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Training and Evaluating the Police Communications Dispatcher

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Psychological Factors The Overlooked Evidence in Rape Investigations

"... the major coping task of the rape victim is not to avoid sexual contact but to survive."

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The rape investigation is frequently one of the most challenging and frustrating tasks a police investigator can undertake. When the victim is beaten into insensibility and requires immediate medical treatment or is discovered half dead, nude, and tied to a tree, an investigator can reasonably conclude that a criminal offense has occurred. The investigator is then tasked to collect and preserve evidence and to identify the perpetrator(s). Fortunately, a large percentage of rapes reported to police involve little, if any, physical injury to the victim. The major task confronting the investigator is to prove that the sexual act occurred "by force and without consent."

Juries have been reluctant to convict accused rapists unless the victim was clearly brutalized. Thus, the victim with scars on her body left

by a knife-wielding rapist will have little trouble proving her case, while the woman who bears only the mental scars is unlikely to see justice done.

This problem is exacerbated when the behavior of the victim during and after the incident is in some manner contrary to what is traditionally expected of someone who has just experienced a "fate worse than death." Woe be unto the rape victim who, for reasons of shock, fear, humiliation, or confusion, waits more than a matter of minutes to report her ordeal. Even if she reports the incident within minutes, investigators and jury members are likely to be skeptical of her report if she appears calm and collected. Similarly, she is expected to engage in at least passive resistance; submissive acts during the incident are very often equated with consent.

This situation is changing rapidly, however. Behavioral scientists studying both rapists and their victims have made some rather startling findings about the behavior of rape victims. Many of these findings expose traditional views of "appropriate" victim

behavior as having been based solely on myths and misconceptions inherited from bygone eras. These studies have emphasized the life-threatening nature of the rape episode, which is often difficult for males to understand. Yet, evidence indicates that females are affected by fear to a much greater extent than males.¹

The typical rape victim's behavior is terror-induced, pseudocalm, and detached during the rape episode. One prominent researcher found:

"The first and immediate response of all individuals to sudden unexpected violence is shock and disbelief. When realization sets in, the vast majority of victims then experience fright which borders on panic. This fright-panic response is especially true when the individual feels his life to be in imminent danger. In violent crimes, particularly crime where there is prolonged contact with the criminal, such as in the crime of rape, the feeling of impending peril



Mr. Griffiths

to the victim is deliberately produced by the criminal. He shows the victim a knife or a gun, sometimes hits the victim, and always makes extreme verbal threats to the victim's life unless she complies. When a victim experiences fright bordering on panic there is a heightened distortion of perceptive thinking and judgment. All behavior is directed at self-preservation. Most learned behavior seems to evaporate, and the victim responds with the adaptive and innate patterns of early childhood. I have called this response traumatic psychological infantilism."²

Thus, the major coping task of the rape victim is not to avoid sexual contact but to survive.

Examination of a victim's coping strategies by mental health professionals can often result in expert testimony that explains questionable actions the victim may have taken. To preserve such evidence properly, the interviewing officer should document not only the sequence of events but also the coping behavior of the victim during the attack.

Victim Coping Strategies During Sexual Attacks

The first coping behavior expected by the public of a rape victim is physical resistance. A major study revealed, however, that only about one-fourth of rape victims physically struggle with their attackers.³ Even many of those who initially struggle quit when they realize they cannot escape. The majority opt for verbal

tactics, such as stalling for time, reasoning with the assailant to try to change his mind, trying to gain his sympathy, flattering him, bargaining with him, trying to change his perception of them, verbal aggression, or joking and sarcasm. While the rape is in progress, some victims try screaming and crying in the hope of attracting help, while others talk quietly with their assailant in hopes of avoiding additional violence. Then, when the attack is over, the victim may have to bargain with the rapist for her freedom by promising not to report the incident or not to move for a specified time. Other victims adopt cognitive strategies, such as concentrating on how to escape, how to keep calm, or how to avoid injury. They may also recall advice given to them by others about what to do in a rape situation or how they have handled violent situations in the past. Some concentrate on the rapist's physical description, vehicle, and remarks to provide leads for the police. Finally, many victims simply comply with the rapist's demands as a strategy to "speed it up . . . get it over with."⁴

This behavior may readily be misinterpreted as consent by persons not familiar with the psychodynamics of stress in violent situations. In point of fact, research disclosed that:

"The behavior of the vast majority of women during their contact with rapists demonstrates this traumatic psychological infantilism. In the atmosphere of primal terror, not only do people submit, but also psychological infantilism, with its consequent helplessness, makes it appear to the outsider that their behavior was friendly and cooperative. It is a response of frozen fright that

"The source of most psychological evidence of force lies in the nature of the victim's reactions after the incidents."

confuses everyone; the rapist, the victims's family, her friends, the police, and even the victim herself. . . . The frozen fright response of psychological infantilism looks like cooperative behavior. The victim may smile, even initiate acts, and may appear relaxed and calm. But frozen fright has its roots in profound primal terror. The individual submits in order not to be killed."⁵

The response is similar to that observed in many animals when in danger of imminent attack from others of their own species. Many times, they will expose their most vulnerable parts to the attacker in a apparent attempt to prevent further violence.⁶

Reasons for Delayed Reports

After the rapist departs, the victim must decide whether to report the incident to the police. If she reports the rape, no matter what her mental status, she'd better hurry, since ". . . evidence showing the presence of 'fresh complaint' has been allowed . . . on the theory that if a woman is actually sexually violated, she will report that violation at the earliest available opportunity, and that undoubtedly she will be a study in hysteria when she does so."⁷ In the past, it was a truism among many legal experts that a lack of a fresh complaint was tantamount to a false complaint. However, modern case law considers the rape victim's delay in reporting the crime as simply a factor to be weighed when determining the credibility or consent of the victim. Delays in reporting the commission of a rape may be easily overcome with a credible explanation of the delay.⁸

The principle of "fresh complaint" does not take into account the shock, humiliation, confusion, and fear the victim may be experiencing immediately after the incident. The numbing fear that produces traumatic psychological infantilism is not easily dissipated. As one psychologist who was raped at gunpoint reported, "I felt endangered everywhere. Every noise startled me. Every leaf was camouflage for an assassin. For months a friend of mine described [me] searching the faces on the street as if to ask, 'Are you the one?'"⁹

Another psychological factor which may prevent the victim from promptly reporting the rape is a perverse sense of gratitude. This response is very similar to certain aspects of the "Stockholm Syndrome" observed in hostages. Indeed, the situations are very similar. The rape victim becomes a hostage of the rapist, forced to do his every bidding in order to survive. Although most rape episodes are considerably shorter than the typical hostage incident, time becomes very subjective for the victim. Most rape victims report that the attack seemed interminable.¹⁰ Therefore, depending on the nature of the attack and the victim's psychological makeup, the victim may either identify with the offender or transfer feelings of gratitude, kindness, or understanding. Since the rapist has complied with the victim's ultimate wish—he allowed her to live—she may not report the incident at all or report it only after time has diminished

the impact of the incident and her gratitude for being released. Therefore, a delayed report must be viewed in the light of the original Stockholm hostage incident, in which the hostages refused, years later, to testify; a female hostage even married one of the hostage takers.

The stressors involved in a rape situation are clearly equivalent of those experienced by hostages. In fact, the third edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-III) of the American Psychiatric Association associates rape with "a recognizable stressor that would evoke significantly symptoms of distress in almost everyone."¹¹ Other similar stressors are military combat, floods, earthquakes, car or airplane crashes, bombings, torture, and death camps. Thus, the investigator interviewing a rape victim must understand the victim's point of view of the incident in order to document the reasons behind those otherwise puzzling aspects of her behavior.

Although expert testimony can not explain much of the rape victim's behavior which would otherwise damage her credibility, the jury is still faced with an extremely difficult task in having to arrive at a verdict when the vast majority of evidence presented consists basically of "her word against his."

Fortunately, an entirely new category of psychological evidence is becoming available to make the task of proving force easier in the absence of corroborating physical evidence. Recent studies have identified specific stress reactions in victims which may be linked to the crime of rape and

thus serve as a basis for corroborating their testimony. The police investigator should be familiar with the nature of such stress-related evidence and with ways to develop and document such evidence to serve as a basis for substantiating the victim's allegations when other traditional evidence is not available.

The Rape Trauma Syndrome

The source of most psychological evidence of force lies in the nature of the victim's reactions after the incident. This pattern of reactions is so specific and so universally observed by mental health professionals in dealing with rape victims that it was labeled the "rape trauma syndrome" by the first researchers to extensively study such victims.¹²

The rape trauma syndrome ". . . is the stress response pattern of the victim following forced, non-consenting sexual activity. It consists of somatic, cognitive, psychological, and behavioral symptoms resulting from an active stress reaction to a life threatening situation."¹³ It usually has two phases.

The first phase begins about the time the victim is released by, or escapes from, her attacker. It is characterized by disorganization, in which the victim's life is disrupted by the impact reactions of the rape incident. Depending on the severity of the attack, the victim may experience feelings of shock or disbelief, followed by or alternating with fear and anxiety. She will then usually develop one of two styles of coping with her emotions: An expressed style in which she displays her feelings by crying, sobbing, smiling, and becoming restless or tense; or a controlled style in which she masks her feelings behind a

calm, composed, or subdued appearance. The number of victims adopting either style is approximately equal.¹⁴ Regardless of the style the victim develops, questions concerning her feelings about the incident will elicit a wide gamut of responses, ranging from fear, humiliation, and embarrassment to anger, revenge, and guilt.

The second phase of the rape trauma syndrome typically begins about 2 to 3 weeks after the attack and is characterized by reorganization. Here, the victim tries to reassemble her lifestyle, integrating the rape experience into it. During this phase, she will attempt to cope with the rape with psychological and behavioral reactions directed toward assuring herself that she will not again be so victimized.

To collect this evidence, the investigator must be cognizant of the specific diagnostic criteria used by psychologists to document this disorder.

The Posttraumatic Stress Disorder

The rape trauma syndrome is now accepted as a subcategory of the specific type of anxiety disorder classified as the "posttraumatic stress disorder" in the DSM-III. Accordingly, the DSM-III diagnostic criteria will be presented, followed by examples often resulting from the rape trauma syndrome, and where appropriate, suggestions for eliciting this type of information during interviews. These examples have been gleaned from the writings of noted mental health professionals, such as those referenced in the footnotes. The major concern in gaining such information is, of course,

to avoid "leading" the victim into describing symptoms she hasn't experienced because she believes that the interviewer expects her to undergo such feelings. Therefore, it is essential to use indirect questioning techniques to elicit such information.

The first major criterion noted in the DSM-III is the *existence of a recognizable stressor that would evoke significant symptoms of distress in almost anyone*. Rape is specifically mentioned as such a stressor in the DSM-III. Therefore, the task of the investigator is to inquire about any other traumatic event that might recently have occurred in the victim's life. The absence of such events will help establish that the rape is the sole source of the victim's symptoms.

The DSM-III lists the second major criterion necessary to substantiate this disorder as *reexperiencing of the trauma as evidenced by at least one of the following*:

Recurrent and intrusive recollections of the event—Rape victims are frequently plagued by their inability to keep from thinking about the incident. The victim can be encouraged to report such a phenomenon by a non-directive comment such as, "I don't imagine it's easy to forget something like this."

Recurrent dreams of the event—Nightmares characterized by violence either to the victim or in her presence are commonly reported. At first, the theme of the dream may be similar to the actual event, in which the victim wishes to do something but then wakes up before acting. As the victim adjusts to the trauma, the theme of the dream may change, with the victim gaining mastery of the situation by being able to fight off or even muti-

"Phobic fears of crowds, elevators or stairs, people behind them, or of being alone are typical victim reactions, depending on the circumstances of the rape."

late or kill her assailant. A third type of dream may involve symbolic representations of some theme from the rape, which will require a qualified mental health professional to interpret. The investigator should inquire whether the victim has had any trouble with sleeping or dreaming since the incident and should carefully document the content of any dream the victim is willing to discuss.

Sudden acting or feeling as if the traumatic event were reoccurring because of an association with an environmental or ideational stimulus—Often, victims will complain of momentary panic after seeing something they associate with the incident or something they regard as threatening, such as a strange man "acting suspiciously." They may take action to rid themselves of things which remind them of the incident, such as discarding the purse, shoes, or other items they were wearing during the attack. When informed that it will be necessary for police to temporarily obtain their clothing for evidence, they may express a desire not to have it returned. Victims attacked in their homes may even go so far as to discard furniture present during the attack, which they may associate with the incident.

The third major criterion of the posttraumatic stress disorder is *numbing of responsiveness to or reduced involvement with the external world, beginning some time after the trauma*. Many rape victims directly report that they were in a state of shock, felt numb, or that it didn't feel real. They may typically state that they just can't believe it happened.

Other evidence of this criterion can be shown by at least one of the following:

Markedly diminished interest in one or more significant activities—Many victims who once enjoyed sports, walking, and outdoor activities will stop participating in such activities. They may fear that such activities will expose them to danger again. Some victims, especially those attacked outdoors, become phobic of the outdoors and become, in effect, immobilized. They may request friends or relatives to accompany them on routine errands, such as grocery shopping. Conversely, those attacked in their homes or other buildings may feel trapped indoors and seek to be outside or at some other location, such as the workplace.

Feeling of detachment or estrangement from others—Victims frequently describe feeling isolated and estranged from others. One victim described how she "... went through the ritual of talking to people. It always seemed as if I were talking through glass or underwater."¹⁵ Another stated that she preferred to "... stay in my own little world by myself, now."¹⁶

Constricted affect—This refers to a withdrawal from life. Rape victims who previously displayed outgoing, "life of the party" personalities may become very defensive and rigid in their behavior. They may refuse to attend social functions, quit work or school, even withdraw from their families. Interviews with friends, coworkers, and family members may be used to document such behavior changes.

The final DSM-III criterion calls for at least two of the following symptoms that were not present before the trauma:

Hyperalertness or exaggerated startle response—Rape victims often develop paranoid feelings. They may believe they are being watched or followed. One victim's mother reported that she wouldn't go to bed until she checked the locks on every door and window in her house at least three times. Another victim reported that she now slept with her clothes on so she could run out of the house if attacked. They may believe others can tell they were raped just by looking at them. They may also run or scream when they feel endangered, such as upon hearing footsteps behind them, being confronted with a "suspicious" man, etc. They frequently will panic and jump or scream upon being startled by an unexpected noise or touch. Also, they will often withdraw convulsively from even a casual touch by a male. The interviewing officer can often observe these reactions directly or might mention that the victim seems "jumpy" and ask if this has been a problem or source of embarrassment for her.

Sleep disturbance—Rape victims often report they are unable to sleep or awaken shortly after falling asleep, then be unable to get back to sleep. Victims who were attacked in their sleep may awaken each night at the time they were attacked.

Guilt about surviving when others have not or about behavior required for survival—Guilt is an especially characteristic feeling among rape victims. Because of society's traditional attitude of blaming rape on the victim, she may accept those standards and impose this judgment on herself. She may also blame herself for her inability to get away from participating in the

crime, even when she clearly had no alternative.

Memory impairment or trouble concentrating—Due to the nature of the rape episode, the victim normally experiences a crisis reaction which results in cognitive, affective, and behavioral disruption. The victim may experience difficulty in remembering details of the incident, especially during the hours immediately following the attack. She may remember being bound, for example, but be unable to remember whether her hands were tied in front of her or behind her back. Her recollection of the details surrounding the attack may prove faulty, and she may be inconsistent in responding to questions about such details. Unfortunately, such inconsistency is often interpreted by the interviewing officer as an indication of deception when it is, in fact, a result of the rape trauma. Details which may have been forgotten or unclear to her at the time of the initial interview will often be recalled in greater detail during the followup interviews after the impact reactions have subsided.

Avoidance of activities that arouse recollection of the traumatic event—Women who were picked up at bars or clubs and later raped may avoid frequenting such establishments. Phobic fears of crowds, elevators or stairs, people behind them, or of being alone are typical victims' reactions, depending on the circumstances of the rape. Descriptions of

such phobic reactions can be elicited during later interviews by mentioning what happened to the victim could really change her outlook on whatever her activity or location when the incident took place.

Intensification of symptoms by exposure to events that symbolize or resemble the traumatic event—Victims who were forced to engage in oral sex may gag when eating or have difficulty in swallowing, singing, or speaking. They may also experience "anniversary" reactions on the day or time of the month the incident occurred. Another event symbolizing the rape for some victims is sexual activity. The victim may abstain from sexual relations for an indefinite period or markedly decrease her sexual activity. Slightly over 25 percent of such victims reported such a decrease, however.¹⁷ Conversely, some victims increase their sexual activity, possibly to gain security from the associated cuddling and holding.¹⁸ The interviewing officer should avoid probing the victim for such intimate details, but should be aware that an apparent attitude of promiscuity in the victim after the incident may result from her increased need for security.

Additional Rape Trauma Symptoms

In addition to the criteria which specifically support a DSM-III diagnosis of posttraumatic stress disorder, there are several other symptoms which are associated with the rape trauma syndrome. They include loss of appetite or eating problems, rapid mood changes, depression, excitability, frequent crying, or frequent loss of temper. Many victims also complain of nausea and may state that they become nauseated just thinking about

the rape. In the reorganization phase, many victims will change residence, remove their name from mail boxes, and discontinue telephone service or change to unlisted numbers. Usually, such measures are taken due to the haunting fear that the rapist will return or will take revenge because the incident was reported. Many victims also experience a need to "get away" and will take trips or visit relatives they don't usually see often.

Collecting Rape Trauma Evidence

More than one interview with the rape victim will be necessary to observe and document evidence of the rape trauma syndrome. The initial interview will, of course, concentrate on the details of what happened, but its scope should be expanded to encompass the feelings and reactions of the victim.

A second interview should be scheduled with the victim about 2 to 3 weeks after the incident. This interview will be useful in clearing up details that might not have been covered in her initial statement; however, the main emphasis of the interview should be on her reactions and lifestyle since the rape. Observations and information reported by the victim which are consistent with the rape trauma syndrome should be thoroughly documented in the investigator's notes. Finally, a third interview should be held at least 6 to 8 weeks after the incident in order to collect psychological evidence consistent with the reorganization phase of the rape trauma syndrome.

"Accusative interrogation tactics have absolutely no place in the interview, unless it is blatantly obvious that the victim is falsifying the entire report."

Techniques For Interviewing Rape Victims

When interviewing the rape victim, the investigator should try to establish rapport by using knowledge of the psychodynamics of violence to mitigate the tendency (learned from experience in interrogations) to view confused, evasive, or contradictory behavior as evidence of deception. While obtaining the details of the incident, the investigator should ask the victim to relate her feelings during the incident and her reasoning behind actions she took or did not take. The "just the facts, ma'am" attitude that is laudable under other circumstances will be counterproductive in a rape interview, since it tends to limit the flow of information about the psychological impact of the event and may even further traumatize the victim if she interprets this as skepticism or hostility. Remember, at this point in the investigation, a maximum amount of empathy and concern for the victim is required. By expressing interest and sympathy, the investigator not only facilitates the collection of psychological evidence but lessens the impact of the rape aftermath by demonstrating concern for her as a person rather than as a mere source of evidence, or worse, as an additional problem.

If any of the victim's coping strategies even remotely aided the investigation, she should be praised for thinking of them. A question that often haunts the rape victim is, "Did I do the right thing?" If she is aware her strategies were beneficial, the victim may be able to overcome feelings of fear and guilt resulting from perceived ineffectiveness. The interviewing officer must also understand that a victim who is undergoing impact

stress reaction may not be able to talk about certain aspects of the incident. She should never be forced into lying about some detail she may not clearly remember or be too traumatized to discuss. She should be informed that if there is something she can't bear to talk about, she should simply say so, and the matter will not be pursued at this time. However, she should also be aware that any false statement about the incident, no matter how insignificant, may cast doubt on her testimony. Of course, it is frustrating not to be able to obtain all of the details immediately, but since two or three additional interviews will be conducted, the investigator will find that the victim will remember and relate willingly more details after the shock of the incident has subsided. Accusative interrogation tactics have absolutely no place in the interview, unless it is blatantly obvious that the victim is falsifying the entire report.

Documenting Psychological Evidence

All observations and information provided by the victim and other witnesses about changes in her lifestyle should be documented in the investigator's notes. Investigators, though, should not attempt to draw conclusions or make diagnoses that they are professionally unqualified to make. Any actual diagnosis must be made by a qualified mental health professional. Ideally, the victim will receive followup counseling from such a professional, but many don't. Even when evidence from psychological counseling sessions is unavailable, the mental health professional can, in many jurisdictions, rely on other evidence (such

as the investigator's observations) in arriving at a conclusion.

The Admissibility of Psychological Evidence

Questions remain on the admissibility of psychological evidence in support of the victim's testimony, although the bulk of appellate decisions in this area have been favorable. As a general rule, expert testimony may be admitted to explain psychological aspects of sex crimes that are beyond the experience of the average juror,¹⁹ or for "... explaining superficially bizarre behavior by identifying its emotional antecedents."²⁰ Such evidence, when corroborating a victim's testimony, was deemed admissible, "... as would be a doctor's testimony in a personal injury case that a party's physical behavior was consistent with a claimed soft tissue injury, although such an injury was not objectively verifiable."²¹

Evidence of the rape trauma syndrome for rebutting defendants claims of consent has been admitted and affirmed on several occasions. One such decision stated, "... the literature clearly demonstrates that the so-called 'rape trauma syndrome' is generally accepted to be a common reaction to sexual assault."²² However, not all appellate decisions have upheld the admissibility of rape trauma evidence, especially when offered along with an expert opinion that the victim was, in fact, forcibly raped. Such testimony was held to be "... a legal conclusion which was of no use to the jury" because it "gave a stamp of scientific legitimacy to the truth of the complaining witness's fac-

tual testimony."²³ Nor have all courts agreed that the rape trauma syndrome is generally accepted in the scientific community. One court held that "the scientific evaluation of rape trauma syndrome has not reached a level of reliability that surpasses the quality of common sense evaluation present in jury deliberations."²⁴ The same court was split in a later case, however, with dissenting justices stating that "such evidence is probative on the issue of consent and thus helpful to the jury in resolving the conflicting facts of this case concerning that issue."²⁵ One court upheld the admissibility of a rape crisis counselor's testimony, even though she had not personally counseled the victim, but had merely read documents pertaining to the case and observed the victim testifying in court.²⁶

Conclusion

Forcible rape produces psychological stressors which are among the strongest possible in human experience. To cope with these stresses, victims are reduced to a primitive, childlike state of mental functioning in which the logical faculties of the adult conscious mind are suspended and all behavior is purely survival oriented. Their behavior is therefore often difficult to understand without expert interpretation. Moreover, these stressors damage the psyche and lead to quantifiable ideational and behavioral

changes specifically characteristic of rape victims. Police investigators who are cognizant of the coping behavior and posttraumatic stress reactions of rape victims will be more effective in conducting followup investigations as they will collect additional evidence which may be used to substantiate the element of force. Also, by being concerned with the victim's feelings and reactions, they will reduce some of the trauma associated with the investigation and will encourage victims to cooperate more fully in subsequent prosecutions. Thus, by becoming familiar with a few psychological principles, the police investigator can, in some instances, become the eyes and ears of the expert whose testimony may easily mean the difference between seeing justice done and allowing a dangerous criminal return to society to prey on additional innocent victims.

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Footnotes

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- ⁵ *Supra* note 2, p. 30.
- ⁶ *Ibid.* p. 31.
- ⁷ J.L. Ross, "The Overlooked Expert in Rape Prosecutions," *University of Toledo Law Review*, vol. 14, No. 3, 1983, p. 708.
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- ¹⁴ A.W. Burgess and A. Lazare, *Community Mental Health: Target Populations* (Englewood Cliffs, NJ: Prentice-Hall, 1976), pp. 240-241.
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- ¹⁶ *Supra* note 12, p. 103.
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- ¹⁹ *State v. Harwood*, Or. App., 609 P.2d 1312 (1980).
- ²⁰ *State v. Middleton*, Or. App., 648 P.2d 1296, 1300 (1982).
- ²¹ *Ibid.*
- ²² *State v. Marks*, Kan., 647 P.2d 1292, 1299 (1982).
- ²³ *State v. Saldana*, Minn., 324 N.W. 2d 227, 231 (1982).
- ²⁴ *Ibid.* p. 230.
- ²⁵ *State v. McGee*, Minn., 324 N.W. 2d 232, 234 (1982).
- ²⁶ *United States v. Hammond*, 17 M.J. 218 (C.M.A. 1984).

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