

SACRAMENTO POLICE DEPARTMENT

SEXUAL ASSAULTS INVESTIGATIONS MANUAL



RM 533.06



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REVISED: 06-95

TO: ALL SWORN PERSONNEL

The sexual assault crimes are some of the most serious and dangerous offenses committed against a person. In a majority of sexual assault cases, the act is premeditated. Sometimes the attacker assaults with the intent to control, dominate, and humiliate the victim; not to achieve sexual gratification. The sexual assaults detective has the responsibility for resolving one of the most repugnant criminal acts that one human being can commit against another.

[REDACTED]

[REDACTED]

It is impossible to provide guidelines for every situation. However, if the procedures that are delineated in this manual, RM 533.06, are followed and the provided steps and advice are taken, the great majority of the Sacramento Police Department's sexual assault investigations will be brought to a successful conclusion.

Additionally, so that this manual shall remain as contemporary, viable, and useful as possible, all officers shall report, through their chain of command to the Chief of Police, any discrepancies they may discover between the contents of this manual, current law, acceptable police procedure, or the proper protection of the safety and rights of the community.

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CHAPTER I
CRIME SCENE

- A. The duties of the initial patrol officer at the scene of a sexual assault must be prioritized to meet the circumstances. These duties will normally follow in this order:
1. Provide medical aid to the victim, if needed.
 2. Determine if the suspect is gone.
 3. Obtain and broadcast suspect information.
 4. Secure the crime scene and, if needed, request Crime Scene Investigations (CSI).
 5. Summon a supervisor to the scene to notify a sexual assaults investigator if criteria is present.
 6. Arrange for transportation of the victim to [REDACTED]
[REDACTED]
[REDACTED]
b. Give the age of the victim in order to have the appropriate [REDACTED] examining team notified.
 7. Locate, collect, mark, package, and book all pertinent evidence.
 8. Obtain victim/witness statements.
- B. If there is a question of jurisdiction, the officer's first obligation will be to the victim. The officer shall ensure that medical treatment and the sexual assault examination are carried out expeditiously. The matter of jurisdiction will be resolved afterward.
1. Medical Aid to Victim
 - a. This is the first priority when the victim is injured and first aid or hospitalization is necessary. When first aid is administered at the scene, you must keep in mind the fact that physical evidence is susceptible to being altered or destroyed. Determine if there is any physical evidence about the person of the victim that needs to be preserved. Quite often, the victim will pull hair, scratch the suspect, tear clothes, etc. If it can be prevented, make sure the victim does not urinate, defecate, brush teeth, shower or clean fingernails. [REDACTED]
[REDACTED]
[REDACTED]
 - b. Remember that you are probably the first trusted person the sexual assault victim has come in contact with since his/her ordeal. Most rape victims are severely traumatized and they need comfort, sympathy, respect, and total professionalism on your part. The subsequent success of the investigation will hinge on your sensitivity to the victim.
 2. Determine if the Suspect is Gone

A quick, cautious inspection of the scene will determine if the suspect is still there. [REDACTED]
[REDACTED]
 3. Obtain Suspect Information and Broadcast Same

You must conduct a brief interview, as soon as practicable, to establish certain facts. A more complete interview can take place at a later time. You will need the following information immediately for broadcasting and for other investigative reasons such as collection of appropriate evidence.

 - a. Establish the elements of sexual assault and any other offenses (robbery, kidnapping).
 - b. Obtain and broadcast the description of the suspect(s), manner of escape (vehicle), route of escape, name of suspect (if known to victim), etc.
 - c. Determine the exact time, place, and location of attack.
 - d. Instruct the victim **not** to urinate, defecate, brush teeth, shower or change clothes until after the medical examination at the hospital.
 - e. Instruct the victim **not** to clean up the crime scene.
 4. Secure the Crime Scene

Due to other priorities, the search for and collection of evidence may not take place for a period of time. Because of this, the risk of altering and/or destroying evidence is increased. Unnecessary officers at a sexual assault scene may only make the rape victim feel self-conscious. [REDACTED]

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([REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- g. Mark "Yes" in the Crime Lab box on the Officer's Booking and Field Receipt and Supplement (SPD 779/780) to ensure the items will be frozen. The findings by the criminalists will give the assigned detective a sense of direction.
 - h. Other important items of physical evidence may include bed sheets, towels, tissues, and any other materials used by the victim or suspect(s). Any bedding should be marked identifying which surface is up, as well as, the head and foot areas of the bedding. If any stains appear wet, the stains should be circled with an ink pen and noted. Again, cloth items that are collected must be folded inward to protect physical evidence. Package the items in separate paper bags. Any items which may contain body fluids, i.e., blood, saliva, semen, must be frozen to prevent degradation of the evidence.
 - i. Photographs are extremely valuable items of evidence. A pictorial account of what happened is extremely important for the prosecution phase of the case. Photographs of the victim should be taken so as to show injuries and torn clothing, etc. Use good judgment when taking photographs of the victim. Do not place the victim in an embarrassing situation. If you are apprehensive about taking photographs, don't.
8. Obtain Victim/Witness Statements
Due to the many factors involved, interviewing the victim may be handled by either the on-call sexual assaults detective or patrol officer. All witness statements shall be the responsibility of the patrol officer (s).

**CHAPTER II
INTERVIEWING SEXUAL ASSAULT VICTIMS**

A. Your goal as a police officer in interviewing a sexual assault victim is to determine if and how the crime occurred. It is from the victim's statement that the essential elements of the offense(s) and the direction of the investigation are established.

B. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

D. Officer's Demeanor
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. A professional attitude throughout the interview will help the officer obtain an accurate report of the crime without causing the victim to experience unnecessary anxiety.

E. Physical Comfort
It is unreasonable to expect a sexual assault victim to respond to detailed questioning while he/ she is uncomfortable or in physical pain. The victim may have been beaten as well as sexually assaulted. Frequently, the sexual assault has occurred outdoors, and the victim and his/her

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clothing have been soiled. Sometimes, the victim has been urinated on or has been forced to commit oral sex. Under conditions such as these, the preliminary interview should be brief.

F. Setting

The interview should take place in a comfortable setting where there is privacy and freedom from distraction. [REDACTED]

[REDACTED] The officer shall advise the victim he/she has the right to have someone with him/her during the interview such as WEAVE, a member of the family or a friend. The person is present for support. The officer will have to use discretion in excluding subjects from the interview, (i.e., child requesting parent be present during the interview). [REDACTED]

G. Opening Remarks

To most sexual assault victims, the interviewing officer is not just a police officer. You may symbolize to the victim the entire society. Your behavior may represent to the victim the general attitude of the community and law enforcement toward his/her plight. If you are callous, accusatory in your manner or speech, the victim may leave the interview fully expecting society - and perhaps even his/her family - to react in the same way. In addition, the victim may begin to, or further, question his/her own motives and therefore, feel unnecessary guilt. At this critical point, you must gain his/her confidence by letting him/her know that a major part of your function is to help and protect him/her. You should make plain your sympathy and interest. By doing this, you will contribute to the immediate and long-term emotional health of the victim, as well as lay the foundation of mutual cooperation and respect upon which is built the effective interview.

H. Ventilation Period

Following the opening remarks, you should allow the victim to discuss whatever he/she wants. This "ventilation" period gives the victim an opportunity to relieve emotional tension. During this time, you should listen carefully to the victim, but be aware that any initial description of the incident may be colored by the trauma of the experience. Everyone's perception of reality is altered by extreme stress.

I. Investigative Questioning

1. After the necessary ventilation period, the victim should be allowed to describe what occurred in his/her own words and without interruption. Make sure the victim defines or explains any terms or descriptions which may be ambiguous. Also make sure that the sex act(s) is thoroughly described. It is important in such an interview that you be humane, sympathetic, and patient. Be alert to inconsistencies in the victim's statements. If the victim's story differs from the originally reported facts, you should point out the discrepancies and ask him/her to explain them. You should phrase your questions in simple language, making sure that you are understood. It is important that you are professional and patient.
2. In a majority of cases, the attack is premeditated (and about half, the time) the assaulter has known or has seen the victim before the attack. Because of this, certain questions should be asked. The victim should be asked if, and how long, he/she has been acquainted with the offender. The circumstances of their meeting and the extent of their previous relationship. [REDACTED]

3. [REDACTED]

CHAPTER III
WRITING THE REPORT

- A. Police officers often times feel that the apparent calm, at times exhibited by sexual assault victims, is indicative of a false report. Officers sometimes fail to understand that victims may feel guilt as a result of the assault. Many victims are conditioned to believe that those who get sexually assaulted "ask for it." The victim's late report or unusual demeanor often relates to their fear of:

1. reprisal from the rapist.

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2. publicity.
 3. public censure.
 4. ostracism.
 5. loss of status as a desirable person.
 6. loss of employment.
 7. negative reaction from friends and/or relatives.
- B. Inability to understand the victim's fears can cause police officers to try to "wash out" reported sexual assaults. Value judgments are sometimes made by police officers, based upon their opinions of the victim's lifestyle and age. For instance, hitchhikers are "asking for it" and teenagers should be "routinely disbelieved." It is your responsibility to remain impartial and to collect the facts as you physically see them and as they are told to you.
- C. If there are discrepancies that are obviously unexplainable, then you shall note these in the report and explain the inconsistencies. The Sexual Assault Unit shall make the determination on the validity of reported sexual assaults.
- D. In filling out your crime report, remember that all sexual assault victims are to be considered injured. Sexual assault victims can suffer psychological, as well as, physical injuries. The victim's physical and emotional condition, general demeanor, and sobriety shall be noted in the report. Document precisely the number and type of sexual acts and other assaultive behavior. Determine, as close as possible, the chronological sequence of events. Make sure the victim defines euphemistic language regarding sex acts. (i.e., If the victim says, "I was forced to give 'head'," clarify if that means mouth on penis. If the victim says, "I was 'raped'," clarify if that means penis put in vagina.) If multiple suspects are involved, document each participant's actions. As much as practical, quote the victim directly, particularly in statements made during the assault, by both the victim and the suspect(s). In kidnapping situations, document specifically the type of movement, i.e., the distance traveled by the victim and any areas of seclusion where he/she has been taken. Where weapons are used, document specifically the location(s) of the weapon(s) during the entire assault and the specific uses of the weapon(s) by the suspect(s). Include which hand the weapon(s) was held in.
- E. During the course of your investigation, it is imperative that you list any second party who may have been instrumental in contacting the police. This assists sexual assaults detectives in establishing or confirming the time of occurrence. This also lends credibility to the victim in court, and the party may provide evidence or statements beneficial to the investigators, which was forgotten or overlooked by the victim due to trauma.
- F. If the victim has no phone number or address have him/her call the Sexual Assault Unit the following business day. This is extremely important if an arrest has been made. Indicate if the victim will be staying at another location, e.g., two or three days after the assault. Obtain a phone number for that location or a message phone number.

**CHAPTER IV
ADDENDA**

The addendum section of the manual will remain open-ended, allowing for present and future penal code updating. Additionally, this will allow for any future guidelines and/or procedural changes.

**ADDENDUM #1
APPROPRIATE PENAL CODE SECTIONS**

Following are the Penal Code Sections which are commonly used in the investigation of Felony Sex Crimes.

§ 220 Assault with intent to commit sex crimes.

Every person who assaults another with intent to commit mayhem, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 is punishable by imprisonment in the state prison for two, four, or six years.

§ 243.4 Punishment for sexual battery.

- (a) Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of sexual battery. A violation of this subdivision is punishable

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by imprisonment in a county jail for not more than one year; or by imprisonment in the state prison for two, three or four years. (Felony)

- (d) (1) Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse, is guilty of **misdemeanor** sexual battery, punishable by imprisonment in a county jail not exceeding six months. (Misdemeanor)
- (2) As used in this subdivision, "touches" means physical contact with another person, whether accomplished directly, through the clothing of the person committing the offense, or through the clothing of the victim.
- (e) As used in subdivision (a), "touches" means physical contact with the skin of another person whether accomplished directly or through the clothing of the person committing the offense.
- (f) As used in this section, the following terms have the following meanings:
 - (1) "Intimate part" means the sexual organ, anus, groin, or buttocks of any person, and the breast of a female.
 - (2) "Sexual battery" does not include the crimes defined in Section 261 and 289.

§ 261 Rape defined.

- (a) Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:
 - (1) Where a person is incapable, because of mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act.
 - (2) Where it is accomplished against a person's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the person or another.
 - (3) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused.
 - (4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.
 - (5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.
 - (6) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat. As used in this paragraph, "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.
 - (7) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.

§ 261.5 Unlawful sexual intercourse.

- (a) Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is the minor. For the purpose of this section, a "minor" is under the age of 18 years.
- (b) Any person who engages in an act of unlawful sexual intercourse with a minor who is not more than three years older or three years younger than the perpetrator, is guilty of a **misdemeanor**. (Misdemeanor)
- (c) Any person who engages in the act of unlawful sexual intercourse with a minor who is more than three years younger than the perpetrator is guilty of either a **misdemeanor or felony**, and shall be punished by imprisonment in a county jail not to exceed one year, or by imprisonment in the state prison. (Felony)
- (d) Any person over the age of 21 years who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a **misdemeanor or a felony**, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for two, three or four years. (Felony)

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§ 262 Rape of spouse.

- (a) Rape of a person who is the spouse of a perpetrator is an act of sexual intercourse accomplished under any of the following circumstances:
 - (1) Where it is accomplished against a person's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the person or another.
 - (2) Where a person is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the knowledge of the accused.
 - (3) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.
 - (4) Where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat.
 - (5) Where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official.
- (b) The provisions of Section 800 shall apply to this section. However, no prosecution shall be commenced under this section unless the violation was reported to medical personnel, a member of the clergy, an attorney, a shelter representative, a counselor, a judicial officer, a rape crisis agency, a prosecuting agency, a law enforcement officer or firefighter within one year after the date of the violation. The reporting requirement shall not apply if the victim's allegation of the offense is corroborated by independent evidence that would otherwise be admissible during trial.

§ 263 Sufficiency of penetration.

The essential guilt of rape consists in the outrage to the person and feelings of the victim of the rape. Any sexual penetration, however slight, is sufficient to complete the crime.

§ 264.1 Aiding or abetting rape.

The provisions of Section 264 notwithstanding, in any case in which defendant, voluntarily acting in concert with another person, by force or violence and against the will of the victim, committed an act described in Section 261, 262, or 289, either personally or by aiding and abetting the other person, that fact shall be charged in the indictment or information and if found to be true by the jury, upon a jury trial, or if found to be true by the court, upon a court trial, or if admitted by the defendant, defendant shall suffer confinement in the state prison for five, seven, or nine years.

§ 286 Sodomy

- (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.
- (b)
 - (1) Except as provided in section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
 - (2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.
- (c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.
- (d) Any person who, while voluntarily acting in concert with another person, either personally or aiding and abetting that other person, commits an act of sodomy when the act is accomplished against the victim's will by means of force or fear of immediate and

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- unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for five, seven or nine years.
- (e) Any person who participates in an act of sodomy with any person of any age while confined in any State prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.
 - (f) Any person who commits an act of sodomy, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.
 - (g) Except as provided in subdivision (h), a person who commits the act of sodomy, and the victim is at the time incapable, because of a mental disorder or development or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.
 - (h) Any person who commits the act of sodomy, and the victim is at the time incapable, because of a mental disorder or development or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for not more than one year.
 - (i) Any person who commits the act of sodomy, where the victim is prevented from resisting by an intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.
 - (j) Any person who commits an act of sodomy, where the victim submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practices by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.
 - (k) Any person who commits an act of sodomy, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the person is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.

§ 288a Punishment for unlawful oral copulation.

- (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ or anus of another person.
- (b)
 - (1) Except as provided in Section 288, any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the State prison, or in a county jail for a period of not more than one year.
 - (2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of oral copulation with another person who is under 16 years of age shall be guilty of a felony.
- (c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he or she, or when the act is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat shall be punished by imprisonment in the state prison for three, six, or eight years.

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- (d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting that other person, commits an act of oral copulation (1) when the act is accomplished against the victim's will by means of force or fear of immediate and unlawful bodily injury on the victim or another person, or (2) where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, or (3) where the victim is at the time incapable, because of mental disorder or development or physical disability, of giving legal consent, and this is known or reasonable should be known to the person committing the act shall be punished by imprisonment in the state prison for five, seven, or nine years.
- (e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in section 4504 or in any local detention facility as defined in Section 6031.4 shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (f) Any person who commits an act of oral copulation, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act, shall be punished by imprisonment in the state prison for a period of three, six or eight years.
- (g) Except as provided in subdivision (h), any person who commits an act of oral copulation, and the victim is at the time incapable, because of a mental disorder or development or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (h) Any person who commits an act of oral copulation and the victim is at the time incapable, because of a mental disorder or development or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act, and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

§ 289 Penetration of genital or anal openings.

- (a) Every person who causes the penetration, however slight, of the genital or anal openings of another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object when the act is accomplished against the victim's will by means of force, violence, duress, menace or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six or eight years.
- (b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (c) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be

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- known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.
- (d) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, and the victim is at the time unconscious of the nature of the act, and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (e) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, and this condition was known, or reasonably should have been known by the accused, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (f) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, where the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (g) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, or by any unknown object, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (h) Except as provided in subdivision (c), any person who participates in the act of the penetration of the genital or anal openings with a foreign object, substance, instrument, or device, or by any unknown object of a person who is under 18 years of age or causes another person under 18 years of age to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.
- (i) Except as provided in Section 288, any person over the age of 21 years who participates in the act of the penetration of the genital or anal openings with a foreign object, substance, instrument, or device, or by any unknown object of another person who is under 16 years of age or causes another person under 16 years of age to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse, shall be guilty of a felony.
- (j) Any person who participates in the act of the penetration of the genital or anal openings with a foreign object, substance, instrument, or device, or by any unknown object of another person who is under 14 years of age and who is more than 10 years younger than he or she or causes another person who is under 14 years of age and who is more than 10 years younger than the defendant to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or

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- abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.
- (k) As used in this section:
- (1) "Foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.
 - (2) "Unknown object" shall include any foreign object, substance, instrument, or device, or any part of the body, including a penis, when it is not known whether penetration was by a penis or by a foreign object, substance, instrument, or device, or by any other part of the body.