

SNOHOMISH COUNTY PROSECUTOR'S OFFICE INVESTIGATIVE CHECKLIST

FIRST DEGREE RAPE OF A CHILD

RCW 9A.44.073

ELEMENTS

1. The suspect had sexual intercourse* with the victim; AND
2. The victim was less than twelve years old and not married to the suspect; AND
3. The suspect was at least 24 months older than the victim.

*Sexual intercourse means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex. Exception: penetration for medically recognized treatment or for diagnostic purposes is excluded from this definition. Sexual intercourse also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another, whether such persons are of the same or opposite sex.

Defense: At the time of the offense the suspect reasonably believed the victim to be at least 12, or that the victim was less than 24 months younger than the defendant, based upon declarations as to age by the victim.

SPECIFIC CONSIDERATIONS

- [] 1. Describe the type of sexual intercourse: a) any penetration of the vagina or anus, however slight, by an object, committed on one person by another, excluding penetration for medical treatment or diagnosis; or b) sexual contact between the sex organs of one person and the mouth or anus of another.
- [] 2. Determine victim's date of birth, suspect's date of birth, and time frame for sexual intercourse. Victim must have been under 12 years old and suspect at least 24 months older than victim.
- [] 3. If victim is under 10, interview others to whom he or she made statements describing the sexual contact and determine the circumstances in which those statements were made (others who were present, how subject came up, when they were made), and as specifically as possible, what the child said.
- [] 4. Determine whether medical exam may produce evidence and if so, make sure it is done timely. Get signed release from guardian, if possible, and obtain medical records of exam.
- [] 5. Determine if CPS is involved and if so, indicate caseworker's name and phone number. Check to see if CPS or police have received other complaints concerning suspect or victim. Obtain those CPS and police reports.
- [] 6. If there is an indication of other victims, locate and interview them.

- 7. Interview suspect's wife/girlfriend regarding alibi and other defenses, and to get information corroborating or refuting victim's account.
- 8. If victim is under 10, it is preferable that a child interview specialist conduct the interview of the victim.
- 9. The victim's interview should establish the following information:
 - Determine who the victim told first about the abuse, others who were told before police, and get statements from those people.
 - Determine as near as possible when the abuse began and ended, victim's age and suspect's age. Can victim recall specific incidents, including first and last?
 - Establish that child under 10 understands concept of, and importance of telling the truth.
 - What suspect said.
 - Where abuse occurred.
 - Whether there was oral, vaginal and/or anal contact (if vaginal or anal, whether there was penetration); have child describe taste, smell and appearance.
 - Whether suspect made victim touch him, and if so, where.
 - Whether suspect wanted to take, or took, naked pictures of victim, or showed victim pornographic material.
 - Whether anyone else has sexually abused the child.
 - If victim under 7, can victim distinguish between over/under and in/on.
- 10. Find out if child victim is in counseling and if so, with whom.
- 11. Seize any sex aids, calendars, diaries, pornography, clothing, bedding, camera equipment and photos of victim in suspect's possession which are connected to the offense.
- 12. Determine nature and length of prior relationship (if any) between victim and suspect.
- 13. When suspect may claim he thought victim was older than 11: Determine whether suspect knew how old victim was, and if so, how. Establish this with victim, suspect and any witnesses to victim's representations of age.