Sex Crimes, Family Offenses, Related Offenses

Classroom Hours: 2 hrs.

Instructional Goals:

The focus of this course is to familiarize both returning officers and officers who have been certified in states other than Oregon with:
1. Sex offenses involving minors, according to ORS.
2. Offenses involving the well-being of minors and the differing degrees of those offenses, according to ORS.

Learning Outcomes:

Upon completion of this course, students will be able to:
1. Define sex offenses involving minors.
2. Determine offenses committed involving the well-being of minors and the degree of the offense.

Applicable Job Task Analysis Tasks (From 2009 Police JTA)

55 – Administrative Rules
56 – Civil Violations
58 – Criminal Law
63 – Juvenile Law
64 - Legal Updates/Evolving Law
70 – Stops, Detentions and Arrests
100 – Complete ongoing training

There are **11** test questions involving Sex Crimes, Family Offenses, Related Offenses.

<u>Kidnapping and Related Offenses</u>

1. Kidnapping II – ORS 163.225
   a. Case law discussion
      - As to the "intent requirement," the court in State v. Wolleat, 338 Or.469 (2005), considered whether there is some minimum distance a defendant must intend to move the victim before a reasonable juror can say defendant intended to interfere substantially with the victim's personal liberty. It concluded that for a defendant to act with intent to interfere "substantially" with another's personal liberty, defendant need not move the victim a substantial distance or confine the victim for a substantial period of time, but rather "must intend either to move the victim a 'substantial distance' or to confine the victim for a 'substantial period of time.'"
      - In contrast, the history and wording of the "asportation element" in ORS 163.225(1)(a) indicate that the legislature did <u>not</u> intend to incorporate a "substantial distance" requirement into the statute when they used the phrase "from one place to another." The state is not required to prove that defendant actually took a victim a "substantial distance," in order to prove that defendant took the victim "from one place to another." <u>State v. Sierra</u>, 349 Or 506 (2010). However, a defendant can be said to have moved a victim from "one place" to "another" only when the defendant changes the position of the victim such that, as a matter of situation and context, the victim's ending place is qualitatively different from the victim's starting place.
      - Case law has also identified an additional requirement contained within the "act" element. The taking of the victim must not be only "incidental" to another crime.
   b. Examples:
      - Child under age of 16, who is taken without consent of lawful guardian. See ORS 163.215 (1)
      - Intended rape

   c. Note: If the suspect has the purpose of forcibly raping the victim, he has the purpose of causing physical injury. Therefore, correct charge may be Kidnap I. See <u>State v. Strickland</u>, 36 Or. App. 119 (1978)

2. Kidnapping I – ORS 163.235 Custodial Interference II – ORS 163.245
3. Custodial Interference I – ORS 163.257

<u>Sexual Offenses</u>

1. Rape III – ORS 163.355
   a. Sexual intercourse definition ORS 163.305 (7)
   b. Example: Twenty-year old suspect has consensual sexual intercourse with a 15-year old victim.

2. Rape II – ORS 163.365
   Example: Suspect has sexual intercourse with his family's 13-year old babysitter.
3. Rape I – ORS 163.375
   a. Forcible compulsion definition ORS 163.305 (2)
   b. Examples:
      - Suspect has sexual intercourse with victim by threatening to kill her if she refuses
      - Suspect has sexual intercourse with an 11-year old.
      - Suspect has sexual intercourse with 15-year old stepchild.
      - Suspect has sexual intercourse with the victim, who is comatose and a resident of a nursing facility.

4. Sodomy III – ORS 163.385
   a. Deviate sexual intercourse definition ORS 163.305 (1)
   b. Example: Twenty-year suspect has consensual anal intercourse with a 15-year old.

5. Sodomy II – ORS 163.395
   Example: Suspect convinces a 13-year old to orally copulate suspect.
6. Sodomy I – ORS 163.405