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The Consent Defense: Special Investigation and Prosecution Issues

Those of us who work in the field of sexual assault are painfully aware of the stereotype of "real rape" and the way that it is so often used to hurt victims. "Real rape," as originally described by Susan Estrich depicts the stereotype of an assault by a stranger, committed with a weapon and a great deal of physical force. The victim is chaste and responds to the assault with tearful hysterics and a prompt report to police.

Sadly, those victimized by sexual assault continue to be judged in comparison to this artificial standard -- and the less their case resembles the stereotype the more likely they are to be viewed with doubt and/or blame. Unfortunately, those of us in the field are not immune to the power of this societal stereotype. Rather, we see its effects in the perceptions of prosecutors, jurors, police, and even advocates. The purpose of this training is to identify how the police investigation is affected by the stereotype of "real rape" and how to overcome these negative effects.

At the conclusion of the session, participants will be able to:

- Understand the differences in evidence needed to corroborate and prosecute sexual assaults involving consent defenses and those where the assailant's identity is in question
- Understand the use of DNA in crimes of sexual assault and child molest
- Understand the unique challenges officers, detectives and prosecutors face when investigating crimes of sexual assault
- Recognize the importance of cultural myths and misconceptions regarding sexual assault
- Recognize realistic characteristics of sexual assault and highlight the contrast with cultural stereotypes of "real rape"
- Demonstrate an understanding of proper criminal justice responses to crimes of sexual violence
- Identify, develop and implement innovative investigative and prosecution strategies