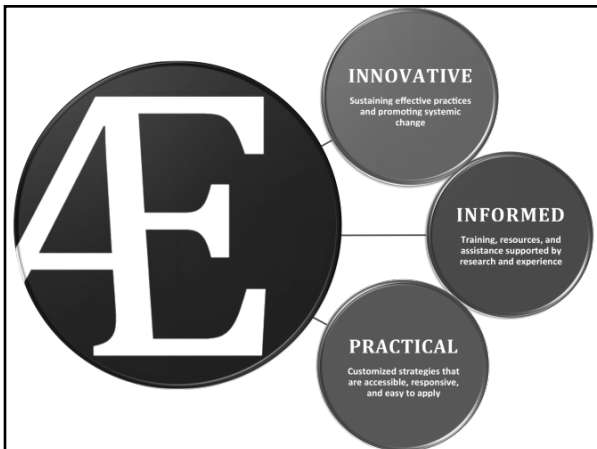


ALCOHOL-FACILITATED SEXUAL ASSAULT

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN



VICTIM-CENTERED

- Awareness of the central role victims/ survivors play in the process and consideration of their safety, privacy, and well-being throughout the process
- Ensures access to services and information

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

OFFENDER-FOCUSED

- Acknowledgment that offenders purposefully, knowingly, and intentionally target victims whom they believe they can successfully assault
- Keeps the focus on the actions, behaviors, characteristics, and intent of the offender

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

SUPPORT

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AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

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AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

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AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

OBJECTIVES

- Develop strategies to investigate sexual assault cases where alcohol is present.
- Overcome challenges related to the prosecution of alcohol-facilitated sexual assault.
- Collaborate with allied professionals to promote a trauma-informed, victim-centered response that incorporates offender-focused strategies.

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

SEXUAL ASSAULT

The Crime and the Offenders

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THE TRUTH ABOUT RAPE

- Most are non-strangers
- Rapists don't usually use deadly weapons or cause physical injury
- Victims behave in many different ways
- False reports are a small minority of cases
- It is not the victim's fault

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OVERCOMING MYTHS

Sexual violence is NOT a result of:

- "Low self-esteem"
- One's own victimization
- "Boys will be boys"
- "Curiosity"
- Sexual identity problems
- Drinking or drugs

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NONTRADITIONAL WEAPONS

PREMEDITATION

PLANNING

BETRAYAL OF
TRUST

MANIPULATION

DECEIT

ALCOHOL

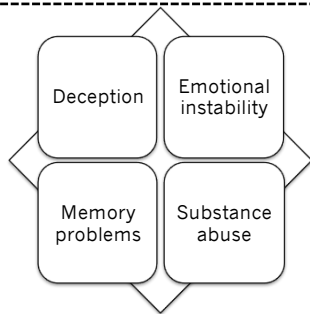
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OTHER WAYS WE ARE FOOLED

- Garner trust
- Make suspicions uncomfortable
- Blame others
- Become the victim
- Deny
- Camouflage
- Consensual relationships

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OFFENDERS CREATE THE SYMPTOMS USED AGAINST VICTIMS



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Q: What is alcohol-facilitated sexual assault (AFSA)?

A: The victim is too intoxicated to consent due to:

- Surreptitious administration by assailant
- Voluntary use by the victim
- Combination of both

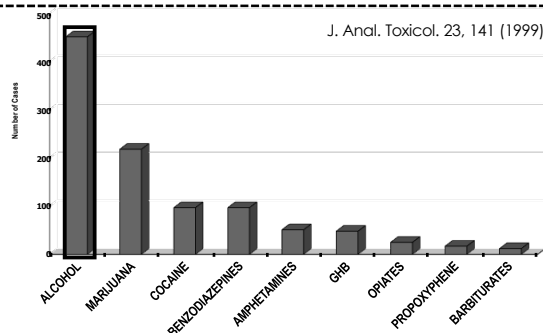
AFSA OR...

Who needs force when you have alcohol?



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PREVALENCE OF DRUGS USED IN SEXUAL ASSAULT CASES



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More than 97,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assault or rape while on a date

A Snapshot of Annual High-Risk College Drinking Consequences
NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM (last visited May 6, 2010)

Victims of drug-facilitated or incapacitated rape were less likely than victims of forcible rape to report to authorities

DEAN KILPATRICK, ET AL., DRUG-FACILITATED, INCAPACITATED AND FORCIBLY
RAPE: A NATIONAL STUDY (2007)

PROVING THE CRIME

**Tips and Tools To Better
Investigate and Build
Cases**

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2-STEP ANALYSIS

Do the
reported facts
constitute
rape/criminal
sexual act?

Can you
prove the
victim's
allegations?

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STEP 1

Is it rape?

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SEXUAL ASSAULT

N.J. STAT. ANN. § 2C:14-2C

Sexual penetration with another:

- Through use of physical force or coercion; no severe personal injury to victim
- Special relationship between abuser and victim (e.g., institutional, disciplinary power, familial/guardianship, blood)
- Victim is between 16 and 18 years old; victim is between 13 and 16 years old and abuser is at least 4 years older

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AGGRAVATED CRIMINAL SEXUAL CONTACT

Accused commits act of sexual contact:

- Victim less than 13 years old; between 13 and 16 years old and the abuser has special relationship with the victim (e.g., institutional, disciplinary power, familial/guardianship, blood)
- Committed during an enumerated crime
- Weapon is used

N.J. STAT. ANN. § 2c:14-3a

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**AGGRAVATED CRIMINAL
SEXUAL CONTACT, CONT'D**

Accused commits act of sexual contact:

- Through use of physical force or coercion; severe personal injury to victim; aided or abetted by 1 or more persons using physical force or coercion
- Victim was physically helpless, mentally incapacitated, or had a mental disease or defect; unable to understand nature of conduct and incapable of providing consent

N.J. STAT. ANN. § 2C:14-3A

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“SEXUAL PENETRATION”

N.J. STAT. ANN. § 2C:14-1(c)

Vaginal intercourse, cunnilingus, fellatio, or anal intercourse between persons or insertion of the hand, finger, or object into the anus or vagina either by the actor or upon the actor's instruction, however slight

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“SEXUAL CONTACT”

N.J. STAT. ANN. § 2C:14-1(d)

An intentional touching by the victim or actor, either directly or through clothing, of the victim's or actor's intimate parts for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor. Sexual contact of the actor with himself must be in view of the victim whom the actor knows to be present

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“INTIMATE PARTS”

N.J. STAT. ANN. § 2C:14-1(e)

The following body parts: sexual organs, genital area, anal area, inner thigh, groin, buttock, or breast of a person

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“MENTALLY INCAPACITATED”

N.J. STAT. ANN. § 2C:14-1(i)

Condition in which a person is rendered temporarily incapable of understanding or controlling his conduct due to the influence of a narcotic, anesthetic, intoxicant, or other substance administered to that person without his prior knowledge or consent, or due to any other act committed upon that person which rendered that person incapable of appraising or controlling his conduct

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“PHYSICAL HELPLESSNESS”

N.J. STAT. ANN. § 2C:14-1(g)

Condition in which a person is unconscious or is physically unable to flee or is physically unable to communicate unwillingness to act

See, e.g., State ex rel R.M., Nos. FJ-02-1099-12 & FJ-02-1055-12, 2014 WL 1004990 (N.J. Super. Ct. App. Div. Mar. 14, 2014)
[Unpublished Opinion]

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DEFINITIONS

N.J. STAT. ANN. § 2C:24-4

- Child means any person under the age of 18 years old
- Prohibited sexual act means sexual intercourse, anal intercourse, masturbation, bestiality, sadism, masochism, fellatio, cunnilingus, nudity, or any act of sexual penetration

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CORROBORATION

No legal requirement that the victim's testimony be corroborated

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RESISTANCE

IN RE M.T.S., 129 N.J. 422, 443 (1992)

"The understanding of sexual assault as a criminal battery ... follows necessarily from the Legislature's decision to eliminate non-consent and resistance from the substantive definition of the offense. Under the new law, the victim no longer is required to resist and therefore need not have said or done anything in order for the sexual penetration to be unlawful."

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STEP 2

**Can you prove the
rape in a court of law?**

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OBJECTIVES

- ☐ Understand toxicology basics
- ☐ Establish victim credibility
- ☐ Corroborate
- ☐ Document offender's actions

TOXICOLOGY

**The Impact of Alcohol
and Drugs**

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“If recreational drugs were tools, alcohol would be a sledgehammer.”

Aaron M. White, *What Happened? Alcohol, Memory Blackouts and the Brain*, 27(2) ALCOHOL RES & G. HEALTH 16 (2003)

ALCOHOL (ETHANOL) CONTENT	
STRENGTH	STANDARD DRINKS
<ul style="list-style-type: none"> Beer <ul style="list-style-type: none"> 4-6% ethanol by volume Wine <ul style="list-style-type: none"> 12-15% ethanol by volume Liquor <ul style="list-style-type: none"> 40-50% ethanol by volume 	<ul style="list-style-type: none"> Contain about 0.5 ounce (15 mL) of pure ethanol 12 oz beer 4 oz wine 1 oz 100-proof liquor
<small>AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN</small>	

BASIC TOXICOLOGY

Alcohol is a central nervous system (CNS) depressant

Impairs cognition and psychomotor skills

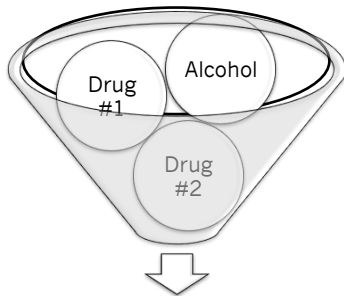
As consumption increases, alcohol progressively impairs bodily functions and abilities

LEVEL OF IMPAIRMENT

Rate of absorption variables

Food
Body size
Amount and type of alcohol
Duration of drinking
Fatigue
Tolerance rates
Combination of alcohol with other drugs

SYNERGISTIC EFFECT

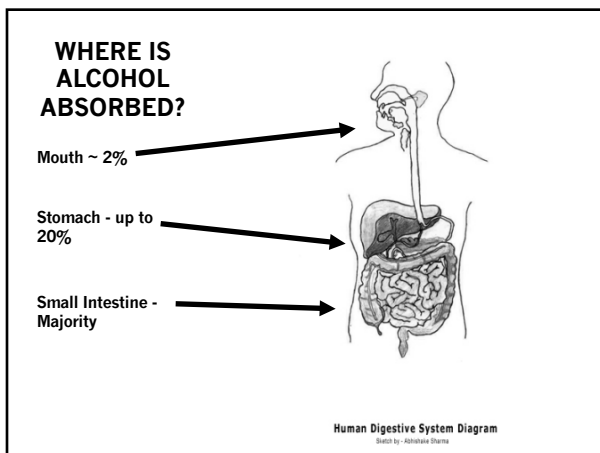


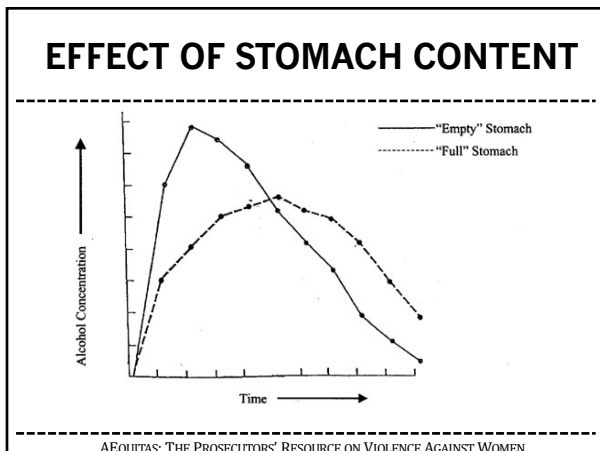
The interaction of two or more substances or other agents to produce a combined effect that is greater than the sum of their separate effects

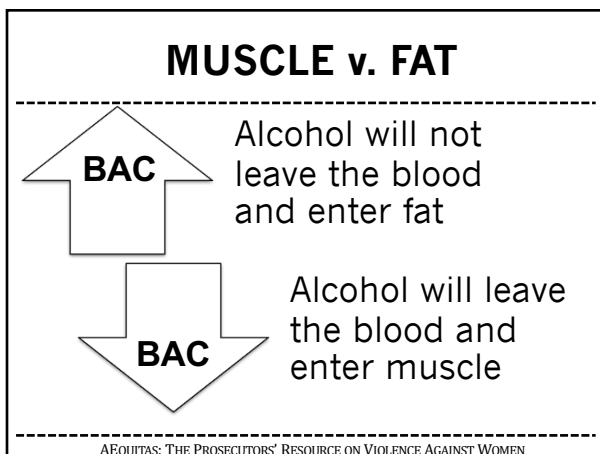
ABSORPTION

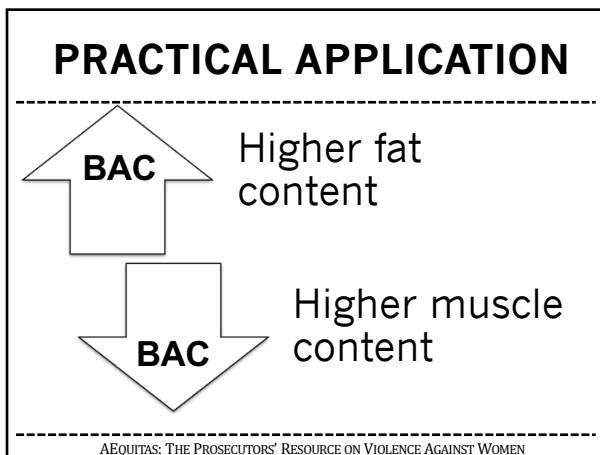
- ◉ The passage of alcohol into the blood
 - Alcohol needs to get into bloodstream to get to brain in order to have its intoxicating effect
- ◉ Alcohol does not need to be digested before it is absorbed

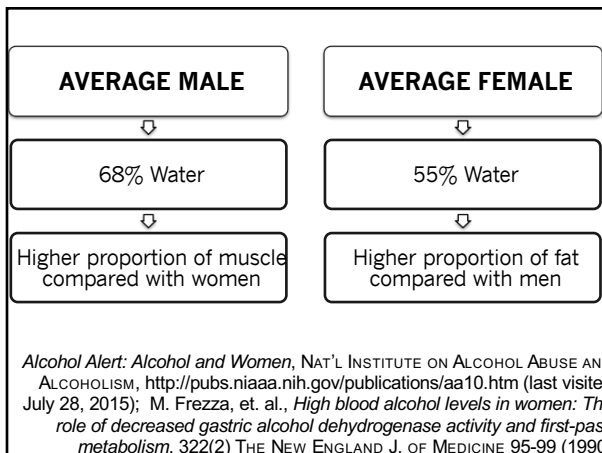
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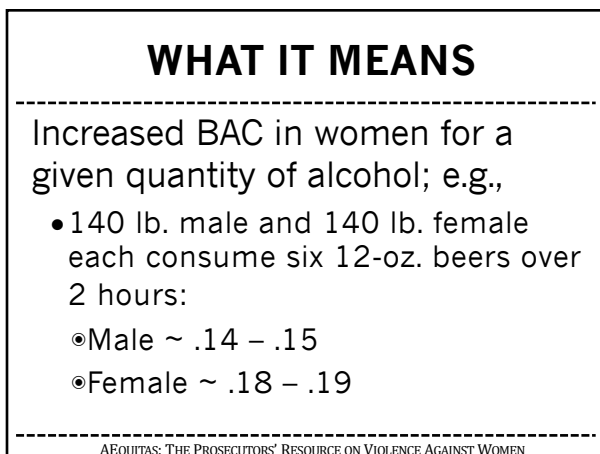












ANOTHER EXAMPLE

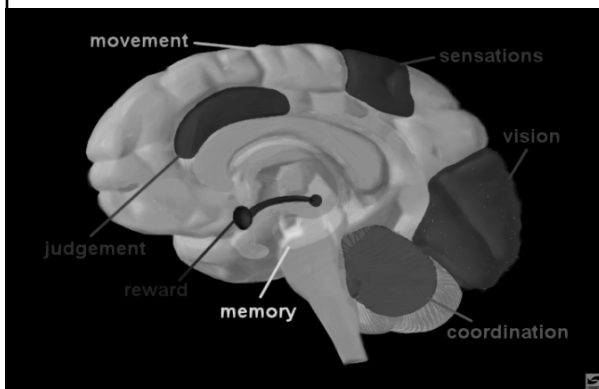
190 lb. male and 125 lb. female each consume six 12 oz. beers over 2 hours:

- Male ~ .09 – .11
- Female ~ .19 – .21

Potentially more than double

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CNS DEPRESSION



BAC (G/100 ML OF BLOOD OR G/210 L OF BREATH)	STAGE	CLINICAL SYMPTOMS
0.01 - 0.05	SUBCLINICAL	BEHAVIOR NEARLY NORMAL BY ORDINARY OBSERVATION
0.03 - 0.12	EUPHORIA	MILD EUPHORIA, SOCIABILITY, TALKATIVENESS, INCREASED SELF-CONFIDENCE; DECREASED INHIBITIONS; DIMINUTION OF ATTENTION, JUDGMENT AND CONTROL. BEGINNING OF SENSORY-MOTOR IMPAIRMENT; LOSS OF EFFICIENCY IN FINER PERFORMANCE TESTS.
0.09 - 0.25	EXCITEMENT	EMOTIONAL INSTABILITY; LOSS OF CRITICAL JUDGMENT; IMPAIRMENT OF PERCEPTION, MEMORY AND COMPREHENSION. DECREASED SENSORY RESPONSE; INCREASED REACTION TIME. REDUCED VISUAL ACUITY; PERIPHERAL VISION AND GLARE RECOVERY; SENSORY-MOTOR INCOORDINATION; IMPAIRED BALANCE. DROWSINESS.
0.18 - 0.30	CONFUSION	DISORIENTATION, MENTAL CONFUSION; DIZZINESS. EXAGGERATED EMOTIONAL STATES, DISTURBANCES OF VISION AND OF PERCEPTION OF COLOR, FORM, MOTION AND DIMENSIONS. INCREASED PAIN THRESHOLD. INCREASED MUSCULAR INCOORDINATION; STAGGERING GAIT; SLURRED SPEECH. APATHY, LETHARGY.
0.25 - 0.40	STUPOR	GENERAL INERTIA; APPROACHING LOSS OF MOTOR FUNCTIONS; MARKEDLY DECREASED RESPONSE TO STIMULI; MARKED MUSCULAR INCOORDINATION; INABILITY TO STAND OR WALK; VOMITING; INCONTINENCE; IMPAIRED CONSCIOUSNESS; SLEEP OR STUPOR
0.35 - 0.50	COMA	COMPLETE UNCONSCIOUSNESS; DEPRESSED OR ABOLISHED REFLEXES; SUBNORMAL BODY TEMPERATURE INCONTINENCE; IMPAIRMENT OF CIRCULATION AND RESPIRATION; POSSIBLE DEATH

BLACKOUTS v. PASS OUTS

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

BLACKOUTS

- Periods of memory loss
- No loss of consciousness
- Brain's ability to form long-term memories from short-term memories is destroyed

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

WHEN DO BLACKOUTS HAPPEN?

- Not predicted by BAC only
- More likely to suffer the effects of blackout if BAC rises rapidly as opposed to slowly; e.g., shots

Aaron M. White, *What Happened? Alcohol, Memory, Blackouts, and the Brain*, NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, <http://pubs.niaaa.nih.gov/publications/arh27-2/186-196.htm> (last visited July 14, 2015)

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

PASS OUTS

- Alcohol-induced unconsciousness
- Sedation due to CNS depressant effect
- Resembles sedated state associated with surgery
- Can last for hours
- Groggy-sedated feeling can linger for 24 hours

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DRUGS v. ALCOHOL

- Similar in action on the CNS
- Similar in effects on the body
- Drugs act much more quickly and with greater potency than alcohol
- Synergistic effects when consumed with alcohol

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**DOES FAILURE TO DETECT
=
NO DRUG USED?**

NO!

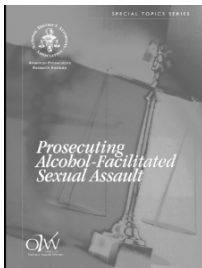
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WHY NOT?

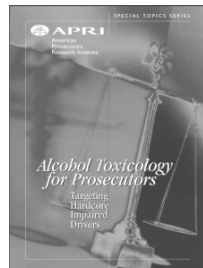
- Drugs are metabolized rapidly and eliminated from the body
- Window for detection (with traditional tests) is brief

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RESOURCES



http://www.ndaa.org/pdf/pub_prosecuting_alcohol_facilitated_sexual_assault.pdf



http://www.ndaa.org/pdf/toxicology_final.pdf

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EXPERT TOXICOLOGIST

STATE v. IBRAHAM, NO. 12-08-2074, 2015 WL 2212347 (N.J. SUPER. CT. APP. DIV. 2015) [UNPUBLISHED OPINION]

Victim's level of GHB:

- Over course of night, victim consumed wine with friends and shots with defendant
- Victim saw bartender pour all shots and hand them to her
- Defendant later held down victim and vaginally penetrated her
- Victim told friends she thought she had been drugged
- Hospital urine test showed GHB levels consistent with healthy adult

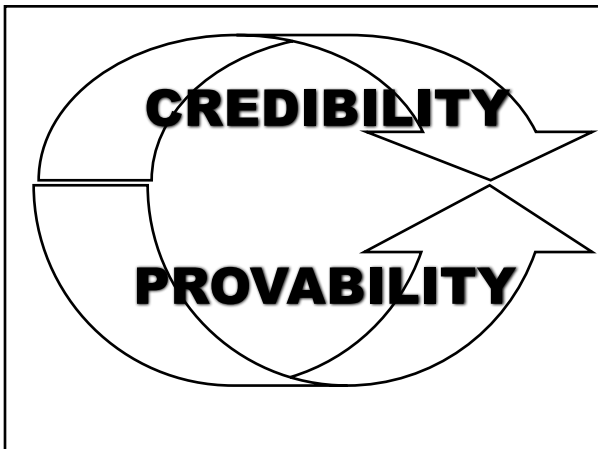
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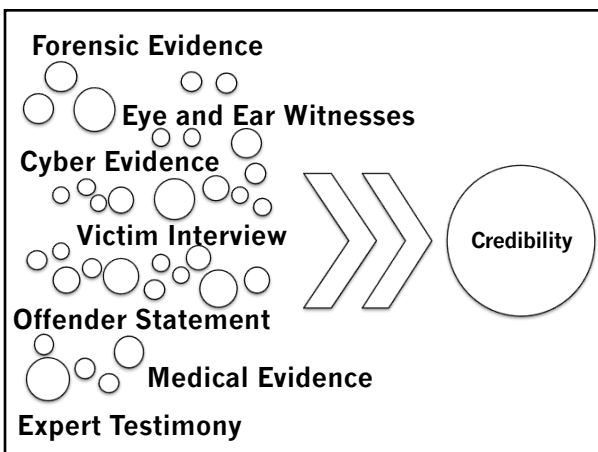
EXPERT TOXICOLOGIST

IBRAHAM, 2015 WL 2212347, CONT'D

- State's toxicologist submitted report stating he could not opine within reasonable degree of medical certainty whether GHB externally administered to victim
- Trial court excluded testimony on grounds of relevance; expert's opinion would be "premised on a 'possibility' ... rather than a 'reasonable probability' or 'certainty' of [GHB's] introduction" to victim

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REALITY

Victims may:

- Freeze during the assault
- Not resist “fiercely”
- Delay reporting
- Disclose partially
- Decide not to cooperate
- Maintain contact with assailant

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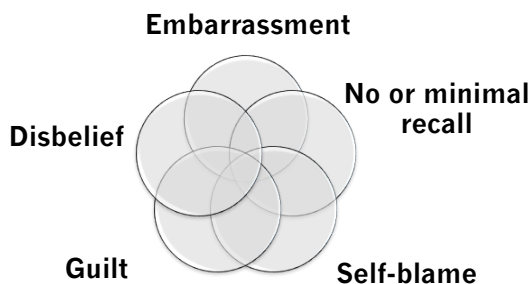
MYTHS IMPACT VICTIMS TOO

Almost 1/2 of the women who were characterized as victims of a completed rape by the National College Women Sexual Victimization Survey did not consider themselves to be victims of rape

BONNIE S. FISHER, FRANCIS T. CULLEN, & MICHAEL G. TURNER,
BUREAU OF JUSTICE STATISTICS, THE SEXUAL VICTIMIZATION OF COLLEGE
WOMEN (2000)

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WHY ARE THESE CASES NOT REPORTED?



FIRST RESPONDERS

~~What is wrong with you?~~
What happened to you?

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TRAUMA-INFORMED INTERVIEWING

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

TRAUMATIC MEMORY

*...the story can come out in bits
and pieces and fits and starts
and cycle back over on itself, or,
"Oh wait a minute, I
remembered this detail." It
comes out in a very
disorganized way...*

Interview with Dr. Rebecca Campbell, NAT'L INSTITUTE OF JUSTICE (June 18, 2012). <http://nij.ncjrs.gov/multimedia/video-campbell.htm>

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

ALCOHOL'S IMPACT ON BRAIN

- Low doses impair encoding of context details, but encoding of sensory details still works
- High doses impair both encoding of context details and of sensory details

Rebecca Campbell, The Neurobiology of Sexual Assault,
Address at the National Center for Victims of Crime (May 1,
2014)

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INCONSISTENT MEMORY

- Neurobiology of trauma may explain inconsistencies in statements
- Victim may be embarrassed or
- Victim may fear getting in trouble
- Different (types of) interviews by different interviewers

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INTERVIEW



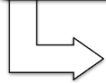
INTERROGATION



DIFFERENT APPROACH

Process

- Not a single event
- Multiple interviews



Details

- May take time
- Do not force

Neuro- biology

- ☐ Understand effects

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KEY WORDS

AVOID ASKING:

- *Why* didn't you...?
- *Why* did you...?

DO ASK:

- Are you *able* to tell me...?
- What are you *able* to tell me about...?

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

DETAILS

- Open-ended, narrative approach that elicits sensory details can allow victim to describe assault in own words
- Pay attention to small details that victim focuses on – they may turn out to be very important
- What the victim smelled, felt, or heard can help us gather corroborating evidence

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RECREATE THE REALITY

Sensory and emotional memories

Were you able to hear the party going on downstairs?

Are you able to remember what you smelled when you were in the room?

When x was on top of you, were you able to see anything?

How did you feel when he took the phone away from you?

EXPERT TESTIMONY ON VICTIM BEHAVIOR

- Identify behaviors
- Identify expert unfamiliar with case/ parties and not in jurisdiction
- Expert submits CV and writes report
- Testimony is objective and based on expert's experience, training, and education

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

IMPERMISSIBLE

EXPERT WITNESS CANNOT TESTIFY

WHETHER VICTIM IS TELLING TRUTH
(APPLIES TO BOTH SIDES)

THAT VICTIM'S STATEMENTS ARE RELIABLE

TO THE ACCUSED'S GUILT OR INNOCENCE

THAT PERPETRATOR DOES/DOESN'T FIT PROFILE OF
RAPIST

STATISTICS ON TRUTHFUL/FALSE ALLEGATIONS

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CORROBORATION		
Witnesses	Offender Interview	
Crime Scene	Digital Evidence	
Expert Testimony	Medical Evidence	Physical Evidence

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PROMPT COMPLAINT	
NO PROMPT COMPLAINT	PROMPT COMPLAINT OCCURRED
<ul style="list-style-type: none"> Ask victim what s/he did following assault Talk to those with whom s/he interacted Prosecution may be able to use expert at trial 	<p>Admissible to rebut assumption victim had not reported assault within reasonable time</p> <p>N.J.R.E. 607, 803(c)(2); State v. Tirone, 64 N.J. 222 (1974)</p>

AEQUITAS: THE PROSECUTORS' RESOURCE ON VIOLENCE AGAINST WOMEN

EVIDENCE COLLECTION	
CRIME SCENE	OTHER PHYSICAL EVIDENCE
<ul style="list-style-type: none"> Blood Hair Urine Vomit Semen Sheets Clothing Condom 	<ul style="list-style-type: none"> Surveillance tapes Social media, cell phones Glasses, punch bowls Receipts or credit card charges

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SEXUAL ASSAULT NURSE EXAMINER (SANE)

- ◉ Incapacitated patients are statistically significantly less likely to have genital and non-genital trauma than patients who were not incapacitated at the time of the assault
- ◉ Most common non-genital injury = bruising to the arms and legs

Andre Rosay & Tara Henry, Final Report: Alaska Sexual Assault Nurse Examiner Study (Oct. 2008)

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PRETEXT PHONE CALLS

N.J. STAT ANN. § 2A:156A-4

Wiretapping exceptions:

- Law enforcement is party to communication
- Person acts at direction of law enforcement to intercept communication
 - ◉ Need Attorney General or County Prosecutor approval

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PRETEXT PHONE CALLS

CONT'D

- ◉ Review law and plan carefully
- ◉ Make sure the victim can handle it
- ◉ What can you say?
 - Victim has an STI
 - I really enjoyed that drug you gave me; what was it?
 - I really enjoyed last night...

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OFFENDER INTERVIEW

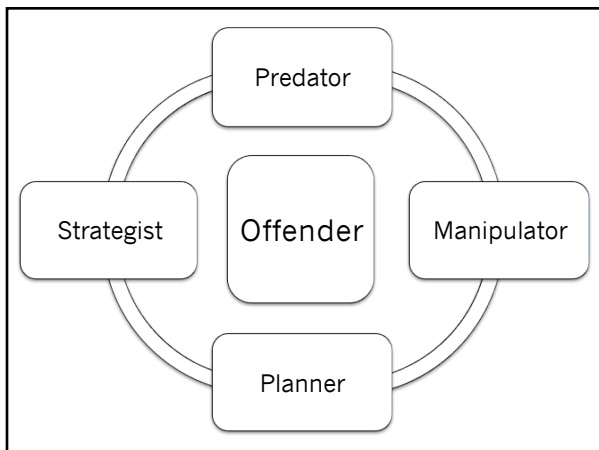
- Always attempt an interview!!
- Get the offender to corroborate specifics of victim's account
- Ask about whether he believes the victim was drunk – why or why not?
- Why does he think the encounter was consensual?

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OFFENDER'S ACTIONS



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DEFINING THE ISSUES

**It's
not:**

☐ What
did the
victim
do?

➔

It is:

☐ What
did the
accused
do?

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DEFENSES

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...BUT HE WAS DRUNK TOO

**“So, why wasn’t it just drunk
sex?”
Isn’t his intoxication a defense?**

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NO INTOXICATION DEFENSE

MONTANA v. EGELHOFF, 518 U.S. 37 (1996)

- U.S. Supreme Court upheld prohibition of defense of voluntary intoxication for specific intent crimes
- Does not violate due process
- Not considered a “fundamental principle of justice”

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INTOXICATION

N.J. STAT. ANN. § 2C: 2-8(a, d)

a. Except in d., intoxication is *not* a defense unless it negatives an element of offense

d. Intoxication which (1) is not self-induced or (2) is pathological is an affirmative defense if actor did not know nature and quality of act he was doing, or if he did know it, that he did not know what he was doing was wrong.

- Burden of proof: clear and convincing

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“SELF-INDUCED INTOXICATION”

N.J. STAT ANN. § 2C: 2-8(e)(2)

Caused by substances the actor knowingly introduces into his body, the tendency of which to cause intoxication he knows/ ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would afford a defense to a crime

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“PATHOLOGICAL INTOXICATION”

N.J. STAT ANN. § 2C: 2-8(e)(3)

Intoxication grossly excessive in degree,
given the amount of the intoxicant, to which
the actor does not know he is susceptible

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INTOXICATION

N.J. STAT. ANN. § 2C: 2-8(b)

When recklessness is an element of
offense, voluntary intoxication/
unawareness is immaterial → **THUS,**

- Voluntary intoxication is a defense to purposeful or knowing crime, but a crime with a *mens rea* of recklessness
- In NJ, intoxication is a defense to aggravated sexual contact

State v. Cameron, 104 N.J. 42 (1986)

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EXPERT TOXICOLOGIST

STATE v. ZOLA, 112 N.J. 384 (1988)

- Defendant convicted of murder, aggravated sexual assault, and related offenses
- In support of intoxication defense, defendant presented:
 - Doctor's testimony that defendant had been increasingly dependent on drugs and alcohol
 - Defendant's use of gram of methamphetamine on day of crime
 - Defendant's girlfriend's testimony that defendant frequently used meth and marijuana

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ZOLA, 112 N.J. 384 CONT'D

Denial of intoxication charge upheld

- Intoxication may be attributed to drugs/ alcohol, but must cause “prostration of faculties” to be considered relevant to negating element of the offense
- Unless evidence meets that standard, issue should not be presented to the jury

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EXPERT TOXICOLOGIST

STATE v. KABETE, NO. 11-04-763, 2013 WL 2459854 (N.J. SUPER. CT. APP. DIV., JUNE 10, 2013)

- Defendant charged with 2nd degree attempted sexual assault, 2nd degree attempted aggravated sexual assault, and 3rd degree aggravated criminal sexual contact of unconscious victim
- Defense proffered expert in psychiatry in support of voluntary intoxication defense; expert concluded defendant so intoxicated his mental faculties were prostrated to degree he was incapable of forming specific intent required for charged offenses

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KABETE, 2013 WL 2459854, CONT'D

- Trial court found defense expert's report and testimony did not meet N.J.R.E. 702 standards, but said expert could supplement his report
- Trial court modified ruling days later
- State appealed
- Appellate court ruled defense expert could supplement his report; defendant entitled to present intoxication defense to jury in order to argue State did not prove defendant acted with knowing or purposeful state of mind

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INTOXICATION DEFENSE FACTORS

STATE v. CAMERON, 104 N.J. 42 (1986)

- Quantity of intoxicant consumed
- Period of time involved
- Defendant's conduct as perceived by others (e.g., statements, appearance, behavior/coordination)
- Odor of alcohol or other intoxicating substance
- Results of BAC test
- Defendant's ability to recall significant events

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MODEL JURY CHARGE

INTOXICATION NEGATING AN ELEMENT OF THE OFFENSE

When sufficient evidence of intoxication is presented at trial to make the defense available (i.e., when defendant shows effect of alcohol included "such a great prostration of faculties that the requisite mental state [was] totally lacking"), the jury should be instructed that "once there is some evidence of defendant's intoxication, the State must prove beyond a reasonable doubt that such intoxication did not render defendant incapable of action" with the required mental state.

Cameron, 104 N.J. 42 (quoting *State v. Stasio*, 78 N.J. 467 (1979) (*Pashman*, J., concurring))

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PRETRIAL LITIGATION

- ☐ Rape shield
- ☐ Victim privacy
- ☐ Admissible statements
- ☐ Prior bad act evidence

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APPLY COMMON SENSE

- ◉ Intoxication is NOT a reason NOT to prosecute sexual assault cases
- ◉ People generally distance themselves from embarrassment
- ◉ It takes MORE resolve to come forward in cases where victim is engaged in behavior that others will judge

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Impaired judgment makes a person responsible for the natural consequences of her/ his actions

Not the illegal consequences of someone else's actions

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GOING FORWARD

- ◉ Recognize alcohol as a powerful weapon used by offenders to facilitate sexual assault
- ◉ Charge appropriate crimes given your state statutes
- ◉ Corroborate every possible detail
- ◉ Focus on the offender

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