

DAY THREE:	
8:00 – 9:45	Sexual Assault Laws
9:45 – 10:00	Break*
10:00 – 11:15	System Advocacy
11:15 – 11:45	Support Groups
11:45 – 1:00	Lunch* (on your own)
1:00 – 2:15	Medical Advocacy
2:15 – 2:30	Break*
2:30 – 4:45	Legal Advocacy
4:45 – 5:00	SAVAS Wrap-Up

WELCOME TO DAY THREE OF SAVAS



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Sexual Assault Laws

Overview of WI Sexual Assault Statutes

Ian Henderson, Staff Attorney
Wisconsin Coalition Against Sexual Assault

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Learning Objectives



1. I am able to read and understand WI Sexual Assault Laws and terminology
2. I understand WI Sexual Assault laws and how they relate to the criminal justice system
3. I am able to assist survivors understand sexual assault laws

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Reading Laws continued



- Each crime can have multiple subsections.
- Sexual assault has 8 subsections:
 - includes 1st degree through 4th degree sexual assault.
 - grouped according to penalty.

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Reading Laws continued



- Different acts of sexual assault can carry the same penalty
 - Example: 1st degree Sexual Assault
- Laws are broken down into elements

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Sexual Assault



Sexual Intercourse

Without Consent

OR

OR

Sexual Contact

Lack of Consent is presumed

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Third Degree Sexual Assault



Whoever has sexual intercourse with a person, without the consent of that person is, guilty of a Class G felony

This is only the first part of 3rd Degree Sexual Assault

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Break it Down Into Elements



Sexual Intercourse

Without Consent

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Sexual Intercourse



940.225(5)(c). "Sexual intercourse" includes the meaning assigned under [s. 939.22 \(36\)](#) as well as cunnilingus, fellatio or anal intercourse between persons or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal opening either by the defendant or upon the defendant's instruction. The emission of semen is not required.

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939.22(36)



"Sexual intercourse" requires only vulvar penetration and does not require emission

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If we were to ask the average person to define sexual intercourse, do you think they would come up with this definition?



- ☐ **A** Yes
- ☐ **B** No

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Consent



940.225(4). "Consent," as used in this section, means words or overt actions by a person who is competent to give informed consent indicating a freely given agreement to have sexual intercourse or sexual contact.

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Do you think this is a good definition of consent?



- A** Yes
- B** No

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Consent continued



- Compliance does not equal consent
- Failure to resist is not consent



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Consent continued



In deciding whether the victim did not consent, you should consider what the victim said or did, along with all other facts and circumstances.

Source: WIS JI-Criminal 1200C



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Do you think this a helpful explanation?



A Yes

B No

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Elements: 3rd Degree SA



Sexual Intercourse: (by any of the following)

- Vulvar penetration (no emission required)
- Cunnilingus
- Fellatio
- Anal intercourse
- Intrusion by person or object into genital or anal opening by defendant or upon instruction of defendant

Without consent

- Words/overt actions indicating freely given consent to intercourse by
- Person competent to give consent

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“Sexual Contact” 940.225(5)(b)



(1) Touching intimate parts

- Directly or through clothing
- Of or by defendant or complainant

(2) Ejaculating or urinating or defecating upon complainant OR

(3) Causing the complainant to ejaculate, urinate or defecate on the defendant

The definition of sexual contact has a few more elements than described above.

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First Degree Sexual Assault



Sexual intercourse **or** sexual contact

without consent **and** one of the following:

- Great bodily harm
- Pregnancy

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First Degree Sexual Assault continued



Sexual intercourse **or** sexual contact

without consent **and** one of the following:

- Threat or use of dangerous weapon
- Aided or abetted by more than one person **and**
- threat or use of force/violence

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Second Degree Sexual Assault



Sexual intercourse **or** sexual contact

without consent **and** one of the following:

- Threat or use of force/violence
- Injury/illness

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Second Degree Sexual Assault continued



Sexual intercourse **or** sexual contact

without consent **and** one of the following:

- Disease/Impairment of sexual/reproductive organ
- Mental anguish requiring psychiatric care
- Aided or abetted by more than one person

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Do you think the 2nd degree Sexual Assault – causing mental anguish requiring psychiatric care is charged frequently?



- A** Yes
- B** No

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Second Degree Sexual Assault
Consent Not Element



Sexual intercourse **or** sexual contact **and**

- Victim has mental illness or deficiency which renders him/her temporarily or permanently incapable of appraising conduct, and the defendant knows of such condition.

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Second Degree Sexual Assault
Consent Not Element continued



Sexual intercourse **or** sexual contact **and**

- Has sexual contact or sexual intercourse with a person under the influence of an intoxicant to a degree which renders that person incapable of giving consent if the defendant knows this and purposefully engages in the contact or intercourse (not exact wording)

- Victim is unconscious and defendant knows it.

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Second Degree Sexual Assault
Consent Not Element continued



Sexual intercourse **or** sexual contact **and**

- Perpetrator is jail/prison staff and victim is in jail/prison
- Perpetrator is probation/parole/supervision agent and has influence over the victim due to this position
- Perpetrator works at certain facilities and victim is patient or resident of that facility (such as a community based residential facility)

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Third Degree Sexual Assault



Sexual intercourse **or** sexual contact by ejaculating, urinating or defecating on a person (or causing the victim to do this to the perpetrator).

Without consent

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Fourth Degree Sexual Assault



Sexual contact by intentional touching of victim's intimate parts

Without consent

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WI Child Sexual Assault Laws



WI Child Sexual Assault Laws are in Chapter 948

Sexual Contact and **Sexual Intercourse** are again key terms

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First Degree Sexual Assault of a Child



More complicated than it used to be

New Mandatory Minimum Sentence provisions

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First Degree Sexual Assault of a Child § 948.02

25 year Mandatory Minimum Prison Sentence



Sexual Contact or Sexual Intercourse:

- with a person not yet 13 **and**
- causes great bodily harm

Sexual Intercourse:

- with a person not yet 12

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First Degree Sexual Assault of a Child

25 year Mandatory Minimum Prison Sentence continued



Sexual intercourse:

- with a person not yet 16 **and**
- use or threat of force or violence

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First Degree Sexual Assault of a Child

5 year Mandatory Minimum Prison Sentence



Sexual Contact

- With a person not yet 16 **and**
- Use or threat of force or violence
- Actor is at least 18 years of age

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First Degree Sexual Assault of a Child
No Mandatory Minimum Prison Sentence



Sexual Contact or Sexual Intercourse

- With a person not yet 13

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Second Degree Sexual Assault of a Child



Sexual contact **or** intercourse

- With a person not yet 16
- Unless meets criteria of 948.093

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Sexual Intercourse
with a Child Age 16 or Older § 948.09



Sexual Intercourse:

- 16, but not yet 18
- Not spouses
- If Defendant has attained the age of 19

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Underage Sexual Activity § 94B.093



Sexual Contact:

- With a 15 year old
- OR
- Sexual Intercourse
 - With a 15 -17 year old

• If Defendant is 18 or younger

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The Undetected Rapist

Dr. David Lisak

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THE UNDETECTED RAPIST & A RESPONSE TO "THE UNDETECTED RAPIST"

"The Undetected Rapist" is a powerful and disturbing DVD which may be triggering for viewers. Do not watch it alone, and do not show it without a skilled facilitator.

This DVD is a seven-minute re-enactment of part of an interview conducted by Dr. David Lisak. At the University of Massachusetts Boston, Dr. Lisak is an Associate Professor of Psychology and Director of the Men's Sexual Trauma Research Center. He and other researchers across the United States and Europe conduct research to answer a conundrum: The number of women who have been victims of rape vastly outnumbers the number of men indicted, much less convicted, of rape.¹ Who are these "undetected" rapists?

The research methodology utilized by Dr. Lisak and others is this: Men on university campuses are invited to participate in a written survey on life experiences, including sexual

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The Undetected Rapist



Study of 1,882 male students at mid-sized urban university

They were asked behaviorally specific questions, but not using words such as rape, assault, abuse, or battery.



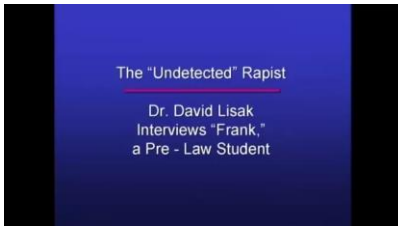
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The Undetected Rapist continued



120 (6.4%)	Replied they had acted in ways that met the criteria for rape or attempted rape
78 (63%)	Of the 120 admitted to just under 6 rapes each
80.8%	Admitted to raping women incapacitated by drugs and/or alcohol

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The Undetected Rapist

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The Undetected Rapist: Exercise



What charges are possible using facts of the Undetected Rapist?

What elements would need to be proven?

What will be the challenges?

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