, lack of assertiveness; not forceful
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

Continued on next page

Glossary, Continued

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
polygraph	A test that measures the physiological changes the body triggered by emotional responses to specific verbal questions
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 penile/vaginal 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
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 imprison, 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

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Glossary, Continued

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