

INTRODUCTION TO SEXUAL ASSAULT CASES AND THE COURTS

“Stereotypes and myths about the causes and prevention of rape still prevail in the criminal justice system.”

Report of the Florida Supreme Court Gender Bias Study Commission

This finding from the 1990 Florida Supreme Court Gender Bias Study Commission echoes the reports of the more than forty other state supreme court gender bias studies and is as valid today as when they were issued in the 1980s and 1990s. In 2010, the National Judicial Education Program (NJEP) sent a one-question questionnaire to judges nationwide asking: ***What did you wish you had known before you presided in an adult victim sexual assault case?*** The judges' responses demonstrated they lacked accurate, factual knowledge about all aspects of sexual assault, and were mired in longstanding myths about rapists' motives and behaviors, and the mistaken belief that the hallmark of nonconsent is serious physical injury. NJEP gathered the judges' responses and the accurate information that dispels such longstanding myths in [Judges Tell: What I Wish I Had Known Before I Presided in an Adult Victim Sexual Assault Case](#). Some of the things judges said they wished they had known are excerpted below. These realities should be considered by *all* court and judicial personnel dealing with victims in court and the public (including media, community groups, etc.).

- The widespread misconception that rape is about sexual desire -- rather than power and control -- colors every aspect of the justice system's response to sexual assault.
- The vast majority of sexual assaults are committed by someone the victim knows.
- The absence of serious, observable physical injuries is not inconsistent with a sexual assault.
- Victims of stranger and nonstranger rape almost always sustain profound, long-lasting psychological injury.
- Victim behaviors that are commonplace during and after a rape (not physically resisting, delayed reporting, post-assault contact, etc.) appear counterintuitive to those not knowledgeable about sexual assault.
- Most sex offenders are crossover offenders and commit a variety of sex crimes as well as other interpersonal offenses against adults and children.
- Because of the high incidence of child and adult sexual victimization among women and men in the population at large, sexual assault case jury pools will almost always include victims – often a surprising number – and those individuals require special treatment.
- Scheduling and adjournment decisions should be weighed carefully in rape cases as they can have a significant impact on victims' recovery.

Issues of rape and sexual assault come to the courts in a variety of criminal, civil, family, and juvenile law cases. Judges and court personnel need to guard against the preconceptions and misconceptions about sexual violence that continue to undermine the fair administration of justice, regardless of what court the case falls within. For suggestions about programming to meet that need, see *Ten Tips for Creating Judicial Education Programs About Adult Victim Sexual Assault*.

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