

Understanding Sexual Assault Complaints: Considerations for Adjudicators

VAWA ADJUDICATOR TRAINING PROGRAM

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Learning Objectives



- After completing this module, learners will be able to:
- Define the offenses of rape, fondling, incest, and statutory rape
 - Identify the elements contained in the definitions of rape, fondling, incest and statutory rape
 - Identify the exceptions and clarifiers that rest within the definitions of sexual assault

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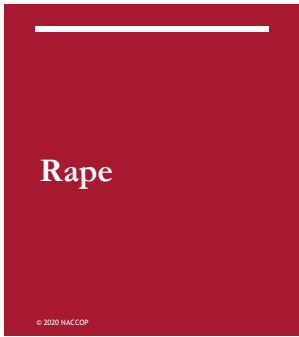
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Sexual Assault

An offense that meets the definition of rape, fondling, incest, or statutory rape as used in the FBI's Uniform Crime Reporting Program.

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Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

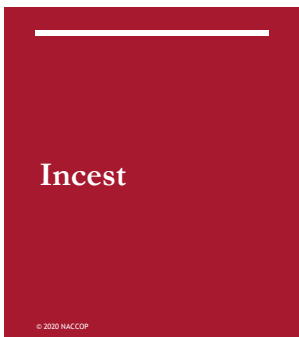




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The touching of the private body parts of another person for the purpose of sexual gratification without consent of the victim, including instances where the victim is incapable of giving consent b/c of his/her age or temporary or permanent mental or physical incapacity.





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Non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.



Statutory Rape

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Non-forcible sexual intercourse with a person who is under the statutory age of consent.



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What is an Element?

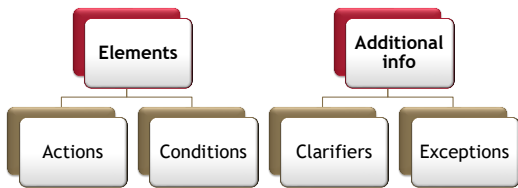
“An element is an essential item that a party is required to prove in order to successfully assert a claim or a defense.”
Blacks Law Dictionary

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Understanding the Elements

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Definition - RAPE



Rape is the penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.



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Consent



- The Clery Act does not require any particular definition of consent
- Policy should include definition of consent as defined by jurisdiction (state law)
- Institution should have a definition in their institutional sexual misconduct policy

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Element Two – Consent (Force)



- Physical or verbal resistance
- Threats (or perceived threats), coercion, intimidation
- Misinterpreted behaviors
- Power differentials (real or perceived)

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Element Two – Consent (Incapacitation)



- Alcohol or drug consumption
- Decision-making ability of the parties
- Awareness of consequences
- Ability to make informed judgments
- Capacity to appreciate the nature and the quality of the act

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Definition - FONDLING



Fondling is the touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.

Clarifier: including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

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Definition - INCEST



Incest is sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

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Definition - STATUTORY RAPE



Statutory Rape is sexual intercourse with a person who is under the statutory age of consent.

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Evidentiary Standard



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FINAL THOUGHTS



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