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*presents:*

**Sex Offender Characteristics  
And  
Legislative Changes Relevant to Texas  
Peace Officers, 1999–2000**

**March 2000**

# **Sex Offender Characteristics**

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# **Chapter One**

## **Course Introduction**



## Learning Objectives

### *Background*

- 1.1: The student will be able to determine the process for sex offender registration in Texas.
- 1.2: The student will be able to identify paraphilias.

### *Pedophilia*

- 2.1: The student will be able to recognize types of pedophiles.
- 2.2: The student will be able to identify types of child molesters.

### *Rape*

- 3.1: The student will be able to identify behavior of rapists.
- 3.2: The student will be able to recognize types of information needed when interviewing rape victims.
- 3.3: The student will be able to identify types of rapists.

### *Sexual Sadistic Crime*

- 4.1: The student will be able to recognize possible identifying factors in a sexual sadistic crime.

### *Lust Murderers*

- 5.1: The student will be able to identify types of lust murderer.

### *Profiling*

- 6.1: The student will be able to describe what a psychological profile is.
- 6.2: The student will be able to identify types of crimes best suited for profiling.
- 6.3: The student will be able to recognize materials necessary for profiling.
- 6.4: The student will be able to identify victim information related to profiling.



## Scope of This Course

### Sex Offender Characteristics

*Sex Offender Characteristics* brings together and expands upon topics discussed in two previous courses, *Child Abuse* and *Sexual Assault*. It focuses upon a wide range of offenses and perpetrators through the use of four crime categories: sexual assault, sexual child abuse, sexual exploitation of children, and “lust murder.”

Unlike the courses listed above, which detail law enforcement investigation procedures, *Sex Offender Characteristics* primarily emphasizes criminal profiles—generalizations about criminal mentality and behavior that can help officers draw together diverse indicators into scenarios useful for identifying suspects, conducting interviews, and other essential activities. The profiling in this course consists of (1) a discussion of sexual disorders related to criminal activity and (2) a discussion of sex offender types.

Clearly understanding the nature of sexual disorders related to sex offenses is essential for law enforcement officers. Interpreting the legality of sexual behaviors is a tricky business. A behavior that is legal in itself, such as private and controlled sadomasochism, may be illegal in other contexts, such as sadomasochism performed in the presence of children. A behavior that is illegal in itself, such as homosexuality in Texas, may cause society so little harm in most circumstances that officers may decide to leave it alone. Also important in interpreting the legal impact of sexual disorders is an officer’s ability to distinguish between his or her personal moral judgment and legality. Understanding how sexual disorders specifically relate to sex offenses may reduce an officer’s temptation to investigate people simply because they seem to be “perverted.”

Getting a clear sense of sex offender typologies also helps officers draw useful distinctions that they might not otherwise draw. For instance, stereotypes abound considering sex offenders. Rapists as strangers who leap out at women from the shadows, child molesters as “dirty old men” who wait for children in public rest rooms and playgrounds, and lust murderers as skulking social misfits are just a few of these stereotypes. In reality, sex offenders come from every social class, race, gender religion, and family background. Victims are similarly diverse: men, women, boys, girls, the elderly, and the disabled all may be targeted. The criminal typologies offered in this course, such as the “organized” and “disorganized” categories of lust murderer, are general profiling instruments that may counter stereotypes.

Throughout this course, the masculine pronouns are often used when referring to offenders and feminine pronouns are often used when referring to victims. This usage does not imply that all offenders are male and that all victims are female; it simply reflects the common gender of sex offenders and victims.

*Guidelines for law enforcement provided in this course are general in nature. They are not meant to override local policies and procedures which law enforcement officers must follow.*

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### Legislative Changes Relevant to Peace Officers

The Texas Legislature requires that law enforcement officers in Texas be periodically informed of recent changes in Texas law. “Legislative Changes Relevant to Peace Officers,” which is included with *Sex Offender Characteristics*, addresses changes in Texas Law effective as of September 1999.

### Credit for This Course

Peace officers taking this course will receive 8 hours of credit through the Texas Commission on Law Enforcement.

### Course Exercises and Final Examination

**You must complete all chapter review exercises and the final examination in order to complete this course.** When these things are completed, you will receive 8 hours of credit.

The chapter review exercise answers and the exam answers require that you fill out and submit two forms on the Web. The chapter review exercise form will require short answers; the final exam form will be in a simple multiple-choice format.

**We highly encourage you to have your answers ready before filling out the Web forms.** Preparing the chapter review exercise short answers might involve writing or printing them out on paper, or using cut-and-paste from a word processor running concurrently with your Web browser. For the final exam, you may simply print out the text version of the exam, review the study guide, and highlight each correct answer as you verify it during the review.

Go to the portal page (<http://www.utexas.edu/cee/dec/tcleose/offender/portal.html>) to gain access to the chapter review exercise form, final exam form, and text version of the exam.

### References

The following sources contain much of the information included in this course.

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## **Chapter Two**

### **Sexual Disorders Related to Criminal Activity**



## **Introduction**

Officers conducting interviews with suspects and witnesses during sexual offense investigations need to draw distinctions between illegal behavior and behavior they perceive to be “wrong” or “perverted.” Otherwise, they may provoke resistance in a person being interviewed and skew their interpretation of evidence.

Most people have sexual “quirks” or eccentricities of some sort. Some people go further from the heterosexual mainstream than others do, but eccentricity is not the determining factor in how sexual behaviors are addressed in the law. Some of the most eccentric sexual practices (such as consensual “bondage and discipline”) are perfectly legal, while aspects of some of the most common non-mainstream sexual practices (such as homosexuality in Texas) are illegal.

The clinical term for a sexual disorder serious enough to cause concern is “paraphilia.” Paraphilias are sexual impulse disorders that are characterized by intensely arousing, recurrent sexual fantasies, urges and behaviors (of at least six months’ duration); are considered deviate with respect to cultural norms; and often cause social, occupational, and family problems for paraphiliacs.

Paraphilias are not always illegal in themselves, but even some which are legal may be linked to illegal activities. On the other hand, activities that are technically illegal (such as homosexuality in Texas) may sometimes take place in such private and harmless circumstances, with so little negative impact on society, that investigating them may seem worse than leaving them alone. Personal prejudices, legal realities, and circumstantial considerations can make the policing of sexual behavior a strange and difficult business.

Given all of the complexities mentioned above, discussing paraphilias in relation to criminal activity requires clarity and consistency, especially since the fundamental issue of this course is how law enforcement officers confront those disorders in the public they serve.

In this chapter, a sampling of paraphilias will be discussed in such a way that the activities in themselves are not stigmatized as criminal or even “wrong.” Rather, emphasis will be placed on instances in which such activities are related to the motivation and commission of serious crimes.

## **Autoeroticism**

Autoeroticism is sexual self-stimulation, or “masturbation.” If autoeroticism were a crime in itself, most people would be bound for a term in prison at some point in their lives. Autoeroticism becomes a subject of the law when an individual’s sexual self-stimulation affects others (as in public indecency and certain forms of child abuse) or when it either mimics or obscures other criminal behavior.

A common example of autoeroticism’s mimicking or obscuring criminal behavior is erotic asphyxiation. This behavior, which may or may not be suicidal in intent, is based upon the actor’s belief that hypotoxia, or a deficiency of oxygen reaching the brain, can

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greatly enhance orgasm. A wide number of physical aids are used to induce hypoxia through neck compression, airway obstruction, and chest compression. Many accidental hangings and some drownings occur in this manner. The vast majority of erotic asphyxiation victims are white, middle-class males no older than 30, and a third of the victims have a history of transvestitism (cross-dressing).

For law enforcement officers, erotic asphyxiation is a problem greater than the distressing reality of comforting and interviewing family or friends of the dead person after the fact. Erotic asphyxiation and its trappings—a hanging platform, a basin or tub of water, a plastic bag—may also indicate an accomplice in the autoerotic act, a murderer, or a combination of the two. Pornographic materials bearing the victim's fingerprints, spilled semen, and evidence of cross-dressing may support the conclusion that the asphyxiation was individual and autoerotic in nature. If someone else is implicated in the act, careful interviewing of that other person and other witnesses will help to ascertain whether the other person intended to kill the victim.

### **Bestiality**

Bestiality is legally defined as sexual relations with animals. Despite the horror and revulsion that most people feel toward this activity, it is criminalized in Texas only as a form of public lewdness—if the act is witnessed, it may be prosecuted.

### **Exhibitionism**

Exhibitionism is the exposure of a person's body to another person meant to stimulate or gratify the sexual desire of either or both parties. Exhibitionism between consenting adults is a widespread sexual behavior, whether in intimate relationships or in performance settings. Even if it is technically a paraphilia in those settings, it is not illegal in the eyes of the state (generally, performed exhibitionism is regulated by local statute).

Exhibitionism becomes illegal in the case of indecent exposure, a Class A misdemeanor in Texas, or of indecency with a child, a felony of the third degree.

### **Fetishism**

Fetishism is the use of an inanimate object or a specific part of the body for physical or mental sexual stimulation. This sexual behavior is widespread and takes many forms, from benign (a preference for the partner's wearing of lingerie before sex) to vicious (a rapist cutting a lock of hair from the victim for use in masturbation). Fetishism falls within the purview of state law only if someone possesses six or more simulated penile or vaginal devices intended for sexual stimulation, which provides grounds for suspicion of promoting, selling, and distributing the devices (a Class A misdemeanor). Using such a device in a sexual act is not illegal.

Fetishism is of greatest concern for law enforcement as a motive for serious crimes such as sexual assault, aggravated sexual assault, and murder. Rapists, child molesters, and rapist/murderers sometimes take physical "tokens" from their victims—locks of hair, items of clothing, even body parts—which are used to stimulate masturbation and

increase interest in committing other crimes. Token-taking of this sort may indicate a probable escalation of severity in the offender's criminal behavior. A criminal fetishist who wants to "own" his or her victim may move from burglary or assault to murder and rape, as each acquired fetish token increases the offender's desire for domination of the victim.

### **Frotteurism**

Frotteurism is the act of rubbing against an unconsenting person for sexual stimulation, and it is a sexual offense in Texas. Frotteurism is commonly cited as a form of sexual aggression by some persons who are complaining of sexual harassment in the workplace, an environment where rubbing up against someone else may be difficult to witness and prove.

### **Gerontophilia**

Gerontophilia is sexual fixation on elderly persons as objects of sexual desire. This paraphilia is of special concern to law enforcement when it is identified as a motive for sexual assault. Sexual assault against a person 65 years or older automatically falls within the category of aggravated sexual assault.

### **Incest**

Texas law forbids sexual relations between persons related by blood or marriage to a degree closer than first cousins, including sexual relations that take place between consenting adults. This general ban against incest is justified by a community definition of "crime against the family."

Law enforcement officers investigating incest are rarely concerned with consenting adults. Incestuous abuse of children is by far the greatest incest problem. Child incest victims are often psychologically and socially devastated, with mental and emotional scars that can draw them into various criminal pathways, both as victims and perpetrators. Victims of incest are often compelled into prostitution and pornography by their abusers or the aftermath of the abuse, and some later sexually abuse others due to unresolved psychological problems resulting from abuse. (Incestuous child abuse is treated in depth in another course in this series, *Child Abuse*, and in the "Types of Sexual Offenders" chapter of this course.)

### **Necrophilia**

Necrophilia is sexual attraction to corpses. This disorder often finds expression only in fantasy; persons whose demeanor and behavior is otherwise completely normal, for instance, may ask sex partners to pretend to be dead. Other necrophiliacs may actually have sexual intercourse with corpses under occupational cover: such activity sometimes takes place in funeral homes and morgues. Others steal corpses in whatever way they can and secretly have sex with them. Despite the fact that this activity is as alarming to

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most people as bestiality, it is a Class A misdemeanor in Texas and is treated like any other “offense to a corpse.”

The most serious form of necrophilia is its occasional role in “lust murder,” when a sadistic sex offender murders the victim and then has sex with the corpse. Ted Bundy is a famous example of this kind of offender. In this case, necrophilia becomes an important part of the repeat offender’s profile. (For further discussion of this kind of offender, see “Types of Sexual Offenders” in this course.)

A superb study of lust murder necrophilia can be found in Dr. Robert A. Simon’s *Bad Men Do What Good Men Dream*, part of which may be found on the Web (<http://www.appi.org/simonb.html>).

### Pedophilia

Pedophilia is an adult sexual preference for children. Most laws in the United States regarding sexual consent and child abuse, including Texas laws, criminalize pedophilic behavior. Nevertheless, many pedophiles do not consider their sexual preference to be wrong; in fact, many argue that sex between adults and children is a time-honored way to initiate children into the world of intimacy. Others know that their sexual abuse of children is destructive, but suffer from a short-term or long-term compulsion to have sex with a child. (Pedophilia is discussed in more detail in *Child Abuse*, another course in this series, and the chapter “Types of Sexual Offenders” in this course.)

### Pyromania

Pyromania is eroticized arson. The pyromaniac who sets fire to a building seeks a charge of sexualized power and control, whether by setting fire to a sexual fetish (such as a pair of panties or shoes) and then watching the fire spread, or by intentionally causing catastrophic damage. Pyromaniacs have been known to experience spontaneous sexual arousal and orgasm while observing fires they have set.

Pyromania is a disorder that seems to be tied to other extremely serious mental, emotional, and behavioral disorders based in family and social distress. Consequently, awareness of pyromaniac offender profiles may help investigators of arson identify suspects, since unlike some other disorders, pyromaniacs often cannot hide behind a veneer of normality.

### Scatophilia and Scopophilia

Scatophiliacs obtain sexual pleasure from making obscene telephone calls or otherwise communicating in sexual terms with another person. Scopophiliacs, or “voyeurs,” obtain sexual pleasure by covertly watching another person undress or have sex. The milder, mostly legal forms of these behaviors drive commercial “phone sex” and “peep shows.” The vicious, illegal variations of these behaviors tend to take the form of obscene communication and secret observation targeting persons who have not consented to the conduct. These illegal behaviors are forms of harassment that should not be tolerated.

The threatening behavior generally referred to as “stalking” can be linked with scatophilic and scopophilic harassment. Stalkers who target strangers or people with whom they have had brief social contact may move from remote sexual harassment to direct predation as they physically “track” their victims.

### **Sexual Masochism and Sadism**

Sexual masochism, which centers around gratification obtained from the experience of intentionally inflicted pain, is paired in the real world with sexual sadism, which centers around sexual gratification obtained from intentionally inflicting pain. Consensual sadomasochistic behaviors (such as “bondage and discipline” arrangements) are not illegal in themselves, so long as they are conducted privately and do not result in death.

Masochists engage in many self-destructive behaviors that can lead to accidental death, including subjection to mutilation, suffocation, and other forms of torture linked to a sexual act. Like victims of erotic asphyxiation who are assisted by others in the deadly act, masochists whose sadistic partners kill them may provide unwitting cover for their own manslaughter or murder.

Sexual sadism is a much bigger problem for law enforcement than sexual masochism, for the simple reason that perpetrators of cruelty tend to be far more destructive than people who wish to have cruelty inflicted upon them. Sexual sadism’s most harmless form is controlled participation in a sadomasochistic relationship. Its vicious forms include varieties of spouse abuse, child abuse, sexual assault, and “lust murder.” (For more detailed discussion of sadistic sex offenders, see *Family Violence, Child Abuse, and Sexual Assault* in this series and “Types of Sexual Offenders” in this course.)

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### Study Questions

**Don't forget to prepare answers for these questions before you go to the chapter review Web submission form to submit your answers.**

1. Briefly define paraphilia and discuss some of the complexities of paraphilias and the legal system.
2. What evidentiary challenges face officers investigating a death by erotic asphyxiation?
3. During which phase of a sex offense investigation does an officer need to work especially hard to draw a distinction between “illegal” and “wrong” behavior?
4. What sexual disorder can be linked to the “stalking behavior”?
5. Homosexual behavior is illegal in Texas, both within a public and a private setting. Briefly state your duty under Texas law and your department's policy, and describe what discretion you may have in enforcing these laws.

# **Chapter Three**

## **Types of Sex Offenders**



## **Criminal Profiling**

Criminal profiling helps law enforcement officers to interpret key evidence in certain situations and identify suspects with the help of behavioral indicators. A psychological profile is based upon characteristic patterns or unique factors that distinguish certain individuals from the general population. The goals of profiling are (1) to provide the criminal justice system with a social and psychological assessment of the offender, (2) to provide the criminal justice system with a psychological evaluation of the offender's possessions, and (3) to provide interviewing suggestions and strategies.

Profiling assumes that the crime scene (especially the offender's treatment of the victim) reflects the offender's personal pathology, that the offender will not have a change in personality, and that the offender's mode of operation remains similar. Personality is defined as the sum of biology, culture, environment, and direct experience.

## **Appropriate Use of Profiles**

Profiling is meant to enhance, not replace, prescribed investigative procedures. Used incorrectly, profiling can actually hamper or destroy an investigation by sending investigators off in the wrong direction.

The FBI provides profiles in a narrow range of crimes. These crimes tend to be serial rape, serial child molestation, and murder in which the nature of the killing points to a major psychological abnormality in the killer. Deviant crimes lend themselves more readily to profiling than other crimes do, since major psychological disorders stand out in clearer relief than the psychological characteristics of "normal" people. Profiling is especially useful when investigating sexual assault (especially when the assault includes sadistic torture), evisceration, post-mortem slashing and cutting, "motiveless" firesetting, and lust and mutilation murders.

## **Materials Necessary for Profiling**

Officers may or may not be involved in profiling, but the evidence for profiling comes from police on the beat as well as specialized investigators. The following items provide the material basis for profiling:

- Investigative reports
- Autopsy protocols
- Detailed photographs of the body
- Detailed photographs of the scene
- Detailed photographs of the surrounding area
- A map depicting the victim's last known location and present location
- Any concrete information pertaining to the victim and the victim's activities

### Victim Considerations in Sex Offense Investigations

#### Victim Information Related to Profiling

The profiled perpetrator is often mirrored in his victim. A serial sex offender, for example, might prefer to victimize white, blonde, married women. Gathering information about the victim is crucial for profiling, but a living victim or the family of a dead victim should be treated with respect during the background interview for a profile. The interviewing officer needs to explain clearly that sensitive information will not be used to place blame or shame on the victim. The following table outlines relevant victim information:

##### *Physical Traits*

- Age
- Sex
- Race
- Height/weight
- Dress
- Hair color/style

##### *Marital Aspects*

- Marital status
- Marital adjustment
- Children
- Marital reputation
- Past divorces
- Friends and enemies

##### *Personal Lifestyle*

- Alcohol and drug use
- Daily activities
- Recent changes
- Sports interests
- Hobbies
- Personal demeanor

##### *Occupation*

- Present position
- Past positions
- Special training

##### *Education*

- Number of years
- Schools attended
- Intelligence

##### *Personal Demography*

- Residence
- Past residences
- Neighborhood

##### *Medical History*

- Physical history
- Mental history
- Dental records

##### *Psychosexual History*

- Personal fears
- Sex history
- Personality history

##### *Court History*

- Arrest record
- Past court record
- Pending cases

##### *Recent Activities*

- Routes of travel
- Social activities
- Special meetings

## **Points to Cover When Interviewing Rape Victims**

Interviewing a rape victim is a delicate and difficult task that is discussed in great detail in *Sexual Assault*, another course in this series. A rape victim is almost always in shock and may act in disturbingly intense or seemingly inappropriate ways. Details of the victim's account may change over time as shock wears off and memories become clearer. The victim must be treated with great respect, sympathy, and care. Nonetheless, complete information from the rape victim may be essential if the rapist is to be identified and caught.

In addition to the usual investigative information, the victim needs to provide the following information:

- **Method of approach** used by the offender. These methods, which are discussed below, tend to fall into the categories of *con*, *blitz*, and *surprise*.
- **Offender's control of the victim** (e.g., use of force, display of weapons, verbal threats, "compromising" with victim after victim's appeals)
- **Sudden change in the offender's attitude during assault** (and events preceding the change)
- **Sexual dysfunction in the offender** (e.g., erectile insufficiency, premature ejaculation, retarded ejaculation)
- **Offender's sexual expression** (e.g., repetition, kissing, fondling, use of objects)
- **Verbal activity** (threats, orders, confidence lines, personal inquiries about the victim, personal revelations, obscene names, racial epithets, stated wishes to hear about the victim's "sexual enjoyment" during the assault, sexual put-downs, boasts about trespassing on the sexual "property" of another male)
- **Missing items belonging to the victim** (evidentiary, valuables, personal). Of special interest here would be fingernails lost or broken during a struggle or assault that might be found on the body or clothing of the offender.

## **Special Topic: Sexual Assault of the Elderly or Disabled**

Since sex offender profiles are largely defined by the way offenders target their victims, the little-discussed issue of elderly and disabled sexual assault victims bears some consideration.

While other forms of sexual assault have received increasing attention from professionals and the media during recent years, sexual abuse of elderly or disabled persons remains relatively hidden. This is true partly because sexuality is usually associated with younger or more able people. Yet, given that sexual assault is a function of power and control, frail older or disabled persons, who often have little power and may be dependent on others for care, can be extremely vulnerable to sexual assault. It is most often not the physical attributes of victims but rather their vulnerability that attracts sexual offenders.

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The prevalence of sexual assault of the elderly and disabled is not known because no systematic study of the problem has been conducted.

Elders and disabled persons may be coerced through force, trickery, threats, or other means into sexual contact against their will. It may begin with covert activities such as inappropriate remarks and threats, and escalate to more severe types of mistreatment, including forcing the victim to view pornography or to listen to explicit sexual accounts; sexualized kissing and fondling; oral-genital contact; digital penetration; vaginal rape; anal rape; rape by objects; exploitation (e.g., prostituting or swapping the victim); sadistic acts, and ritualistic abuse. An elderly victim may symbolize an authority figure that the offender wants to control or retaliate against.

In the few studies that have been carried out, the victims often have significant impairments, leaving them almost totally dependent on others for daily assistance. The majority of assaults are by acquaintances, usually family members (including adult sons, spouses, or siblings), caregivers, or housekeepers. Most perpetrators are young, white, single males, and most victims are female, but there have been a significant number of male victims as well. Some elderly victims are battered women who have been repeatedly violated by their husbands for years; shockingly, in some cases, the sons assume their fathers' abusive behaviors when their mothers are widowed. In some states which have criminalized marital rape, husbands are excluded from the law if their wives have temporary or permanent mental or physical disabilities, leaving frail and ill older women in those states with no legal recourse.

Individuals with speech and language problems or cognitive impairments (both of which are common among older persons, especially victims of stroke) may be unable to cry for help or to disclose the abuse to others. Cognitive impairments may also mean that victims have little or no credibility if they do report the abuse. People with disabilities are often treated as if they were children and not taken seriously. Moreover, generational issues of shame and taboo may make it difficult for elders to discuss sexual acts.

People with severe lifelong disabilities and elderly persons who have major impairments may not feel that they "own their bodies," which are constantly being manipulated by others, and they may have a harder time distinguishing between appropriate and inappropriate behavior. They are usually taught using both positive and negative reinforcement to comply with authority figures, and are therefore eager to please. Their choices are often not respected, so that their "no" doesn't always mean "no" to any of the people around them. They may be isolated and lack a support network. They may have many caregivers, which increases the possibility that one will be an offender. Finally, they are sometimes considered inferior or disposable, which can lead offenders to think that sexual assault is permissible.

Officers are responsible for reporting any elder abuse to the Texas Department of Protective and Regulatory Services. Elderly and disabled victims of sexual assault must be respected, believed, and reassured that they have done nothing wrong and that they will be safe from future assault. Officers should make special efforts to connect these victims with a crisis or counseling center because they may have little or no support from family or friends. In the majority of cases, the assault occurs in the person's home,

leaving them permanently terrified—yet often unable to cope with the difficulties of executing a move to a new home. Elderly and disabled persons are often already subject to low self-esteem and depression, and are at high risk of losing their will to live following sexual assault.

## **Types of Sexual Offenders**

### **Forcible Rapists**

Sex assailants often lead double lives. They belong to every race, religion, profession, and socioeconomic group; they are of varying ages and are often members of churches. Many of them impress others as being dedicated to their families and good providers. They are not insane, sex-starved, or “sowing their wild oats.” They have serious psychological or personality disorders, which they discharge through sexual violence. The consequences of the crime have no meaning to a rapist at the time of the assault; sex offenders are not deterred by the threat of punishment, disgrace to their families, or potential injury to victims.

### **Methods of Assault**

Forcible rapists generally approach their potential victims in three ways: coercion, surprise, or “blitz.” The method chosen generally depends upon assailants’ level of confidence in their verbal skills or physical strength. In general, offenders who are more confident are less likely to need to use violence or the threat of violence, and more likely to depend solely on coercion or an intimidating physical presence. Of course, offenders may combine methods of approach. (*Note:* For ease of discussion, and because 90–99% of offenders are male, masculine pronouns are used below for offenders.)

**Coercion.** *Coercion*, which may include tricks or “cons,” is the most common method of approach. The offender employs verbal and psychological manipulation to create a situation in which the victim becomes increasingly unwilling or unable to seek help or escape. “Cons” employed to trap victims include impersonating a police officer, offering assistance, offering a ride to hitchhikers, and picking up victims in singles bars. Coercion is used by perpetrators who feel confident in their ability to interact with a victim. This is the method generally employed in acquaintance or date rape.

The Travis County Sheriff’s Office has compiled the following phrases commonly used by rapists to coerce victims or justify an assault to an officer:

#### Phrases Used to Coerce Victims

- “Oh, you know you don’t mean that.”
- “You know you love it.”
- “You know you want it.”
- “You’re not frigid, are you?”
- “C’mon, baby. I’ve spent a lot of money on you.”
- “If you loved me, you’d do it.”

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- “If you don’t, I’ll tell the guys you did anyway.”
- “I want to make you feel like a woman.”
- “You’re my girlfriend and you owe it to me.”
- “You’re so ugly nobody else would want you, so be grateful.”

### Phrases Used to Justify an Assault on an Officer

- “A woman will only respect a man who will lay down the law to her.”
- “I didn’t rape the chick—she was enjoying it.”
- “What do you expect—look at the way she dressed.”
- “I figure I have to have three strikes [three no’s] before I’m out.”
- “I was so ‘turned on,’ I couldn’t stop.”
- “The chick has a reputation for screwing around.”
- “It’s not my fault—she was stoned and drunk.”

Rape victims may, at least temporarily, believe the things told them by a rapist who uses this type of coercion—doubling their suffering because such myths completely invalidate their feelings and humiliate and degrade them further. Officers should be prepared to reassure victims by countering such beliefs even if the victim is unable at first to vocalize them.

**Surprise.** Offenders who use *surprise* as a tactic generally select their victims ahead of time and either follow them or lie in wait for a victim to be in a vulnerable situation. Such offenders generally use the element of shock and the threat of force to overwhelm and incapacitate victims with fear. They may threaten victims or show a weapon, but usually do not actually resort to violence.

**Blitz.** Offenders who are least confident employ the *blitz*, which is a violent attack in which the offender uses physical force (often more force than is necessary) to overpower the victim. The attacker may use weapons, chemicals, or gases but most frequently makes use of simple force. This is the most violent form of attack, and results in the greatest injury to victims.

Whereas most rapists use approximately the same amount of force for each victim, a few offenders (“increasers”) use increasing force or violence in each successive assault.

## Types of Forcible Rapists

Forcible rape is always an aggressive and/or violent act based in issues of power or anger. Experts have further classified the motivations, purposes, and typical behaviors of sex offenders into four categories: the *power-reassurance rapist*, the *power-assertive rapist*, the *anger-retaliatory rapist*, and the *anger-excitation rapist*. In addition to these four basic types, there are two additional categories: the *opportunistic rapist* (who commits the rape as a kind of afterthought when committing a different crime) and the perpetrators of *gang rape*. The purpose and style of each of the six types will be profiled here.

There is no special category here for “serial rapists” because almost all rapists are serial rapists: they seldom (if ever) rape only once. Those offenders who were once termed “serial rapists” were simply those with the most distinctive or most brutal styles of attack.

The following profiles of the first four basic types of forcible rapists are presented roughly in order from the most common to the least common; these are followed by the profiles of the opportunistic rapist and the gang rapist.

### ***Power-Reassurance Rapist***

The *power-reassurance rapist* commits a sexual assault in order to reassure himself of his masculinity or manhood by asserting his power over a victim. He usually lacks confidence in his ability to interact socially and sexually (especially with women), and resorts to fantasy and sexual assault in order to feel powerful. This is the most common type of rapist, especially among those who are strangers to their victims. This type of rapist uses minimal force compared with other types and most often uses the surprise approach, selecting his victims in advance and waiting for an opportunity when they are vulnerable. He may follow a potential victim, engage in “peeping,” or even enter the victim’s home while absent to familiarize himself with the premises. He usually strikes between midnight and 5 a.m., often in the victim’s home. He may show a weapon or claim that he has one, but usually does not use it other than to intimidate the victim into compliance.

Some officers call this type the “gentleman rapist” or the “polite type” because of the tendency of the power-reassurance rapist to apologize or feign concern for his victim. Experts call this *pseudo-unselfish* behavior (Hazelwood, 1987). The power-reassurance rapist seems to believe that his appearance of concern will convince the victim that he is not such a bad person after all. He may ask if he is hurting the victim, or say “I don’t want to hurt you” or “Don’t make me hurt you.” He may manipulate the victim into pretending to enjoy the experience (“Tell me you want me to make love to you”). He may compliment her as attractive, may demean himself as being unattractive (“You’d never go out with me”), or may ask the victim to build up his ego. He may ask the victim personal questions or reveal personal information about himself, as if creating a fantasized intimacy. He is less likely to use profanity in a degrading way than other types of rapists. Finally, he may even apologize, saying something like “I wish it didn’t have to be you.” Amazingly, he may even nurse the victim’s injuries, stay and talk, or ask the victim for a date after the physical assault.

Even in his sexual behavior, the power-reassurance rapist attempts to involve the victim, such as by asking the victim to “kiss me like you mean it.” He may ask victims to undress themselves. He will usually perform only acts that a victim does not appear to resist—perhaps because he fantasizes that the victim has become a willing partner—and the assault may not last long. On the other hand, if a victim is completely intimidated and does not resist at all, he may act out all of his sexual fantasies in multiple acts (including anal, oral, and vaginal sex, and even inserting objects); in such cases, the assault may be of prolonged duration. However, compared with other rapists, he usually does not

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engage in actions for the express purpose of degrading or harming his victim. He may take a personal item as a “souvenir.”

The power-reassurance rapist will often attack a second victim within a few hours or days in the same vicinity, having identified several potential victims in advance. This is especially true if the first assault is unsuccessful; otherwise, he may wait up to a week or two—but no longer, since his ego needs constant bolstering. The pattern of attack of this type of rapist is fairly consistent, and he is likely to strike again in the same or a similar neighborhood and to choose the same type of victim, who is often of an age close to his own. He often walks to the crime scene. The power-reassurance rapist also frequently recontacts the victim after the assault by calling or writing; therefore, it is essential with this type of rapist to maintain surveillance, especially of the victim’s phone line, for at least two weeks. Many power-reassurance rapists also maintain records of their attacks. The power-reassurance rapist obsessively repeats his attacks until he is arrested, is incapacitated, or moves out of the area.

The power-reassurance rapist is usually a quiet, passive person who is considered a “nice guy” by others. Because of his basic insecurity, he has few (if any) friends and often has a job where he has little contact with the public. He may work the night shift or go out mainly at night to avoid having to deal with other people. If he dates at all, his dates may be significantly younger than he is (in contrast to his victims, who are close to his own age). He often lives either alone or with his parents in a family-type neighborhood. He is often an underachiever or marginal student who never participated in athletic or other extracurricular activities and never entered (or else was discharged from) the armed services. He collects pornography and spends a lot of time in porno shops, and frequently indulges in fantasies that his victims cannot resist him. (If apprehended, he may say the victim “consented.”) In some cases, he may become more aggressive as his fantasies fail to measure up to reality.

A victim of a power-reassurance rapist may be extremely confused and may require considerable reassurance that the assault was not his or her fault. Because of the consistency of the location and style of his attacks—which may be luridly described in the media—the power-reassurance rapist can destroy the peace of mind of an entire community, which in turn places heavy pressure on officers to work quickly to solve a case. The usually isolated habits of this type, however, can make it difficult to track him down.

### ***Power-Assertive Rapist***

The *power-assertive rapist* commits a sexual assault simply to assert his prerogative to rape anyone he pleases. He considers himself a “man’s man” or extremely “macho,” and assumes his innate superiority over women (and more effeminate men). Unlike the power-reassurance type, he harbors no doubts about his manhood. The power-assertive rapist frequently assaults a victim who is an acquaintance or whom he has just met (often in a bar), and tends to strike in the early evening hours. The rape may occur in any location that is convenient and isolated from view.

The power-assertive rapist is generally a pleasant, outgoing type who is a smooth talker and a con man; hence his approach is coercion or a con, such as offering assistance to a stranded motorist. He uses a moderate to excessive degree of force in the assault. The power-assertive rapist is the second most common type of rapist among those reported; however, because acquaintance rapes often go unreported and the power-assertive rapist often rapes acquaintances, this type of rapist may be even more common than statistics show.

The power-assertive rapist makes no attempt at feigning the least bit of concern for his victim's welfare or comfort, and is completely uninterested in the victim's participation. He essentially uses the victim as an object or prop. He may subject the victim to repeated sexual assaults, proving his own "manhood" (as he sees it). If he has a sexual dysfunction, it will be retarded ejaculation. He may use profanity and degrade the victim verbally. His pleasure alone matters above all else. He may tear off the victim's clothing and discard it. He is likely to discard the victim, too, by leaving her (or him) wherever the assault occurs, often devoid of clothing—not only exacerbating the distress of the victim but also delaying the reporting of the crime. The power-assertive type is a very self-centered, macho guy who takes great pride in his personal appearance. He may be (or have once been) an athlete. He often hangs out in singles bars and may attempt to "prove his manhood" in drinking bouts or acts of physical prowess as well as in sexual assault. He often does not use pornography. He takes pride in his vehicle and his job, both of which reflect his tough-guy image. Nevertheless, he is fundamentally insecure and demands attention. He is also immature and shows little empathy or feeling for others. He may become hostile or more aggressive when opposed in any way. If encountered at a bar or party, he will quickly try to isolate a potential victim from others. He considers rape a "conquest," and may take an object from the victim as a sexual trophy. Certain subcultures, such as certain athletic teams or fraternities, foster beliefs and attitudes that may contribute to power-assertive rapes.

The power-assertive rapist has had many "problems" with women in his life, and may denigrate women or see them as adversaries. He will aggressively defend male-female and other stereotypes in order to assert his own superiority. He often has a short temper and may be extremely jealous, even of someone he has just met. If he has an arrest record, it will be for assault or domestic violence (or possibly driving while intoxicated). His assaults occur regularly, but may not show the sort of consistent pattern found with the power-reassurance rapist.

Victims of power-assertive rapists may have been told many of the "lines" described above under "Methods of Assault." Like victims of battering partners, they may feel degraded and worthless. Officers may need to help reassure them that they did not deserve or ask to be assaulted, and that what occurred was a crime. The principle obstacles in locating and prosecuting the power-assertive offender are the usual difficulties encountered in prosecuting acquaintance rape: victims may be unwilling to cooperate, and the offender may be protected by family and friends (and high-profile defense attorneys).

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### **Anger-Retaliatory Rapist**

Both types of rapists who are motivated by anger are usually more violent and more dangerous than rapists motivated by power. The specific purpose of the *anger-retaliatory rapist* is to get even with victims for real or imagined wrongs. He is angry and blames women (or homosexuals or some other category of scapegoat) for all of the problems in his life, and therefore intentionally punishes, humiliates, and degrades his victims. The anger-retaliatory rapist is the third most common type of sex offender. His attacks may occur at any time of day—whenever his anger happens to explode—but will probably occur near his home or work. He usually attacks victims who are his own age or somewhat older. Sometimes victims are chosen according to their superficial similarity (in hair, clothing, occupation, etc.) to a specific person whom the rapist detests.

The anger-retaliatory rapist uses the blitz method and subdues victims using excessive force. The level of force results from this rapist's intense rage and near-frenzy of emotions. Victims have little opportunity to resist, and the level of resistance has little to do with the amount of force used. Because the attack is spontaneous rather than carefully planned, the anger-retaliatory rapist will generally use any weapon that is handy, including his own fists, to injure the victim. The assault is usually short in duration; once the anger-retaliatory rapist has vented his rage, he is finished and abandons the victim and the scene. However, the assault itself is brutal: he often tears the victim's clothes off and degrades the victim both verbally (with profanity and abuse) and physically (urinating, defecating, or ejaculating onto the victim). He may be impotent and may use objects. Needless to say, the victim's feelings or actions are of no significance; his intent is to carry out the ultimate offense he can commit against another person.

The anger-retaliatory rapist has often been married before, but is an impulsive person with an explosive temper. He usually abuses alcohol. He may be involved in contact sports (even as an adult); he probably does not use pornography. He is often self-centered and has few close friends, although he may have plenty of buddies or other superficial acquaintances. His attacks are episodic or sporadic, depending each time on how long it takes for his anger to build once again to a feverish intensity.

Victims of the anger-retaliatory rapist may be severely injured and will probably require hospitalization. Locating and identifying the anger-retaliatory rapist may be difficult due to his lack of friends. It may also be difficult to identify a signature pattern of assault because the assaults are less premeditated and more impulsive than some other types; however, victims may share some key characteristics.

### **Anger-Excitation Rapist**

*Anger-excitation rapists* are the least common but most brutal variety of rapists. They are sometimes called "sadistic rapists" because they are sexually and emotionally stimulated by the infliction of physical and emotional pain on their victims, which is their chief motivation. The attacks are brutal and often result in the victim's death. There may be considerable variety in the age, race, and other characteristics of victims, who are always strangers. The method of approach is usually a trick or "con."

Assaults committed by the anger-excitation rapist are better planned and more carefully executed than those committed by any other type of sex offender. Every detail is usually planned, fantasized, and even rehearsed in advance—including weapons or devices, the method of approach, the location where the victim will be taken for the assault, and even the travel route. Only the victim will be unknown. Although victims may be chosen according to certain criteria to satisfy the anger-excitation rapist's fantasies, they are also hapless persons who are unlucky or naive enough to fall into his carefully laid trap. The anger-excitation rapist is also shrewd enough to make certain that victims cannot be linked back to him (or even to each other) in any simple way.

The anger-excitation rapist begins with a “con” approach, but once the trap is sprung and the victim is secured, his manner changes completely. He usually binds the victim and takes him or her to a location which is private, allowing the rapist to take his time in executing his planned forms of torture. The psychological and physical abuse often continues sporadically for hours and even days, during which time the victim endures unimaginable fear, as intended.

The bondage and helplessness of the victim stimulates the rapist, and he will usually leave the bonds on while slowly removing or cutting away the victim's clothing. Sexual acts will be designed to create pain, humiliation, and degradation. They may be experimental and may involve the insertion of foreign objects. The offender may also bite the victim. He may engage in a great deal of sexual activity, or he may engage in no activity that the rest of us would recognize as sex. If he has a sexual dysfunction, it is usually retarded ejaculation. He may remain emotionally detached. The anger-excitation rapist frequently records his activities with victims in drawings or journals. He may also use a camera, tape recorder, video camera, or more sophisticated technology.

The anger-excitation rapist is usually college-educated and extremely intelligent. He is almost always a middle-class white male; he may be a good family man and hold a professional job. He drives a clean and well-maintained, family-style car that is a couple of years old. He often spends a lot of time outdoors. He may secretly enjoy and collect pornography, especially if it involves sadomasochism or bondage. He may also collect guns or knives, Nazi paraphernalia, or detective magazines. He may have experimented with drugs, but often has no arrest record of any kind. Needless to say, he feels no remorse or guilt for his actions.

There is usually no apparent pattern to the length of time between assaults or the type of victim; the anger-excitation rapist plans his assaults carefully to make them impossible to trace. Police departments who encounter this type of sex offender may decide to call in a profiler or seek other expert assistance because such cases are so difficult to resolve—and so brutal.

### ***Opportunistic Rapist***

The *opportunistic rapist* often does not fit into any of the above categories because his primary purpose is not rape. He rapes only as an afterthought, while in the process of committing some other crime, such as burglary or kidnapping. He is often under the influence of alcohol or drugs. He generally binds victims to prevent them from

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interfering in his primary purpose and only later realizes that he has them in his power and could also rape them. The assault is usually brief and entails a minimal level of force. The assailant leaves his victims bound when he leaves. He may never have committed rape before, and is less likely to rape again than any other type of sex offender. If he has any history of arrest, it is usually for the crime that was his primary purpose. Unlike any of the other rapists we have considered, the opportunistic rapist may feel some regret or guilt for committing the assault.

### ***Gang Rapist***

As discussed earlier, a gang rape is any rape in which there are more than two assailants. *Gang rapists* (the participants in a gang rape) are generally driven by group motivations: camaraderie and competition, sustaining an image, sharing an experience with one's "buddies," loyalty, and adopting and demonstrating a group identity and values. Group dynamics also involve psychological dependency on the group's leader, pressure to conform, and diffusion of responsibility (so that individuals do not feel morally responsible). Some participants in a gang rape are also motivated by a desire for sex; like the opportunistic rapist, once they are in a position of power, they may decide to have sex just because they can get away with it. Unlike the opportunistic rapist, however, participants in a gang rape are likely to rape again, but only as participants in another group rape.

Gang rapists are usually young, from 16 to 24 years old. As discussed earlier, they are likely to share an identity as members of some sort of coherent group, which may include an athletic team, a fraternity, a gang, or a less organized but tightly knit group of friends. The group may promote attitudes similar to those held by power-assertive rapists. They may be of any socioeconomic background and may regularly abuse alcohol or drugs.

In nearly every gang rape there is an easily identified leader, who will probably fit the description of one of the four power or anger types described earlier. The nature of the assaults will probably also fit one of the previous descriptions since the leader sets the example and the gang rape is often planned in advance. However, gang rape is more likely than some of the other types to include repeated assaults and intentionally degrading acts. In some cases there are even ritualistic aspects to a gang rape.

In most gang rapes there is also at least one reluctant participant (or observer) who is the weak link in the group. This participant, like the opportunistic rapist, may feel some compunction and therefore is most likely to confess the crime. It is essential to gather as much detailed information about this person as possible. Both the reluctant participant and the group leaders should be profiled, and their profiles should be compared for clues to the identity of the group.

### **Statutory Rapist**

Statutory rape is sexual intercourse or deviant sexual intercourse with a person under the age of 17, the legal age of consent. Statutory rape does not apply when the couple engaging in intercourse is legally married.

Statutory rape may easily be dismissed by some as “not a problem,” if the individuals involved are apparently happy with the arrangement. Statutory rape *is* a problem, though. Minors lack many basic legal rights and rarely have any resources of their own to fall back on. A 12-year-old girl carrying someone’s child, rejected by her family and by her “lover,” is in serious danger of ending up on the street. Statutory rape is also a common resource for offenders who are steering the victim toward crimes such as compelled prostitution, participation in pornography, or service to a gang. For these reasons, officers are encouraged to arrest persons suspected of committing statutory rape.

### **Incest Offender**

Legally and in common usage, the term “incest” describes sexual relations between blood relatives. Most commonly, incest takes place between a father or stepfather and a daughter or son in an exploitative relationship. Incestuous child abuse tends to take the form of sexual assault or the extortion of sexual cooperation from a child in exchange for “favors,” necessities, or assurances of love. Specific abusive actions include fondling of the child’s genitals, fondling of erogenous areas such as a girl’s breasts, and exhibitionism. Incest causes extreme harm to the children and the adults they become. Promiscuity or sexual detachment in adolescence and adulthood commonly result from childhood experience of incest. Without intervention, help, and guidance, a child who has been abused sexually is more likely to become an adult who sexually abuses children or the partner of an abuser, although most do not..

Incestuous child abuse is a crime of power. The family structure as it tends to exist in the world, and as it is affirmed by law, establishes parental authority over children. This authority can enable parents—especially fathers or stepfathers—to manipulate bonds of love, trust, and obedience in order to transform children into sex objects. Children in this situation are typically unable to act on their own behalf: the fear of losing the offending parent or family member and destroying the family that includes the offending member can be quite strong in the victims, even if the abuser does not threaten the child in these terms.

Sexual assault is a straightforward abuse of parental power which often results in a child who is outwardly passive and silent but is inwardly traumatized and afraid to speak out, especially when the abuser is the child’s father. “Seduction,” or the act of drawing a child into sexual behavior on the basis of a claim of love, is a more devious form of victimization than assault. In a seduction, the child’s feelings of fear, anger, premature sexual attachment, and developmental confusion tend to fester because the parent’s behavior is supposed to be motivated by love. In either case, the child has trouble speaking out against the abuser, either because the child fears retribution or because the parent’s denials tend to have greater social weight than the child’s claims to the truth.

Incestuous child abusers appear in every race, culture, and class. Some abusers clearly contribute to a larger scenario of squalor; most seem to be normal on the surface. Many abusers, in fact, have cultivated secrecy and lies to such perfection that they appear

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remarkably “normal.” Some patterns of behavior, though, are worth noting by investigators of incest, even when the suspect has achieved a strong image of normality.

Fathers or stepfathers who sexually abuse their children often maintain a smooth, somewhat passive demeanor in public, but act as rigid disciplinarians at home. Like batterers, they may perceive their home as their domain and their family members as property. At the same time, they may be quite smooth at “cutting deals” with their wives or partners in order to create the home environment they desire. Couples in which one or both partners sexually abuse their children tend to be publicly stable but privately dysfunctional; often, a daughter takes on her mother’s duties, including sexual service to the father. Even in cases where one partner does not know the other is an incest abuser, it is common for both partners to have histories as incest victims.

Incest tends to leave fewer visible marks than child sexual molestation or child sexual exploitation. In many cases, abusers minimize physical evidence of their wrongdoing by engaging in exhibitionism, voyeurism, kissing, fondling, oral sex, and penetration that stops at the labia, behaviors that are less likely to cause physical harm in children than vaginal or anal penetration. Consequently, the abuser can gratify his desires and the victim can be wound into a web of abuse with little risk of discovery by law enforcement or medical authorities. Since the “gentler” forms of sexual abuse can be easily conducted in “legitimate” situations, such as the nightly routines in which parents bathe and put their children to bed, incestuous abusers may answer charges of abuse by saying that normal signs of expression have been misinterpreted by the accuser and child protection authorities.

Incest offenders are among the most difficult to pin down. Officers, workers with the Texas Department of Protective and Regulatory Services, physicians, school authorities, and other persons working for the protection of the incest victim must synchronize their activities effectively and follow up every element of investigation and service with clear documentation.

## **Pedophile**

Pedophilia, an adult preference for sex with children, is a widespread and complex disorder that involves many different kinds of persons and different kinds of offenses. Pedophiles tend to be classified into two categories: fixated (preferential) and regressed (situational). These categories indicate the duration and intensity of pedophilic behavior, not the root disorder.

Fixated pedophiles are committed to their sexual preference and cultivate it over time. Typically, fixated pedophilia begins in adolescence as a compulsive behavior that gradually evolves into a conscious lifestyle. Pedophiles of this type tend to have difficulty forming sexual relationships with peers, and in adulthood remain single or enter marriages of convenience that may provide cover for pedophilic activities. Their primary sexual targets tend to be male children. (Oddly, male pedophiles who prey on male children frequently do not perceive themselves as homosexuals.) Fixated pedophiles usually plan their sexual pursuit of children with care and forethought.

Usually, they justify this behavior as being “parental” or “friendly”—in their view, they are protecting and cherishing their victims.

Regressed pedophiles experience pedophilia as a sudden crisis in what has been a “normal” life. Their sudden preference for children usually coincides with major life stress including troubling adult relationships, career difficulties, and alcohol or drug addiction. Many regressed pedophiles have a history of difficulty in establishing and maintaining relationships of all sorts; consequently, life stressors may throw them into a state of emotional and social isolation even when they are living an apparently “normal” life with spouses, children, and friends. This state of isolation is linked with a “regressed” pedophilic attraction to children, usually children of the opposite sex. Some psychologists believe that this “regression” involves the pedophile’s desire for simple and direct relationships which do not seem possible with other adults.

Fixated pedophiles form tight networks over media such as the Internet to encourage sexual child abuse, distribute child pornography, and plan legal change that would allow adults to exploit children sexually. Pedophile organizations include the Rene Guyon Society, North American Man/Boy Love Association (NAMBLA), Childhood Sensuality Circle, the Lewis Carroll Collector’s Guild, the Pedophile Information Exchange, and the PedoAlert Network.

Law enforcement officers investigating pedophilia need to keep in mind that pedophiles of both types may be suicidal when their behavior is exposed, especially those who have established respectable, usually middle-class “covers” in their daily lives. Sensitivity and care in apprehending and arresting these individuals is recommended, especially measures to avoid alarming their family and neighbors.

### **Child Molesters: Relatives, Acquaintances, and Strangers**

“Sexual molestation,” as the term is used here, means child sexual abuse by relatives not in the immediate family, acquaintances who have private access to the child, or strangers. Sexual assaults on children by strangers are common, but assaults by relatives like uncles or grown cousins are probably most common. Statistically, child sexual molestation tends to be more brutal and include more same-sex behavior than incest perpetrated by parents.

Child molesters who are not parents but who are relatives or acquaintances must use entrapment opportunities related to the parental bonds of love, trust, and obedience. Frequently, what they employ is enticement (“I’ll give you this if you do this for me”), followed by secrecy employed either as a game (“Let’s play a trick on your parents and not tell them about this”) or as a threat (“You’re part of this now; they’ll hate you and think you’re bad if you tell”).

For molesters who are relatives, these strategies often work because they understand the victim’s mixed attitudes toward her or his parents, or they are aware that the parents would, in fact, deny the activity or blame the child. Molesters who are acquaintances are often authority figures such as ministers, teachers, or supervisors in residential institutions. These molesters use the same strategies of entrapment, except that they use

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their authority in combination with the abuser's *distance* from the family structure to isolate the child.

Molesters who are strangers tend to approach the child victims either in an insinuating, “friendly” manner or through direct assault, since there is no existing zone of intimacy they can exploit in their abuse. The relative gentleness or savagery of physical contact in abuse largely depends upon the type of abuser. Pedophiles who imagine that they “love” children through sexually abusive behavior will usually insinuate themselves into the child victim's confidence, which reinforces their delusion that the abuse constitutes a relationship. Others, driven by sadism or rage or sociopathic viciousness, strike once or abduct the child for repeated attacks that are cruel and physically destructive. This last group is most likely to murder or maim the child. (This typology may be compared with the four types of forcible rapists discussed above.)

The effects of molestation on a child are always destructive. Even a child with loving, supporting, and protective parents, family, and friends will almost always suffer from sleep disorders, fear, and sexual confusion, even if the molestation occurred only once and was promptly stopped. For a less fortunate child, these symptoms can combine with depression, sexual aggression, suicidal tendencies, and promiscuity as love, trust, and security disappear from their lives.

## Sexual Exploiter of Children

Sexual exploitation is the easiest form of child sexual abuse to prove and prosecute, since it tends to be linked to business transactions that result in a product (such as pornographic material) and tends to result in a concrete form of payment. Sexual exploitation covers a range of criminal offenses, including involving a child in the making or distribution of child pornography materials, employing a child in sexually charged “legitimate” businesses such as massage parlors, selling a child for illegal adoption or prostitution purposes, or involving a child in a real or simulated sexual performance (staged or filmed).

Sexual exploitation also reinforces, if not causes, incestuous child abuse and child sexual molestation. An incest abuser or molester often possesses or trades in child pornography, and the same offender may well involve a child victim in pornography production or distribution. An incest abuser or partner who tolerates the incest may sell the child into sexual slavery for drugs or forgiveness of a debt. A pedophile may illegally adopt a child for sexual purposes. In all of these cases, an adult abuser's use of a child as a sex object translates into more than one form of sexual child abuse, which often leaves a trail for law enforcement to follow and document as evidence.

## Lust Murderer

This most vicious of sociopathic criminal predators, the stuff of fiction in television shows like *The X-Files* and movies like *The Silence of the Lambs*, is all too real. Famous lust murderers—including Ted Bundy, John Gacy, Jeffrey Dahmer, and Kenneth

McDuff—exemplify a largely hidden menace that periodically erupts out of people's nightmares and into their real lives. The lust murderer profiles that follow are gleaned from countless psychological and behavioral studies, but this kind of offender remains hard to identify and the offense is almost impossible to predict. For this reason, responsible law enforcement officers cannot be ignorant of what little is known about lust murderers. (For some interesting accounts of lust murder investigations, check out <http://www.crimelibrary.com/> on the Web.)

Lust murderers are often male, heterosexual, and inclined to murder people of their own race. Notable exceptions like Jeffrey Dahmer, whose acts were apparently homosexual and cross-racial, exist. Virtually all lust murderers are premeditated and motivated by obsessive fantasies.

Lust murder is distinguished from the sadistic homicide by the involvement of mutilation and sexual abuse of the breasts, rectum, mouth, or genitals. Lust murder offenses include a vast catalog of almost unthinkable acts. Each of these acts expresses the wish of someone who obtains sadistic sexual gratification from murdering another human being. Some of the acts occur before the murder takes place—flagellation, cruel restraint, torture, mutilation, and rape. Others occur during the course of the murder and afterward—strangulation during rape, protracted and sadistic murderous action (such as cutting), necrophilia, cannibalism, and trophy-hunting of body parts. In either case, sexual gratification occurs as the lust murderer debases and annihilates another human being.

Complicating the horrendous nature of lust murder behaviors is the fact that the same behaviors cluster in radically different ways from offender to offender. Ted Bundy, for instance, performed cannibalistic acts while his victims were in their death throes, and ejaculated into the mouths of some of his dead victims' heads almost as an afterthought. Edmund Emil Kemper III, in contrast to Bundy, murdered his victims quickly and efficiently, solely for the purpose of having sex with their corpses. Jeffrey Dahmer's necrophiliac acts were secondary but related to his sexual abuse of drugged men and boys—in his case, necrophilia was simply the logical conclusion of his desire for absolute control over his victims. Necrophilia was far eclipsed by cannibalism for Dahmer, who ate his victims in an apparent effort to control them further by digesting them. (See Dr. Robert I. Simon's excellent study of serial murderers, *Bad Men Do What Good Men Dream*, on the Web (<http://www.appi.org/simonb.html>)).

Lust murderers often come from homes where family members undergo extreme physical, sexual, and emotional abuse. Children in these homes will learn to perceive themselves and other persons in terms of abuse, even in the best cases. In the worst cases, the children become so traumatized, or a latent pathology is drawn so completely to the surface, that they commit themselves to preying on other persons for a dual experience of sexuality and murderous violence.

Profilers of lust murderers have established two primary categories of offenders. These are obviously not exact descriptions of individuals. Like the categories of rapists or sexual child abusers, they provide tools for law enforcement officers who need to link

## **Sex Offender Characteristics**

complex patterns of behavior with types of crime during investigations. The two primary categories of lust murderers are *organized* and *disorganized*.

### **Organized Lust Murderer**

The organized lust murderer tends to cultivate a facade of normality while coolly calculating killings and their aftermaths. This type of lust murderer tends to be highly intelligent, socially adequate, and sexually functional in “normal” relationships. He tends to be very familiar with the news media, which helps him to manipulate the course of investigations by planting “decoy” evidence of his crimes. Often, the organized lust murderer is highly mobile, with a job that requires travel and multiple dwellings.

The organized lust murderer frequently has grown up as a senior child in a harshly disciplinarian family. This may clarify an ambivalent attitude toward the authority pursuing him for his crimes; the organized lust murderer often plays “cat and mouse” with the police by planting evidence, returning to the crime scene, volunteering information, anticipating questioning, and behaving as the “model prisoner” after being apprehended. A common ploy in his relationship with his pursuers is disposition of the victim’s body, which may point to him as well as away from him.

When interviewing an organized lust murder suspect, officers are advised to be direct, factual, and watchful. Once apprehended, this type of offender is extraordinarily skilled at manipulating questioners and hiding information from them.

### **Disorganized Lust Murderer**

The disorganized lust murderer may appear to be exactly the opposite of the typical organized lust murderer. He is usually of below-average intelligence, is socially inadequate, and works in a low-level occupation. Frequently, he lives alone, avoiding sexual and other forms of intimacy, with a range of secret hiding places and nocturnal habits. This type of lust murderer often has grown up a younger child in an emotionally and financially unstable family with abusive parents. He is likely a high school drop-out.

Unlike the typical organized lust murderer, the disorganized lust murderer tends to perform his predatory crimes in an anxious, unsettled manner, with little interest in manipulating the media or the police. Inner conflicts about his criminal behavior drive extreme changes in behavior; after brutally raping, torturing, murdering, and mutilating a young girl, for instance, he may decide that he is a “born-again” Christian, even as he moves toward the next murder. Remorse and curiosity often drive the disorganized lust murderer to return to the crime scene in an inconspicuous manner, attend victim funeral and burial services, and place eulogies for victims in the local newspaper.

When officers apprehend a disorganized lust murder suspect, interviews are best tuned to the suspect’s personality; nighttime interviews that are verbally empathetic, indirect in the introduction of evidence, and not physically threatening work well with many offenders of this type.

## **Study Questions**

**Don't forget to prepare answers for these questions before you go to the chapter review Web submission form to submit your answers.**

1. Briefly describe the attitude that the rapist types listed below have towards their victims.  
  
Power-Assurance Rapist  
  
Power-Assertive Rapist  
  
Anger-Retaliatory Rapist  
  
Anger-Excitation Rapist
2. Briefly describe the two categories of lust murderers.
3. Summarize the special considerations for interviewing organized and disorganized lust murders.
4. The growth of the Internet has made it easier for fixated pedophiles to enhance their network of associates. Using the Internet search engines available to you, see if you can find some of the pedophile organizations. Briefly describe what you have found and your interpretation on the aims of the sites from the standpoint of "personal freedom vs. criminal activity."

# **Chapter Four**

## **Texas Law**



## The Penal Code (PC)

### Definitions (PC, Section 21.01)

#### Deviate Sexual Intercourse

- Any contact between any part of the genitals of one person and the mouth or anus of another person.
- The penetration of the genitals or the anus of another person with an object.

#### Sexual Contact

Sexual contact means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

#### Sexual Intercourse

Sexual intercourse means any penetration of the female sex organ by the male sex organ.

### Public Lewdness (PC, Section 21.07)

A person commits an offense if that person knowingly engages in the following activities in public or in the presence of another person who will be offended or alarmed at the actions:

- Act of sexual intercourse.
- Act of deviate sexual intercourse.
- Act of sexual contact.
- Act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

Public lewdness is a *Class A misdemeanor*.

### Indecent Exposure (PC, Section 21.08)

A person commits an offense if that person exposes his or her anus or any part of his or her genitals with intent to arouse or gratify the sexual desire of any person and is reckless whether another is present who will be offended or alarmed by the act. Indecent exposure is a *Class B misdemeanor*.

## **Sex Offender Characteristics**

### **Indecency with a Child (PC, Section 21.11)**

A person commits an offense if that person performs the following actions with a child younger than 17 years and not his or her spouse, whether the child is of the same or opposite sex:

- engages in sexual contact with the child; or
- exposes his or her anus or any part of his or her genitals, knowing the child is present, with intent to arouse or gratify the sexual desire of any person.

However, it is an affirmative defense to prosecution under this section if the actor

- is not more than three years older than the victim and is of the opposite sex; and
- did not use duress, force, or a threat against the victim at the time of the offense.

Indecency with a child through sexual contact is punishable by imprisonment in the institutional division for life, and indecency by exposing one's anus or genitals is a felony of the third degree; indictments may be presented until 10 years after the 18<sup>th</sup> birthday of the victim (Code of Criminal Procedures, Art. 12.01). Indecent exposure to a child is a *felony of the third degree*; indictments must be presented within 10 years of the commission of the offense.

### **Sexual Assault (PC, Section 22.011)**

#### **General Definition**

Sexual assault is a *felony of the first degree*. A person commits sexual assault if that person intentionally or knowingly:

- causes the penetration of the anus or female sexual organ of another person by any means, without that person's consent;
- causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
- causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

An indictment of sexual assault must be presented within 5 years of commission of the crime (Code of Criminal Procedures, Art. 12.01).

#### **Sexual Assault Against a Child**

A person commits sexual assault against a child under 17 who is not his or her spouse if the person intentionally or knowingly:

- causes the penetration of the anus or female sexual organ of a child by any means;
- causes the penetration of the mouth of a child by the sexual organ of the actor;
- causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;
- causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or
- causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

However, it is an affirmative defense to prosecution under this section if the actor is not more than three years older than the victim, and the victim was a child of 14 years of age or older at the time of the offense. In 1999, the Texas Legislature also made it an affirmative defense to prosecution if the actor was younger than 16 years of age and was not more than two years older than the victim. Services provided as part of medical care are also exempt (so long as they do not include contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party).

An indictment for sexual assault against a child may be presented until 10 years after the 18<sup>th</sup> birthday of the victim (Code of Criminal Procedures, Art. 12.01).

### **Consent**

*An unmarried person under the age of 17 cannot consent to a sexual act.* In addition, consent is not legally deemed possible when the perpetrator has incapacitated the victim through drugs or other means or the victim has a mental disability that prevents consensual judgment or response.

A sexual assault against a person 17 years or older is also classified as without the victim's consent if any of the following conditions apply:

- The actor compels the other person to submit or participate by the use of physical force or violence.
- The actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor can carry out the threat.
- The other person has not consented, and the actor knows the other person is unconscious or physically unable to resist.
- The actor knows that as a result of mental disease or defect, the other person is incapable either of appraising the nature of the sexually assaultive act or of resisting it.

## Sex Offender Characteristics

- The other person has not consented, and the actor knows the other person is unaware that the sexual assault is occurring.
- The actor has intentionally impaired the other person's power to appraise or control her or his own conduct by administering any substance without the other person's knowledge.
- The actor is a *public servant* who coerces the other person to submit or participate.
- The actor is a *mental health services provider or a health care services provider* who causes a patient or former patient to submit or participate in the sexual act by exploiting the other person's emotional dependency on the actor. (Health care services providers include physicians, chiropractors, licensed vocational nurses, physical therapists, physician assistants, registered nurses, and advanced practice nurses.)
- The actor is a *clergyman* who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's role as a spiritual adviser.
- The other person expresses lack of consent by words or conduct.

### **Aggravated Sexual Assault (PC, Section 22.021)**

Aggravated sexual assault is punishable by imprisonment for life. Aggravated sexual assault occurs when a person commits sexual assault, as defined above, with

- a victim younger than 14 years of age, or
- a victim 65 years of age or older.

Aggravated sexual assault also occurs when a person commits sexual assault, as defined above, in combination with any of the following acts:

- The actor causes serious bodily injury or attempts to cause the death of the victim or another person during the same criminal episode.
- The actor, by acts or words in or out of the victim's presence, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person.
- The actor uses or exhibits a deadly weapon in the course of the same criminal episode.

- The actor acts in concert with another person to commit sexual assault during the same criminal episode.
- The actor administers or provides flunitrazepam, otherwise known as rohypnol, or gamma hydroxybutyrate to the victim of the offense with the intent of facilitating the commission of the offense.

An indictment for aggravated sexual assault must be presented within 5 years of the commission of the assault unless it is aggravated sexual assault of a child under the age of 14, which may be presented until 10 years after the 18<sup>th</sup> birthday of the victim (Code of Criminal Procedures, Art. 12.01).

### **Prohibited Sexual Conduct [Incest] (PC, Section 25.02)**

An individual commits an offense if that person engages in sexual intercourse or deviate sexual intercourse with a person known by the actor to be, without regard to legitimacy, in any of the following family relations to him or her:

- An ancestor or descendant by blood or adoption.
- A stepchild or stepparent, while the marriage creating that relationship exists.
- A parent's brother or sister of the whole or half blood.
- A brother or sister of the whole or half blood or by adoption.
- The children of a brother or sister of the whole or half blood or by adoption.

Incest is a felony of the third degree.

### **Disorderly Conduct [Voyeurism] (PC, Section 42.01)**

A person commits an offense if he intentionally or knowingly enters on the property of another and for a lewd or unlawful purpose looks into a dwelling on the property through any window or other opening in the dwelling; or while on the premises of a hotel or comparable establishment, for a lewd or unlawful purpose looks into a guest room not his own through a window or other opening in the room.

An offense under this section is a *Class C misdemeanor*.

### **Harassment (PC, Section 42.07)**

A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, he initiates communication by telephone or in writing and in the course of the communication makes a comment, request, suggestion, or proposal that

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- is obscene;
- threatens, by telephone or in writing, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of his family, or his property;
- conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;
- causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;
- makes a telephone call and intentionally fails to hang up or disengage the connection; or
- knowingly permits a telephone under his control to be used by a person to commit an offense under this section.

For purposes of Subsection (a)(1), “obscene” means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function. In this section, “family” has the meaning assigned by Section 71.01, Family Code.

## Stalking (PC, Section 42.072)

A person commits an offense if that person, on more than one occasion of action directed specifically at another person, knowingly engages in conduct, *including following the other person*, that meets the following criteria.

- The actor knows or reasonably believes that the victim will interpret the conduct as threatening bodily injury or death to the victim or a member of the victim’s family or household, or that the victim’s property will be violated.
- The victim or a member of the victim’s family or household fears bodily injury, death, or destruction of property inflicted by the actor.
- A reasonable person would interpret the actor’s conduct as threatening body, life, or property.

Stalking is a *Class A misdemeanor* unless the actor has been convicted under this section before, in which case it is a *felony of the third degree*.

## Abuse of Corpse (PC, Section 42.08)

A person commits an offense if, not authorized by law, he intentionally or knowingly:

- disinters, disturbs, removes, dissects in whole or in part, carries away, or treats in a seriously offensive manner a human corpse;
- conceals a human corpse knowing it to be illegally disinterred;
- sells or buys a human corpse or in any way traffics in a human corpse; or
- transmits or conveys, or procures to be transmitted or conveyed, a human corpse to a place outside the state.

An offense under this section is a *Class A misdemeanor*.

### **Prostitution (PC, Section 43.02)**

A person commits an offense if he or she knowingly offers to engage, agrees to engage, or engages in sexual conduct for a fee; or solicits another in a public place to engage with him in sexual conduct for hire.

An offense is established in the first instance, whether the actor is to receive or pay a fee. An offense is established in the second instance, whether the actor solicits a person to hire him or offers to hire the person solicited.

Prostitution is a Class B misdemeanor, unless the actor has been convicted previously under this section, in which event it is a Class A misdemeanor.

### **Compelling Prostitution (PC, Section 43.05)**

A person commits an offense if that person knowingly (1) causes another to commit prostitution through force, threat, or fraud; or (2) causes by any means a person younger than 17 years to commit prostitution.

Compelling prostitution is a *felony of the second degree*.

### **Obscenity (PC, Section 43.23)**

A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device. This offense is a *state jail felony*.

A person commits an offense if, knowing its content and character, he promotes or possesses with intent to promote any obscene material or obscene device; or produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity. This offense is a *Class A misdemeanor*.

- A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

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- A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

### **Sexual Performance by a Child (PC, Section 43.25)**

“Sexual performance by a child” is any performance by a child under 18 years of age that includes real or simulated sexual conduct. The performance can be a play, motion picture, photograph, dance, or other visual representation to be exhibited before an audience.

A person commits an offense if that person knowingly employs, authorizes, or induces a child younger than 18 to engage in sexual conduct or a sexual performance to be seen by an audience. A parent, legal guardian, or custodian of a child younger than 18 years of age commits an offense if that person consents to the child’s participation in a sexual performance. This offense is a *felony of the second degree*.

A person also commits an offense if that person knowingly produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age. In this case, the person is guilty of a *felony of the third degree*.

### **Employment Harmful to Children (PC, Section 43.251)**

A person commits an offense if that person employs, authorizes, or induces a child under 18 years of age to work in a sexually oriented commercial activity; or in any place of business permitting, requesting, or requiring a child to work nude or topless. An offense under this section is a *Class A misdemeanor*.

This law specifically addresses employment in massage establishments, modeling studios, and other commercial enterprises that offer sexually stimulating services which often are legal but are questionable by moral community standards. “Nude or topless,” in the case of a child, includes clothing that exposes to view the aureoles of breasts or any portion of the genitals or buttocks.

### **Possession or Promotion of Child Pornography (PC, Section 43.26)**

A person commits an offense if that person knowingly or intentionally possesses visual material (including films, photographs, videotapes, CD-ROM images, etc.) visually depicting a child under 18 years of age engaging in sexual conduct, and the person is aware that the material depicts a child. This offense is a *felony of the second degree*.

Promotion of child pornography applies to a person who possesses visual material that contains six or more identical visual depictions of a child engaging in sexual conduct. This person is presumed to possess the material with the intent to promote the material. Promoting child pornography is a *felony of the third degree*.

## **Sex Offender Registration and Community Notification (Code of Criminal Procedures, Chap. 62)**

### **Sex Offender Registration**

The purpose of the registration process is to ensure that a sexually violent offender released from a correctional institution can be located at all times and that the community in which the offender lives is fully informed about him. Turning such an offender loose at all is a very controversial practice, and law enforcement agencies protecting the community through offender registration may have to put up with rage and resentment about the situation.

During initial registration, the released offender must constantly report to authorities and provide them with complete and accurate information about their residence status. *Failure to register properly is a state jail felony; with repeated failure to register, the offender can be punished for a felony of the third degree.*

### **The registration form includes**

- the person's full name, alias, date of birth, sex, race, height, weight, eye color, hair color, social security number, driver's license number, shoe size, and home address;
- a photograph of the person and a complete set of the person's fingerprints;
- the type of offense for which the person was convicted, the victim's age, date of conviction, and punishment received;
- an indication as to the nature of the person's discharge and the kind of supervision they will receive while they are living in the community;
- any other information the agency requires.

Sexually violent offenders must keep law enforcement agencies in the community where they are residing apprised of their whereabouts. Within eight days, the local law enforcement agency who receives a report of the registered sexually violent offender must verify the age of the victim and the crime for which the offender was registered. The agency must place a notice by publication in a newspaper the following information: (1) the person's full name, age, and gender; (2) a brief description of the offense for which the person is subject to registration; (3) the municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside; and (4) either a recent photograph of the person or the 18-1 Internet address of a website on which the person's photograph is accessible free of charge. (A registered offender may petition the district court for injunctive relief to prevent such a newspaper notice. The only acceptable reason for granting the petition is a well-grounded fear on the registered offender's part that he will be endangered if he is called to the public's attention.) Concerned authorities may receive any information about the offender except for the person's social security

## Sex Offender Characteristics

number, driver's license number, or telephone number; and any information identifying the victim of the offense for which the offender is registered.

Keeping the registration information current is of first importance. The local agency keeping track of the registered offender residing in a community must make sure that the person updates the registration regularly, that any change of address is recorded and reported to the public, and that the status of the person's supervision is established at all times. If the registered person moves to another state, the agency in the state the person is leaving must notify its counterparts in the state to which the person is moving.

The Texas Department of Public Safety maintains a computerized central database of information regarding registered sexually violent offenders. All information is public except for the social security number, street address, and telephone number of the offender and the identity of the offender's victim. In general, agencies and educational authorities are not liable for releasing appropriate information about sexually violent offenders in the community, but disclosure is a discretionary decision. The sex offender database and other resources are available at the Texas Department of Public Safety Web site (<http://www.txdps.state.tx.us/>).

Some Texas law enforcement agencies, like the City of Denton Police Department ([http://www.cityofdenton.com/police/sex\\_offender.html](http://www.cityofdenton.com/police/sex_offender.html)), post information on their Web sites regarding convicted sex offenders dwelling in their local areas.

A sexually violent offender is rarely relieved of the obligation to register. Any such relief can occur only with the approval of two registered sex offender treatment providers and a licensed psychiatrist.

## Community Notification: Implementation, Benefits, and Problems

Under Texas law, registration of sexually violent offenders and community notification of their release into the community has been authorized, in large part, by the federal Jacob Wetterling Crimes Against Children and Sexual Offender Registration Act, which President Clinton signed into law in 1994. "Megan's Law," a 1996 amendment inspired by the terrible sexual assault and murder of 7-year-old Megan Kanka in 1994, requires states to establish sex offender registries that provide information to the public about violent sex offenders released or paroled from prison. Under the Wetterling Act, offenders convicted of a criminal offense against a minor or a sexually violent offense must register yearly until 10 years have elapsed from their release from prison, parole, or probation. "Sexually violent predators," offenders with a predisposition to commit violent sexual offenses, are required to report their whereabouts to law enforcement authorities every 90 days until a state board of experts decides that they no longer suffer from the abnormality.

Offender registration and community notification have obvious real and potential benefits. Even though some critics charge that such systems foster a "false sense of security" in the community due to the small percentage of sexual offenders who are covered, most communities believe that some knowledge of sexual offenders in

their midst is better than none at all. Offender registration and community notification provide law enforcement agencies with strong tools for surveillance of likely repeat offenders, and the two processes also provide communities with factual foundations for sustained education concerning violent sexual behavior and its prevention.

On the other hand, law enforcement officers need to be aware of some very serious problems that may arise, especially from community notification. Vigilante action—harassment or outright violence in the community against convicted sexual offenders and their families—is a real threat which may enable community notification opponents to roll back community notification laws. A notable Texas case of vigilante action against convicted sexual offenders is that of Raul Meza, who was released after serving eleven years for the rape and murder of an 8-year-old girl. Meza was driven from six communities before ending up with his mother in Austin after aggressive action by concerned citizen groups and news media. Vigilante action against released sexual offenders by members of the community, combined with hostile treatment by the police and the press, lends credence to opponents of community notification who argue that it constitutes “cruel and unusual punishment” after the state has decided that appropriate punishment has taken place. Law enforcement officers need to work with the community to assure that the two positive potential benefits of community notification—enhanced law enforcement and community education—occur in the community, and that neither law enforcement nor the community provide negative evidence for opponents of the policy.

### **Study Questions**

**Don't forget to prepare answers for these questions before you go to the chapter review Web submission form to submit your answers.**

1. Describe the penalty for a violation of Penal Code Section 21.11, Indecency with a Child.
2. Describe the affirmative defense available to someone charged with Sexual Assault against a Child.
3. Briefly describe a law enforcement agency's responsibilities for notification concerning a sex offender residing within its jurisdiction.
4. Briefly discuss the benefits and drawbacks of notifying communities of the whereabouts of convicted sex offenders who have been released.

# **CHAPTER FIVE**

## **Final Examination**

## TAKING THE FINAL EXAMINATION

1. Go to the following Web site: [http://eimc-web.lac.utexas.edu:591/tcleose/log\\_in.htm](http://eimc-web.lac.utexas.edu:591/tcleose/log_in.htm)
2. Type in your **Social Security number** (9 digits).
3. Enter your **Date of Birth** in 6-digit format: MMDDYY (e.g., 020183 for Feb. 1, 1983). Then click on “**Verify Student Information.**”
4. Select the test for **Sex Offender Characteristics**. Then click on “**Take Test Now.**”
5. Click on the button for each answer. After all of your answers are entered, click on “**Submit Test**” at the end of the exam. You will be given your score and told which answers were wrong.

### Reminders

1. You may retake the test as often as you like, but the first passing score (above 70%) will be permanently recorded.
2. You are responsible for Internet connection charges. You may gain access to the Web site, 24 hours a day.
3. We recommend that you keep a record of your answers. That way, if you need to correct some answers and take the test again, you won't make any new mistakes.
4. If you need assistance, call **1-888-BE-A-GRAD** (from out of town) or **(512) 471-7716, option 2** (from Austin), from 8:00 a.m. to 5:00 p.m., Central Time.



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1. The clinical term for a sexual disorder serious enough to cause concern is (Ch.2):
  1. palpaphilia.
  2. paraphilia.
  3. gerontophilia.
  4. gerriophilia.
2. Bestiality is (Ch. 2):
  1. illegal.
  2. not illegal.
  3. illegal if witnessed by someone.
  4. illegal if witnessed by a minor.
3. The act of rubbing against an non-consenting person for sexual stimulation defines (Ch. 2):
  1. frotteurism.
  2. despoliatism.
  3. frithomiturism.
  4. delipeurism.
4. Fetishism, which is the use of an inanimate object or a specific part of the body for sexual stimulation, is (Ch. 2):
  1. illegal and falls within the purview of state law.
  2. an issue only if the person has more than 50 obscene devices.
  3. not illegal and does not fall within the purview of state law.
  4. an issue only if the person has more than 5 obscene devices.
5. Profiling is a form of analysis that (Ch. 3):
  1. overrides standard procedures in investigations of deviant crimes.
  2. helps law enforcement officers interpret key evidence through behavioral indicators.
  3. relies solely upon evidence gathered by special investigators.
  4. None of the above

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6. Profiling (Ch. 3):
  1. is based on the idea that the crime scene reflects offender's characteristics that are similar to those of the victim.
  2. is used by the FBI in a wide range of crimes.
  3. is based upon characteristics common to most sex offenders.
  4. assumes that the crime scene reflects the offender's personal pathology and unchanging modus operandi.
7. Victim information is important for sex offender profiling because (Ch. 3):
  1. sex offense victims unconsciously "ask for it."
  2. many times, the offender's characteristics are mirrored in his victims.
  3. victims will provide the most essential evidence for profiling.
  4. profilers need to identify differences between a serial offender's victims.
8. A forcible rapist will generally choose an approach to the victim that depends on (Ch. 3):
  1. the rapist's level of confidence in their verbal or physical strength.
  2. the rapist's geographic surroundings.
  3. the victim's age and communication skills.
  4. None of the above
9. In general, what are the methods of assault that a forcible rapist will employ (Ch. 3)?
  1. Force and surprise
  2. Coercion, surprise, and blitz
  3. Surprise and blitz
  4. Coercion, force, surprise, and subterfuge
10. Which type of rapist commits a sexual assault simply to show that he can rape anyone he pleases (Ch. 3)?
  1. Power-Reassurance Rapist
  2. Power-Assertive Rapist
  3. Anger-Retaliatory Rapist
  4. Anger-Excitation Rapist

## **Sex Offender Characteristics**

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11. The anger-excitation rapist is (Ch. 3):
  1. almost always a white middle-class male, usually college educated and extremely intelligent.
  2. almost always a white middle-class, high school educated male of above average intelligence.
  3. almost never a white middle-class male.
  4. almost always an outgoing, smooth-talking con man who assumes an innate superiority over women.
  
12. Incest is most common (Ch. 3):
  1. between a brother and sister.
  2. between a male or female child and a male in-law.
  3. between a father and a son or daughter.
  4. between two brothers.
  
13. Pedophiles can be classified under two categories (Ch. 3):
  1. Opportunistic and Forcible
  2. Retaliatory and Excitative
  3. Fixated and Regressed
  4. Regressed and Obsessed
  
14. Indecency with a child through sexual contact is classified as a (Ch. 4):
  1. state felony punishable by up to 20 years in jail.
  2. second-degree felony punishable by imprisonment for life.
  3. second degree felony punishable by up to 20 years in jail.
  4. third degree felony punishable by up to 20 years in jail.
  
15. Lack of consent in sexual assault against someone 17 years of age or older can be ascertained if (Ch. 3):
  1. the other person expresses lack of consent by words or conduct.
  2. the actor is a mental health peace officer or mental health service provider exploiting a patient's condition.
  3. Both 1 and 2
  4. None of the above

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16. Sex offender registration entails (Ch. 4):
  1. information provided by released sexual offenders regarding their current whereabouts.
  2. letting parents know that a released sexual offender is in the neighborhood.
  3. turning over sex offender information to the Texas Commission on Law Enforcement.
  4. All of the above
17. Law enforcement agencies (Ch. 4):
  1. must publish the sex offender's name, address and picture in a local newspaper or on an Internet site.
  2. may publish the sex offender's name, address and picture in a local newspaper or on an Internet site.
  3. must publish the sex offender's name, address and picture at City Hall.
  4. must publish the sex offender's name, and address only.
18. The use of rohypnol, or gamma hydroxybutyrate, on a victim is considered (Ch. 4):
  1. aggravated sexual assault, and is punishable by imprisonment for life.
  2. aggravated sexual assault, and is punishable by 20 years in prison.
  3. sexual assault, and is a felony of the first degree.
  4. sexual assault, and is a felony of the second degree.
19. What are the primary problems with community notification alleged by its opponents (Ch. 4)?
  1. A false sense of security in the community
  2. Vigilante action against the released sex offenders
  3. Increased police and press harassment of released sex offenders
  4. All of the above
20. The organized lust murderer (Ch.3):
  1. acts normal but coolly calculates killings.
  2. is called "organized" because of the detailed chronicle of events he compiles.
  3. always avoids media attention.
  4. pays little attention to the disposition of victim's bodies.

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### **ALCOHOLIC BEVERAGE CODE**

#### **Section 106.04. Consumption of alcohol by a minor.**

- (d) A minor who commits an offense under this section and who has been previously Convicted twice or more of offenses under this section is not eligible for deferred Disposition. For the purposes of this subsection:
- (1) an adjudication under Title 3, Family Code, that the minor engaged in conduct described by this section is considered a conviction of an offense under this section; and
  - (2) an order of deferred disposition for an offense alleged under this section is considered a conviction of an offense under this section.

### **CODE OF CRIMINAL PROCEDURE**

#### **Article 2.12. Who are peace officers.**

The following are peace officers:

- (1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 415, Government Code.
- (2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 415, Government Code;
- (3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers, who hold a permanent peace officer license issued under Chapter 415, Government Code;
- (4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code.
- (9) officers commissioned by the General Services Commission;
- (10) law enforcement officers commissioned by the Parks and Wildlife Commission;
- (11) airport police officers commissioned by a city with a population of more than one million, according to the most recent federal census, that operates an airport that serves commercial air carriers'
- (12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates an airport that serves commercial air carriers;
- (13) municipal park and recreational patrolmen and security officers;
- (14) security officers commissioned as peace officers by the comptroller;
- (15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;
- (16) officers commissioned by a board of trustees, under Chapter 341, Acts of the 57<sup>th</sup> Legislature, Regular Session, 1961 (article 1187f, Vernon's Texas Civil Statutes);
- (17) investigators commissioned by the Texas State Board of Medical Examiners;

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- (18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;
- (19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
- (20) investigators employed by the Texas Racing Commission;
- (21) officers commissioned by the State Board of Pharmacy;
- (22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code
- (23) investigators commissioned by the attorney general under Section 402.009, Government Code;
- (24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;
- (25) an officer employed by the Texas Department of Health under Section 431.2471 Health and Safety Code;
- (26) officers appointed by an appellate court under Subchapter F., Chapter 53, Government Code
- (27) officers commissioned by the state fire marshal under Chapter 417, Government Code;
- (28) an investigator commissioned by the commissioner of insurance under Article 1.10D, Insurance Code;
- (29) apprehension specialists commissioned by the Texas Youth Commission as officers under Section 61.0931, Human Resources Code; and
- (30) officers appointed by the executive director of the Texas Department of Criminal Justice under Section 493.019, Government Code. (*Added by L.1999, chap. 322, eff. 5/29/99. See other subdivisions 30 below.*)
- (31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 415.016, Government Code. (*Added by L.1999, chap. 882, eff. 6/18/99. See other subdivisions 30 above and below.*)
- (32) board investigators commissioned by the Texas Commission on Private Security under Section 10(f), Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes).

### **Article 17.291. Further detention of certain persons.**

- (b) Article 17.29 does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that:
  - (1) the violence would continue if the person is released; and
  - (2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:
    - (A) on more than one occasion for an offense involving family violence; or

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- (B) for any other offense, if a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense.

*(Added by L.1991, chap. 552(2); chgd. By L.1999, chap. 1341(1), eff. 9/1/99.)*

### **Article 17.292. Magistrate's order for emergency protection.**

- (a) At a defendant's appearance before a magistrate after arrest for an offense involving family violence or an offense under Section 42.072, Penal Code, the magistrate may issue an order for emergency protection on the magistrate's own motion or on the request of:
  - (1) the victim of the offense;
  - (2) the guardian of the victim;
  - (3) a peace officer; or
  - (4) the attorney representing the state.
- (b) At a defendant's appearance before a magistrate after arrest for an offense involving Family violence, he magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:
  - (1) serious bodily injury to the victim; or
  - (2) the use of exhibition of a deadly weapon during the commission of an assault.
- (c) The magistrate in the order for emergency protection may prohibit the arrested party from
  - (1) committing:
    - (A) family violence or an assault on the person protected under the order; or
    - (B) an act in furtherance of an offense under Section 42.072, Penal Code;
  - (2) communicating:
    - (A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner; or
    - (B) a threat through any person to a member of the family or household or to the person protected under the order; or
  - (3) going to or near:
    - (A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or
    - (B) the residence, childcare facility, or school where a child protected under the order resides or attends.
- (d) The victim of the offense need not be present in court when the order for emergency protection is issued.
- (e) In the order for emergency protection the magistrate shall specifically describe the prohibited location and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted.
- (f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.
- (g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

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“A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN FAMILY VIOLENCE OR A STALKING OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. “NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER.”

- (h) The magistrate issuing an order for emergency protection under this article shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality .If the victim of the offense is not present when the order issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim’s residence and place of employment. The clerk of the court shall send a copy of the order to the victim.
- (i) If an order for emergency protection issued under this article prohibits a person from going to or near a childcare facility or school, the magistrate shall send a copy of the order to the childcare facility or school.
- (j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order in open court. An order for emergency protection issued under this article remains in effect up to the 61<sup>st</sup> day but not less than 31 days after the date of issuance.
- (k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, each municipal police department and sheriff shall establish a procedure within the department or office to provide adequate information or access to information for peace officers of the names of persons protected by an order for emergency protection issued under this article and of persons to whom the order is directed. The police department or sheriff may enter an order for emergency protection issued under this article in the department’s or office’s record of outstanding warrants as notice that the order has been issued and is in effect.
- (l) In the order for emergency protection, the magistrate may suspend a license to carry a concealed handgun issued under Section 411.177, Government Code, that is held by the defendant.
- (m) In this article, “family,” “family violence,” and “household” have the meanings assigned by Chapter 71, Family Code.

*(Added by L.1995, chap. 658(1); chgd. By L.1997, chaps, 1(4), 610(1); L.1999, chaps. 514(1), 1412(1), eff. 9/1/99).*

### **Article.18.01. Search warrant.**

- (d) Only the specifically described property or items set forth in a search warrant issued under Subdivision (10) of Article 18.02 of this code or property, items or contraband enumerated in Subdivisions (1) through (9) or in Subdivision (12) of Article 18.02 of this code may be seized. A subsequent search warrant may be issued pursuant to Subdivision (10) of Article 18.02 of this code to search the same person, place, or thing subjected to a prior search under Subdivision (10) of Article 18.02 of this code only if the subsequent search warrant is issued by a judge of a district court, a court of appeals, the court of criminal appeals, or the supreme court.

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### FAMILY CODE

#### Section 51.095. Admissibility of a statement of a child.

- (a) Notwithstanding Section 51.09, the statement of a child is admissible in evidence in any Future proceeding concerning the matter about which the statement was given if:
- (1) that statement is made in writing under a circumstance described by Subsection (d) and:
    - (A) the statement shows that the child has at some time before the making of the statement received from a magistrate a warning that:
      - (1) the child may remain silent and not make any statement at all and that any statement that the child makes may be used in evidence against the child;
      - (ii) the child has the right to have an attorney present to advise the child either prior to any questioning or during the questioning;
      - (iii) If the child is unable to employ an attorney, the child has the right to have an attorney appointed to counsel with the child before or during any interviews with peace officers or attorneys representing the state; and
      - (iv) the child has the right to terminate the interview at any time;
    - (B) and:
      - (i) the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present, except that a magistrate may require a bailiff of a law enforcement officer if a bailiff is not available to be present if the magistrate determines that the presence of the bailiff or law enforcement officer is necessary for the personal safety of the magistrate or other court personnel, provided that the bailiff or law enforcement officer may not carry a weapon in the presence of the child; and
      - (ii) the magistrate must be fully convinced that the child understands the nature and content of the statement and that the child is signing the same voluntarily, and if a statement is taken, the magistrate must sign a written statement verifying the foregoing requisites have been met;
    - (C) the child knowingly, intelligently, and voluntarily waives these rights before and during the making of the statement and signs the statement in the presence of a magistrate; and
    - (D) the magistrate certifies that the magistrate has examined the child independent for any law enforcement officer of prosecuting attorney, except as required to ensure the personal safety of the magistrate or other court personnel, and has determined that the child understands the nature and contents of the statement and has knowingly intelligently, and voluntarily waived these rights;
  - (2) the statement is made orally and the child makes a statement of facts or circumstances that are found to be true, which conduct tends to established the child's guilt, such as the findings of secreted or stolen property, or the instrument with which the child states the offense was committed;
  - (3) the statement was re gestae of the delinquent conduct or the conduct indicating a need for supervision or of the arrest;
  - (4) the statement is made;
    - (A) in open court at the child's adjudication hearing;
    - (B) before a grand jury considering a petition, under Section 53.045, that the child engaged in delinquent conduct

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- (C) at a preliminary hearing concerned the child held in compliance with this code, other than at a detention hearing under Section 54.01; or
  - (5) the statement is made orally under a circumstance described by Subsection (d) and the statement is recorded by an electronic recording device, including a device that records images, and:
    - (A) before making the statement, the child is given the warning described by Subdivision (1)(A) by a magistrate, the warning is a part of the recording, and the child knowingly, intelligently, and voluntarily waives each right stated in the warning;
    - (B) the recording device is capable of making an accurate recording, the operator of the device is competent to use the device, the recording is accurate, and the recording has not been altered;
    - (C) each voice on the recording is identified; and
    - (D) not later than the 20<sup>th</sup> day before the date of the proceeding, the attorney representing the child is given a complete and accurate copy of each recording of the child made under this subdivision.
  - (b) This section and Section 51.09 do not preclude the admission of a statement made by the child if:
    - (1) the statement does not stem from interrogation of the child under a circumstances described by Subsection (d); or
    - (2) without regard to whether the statement stems from interrogation of the child under a circumstance described by Subsection (d), the statement is voluntary and has a bearing on the credibility of the child as a witness.
  - (c) An electronic recording of a child's statement made under Subsection (a)(5) shall be preserved under all juvenile or criminal matters relating to any conduct referred to in the statement are final, including the exhaustion of all appeals, or barred from prosecution.
  - (d) Subsections (a)(1) and (a)(5) apply to the statement of a child made:
    - (1) while the child is in a detention facility or other place of confinement;
    - (2) while the child is in the custody of an officer; or
    - (3) during or after the interrogation of the child by an officer if the child is in the possession of the Department of Protection and Regulatory Services and is suspected to have engaged in conduct that violates a penal law of this state.
- (Added by L.1999, chap. 982(1), eff. 9/1/99/. See other subsection (d) below.:*
- (e) A juvenile law referee or master may perform the duties imposed on a magistrate under this section without the approval of the juvenile court if the juvenile board of the county in which the statement of the child is made has authorized a referee or master to perform the duties of a magistrate under this section.

*(Added by L.1999 chap. 1477(1), eff. 9/1/99. See other subsection (d) above.) (Chgd. by L.1989, chap 84(1); L.1991, chaps. 64(1), 429(1), 557(1), 593(1); L.1995, chap. 262(8), (9); L. 1997, redesignated from 51.09(b), (c) and chgd. by L.1997, chap. 1086(4); chgd. by L. 1999, chaps. 982(1), 1477(1), eff. 9/1/99.)*

### **Section 51.12. Place and conditions of detention. [Detention: location; conditions.]**

- (a) Except as provided by Subsection (h), a child may be detained only in a:
  - (1) juvenile processing office in compliance with Section 52.025
  - (2) place of nonsecure custody in compliance with Section 52.027;

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- (3) certified juvenile detention facility that complies with the requirements of Subsection (f);
  - (4) secure detention facility as provided by Subsection (j); or
  - (5) county jail or other facility as provided by Subsection (l).
- (b) The proper authorities in each county shall provide a suitable place of detention for Children who are parties to proceedings under this title, but the juvenile court shall control the conditions and terms of detention and detention supervision and shall permit visitation with the child at all reasonable times.
- (c) In each county, each judge of the juvenile court and the members of the juvenile board shall personally inspect the juvenile pre-adjudication secure detention facilities and any public or private juvenile secure correctional facilities used for post-adjudication confinement that are located in the county and operated under authority of the juvenile board at least annually and shall certify in writing to the authorities responsible for operating and giving financial support to the facilities and to the Texas Juvenile Probation Commission that they are suitable or unsuitable for the detention of children in accordance with:
- (1) the requirements of Subsections 9a), (f), and (g); and
  - (2) minimum professional standards for the detention of children in pre-adjudication or post-adjudication secure confinement promulgated by the Texas Juvenile Probation Commission or, at the election of the juvenile board, the current standards promulgated by the American Correctional Association.
- (d) Except as provided by Subsections (j) and (l), a child may not be placed in a facility that has not been certified under Subsection (c) as suitable for the detention of children and registered under Subsection (i). Except as provided by Subsections (j) and (l), a child detained in a facility that has not been certified under Subsection (c) as suitable for the detention of children or that has not been registered under Subsection (I) shall be entitled to immediate release from custody in that facility.
- (e) If there is no certified place of detention in the county in which the petition is filed, the designed place of detention may be in another county.
- (f) A child detained in a building that contains a jail, lockup, or other place of secure confinement including an alcohol or other drug treatment facility, shall be separated by sight and sound from adults detained in the same building. Children and adults are separated by sight and sound only if they are unable to see each other and conversation between them is not possible. The separation must extend to all areas of the facility, including sally ports and passageways and those areas used for admission, counseling, sleeping, toileting, showering, dining, recreational, educational, or vocational activities, and health care. The separation may be accomplished through architectural design
- (g) Except for a child detained in a juvenile processing office, a place of nonsecure custody, a secure detention facility as provided by the Subsection (j), or a facility as provided by Subsection (l), a child detained in a building that contains a jail or lockup may not have any contact with:
- (1) part-time or full-time security staff, including management, who have contact with adults detained in the same building; or
  - (2) direct-care staff who have contact with adults detained in the same building.
- (h) This section does not apply to a person:
- (1) after transfer to criminal court for prosecution under Section 54.02; or
  - (2) who is at least 17 years of age and who has been taken into custody after having:
    - (A) escaped from a juvenile facility operated by or under contract with the Texas Youth Commission; or
    - (B) violated a condition of release under supervision of the Texas Youth Commission.

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- (i) Except for a facility operated or certified by the Texas Youth Commission or a facility as provided by Subsection (l), a governmental unit or private entity that operates or contracts for the operation of a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility in this state shall:
  - (1) register the facility annually with the Texas Juvenile Probation Commission; and
  - (2) adhere to all applicable minimum standards for the facility.
- (j) After being taken into custody, a child may be detained in a secure detention facility until the child is released under Section 53.01, 53.012, or 53.02 or until a detention hearing is held under Section 54.01(a), regardless of whether the facility has been certified under Subsection (c), if:
  - (1) a certified juvenile detention facility is not available in the county in which the child is taken into custody;
  - (2) the detention facility complies with:
    - (A) the short-term detention standards adopted by the Texas Juvenile Probation Commission; and
    - (B) the requirements of Subsection (f); and
  - (3) the detention facility has been designed by the county juvenile board for the county in which the facility is located.
- (k) If a child who is detained under Subsection (j) or (l) is not released from detention at the conclusion of the detention hearing for a reason stated in Section 54.01(e), the child may be detained after the hearing only in a certified juvenile detention facility
- (l) A child who is taken into custody and required to be detained under Section 53.02(f) may be detained in a county jail or other facility until the child is released under Section 53.02(f) or until a detention hearing is held as required by Section 54.01(p), regardless of whether the facility complies with the requirements of this section, if:
  - (1) a certified juvenile detention facility or a secure detention facility described by Subsection(j) is not available in the county in which the child is taken into custody or in an adjacent county;
  - (2) the facility has been designated by the county juvenile board for the county in which the facility is located;
  - (3) the child is separated by sight and sound from adults detained in the same facility through architectural design or time-phasing;
  - (4) the child does not have any contact with management or direct-care staff that has contact with adults detained in the same facility on the same work shift;
  - (5) the county in which the child is taken into custody is not located in a metropolitan statistical area as designated by the United States Bureau of the Census; and
  - (6) each judge of the juvenile court and the members of the juvenile board of the county in which the child is taken into custody have personally inspected the facility at least annually and have certified in writing to the Texas Juvenile Probation Commission that the facility complies with the requirements of Subdivisions (3) and (4).

*(Chgd. by L. 1995, chap. 262(12); L. 1997, chaps. 772(1), 1374(1); L. 1999, chaps. 62(6.07), 232(3), 1477(2), eff. 9/1/99.)*

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### Section 52.026. Responsibility for transporting juvenile offenders.

- a. It shall be the duty of the law enforcement officer who has taken a child into custody to transport the child to the appropriate detention facility if the child is not released to the parent, guardian, or custodian of the child.
- b. If the juvenile detention facility is located outside the county in which the child is taken into custody, it shall be the duty of the sheriff of that county to transport the child to the appropriate juvenile detention facility unless the child is:
  - (1) detained in a secure detention facility under Section 51.12(j); or
  - (2) released to the parent, guardian, or custodian of the child. (Chgd. by L. 1999, chap. 62(6.09), eff. 9/1/99. See other section (b) below.)
- (a) If the juvenile detention facility is located outside the county in which the child is taken into custody, it shall be the duty of the law enforcement officer who has taken the child into custody or, if authorized by the commissioners court of the county, the sheriff of that county to transport the child to the appropriate juvenile detention facility unless the child is:
  - (1) detained in a secure detention facility under Section 51.12 (I); or
  - (2) released to the parent, guardian, or custodian of the child. (Chgd. by L. 1999, chap. 1082(1), eff. 6/18/99. See other section (b) above.)
- (b) On adoption of an order by the juvenile board and approval of the juvenile board's order by record vote of the commissioners court, it shall be the duty of the sheriff of the county in which the child is taken into custody to transport the child to and from all scheduled juvenile court proceedings and appearances and other activities ordered by the juvenile court.

*(Added by L. 1993, chap. 411(1); chgd. by L.1997, chap. 1374(3); L.1999, chaps. 62(6.09), 1082(1), eff. 9/1/99, 6/18/99, respectively.)*

### Section 52.03 Disposition without referral to court.

- (a) A law-enforcement officer authorized by this title to take a child into custody may dispose of the case of a child taken into custody without referral to juvenile court, if:
  - (1) guidelines for such disposition have been adopted by the juvenile board of the county in which the disposition is made as required by Section 52.032;
  - (2) the disposition is authorized by the guidelines; and
  - (3) the officer makes a written report of the officer's disposition to the law-enforcement agency, identifying the child and specifying the grounds for believing that the taking into custody was authorized.
- (b) No disposition authorized by this section may involve:
  - (1) keeping the child in law-enforcement custody; or
  - (2) requiring periodic reporting of the child to a law-enforcement officer, law-enforcement agency, or other agency.
- (c) A disposition authorized by this section may involve:
  - (1) referral of the child to an agency other than the juvenile court;
  - (2) a brief conference with the child and his parent, guardian, or custodian; or
  - (3) referral of the child and the child's parent, guardian, or custodian for services under Section 264.302.

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- (d) Statistics indicating the number and kind of dispositions made by a law-enforcement agency under the authority of this section shall be reported at least annually to the office or official designated by the juvenile court, as ordered by the court.

*(Chgd. by L. 1995, chap. 262(18); L. 1999, chap. 48(1), eff. 9/1/99.)*

### Section 53.02. Release from detention.

- (a) If a child is brought before the court or delivered to a detention facility as authorized by Sections 51.12(a)(3) and (4), the intake or other authorized officer of the court shall immediately make an investigation and shall release the child unless it appears that this detention is warranted under Subsection(b). The release may be conditioned upon requirements reasonably necessary to insure the child's appearance at later proceedings, but the conditions of the release must be in writing and filed with the office or official designated by the court and a copy furnished to the child.
- (b) A child taken into custody may be detained prior to hearing on the petition only if:
- (1) the child is likely to abscond or be removed from the jurisdiction of the court;
  - (2) suitable supervision, care, or protection for the child is not being provided by a parent, guardian, custodian, or other person;
  - (3) the child has no parent, guardian, custodian, or other person able to return the child to the court when required;
  - (4) the child may be dangerous to himself or herself or the child may threaten the safety of the public if released.
  - (5) The child has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released; or
  - (6) The child's detention is required under Subsection (f).
- (c) If the child is not released, a request for detention hearing shall be made and promptly presented to the court, and an informal detention hearing as provided in Section 54.01 of this code shall be held promptly, but not later than the time required by Section 54.01 of this code.
- (d) A release of a child to an adult under Subsection(a) must be conditioned on the agreement of the adult to be subject to the jurisdiction of the juvenile court and to an order of contempt by the court if the adult, after notification, is unable to produce the child at later proceedings.
- (e) Unless otherwise agreed in the memorandum of understanding under Section 37.011, Education Code, in a county with a population greater than 125,000, if a child being released under this section is expelled under Section 37.007, Educational Code, the release shall be conditioned on the child's attending a juvenile justice alternative education program pending a deferred prosecution or formal court disposition of the child's case.
- (f) A child who is alleged to have engaged in delinquent conduct and to have used, possessed, or exhibited a firearm, as defined by Section 46.01, Penal Code, in the commission of the offense shall be detained until the child is released at the direction of the judge of the juvenile court, a substitute judge authorized by Section 51.04(f), or a referee appointed under Section 51.04(g), including an oral direction by telephone, or until a detention hearing is held as required by Section 54.01.

*(Chgd. by L.1995, chap. 262(23); L. 1997, chaps. 1015(17), 1374(6); L. 1999, chap. 232(1), eff. 9/1/99.)*

### Section 85.025. Duration of protective order

- (a) Except as provided by Subsection 9b) or (c), an order under this subtitle is effective:

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- (1) for the period stated in the order, not to exceed two years; or
  - (2) if a period is not stated in the order, until the second anniversary of the date the order was issued.
- (b) A person who is the subject of a protective order may file a motion not earlier than the first anniversary of the date on which the order was rendered requesting that the court review the protective order and determine whether there is a continuing need for the order. After a hearing on the motion, if the court finds there is a continuing need for the protective order, the protective order remains in effect until the date the order expires under this section. If the court finds there is no continuing need for the protective order, the court shall order that the protective order expires on a date set by the court.
- (c) If a person who is the subject of a protective order is confined or imprisoned on the date the protective order would expire under Subsection (a), the period for which the order is effective is extended, and the order expires on the first anniversary of the date the person is released from confinement of imprisonment.

*(Added by L.1997, chap. 34(1); chgd. by L.1999, chap. 1160(3), eff. 9/1/99.)*

### **Section 153.076. Parents' duty to provide information**

- (a) If both parents are appointed as conservators of the child, the court shall order that each parent has a duty to inform the other parent in a timely manner of significant information concerning the health, education, and welfare of the child.
- (b) If both parents are appointed as conservators of a child, the court shall order that each parent has the duty to inform the other parent if the parent resides with for at least 30 days, marries, or intends to marry a person who the parent knows:
- (1) is registered as a sex offender under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997; or
  - (2) is currently charged with an offense for which on conviction the person would be required to register under that chapter.
- (c) The notice required to be made under Subsection (b) must be made as soon as practicable but not later than the 40th day after the date the parent begins to reside with the person or the 10th day after the date the marriage occurs, as appropriate. The notice must include a description of the offense that is the basis of the person's requirement to register as a sex offender or of the offense with which the person is charged. A person commits an offense if the person fails to provide notice in the manner required by Subsections (b) and (c). An offense under this subsection is a Class C misdemeanor.

## **PENAL CODE**

### **Section.15.031. Criminal solicitation of a minor.**

- (a) A person commits an offense if, with intent that an offense listed by Section 3g(a)(1), Articles 42.12, Code of Criminal Procedure, be committed, the person requests, commands, or attempts to induce a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense listed by Section 3g(a)(1), Article 42.12, or make the minor a party to the commission of an offense listed by Section 3g(a)(1), Article 42.12
- (b) A person commits an offense if, with intent that an offense under Section 21.11, 22.011, 22.021, or 43.25 be committed, the person by any means requests, commands, or attempts to induce a minor or another whom the person believes to be a minor to engage in specific conduct that, under circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an

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offense under one of those sections or would make the minor or other believed by the person to be a minor a party to the commission of an offense under one of those sections.

- (c) A person may not be convicted under this section on the uncorroborated testimony of the minor allegedly solicited unless the solicitation is made under circumstances strongly corroborative of both the solicitation itself and the actor's intent that the minor act on the solicitation.
- (d) It is no defense to prosecution under this section that:
  - (1) the minor solicited is not criminally responsible for the offense solicited;
  - (2) the minor solicited has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution;
  - (3) the actor belongs to a class of persons that by definition of the offense solicited is legally incapable of committing the offense in an individual capacity; or
  - (4) the offense solicited was actually committed.
- (e) An offense under this section is one category lower than the solicited offense.
- (f) In this section, "minor" means an individual younger than 17 years of age.

*(Added by L.1995, chap. 262(70); chgd. by L. 1999, chap. 1415(22(a)). Eff. 9/1/99.)*

### Section 20.01 Definitions

In this chapter:

- (1) "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by:
  - (A) force, intimidation, or deception; or
  - (B) any means, including acquiescence of the victim, if:
    - (i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or
    - (ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement.
- (2) "Abduct" means to restrain a person with intent to prevent his liberation by:
  - (A) secreting or holding him in a place where he is not likely to be found; or
  - (B) using or threatening to use a deadly force.
- (3) "Relative" means a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

*(Chgd. by L. 1993, chap. 900(1.01); L.1999, chap. 790(1), eff. 9/1/99.)*

### Section 20.05. Unlawful transport.

- (a) A person commits an offense if the person for pecuniary benefit transports an individual in a manner that:

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- (1) is designed to conceal the individual from local, state, or federal law enforcement authorities; and
  - (2) creates a substantial likelihood that the individual will suffer serious bodily injury or death.
- (b) An offense under this section is a state jail felony.

*(Added by L.1999, chap. 1014(1), eff. 9/1/99.)*

### **Section 22.01. Assault.**

- (a) A person commits an offense if the person:
- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;
  - (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or
  - (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.
- (b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:
- (1) a person the actor knows is a public servant while the public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or
  - (2) a member of the defendant's family or household, if it is shown on the trail of the offense that the defendant has been previously convicted of an offense against a member of the defendant's family or household under this section
- (c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that an offense under Subsection (a)(3) is a Class A misdemeanor if the offense was committed against an elderly individual or disabled individual, as those terms are defined by Section 22.04.
- (d) For purposes of Subsection(b), the actor is presumed to have known the person assaulted was a public servant if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant.
- (e) In this section:
- (1) "Family" has the meaning assigned by Section 71.003, Family Code.
  - (2) "Household" has the meaning assigned by Section 71.005, Family Code.
- (f) For the purposes of this section, a defendant has been previously convicted of an offense against a member of the defendant's family or a member of the defendant's household under this section if the defendant was adjudged guilty of the offense of entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

*(Chgd. by L.1989, chap. 739(1-); L. 1991, chaps, 14(284(23-26)), 334(1), 366(1); L.1993, chap. 900(1.01); L. 1995, chaps. 318(5), 659(1); L.1997, chap. 165(27.01), (31.01(68)); L. 1999, caps. 62(15.02(a)), 1158(1), eff. 9/1/99.)*

### **Section 22.015. Coercing, soliciting, or inducing gang membership.**

- (a) In this section:
- (1) "Child" means an individual younger than 17 years of age.

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- (2) “Criminal street gang” has the meaning assigned by Section 71.01.
- (b) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person:
  - (1) threatens the child with imminent bodily injury; or
  - (2) causes bodily injury to the child.
- (c) An offense under Subsection (b)(1) is a state jail felony. An offense under Subsection(b)(2) is a felony of the third degree.

*(Added by L.1999, chap. 708(1), eff. 9/1/99.)*

### **Section 22.021. Aggravated sexual assault.**

- (a) A person commits an offense:
  - (1) if the person:
    - (A) intentionally or knowingly:
      - (i) causes the penetration of the anus or female sexual organ of another person by any means, without that person’s consent;
      - (ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person’s consent; or
      - (iii) causes the sexual organ of another person, without that person’s consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor.

### **Section 28.08. Graffiti.**

- (d) An offense under this section is a state jail felony if:
  - (1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or education programs;
  - (2) the amount of the pecuniary loss to real property or to tangible personal property is less than \$20,000.
- (e) In this section:
  - (1) “Aerosol paint” means an aerosolized paint product.
  - (2) “Etching or engraving device” means a device that makes a delineation or impression on tangible property, regardless of the manufacturer’s intended use for that device.
  - (3) “Indelible marker” means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products. *(Remembered by L.1999, chap. 695(1), eff. 9/1/99. See other subdivision(3) below.*
  - (4) “Institution of higher education” has the meaning assigned by Section 481.134, health and Safety Code. *(Added by L.1999, chap. 166(2), eff. 9/1/99. See other subdivision (3) above.)*
  - (5) “School” means a private or public elementary or secondary school.

*(Added by L.1997, chap. 593(1); chgd. by L.1999, chaps. 166(1), (2), 695(1), eff. 9/1/99/)*

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### Section 30.02. Burglary.

- (a) A person commits an offense if, without the effective consent of the owner, the person:
  - (1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit felony, theft, or an assault; or
  - (2) remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or
  - (3) enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

### Section 30.05. Criminal trespass

- (a) A person commits an offense if he enters or remains on property, including an aircraft, of another without effective consent or he enters or remains in a building of another without effective consent and he:
  - (1) had notice that the entry was forbidden; or
  - (2) received notice to depart but failed to do so.
- (b) For purposes of this section:
  - (1) “Entry” means the intrusion of the entire body.
  - (2) “Notice” means:
    - (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
    - (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
    - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
    - (D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:
      - (i) vertical lines of not less than eight inches in length and not less than one inch in width;
      - (ii) placed so that the bottom of the mark is not less than three feet from the ground and more than five feet from the ground; and
      - (iii) placed at locations that are readily visible to any person approaching the property and no more than:
        - (a) 100 feet apart on forest land; or
        - (b) 1,000 feet apart on land other than forest land; or
        - (f) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.
  - (3) “Shelter center” has the meaning assigned by Section 51.002(1), Human Resources Code.
  - (4) “Forestland” means land on which the trees are potentially valuable for timber products.
  - (5) “Agricultural land” has the meaning assigned by Section 75.001, Civil Practice and Remedies Code. *(Added by L.1999, chap. 169(1), eff. 9/1/99. See other subdivision (b)(5) below.)*

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- (A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environment Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or
- (B) is listed on the state registry established under Section 361.181, Health and Safety Code. *(Added by L.1999, chap. 765(1), eff. 9/1/99. See other subdivision (b)(5) above.)*
- (c) It is a defense to prosecution under this section that the actor at the time of the offense was a fire fighter or emergency, medical services personnel, as that term is defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances.
- (d) An offense under Subsection (a) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if:
  - (1) the offense is committed:
    - (A) in a habitation or a shelter center; or
    - (B) on a Superfund site; or
  - (2) the actor carries a deadly weapon on or about the actor's person during the commission of the offense. An offense under Subsection (e) is a Class C misdemeanor unless it is committed in a habitation or unless the actor carries a deadly weapon on or about the actor's person during the commission of the offense, in which event it is a Class A misdemeanor.
- (e) A person commits an offense if without express consent or if without authorization provided by any law, whether in writing or other form, the person:
  - (1) enters or remains on agricultural land of another;
  - (2) is on the agricultural land and within 100 feet of the boundary of the land when apprehended; and
  - (3) had notice that the entry was forbidden or received notice to depart but failed to do so.

*(Chgd. by L.1989, chap. 139(1); L.1991, chap. 308(1); L.1993, chap. 900(1.01); l. 1997, chap. 1229(1), (2); L. 1999, chaps. 161(1), 169(1), (2), 765(1), (2), eff. 9/1/99.)*

### Section 37.01. Definitions

- (3) "Governmental record" means:
  - (A) anything belonging to, received by, or kept by government for information, including a court record;
  - (B) anything required by law to be kept by others for information of government;
  - (C) a license, certificate, permit, seal title, letter of patent, or similar document issued by government, by another state, or by the United States; or
  - (D) a standard proof of motor vehicle liability insurance form described by Section 601.081, Transportation Code, a certificate of an insurance company described by Section 601.083 of that code, a document purporting to be such a form or certificate that is not issued by an insurer authorized to write motor vehicle liability insurance in this state, an electronic submission in a form described by Section 502.153(i), Transportation Code, or an evidence of financial responsibility described by Section 601.053 of that code.

### Section 37.10. Tampering with governmental record.

- (d) An offense under this section, if it is shown on the trial of the offense that the governmental record is described by Section 37.01(2)(D), is:

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- (1) a Class B misdemeanor if the offense is committed under Subsection (a)(2) or Subsection (a)(5) and the defendant is convicted of presenting or using the record;
- (2) a felony of the third degree if the offense is committed under:
  - (A) Subsection (a)(1), (3), (4), or (6); or
  - (B) Subsection (a)(2) or (5) and the defendant is convicted of making the record; and
- (3) a felony of the second degree, notwithstanding Subdivisions (1) and (2), if the actor's intent in committing the offense was to defraud or harm another.

### **Section 38.11. Prohibited substances in correctional facility or on property of Texas Department of Criminal Justice.**

- (d) A person commits an offense if the person possesses a controlled substance or dangerous drug while:
  - (1) on property owned, used, or controlled by the Texas Department of Criminal Justice; or
  - (2) in a correctional facility.

### **Section 38.17. Failure to stop or report aggravated sexual assault of child.**

- (a) A person, other than a person who has a relationship with a child described by Section 22.04(b), commits an offense if:
  - (1) the actor observes the commission or attempted commission of an offense prohibited by Section 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child;
  - (2) the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and
  - (3) the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death.
- (b) An offense under this section is a Class A misdemeanor.

*(Added by L. 1999, chap. 1344(1), eff. 9/1/99.)*

### **Section 39.04. Violations of the civil rights of person in custody; improper sexual activity with person in custody.**

- (a) An official or employee of a correctional facility or a peace officer commits an offense if he intentionally:
  - (1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful; or
  - (2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody.
- (b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony.
- (c) This section shall not preclude prosecution for any other offense set out in this code.
- (d) The Attorney General of Texas shall have concurrent jurisdiction with law enforcement agencies to investigate violations of this statute involving serious bodily injury or death.

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- (e) In this section:
- (1) “Correctional facility” means:
    - (A) any place described by Section 1.07(a)(14); or
    - (B) a “secure correctional facility” or secure detention facility” as defined by Section 51.02, Family Code.
  - (2) “Custody” means the detention, arrest, or confinement of an adult offender or the detention or the commitment to a facility operated by or under a contract with the Texas Youth Commission of a juvenile offender.
  - (3) “Sexual contact,” “sexual intercourse,” and “deviate sexual intercourse” have the meanings assigned by Section 21.01.
- (f) An employee of the Texas Department of Criminal Justice commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who is not the employee’s spouse and who the employee knows is under the supervision of the department but not in the custody of the department.
- (g) An offense under Subsection (f) is a state jail felony.
- (Renumbered from 39.021 and chgd. by L.1993, chap. 900(1.01); chgd. by L.1997, chap. 1406(1); L. 1999, chap. 158(1) to (3), eff. 9/1/99.)*

### Section 46.01. Definitions

- (4) “Firearm” means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:
- (A) an antique or curio firearm manufactured before 1899; or
  - (B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

### Section 49.01. Definitions

- (2) “Intoxicated” means:
- (A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or
  - (B) having an alcohol concentration of 0.08 or more.
- (3) “Motor vehicle” has the meaning assigned by Section 32.24(a).
- (4) “Watercraft” means a vessel, one or more water skis, an aquaplane, or another device used for transporting or carrying a person on water, other than a device propelled only by the current of water.
- (5) *“Amusement ride” has the meaning assigned by Section 2, Article 21.60, Insurance Code.*
- (6) *“Mobile amusement ride” has the meaning assigned by Section 2, Article 21.60, Insurance Code.*

*(Added by L.1993, chap. 900(1.01); chgd. by L.1999, chaps. 234(1), 1364(8), eff. 9/1/99, 1/1/2000, respectively. Matter in italics eff. 1/1/2000.)*

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### **Section 71.022. Soliciting membership in a criminal street gang**

- (a) A person commits an offense if the person knowingly causes, enables, encourages, recruits, or solicits another person to become a member of a criminal street gang which, as a condition of initiation, admission, membership, or continued membership, requires the commission of any conduct which constitutes an offense punishable as a Class A misdemeanor or a felony.
- (b) Except as provided by Subsection (c), an offense under this section is a felony of the third degree.

## **TRANSPORTATION CODE**

### **Section 472.022. Obeying warning signs**

- (d) An offense under this section is a misdemeanor punishable by a fine of not less than \$1 or more than @200, except that if the offense is committed in a construction or maintenance work zone when workers are present and any written notice to appear issued for the offense states on its face that workers were present when the offense was committed, the offense is a misdemeanor punishable by a fine of not less than \$2 or more than \$400.
  - (2) “Construction or maintenance work zone” means a portion of a highway or street:
    - (A) where the highway construction or maintenance is being undertaken, other than mobile operations as defined by the Texas Manual on Uniform Traffic Control Devices; and
    - (B) that is marked by signs indicating that it is a construction or maintenance work zone and stating: “Fines double when workers present.”
    - (C) that is marked by signs indicating that it is a construction or maintenance work zone and indicating where the zone begins and ends.

### **Section 502.407. Operation of a vehicle with expired license plate.**

- (a) A person commits an offense if, after the fifth working day after the date the registration for a vehicle expires:
  - (1) the person operates on a public highway during a registration period a motor vehicle, trailer, or semitrailer that has attached to it a license plate for the preceding period and
  - (2) the license plate has not been validated by the attachment of a registration insignia for the registration period in effect.

### **Section 502.409. Wrong, fictitious, or unclean license plate.**

- (a) A person commits an offense if the person operates, or as the owner permits another to operate, on a public highway a motor vehicle that has attached to it a number plate or registration insignia issued for a different vehicle. An offense under this subsection is a misdemeanor punishable by a fine not to exceed \$200.

### **Section 522.071. Driving while disqualified prohibited**

- (b) Except as provided by Subsection (b), it is an affirmative defense to prosecution of an offense under this section that the person had not received notice of a denial, disqualification, prohibition order, or out-of-service order concerning the person’s driver’s license, permit, or privilege to operate a motor vehicle. For purposes of this subsection, notice is presumed if the notice is sent by first class mail to the last known address of the person as shown by the records of the department or licensing authority of another state.

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### **Section 541.201 Vehicles**

(10) “Motor-Driven Cycle” means a motorcycle equipped with a motor that has an engine piston displacement of 250 cubic centimeters or less.

### **Section 545.352. Prima facie speed limits**

- (c) Unless a special hazard exists that requires a slower speed for compliance with Section 545.351(b), the following speeds are lawful:
- (1) 30 miles per hour in an urban district on a street other than an alley and 15 miles per hour in an alley.
  - (2) 70 miles per hour in daytime and 65 miles per hour in nighttime if the vehicle is a passenger care, motorcycle, passenger care or light truck towing a trailer bearing a vessel, as defined by Section 31.003, Parks and Wildlife Code, that is less than 26 feet in length, passenger care or light truck towing a trailer or semitrailer designed and used primarily to support a motorcycle, or passenger car or light truck towing a trailer or semitrailer designed and used primarily to transport dogs or livestock, on a highway numbered by this state or the United States outside an urban district, including farm-to-market or ranch-to-market roads.
  - (3) 70 miles per hour in daytime and 65 miles per hour in nighttime if the vehicle is on a highway numbered by this state or the United States outside an urban district, including a Farm-to-market road or ranch-to-market road, except as provided by Subdivision (4).

### **Section 545.413. Safety belts; offense**

- (b) A person commits an offense if the person:
- (1) operates a passenger car or light truck that is equipped with safety belts; and
  - (2) allows a child who is at least four years of age but younger than 15 years of age to ride in the vehicle without requiring the child to be secured by a safety belt, providing the child is occupying a seat that is equipped with a safety belt.
- (d) It is a defense to prosecution under this section that:
- (1) the person possesses a written statement from a licensed physician stating that for a medical reason the person should not wear a safety belt;
  - (2) the person presents to the court, not later than the 10<sup>th</sup> day after the date of the offense, a statement from a licensed physician stating that for medical reason the person should not wear a safety belt.
- (h) In this section:
- (1) “Passenger car” includes a truck with a manufacturer’s rated carrying capacity of not more than 1,500 pounds.
  - (2) “Safety belt” means a lab belt and any shoulder straps included as original equipment on or added to a vehicle.

### **Section 547.305. Restrictions on use of lights.**

- (d) A vehicle may be equipped with alternately flashing lighting equipment described by Section 547.701 or 547.702 only if the vehicle is:
- (1) A school bus;
  - (2) An authorized emergency vehicle;

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- (3) A church bus that has the words “church bus” printed on the front and rear of the bus so as to be clearly discernable to other vehicle operators;
- (4) A tow truck while under the direction of a law enforcement officer at the scene of an accident or while hooking up to a disabled vehicle on a roadway; or
- (5) A tow truck with a mounted light bar which has turn signals and stop lamps in addition to those required by Sections 547.322, 547.323, and 547.324, Transportation Code.

### **Section 681.002. Disabled parking placard**

- (b) A disabled parking placard must be two-sided and hooked and include on each side:
  - (1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:
    - (A) white on a blue shield for a placard issued to a person with a mobility disability described by Sections 681.001(5)(B) or (C); or
    - (B) white on a red shield for a placard issued to a person with any other permanent or temporary disability;
  - (2) an identification number;
  - (3) an expiration date at least three inches in height; and
  - (4) the seal or other identification of the department.

### **Section 681.009. Designation of parking spaces by political subdivision or private property owner.**

- (c) A political subdivision must designate a parking space or area by conforming to standards and specifications adopted by the Texas Commission of Licensing and Regulation under Section 5(I), Article 9102, Revised Statutes, relating to the identification and dimensions of parking spaces for persons with disabilities. A person who owns or controls private property used for parking may designate a parking space or area without conforming to those standards and specifications, unless required to conform by law.

### **Section 681.011. Offenses; presumption**

- (a) A person commits an offense if:
  - (1) the person parks a vehicle on which are displayed license plates issued under Section 502.253 or 502.254 or a disabled parking placard in a parking space or area designated specifically for persons with disabilities by:
    - (A) a political subdivision; or
    - (B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f); and the parking of the vehicle in that parking space or area is not authorized by section 681.006, 681.007, or 681.008.