

Course Materials for

**Advanced Trial Skills Course**

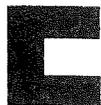
November 20 – 22, 2013

Utah Prosecution Council

The materials are from a real sexual assault case that was investigated, prosecuted and went to trial in Utah County.

Last names and identifying information for Defendant, Victim and all witnesses have been deleted.

For purposes of this course, you may refer to the victim as “Emily” or “Miss G.” You may refer to the Defendant as “Joshua” or “Mr. M.” All other lay witnesses should be referred to by their first names in the materials.



Provo City Police Department  
Crime Report

Report Date: 10-21-01

Report #Id : 1086080.A181

DR# 2110059  
IN# 1086080

CODE	OFFENSE DESCRIPTION
1121	Rape

Weapon, Force or Means used-  
OTHER  
Apparent Motive-  
SEX  
Location of Occurrence-  
UNKNOWN

OCC. ON:           Date           Time  
OR BTWN:        10-20-01       00:00  
REPORTED:       10-21-01

Source: P   Phone

Connecting reports-

Investigative divisions, units, persons notified-

Case Clearance/Disposition: 5 Inactive

ADDITIONAL PEOPLE INVOLVED

CODES: S-Suspect, V-Victim, W-Witness, C-Complainant, F-Father, M-Mother

S1	Name: LNU, JOSH	DOB:	Sex: M	Race: W	Age: 25
	Addr:	HP:			Eth: N
	CSZ:	Testify:			WP:
	AKA:				
W1	Name: ROBERTA	DOB:	Sex: F	Race:	Age: 37
	Addr:	HP:			Eth:
	CSZ:	Testify:			WP:
	AKA:				
V1	Name: EMILY	DOB:	Sex: F	Race: W	Age: 19
	Addr: 1121 DAVID JOHN HALL	HP:			Eth: N
	CSZ: PROVO, UT	Testify:			WP:
	AKA:				

The Details of this report can be found in the consheet.  
Consheet Id is \CONSHEET\1086080A.181

FOR LEGAL JUSTICE PURPOSES ONLY

REPORT RELEASED TO Off. Rick Moreno  
BYU P.O.

DATE 10-24-01 BY WHOM [Signature]

Supervisor	PH	Reporting Officer(s)	PH	Asgmt.	Rep. Off. Signature
Assigned to: PH Asgmt.		NYE, RUSSELL		D181 PATROL	
		Date/Time Reproduced			Div/Clk To Whom
<input type="checkbox"/> Submit to C/A	<input type="checkbox"/> Archive	<input type="checkbox"/> Other	<input type="checkbox"/> Immediate F/U	<input type="checkbox"/> Pending	<input type="checkbox"/> Inactive

PROVO CITY POLICE DEPARTMENT  
Continuation Sheet

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PAGE: 1 ID#: 1086080.A181 DR#: 210059  
OFFICER: NYE DATE: 10-20-01  
SUBJECT: RAPE

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On 10-21-01, I was called to the emergency room in the earlier morning hours in response to a rape which occurred two previous nights before.

I made contact with V1-Emily in the emergency room who reported that Friday night, 10-19-01, at approximately 2230 hours an acquaintance of hers name S1-Josh LNU (she does not know his last name) who is a friend amongst her group of friends, also goes to BYU, and is in some of her classes called her up.

S1-Josh LNU came over and they went for a ride. S1-Josh LNU came over and picked her up from her residence at approximately 2230 to 2300 hours on 10-19-01. V1- reported that they drove around and talked for approximately an hour and then returned to S1-Josh LNU's residence to meet his roommates; however, he did not have any roommates there. He lives alone. S1-Josh LNU is approximately 6'5", 230 pounds, 25 years old, and is divorced. He has no roommates.

V1- reported that as soon as they went into his apartment although she does not know the exact address she says she could probably find it again. She stated that they went in and S1-Josh LNU began kissing her. More and more kissing occurred. Every time V1- would say stop S1-Josh LNU would just say, "Shhhh." V1- reported that despite her saying no S1-Josh LNU held her down, "pinned her to the floor," and had sexual intercourse with her. V1- had not had sexual intercourse before.

V1- reported that the first occurrence of sexual intercourse happened approximately 0000 hours the morning of 10-20-01 with no condom. Later that night that the second time S1-Josh LNU did wear a condom.

When I asked V1- about her and his state of dress, she reported that they were both nude. V1- reported that after the first time S1-Josh LNU with his arms around her holding her; however, she did not sleep, and she did not leave. She just pretended that things were okay.

After the second occurrence later that morning, V1- reported that S1-Josh LNU took her home to her apartment at approximately 0830 hours the early morning of 10-20-01.

At the emergency room when I asked V1- about her physical condition, she said that she felt very bruised and sore in her vaginal area. V1- had been talked into and drive to the

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CASE #: 2110059  
OFFICER: NYE  
SUBJECT: RAPE

emergency room by Stephanie her friend. Stephanie brought V1- to the emergency room approximately 2230 hours on 10-20-01.

W1-Robert Perkins was V1- emergency room nurse.

V1 had been talked to by Utah County Rape Crisis volunteer Beth Campbell.

V1 declined a whole rape exam; however, she did want to take the morning after pill to prevent any pregnancy and to be checked for sexually transmitted diseases. The emergency room doctor that will be doing these tests will be Dr.

V1- reported that concerning the nature of S1-Josh LNU being an acquaintance and a friend she sees all the time along with her various other friends and the fact that she goes to school with S1-Josh LNU she did not want to press any criminal charges; however, V1- stated that she was going to report S1-Josh LNU to the honor code office.

No further information at this time. Dispo. 5.

\RG



Provo City Police Department  
Officer/Follow-up

Report Date: 10-23-01

Report #Id : 1086080.A097 DR# 2110059  
IN# 1086080

Subject: RAPE  
Division Reporting: CID  
Date and Time Occ: 10-20-01 00:00  
Case Clear./Disp.: 5 Inactive

Disposition: Inactive  
Loc. of Occurrence: 31 W 1450 N, 23

Officer's Name	OFFICER INVOLVEMENT P#	Assmt.
JENSEN, DEVON	P097	DETECTIVE

ADDITIONAL PEOPLE INVOLVED

CODES: S=Suspect, V=Victim, W=Witness, C=Complainant, F=Father, M=Mother

S1	Name: JOSHUA	DOB:	Age: 25
	Addr: 31 W 1450 N, 23	Sex: M Race: W	Eth: N
	CSZ: PROVO, UT	HP: 801	WP:
	AKA:	Testify:	

The Details of this report can be found in the consheet.  
Consheet Id is \CONSHEET\1086080A.097

Report Date: 10 23 01

Reporting Officer(s)

PN Assmt.

Rep. Off. Signature

JENSEN, DEVON

P097 DETECTIVE

PROVO CITY POLICE DEPARTMENT  
Continuation Sheet

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PAGE: 1 ID#: 1086080.A097 DR#: 2110059  
OFFICER: D. Jensen DATE: 10-23-01  
SUBJECT: Rape

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On 10-23-01 at 1500 hrs. I, Det. D. Jensen, was referred the report of a rape which had occurred on 10-20-01 and the initial report had been taken by Patrol Officer R. Nye, 3181, on 10 21 01. Upon reviewing the initial report RO observed that V1/ had advised Ofc. Nye that she was unwilling to have a Code R done and stated she refused to testify and did not want prosecution. Based upon this, Ofc. Nye had taken the initial report and closed it dispo 5. Since that date V1/ had spoken with counselors at BYU, as well as her parents, and changed her mind and was now stating that she wished to pursue criminal charges. This information about V1/ wanting to now prosecute was given to RO by BYU Police Dept. Ofc. Barney Lemmon. RO then had BYU PD Ofc. Lemmon advise V1/ to respond to the Family Practice Center for the purposes of conducting a Code R examination.

RO then went and met with V1/ at 1530 hrs. at the Family Practice Center. At this time V1/ was with both of her parents as well as BYU Ofc. Lemmon. V1/ then gave RO the statement which she had made while she was at BYU and also gave RO additional information. V1/ told RO that she first had interaction with S1/ approximately one month ago at a ballet class. V1/ stated that he was making up a class and was staring at her and smiled at her the whole time. V1/ stated that S1/ would always come up and kiss her on the cheek and give her hugs.

V1/ stated that on 10-19-01 she had seen him and they were talking after voice lessons. V1/ stated that S1/ started kissing her on the mouth and had her up against a wall. V1/ stated this made her uncomfortable and she froze up. V1/ stated that S1/ got carried away and touched her breasts underneath her clothing and that he then tried to touch her vaginal area underneath her underwear. V1/ stated she backed up and asked him to take her home. V1/ stated S1/ dropped her off at her friend's house and stated to her, "I hope you're not mad at me." V1/ stated she stayed at a friend's house and went out to eat with her at the Olive Garden later that night. V1/ stated that S1/ is a waiter at the Olive Garden in Provo and was working at a table near hers. V1/ stated that he would whisper in her ear and she asked him to stop. V1/ stated that later that night she was getting ready for bed around 2330 hrs. at which time S1/ called her on her cell phone and stated he was sorry and wanted to apologize. S1/ stated he wanted to talk to her and that he was out in the parking lot and to have her come down. V1/

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CASE #: 2110059  
OFFICER: D. Jensen  
SUBJECT: Rape

stated she went down wearing her pajamas and got in his car with him and drove around with him, talking with him for a long time. V1/ stated that S1/ led her to believe that he had a roommate which was a mutual friend of hers which was back at his apartment and stated she went with him to his apartment implying that they were going to see him. V1/ stated that when they got to his apartment in Provo S1/ locked the door behind him and started kissing her. V1/ stated that he had candles lit and was kissing her really fast and pushing her towards his bedroom. V1/ stated she was wearing pajamas and he kept trying to take off her bottoms and she kept pulling them back up. V1/ stated he kept telling her that he was only going to eat her out. V1/ stated that he finally was persistent and was able to get off her pants, shirt and bra and was touching her all over. V1/ stated that S1, kept stating things like "I don't want to hurt you." "I'll go really slow."

V1/ stated once they were naked and he continued touching her vaginal area with his penis and stating, "Don't worry I won't do it." she was crying and kept saying, "Please stop." and "Don't do it." V1/ stated that S1/ then eventually penetrated her vagina with his penis very slowly. V1/ stated the first time they had sexual intercourse she believes S1/ was wearing a condom. V1/ stated that he then attempted to have sexual intercourse with her a second time shortly thereafter and was not wearing a condom, but could not get an erection and was unsuccessful. V1/ stated the first time they had sexual intercourse it only lasted approximately 3 minutes. V1/ stated after they had slept for several hours, that S1/ again had sexual intercourse with her wearing a condom. V1/ also stated that during having sexual intercourse with S1/ that he performed oral sex on her, while doing so he bit her in her vaginal area. V1/ stated she was not sure what part of her genitalia that he bit, but that it really hurt. V1/ also stated that S1/ penetrated her with his finger for a long time and kept telling her if she was curious she could touch his penis, but she refused. V1/ also stated that S1/ kept biting her nipples to the point that they were bleeding. V1/ stated that S1/ then took her home the following morning.

RO then spoke with Dr. Holmes, who stated he felt it may still be possible to collect some evidence by doing the Code R, especially in the form of photographs due to reports that S1/ had bitten V1/ RO then turned V1/ over to Dr. Holmes and nurse Monica Meyers who then proceeded to conduct the Code R examination. Later at approximately 1740 hrs. RO returned to the Family Practice Center and the completed Code R kit was turned over

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CASE #: 2110059  
OFFICER: D. Jensen  
SUBJECT: Rape

to RO by nurse Monica Meyers and booked into evidence under case #2110059. V1/ also told RO that she had not washed the clothes from the night this assault occurred. BYU Det. Lemmon went over to V1 residence and collected these items. Det. Lemmon advised RO that he would bring them by the police station to be booked into evidence. RO will be contacting S1/ in the future for an interview and further investigation. For further details see the original crime report as well as V1/ statement. No further information at this time. Case status is open Dispo 4./PJ

LAW Incident Responders Detail  
Responding Officers

<u>Seq</u>	<u>Name</u>	<u>Unit</u>
	Lemmon, Arnie	04

Narrative:

Incident Summary: A male student sexually assaulted a female student at the Knight Mangum building and raped her later that night at an off campus location.

Incident Narrative: Oct. 23, 2001, 1230 hours - I received a call from Steve Baker, Honor Code Office Director, requesting that I come to his office to meet with a rape victim. Upon my arrival I met with Steve Baker, Catharine Emily and Valeri

Catharine Murray, Honor Code Office Counselor, presented me with a signed printed statement that she had just obtained from Emily. I read the statement and asked Emily if it was correct. She said, "Yes." The statement contains all the criminal elements of rape and sodomy. For additional details, refer to statement - on file in Records Division.

I then discussed with Emily and her mother various criminal justice options. I also strongly suggested that she receive a forensic sexual assault examination at the Family Practice Center. After a brief discussion, Emily said she wanted to submit to the examination. She also agreed to work with Provo Police Department officers relative to a criminal investigation.

I called Captain Brad Latham, Provo PD Investigations Captain, and briefed him as to my investigation. We agreed that this would be a joint investigation with Detective Devon Jensen, Provo PD, being the lead investigator. We agreed that Detective Jensen would meet me at the Family Practice Center.

I transported Emily and her mother to the Family Practice Center where we were met by Detective Jensen. I briefed Jensen as to my findings and gave him a copy of Emily's statement. Following Emily's release from the center, we went to her campus apartment where I collected all the clothing that she was wearing at the time of the assault. I in turn gave the clothing to Detective Jensen.

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Emily received the following phone mail message from Joshua

"Oct. 23, 1039 a.m."

"Hey Emily this is Joshua, give me a call please. I'm just seriously worried about ya, didn't see ya out at ballet today so I was just

worried about ya. Give me a call please                      okay, bye."

\*\*\*\*\*

Emily received the following e-mail message from Joshua

"Subject: Sorry...."

"Date: Oct 23, 2001 11:40 AM, MDT"

"Dear Emily,

I am so sorry you don't want to talk to me or have anything to do with me. I would like you to know that I am still very interested in you and VERY concerned about you. I was looking forward to seeing again and starting a relationship with you. However, I understand if you want nothing to do with me.

I hope you start feeling better. I will respect your wishes and will not call you or talk to you. If you change your mind I would love to spend some time with you and you know my phone number.

Lastly, I am very sorry if I hurt you. I truly didn't mean to. I will always be here if you need me.

Love,  
Joshua"

\*\*\*\*\*

Mon Nov 4 14:42:08 MST 2001 / Lt. Lemmon

Andrus and I went to M's residence at approximately 0930 hours. We identified ourselves at which time he invited us in. He was dressed in a bathrobe and excused himself to put on something else. I noticed a young lady walking from the bedroom to the bathroom. She was small in stature and had dark colored hair.

M came out of the bathroom at which time I asked him if he would be willing to come to my office to discuss his relationship with Emily

Referring to the young woman in the bathroom, I recommended that we talk in my office as what we had to talk about was of a confidential nature. M readily agreed to my invitation. He said he would come to see me around 11:00 a.m.

M arrived at my office around 11:00 a.m. at which time I conducted an interview. I recorded the entire interview. For details of the interview, refer to the interview transcript on file in the Records Division.

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Mon Nov 19 16:00:00 MST 2001 / Lt. Lemmon

On Monday, November 5, 2001 at 1600 hours, Emily came into the office to be interviewed concerning a sexual assault that occurred on November 19, 2001, at the Knight Mangum Building involving Joshua Shasta Hamilton assisted me with the interview.

Emily indicated she first saw Joshua the day of the incident around 9:30 outside of her ballet class. At that time Joshua hugged her and kissed her making her feel both confused and flattered. Confused because they weren't exactly an item and flattered because he was a very good looking c .

Later in the afternoon, around 1620 hours, he was waiting outside of her voice lesson. He seemed to know everyone who walked by and talked freely with many students and faculty. As they stood there talking, he kept trying to kiss and flatter her. He kept making comments in the form of questions about her body build, such as: Do you know how beautiful you are? Do you know what a good kisser you are? Do you know how hot you are? She said she never responded to these types of questions and was bothered that the "compliments" were always in the form of a question rather than a statement.

He then asked her if she was going to Homecoming and she said no. When she asked him if he would be going to Homecoming he laughed and said no, he was 25 years old. At this point she began to feel uncomfortable because she had not known he was that old.

Joshua then tried asking about her history with ex-boyfriends but she refused to discuss the topic. He mentioned to her that she probably wouldn't comment because she had been hurt and she agreed that it was something like that. Joshua then told Emily that he was divorced and that she was the first girl he had been attracted to since his wife.

After finding out Joshua's age and that he was divorced, Emily became even more uncomfortable and annoyed by Joshua kissing her and whispering in her ear. It was at this point that Emily indicated that she felt she was in trouble. She felt that with the age difference and his marital status, they were not in each other's league anymore, plus she didn't feel comfortable with him making out with her in the KMB. Emily felt very uncomfortable because he kept kissing her and wrapping himself around her and she felt like she was on her "turf", the building where she had lots of classes and she didn't like the idea of being seen in this situation by people she knew and had classes with. Joshua asked her to go outside with him to talk some more.

When they went outside, Joshua kept persisting with questions about Emily's old boyfriends so she told Joshua that she did not like forward guys. Joshua then pinned her against the wall and began to kiss her all over. Emily kept trying to back up and keep Joshua talking so that he could not kiss her anymore. At this time he touched her breasts. He first tried to do this by putting his hand under her shirt from the bottom but the clothing she was wearing would not allow this. He then tried to stick his hand down her shirt from the top and attempted to lift her breast out. She said he did touch her breast skin to skin.

She was too afraid to run away from him at this point. She said he made her feel like she was the one making it happen by saying things like "You are so good at this. How long has it been?" She was very confused by these comments and didn't know what he was talking about until later when he indicated that he thought she was not a virgin.

Joshua then tried to put his hand down Emily's pants and she told him that she had to leave. He then put his hand down her pants and tried to put his fingers in her vaginal lips. She did not feel that he had actually penetrated her but did feel his fingers wiggling around near the pubic area. She said that during this time she was crying but was also frozen. She told him that she was a virgin and to stop. He told her it was okay because he had only been with four women. He tried to apologize to her and starting talking really smooth.

At this point, Emily asked Joshua to take her home. Emily said she felt safer asking for a ride home because she felt like she could not run from Joshua or fight him. She said where she comes from she was taught not to run or fight but to always be looking for a way to get out. She said that she was not really afraid of Joshua being violent with her. She felt like he might be too horny, but the thoughts of rape hadn't really crossed her mind. She also said that he tried to sound sorry during the drive home. She figured she would have him take her home and then avoid him in the future. Emily had Joshua drop her off at a friend's house so he would not know where she lived. He told her he would call her later. She arrived home at approximately 1655 hours.

This incident took place on the north side of the Knight Mangum Building, underneath a metal staircase by the office of the voice teachers. In order to get to this area you have to go around a wall and back under a hidden staircase.

Emily felt like Joshua knew she was freaked out during this incident because he kept asking if she was okay. She couldn't respond except her eyes were welling up with tears. She said that as they were walking back to the doors of the building he kept saying, "Sorry if I scared you."

Emily was very upset about this incident. She said she was raised in San Francisco and was the only Mormon in her school. In San Francisco she had the reputation of being very conservative and had made a point of making her standards very clear. She was excited to come to BYU so she could be around people who knew her standards and maintained the same standards as herself.

Shasta and I took Emily to the Knight Mangum building where we had her walk us through the scene. The exterior location that Meyer lured Emily into is very confining and out of public view.

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Fri Nov 2 18:00:19 MST 2001 / Lt. Lemmon

Sarah Joe is Joshua's ex-wife. I met with her on November 02, 2001 in my office. She was accompanied by her aunt, Jan. I explained to Sarah that Joshua was being accused of raping a coed. I asked Sarah if she would tell me about her former husband. She readily agreed to do so, and then related the following:

When she was dating Joshua she said, "He treated me like a princess. He was very kind. He bought me a lot of things." Once they were married he became "somewhat physically abusive." He would get mad and sit on

her. He stole money from the homes of many of Sarah's family members - parents, aunts, grandmother, etc.

At the very onset of their marriage Joshua "wanted oral sex." Sarah did not feel this type of sex was appropriate, she therefore consistently refused Joshua's persistent and numerous requests. She said he would often "finger" her at night while she was sleeping. She said, "I was terrified of him. I was terrified he was going to kill me. I didn't trust him. I didn't believe anything he said." He was constantly telling her, "You're not satisfying me sexually." He had to have candles burning when they were having sex.

Joshua has an extensive history of viewing pornography. Pornography is prevalent in his extended family (mother / father).

When they lived in Wymount, Joshua was very fixated on one of their neighbors, Libby (see Burglary IR 000320). He was always staring at her and commenting on her physical appearance - "Libby and her hooker shoes."

As to his personality, Sarah said, "He plays whatever role he deems necessary. At times he has been suicidal.

Joshua attended Denver University. While at DU he was involved with a gay professor who reportedly committed suicide.

He worked a Macaroni Grill in Provo, where he stole a large amount of cash from the restaurant.

Sarah concluded by saying she wants nothing to do with Joshua. She is still very much afraid of him and does not want him to know that she is getting married.

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Tue Dec 11 10:00:27 MST 2001 / Lt. Lemmon

I met with Sara [redacted] my office. Sara is currently dating M [redacted] on a regular basis. She has been dating him for several months. She acknowledged having an active and totally consensual sexual relationship with him. She described Joshua as a sensitive and caring individual. At no time has he attempted to force her into any type of sexual activity. Sara is not aware of any females whom Joshua has taken advantage of sexually.

I asked Sara if she would be willing to provide a written statement as to her association with, and observations of, Joshua. She readily agreed to e-mail me a statement. On 17 Dec. 01, I received the following e-mail statement:

From: Sara  
To: <arnold\_lemmon@byu.edu>  
Date: 12/17/01 10:59AM  
Subject: Sara statement

To Whom It May Concern,

My name is Sara [redacted] and the following is a personal statement that may serve to testify and accurately depict the character of Joshua [redacted]. This statement was written on December 12, 2001.

Although I have had no involvement in the circumstances and events that led to the current charges against Joshua [redacted], I have for the past four months been involved in Joshua's life, as I have been exclusively dating him since September of this year. Since the beginning of my association with Joshua, I have always found him to be an intelligent and caring individual. As my boyfriend, our relationship stems from a mutual respect and affection for each other. Our relationship does go beyond friendship however, as we have been sexually active. The sexual nature of our relationship has been completely consensual from the beginning, and under no circumstances did I ever feel mistreated, abused, or manipulated during the course of any of our sexual activities. While engaged in sexual activity, Joshua would frequently ask if I was comfortable and/or feeling alright. His personal arousal seemed to only occur if I was stimulated and/or sexually satisfied. He has always maintained a 'people-pleaser' persona that is both gentle and caring. Because I have never experienced any personality/sexual traits that may lead one to believe that he is abusive or forceful, I find it impossible to believe that he is capable of the rape of any woman.

In regards to this legal proceedings that have occurred, I have been fully aware of all of the actions that have commenced as to date. Joshua has never denied to me that he was sexually involved with the young lady that has charged him with these sex crimes. In fact, Joshua made me aware of his romantic involvement with Emily very soon after it had occurred. He had told me that he had met her through school and that their involvement had escalated rather rapidly. Joshua had confessed to me that he had had sexual intercourse with Emily. When he related to me the details of the evening with her, he mentioned that after they had had sex, she spent the night at his apartment and he drove her home in the morning. When I had asked if he planned to see her again, and if this was the only time that he had cheated on me with her, his response was that she was actually a virgin before her sexual activity with him. He had told me that the adult relations that had occurred were only on that isolated occasion. Joshua also related to me that she was not answering his calls and avoiding him, which he speculated was because she may feel have felt guilty or regretful for her actions, due to the fact that Emily's religion strongly disapproves of premarital sex. At that point in time, I had no idea that criminal charges were pending, so we both treated the incident as an act of infidelity, and tried to rebuild our relationship. As soon as Joshua became aware of the criminal charges, he also made me aware of the charges. His candidness about the sexual actions that they engaged in has showed me that he has no actions to hide, least of all criminal.

I only hope that this may help to clear up any uncertainties about Joshua's nature and involvement in these allegations. I am very interested in aiding the legal process of finding truth. Because of this, I submit to you this testimony.

\*\*\*\*\*

Tue Dec 11 12:30:20 MST 2001 / Lt. Lemmon

I met with Jane [redacted], who was accompanied by her fiancée and her mother. Jane said she had read a news report on Joshua [redacted] and she felt an obligation to share with me her experiences with [redacted]. Jane provided me with the following written statement:

[redacted]  
February, 16 1984  
10702 South 540 east  
Sandy, UT 84070

I met Joshua for the first time at work. He was a server at the Mayan and I was entertainment. We first met by just saying hi and exchanging smiles. Then one day at work I started out talking to one of his tables and the kids at the table were really fun. From that day he started talking to me and that was fine with me, but then he started pulling me aside in the server allies and always tried hugging me. One evening while Courtney (an entertainment friend) and I were standing talking to some costumers after a show. Joshua pulled me aside. He was trying to put his hands all over me and hug me. Well one of the customers that Courtney was talking to told her to tell me to stay away from that server because he was trouble. The costumer then talked to me a little and left me with her phone number to call her if I ever needed to. I didn't really think about calling her until Joshua came to see me at work at Maggie Moo's and called me a lot.

When he came into Maggie Moo's there was a letter from the little girl that I had met at his table in the Mayan. She told me to say hi to him and invited him and me to attend her baptism. I didn't realize until later when he mailed me a postcard that he had taken the envelope the girl gave me so he could find out where I lived. I then called the girl from the Mayan and I asked her what she knew about Joshua. She told me that she was good friends with the Aunt of his x-wife and she had heard that he was just a creep. I got really scared and told Joshua to leave me alone because he was getting too touchy and I was not available because I was going to get married. He called me from a Dave Mathew's Band concert in Denver and I got upset and told him to never call me again, mail me anything again, and not to ever visit me at work again.

Well when he came back from the concert he came to see me at work. He said he was just checking out his schedule and decided to say hi. I said that's fine but I'm actually leaving to go home because I am having a sleepover with my friends. He invited me to go to a movie with his friends and I told him straight up no. He followed me and when I came out from dressing he was still there talking to his friends. He came up to me and told me that he would walk me to my car. I told him that I could handle walking out to my car by myself and I kept walking. Joshua would not leave me alone he followed me out to my car and when I opened my door and said bye he grabbed me by me shoulder and turned me around and started hugging me tight. He was rubbing my back and whispering to me that I could come over to his house later tonight and we could talk. Then while he was still holding me so I couldn't move he started kissing my neck and all over my face. When he started kissing my lips and

frenching me I turned my head and I looked into my car and I saw my fianciii and I's picture and got pulled into reality. I pushed him off of me and told him to leave me alone. I hurried into my car and he said that I could still call him if I changed my mind about coming over.

I went home that night and I just cried to my friend because I felt taken advantage of. When I got home that morning my parents said that a Joshua called and asked me to call him back. I was so mad. I told Joseph (my fianciii) about what happened and he called security. When I came into work the next day Jor'l (my boss) called me into his office and asked me what had happened. When I told him what Joshua had done he told me that other girls had kind of complained about Joshua being too flirty and he told me that he could no longer work there. He told me not to worry about Joshua ever again at work because he could no longer come to the Mayan or he would go to jail. I felt a lot better and I told him not to tell Joshua who it was who fired him. Of course Jor'l agreed. He didn't ever call me back or he never came to Maggie Moo's, but couple months later my mom told me that she saw someone in out neighborhood walking around. We didn't do anything, but the next morning when I drove down the street my back tire was flat and it had a nail in it. I was just kind of mad because I had to replace it, and I didn't really think anything of it until later in the day I remembered what the girl on the phone told me about Joshua vandalizing his x-wife's car and I put two and two together. I don't have any evidence to that but I do believe that it was him getting back at me for getting him fired.

Nothing else has happed, until I heard on the news that the former BYU student Joshua was convicted of rapping an 18 year old girl. I called around to see who did the story and I found the article on the internet on the BYU web page and that's when I called in to talk to officer Lemmon.

Sincerely,

Jane

A signed copy of the above statement was received today, Dec. 17, 2001, and has been submitted to dispatch/records for filing. AL

\*\*\*\*\*  
Fri Dec 14 12:54:19 MST 2001 / Lt. Lemmon

I called University of Denver's Campus Safety Department (303-871-2334). I spoke with an investigator who confirmed that attended their university fall and winter, 94-95. He was a music major. They had no records on him of a criminal or suspicious nature. As to the suicide death of a gay professor, they had no knowledge. The officer assured me that he would look further into 's background and the supposed death of a professor.

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Statement of Stephanie : concerning Emily

On Friday, October 19, 2001, Emily came to my apartment, rather disturbed. She told me that she had just come from the KMB where she was supposed to have her voice lesson. While she was waiting to go in though she was approached by Joshua . He pinned her against the wall and began to whisper in her ear. He asked her if he was being too forward. She tried to move but he wouldn't let her. He began to kiss her and touch her stomach and breasts. She tried to move away but couldn't. She said that she told him to stop but he kept trying to kiss her. He kept saying things like "you're the only one I've been attracted to since my wife," or "how long has it been?" She eventually just froze and didn't know what to do. She didn't go to her voice lesson and came to my apartment instead of going back to her house. That's all she told me about him while she was at my apartment.

Later Friday night we went to Olive Garden where he's a waiter. We didn't know that at the time. We were waiting for our table and he came up from behind and put his arms around Emily. She tried to step away, he wouldn't let her go. He whispered in her ear, "why are you so unbelievably attractive?" He then walked away and we didn't see him for the rest of the night.

At 3:00 Saturday I went to go pick up Emily for the football game. She came and got into my car and immediately started to cry. She told me that after I dropped her off at her house the night before, Joshua called her. He asked if he could talk to her in person because he was right outside her building. He said he wanted to apologize for the way he treated her at the restaurant. She went outside to talk with him. They talked for awhile and then got into his car and drove for a few more hours. They talked about his life and how he had been divorced. They eventually ended up at his house. When she got up to his apartment she learned that he lived without any roommates and in unapproved, off campus housing. As soon as he locked the door he was all over her. He began by kissing her and then touching her. She begged him to stop but he wouldn't. She began crying and was yelling for him to stop. He then raped her. Emily cried the whole time. Joshua also cried the whole time. He fell asleep with her in front of him, wrapped in his arms. She continued to cry all night. When he woke up the next morning he raped her again. After it was over, she pretended she was okay so that he would take her home. She said that it hurt so much and she just wanted him to stop. She went home and slept until I came to get her at 3:00 pm. She was extremely sore and her arms hurt from how tightly he had held her throughout the night.

We were driving around while she told me this. I took her back to my apartment for a few hours and then I took her home so she could go back to sleep.

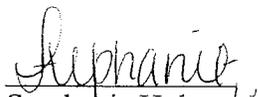
Later Saturday night I took her to the Emergency Room. While there, several doctors came in to try to persuade Emily to have evidence collected so that charges could be pressed. At this point she didn't want to press charges. She wanted to keep the whole thing confidential, especially from her parents. She got the tests done that would only check her health. She did give a report to the police- Officer R. Nye. They asked me to

NOV 19 2001

DISCOVERY SENT TO  
DEFENSE ATTORNEY

leave the room so I don't know what was said. When I returned to the room Emily was given about 6 shots, several pills, including the morning after pill, and had blood drawn for HIV and pregnancy tests. She told me while we were there that Joshua had bit her breast. She didn't say anything to the doctors about it. Joshua called and left a message while we were there. He told Emily, "I had a very nice time last night. Give me a call if you want to do it again, my love." When we were done at the ER, I took her home and she slept all Sunday and most of Monday.

On Monday, I went to the BYU Honor Code office with Emily's roommates and reported the incident to Catherine Murray. Emily wasn't aware that we reported it to the office. She said that she still didn't want to report it to the office because she didn't want to ruin his life. He was planning on graduating in April and now he wouldn't. Monday night though, Emily told her parents about the whole thing and on Tuesday, Emily gave her statement.

  
Stephanie

October 24, 2001

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NOV 19 2001

Statement by Emily

to Catharine

on October 23, 2001.

Emily states that her first interaction with a man named Joshua was about one month ago in her ballet class. He was making up a class and stared at her and smiled the whole time. He would always come up and kiss her cheek and give her hugs. On Friday morning (October 19<sup>th</sup>) he saw her. They were talking after his voice lesson. He started kissing her on the mouth and had her up against a wall. This made her uncomfortable and she froze up. He got carried away and touched her breasts underneath her clothing. He tried to touch her vaginal area underneath her underwear. She backed up and asked him to take her home. He dropped her off at a friend's house. He was saying "I hope you are not mad at me". She stayed at her friend's house and went out to eat with her at the Olive Garden. He was a waiter that was near her table. He would whisper in her ear. She asked him to stop.

Later that night she was getting ready for bed. It was around 11:30 pm or midnight. He called her on her cell phone and said he was sorry and wanted to apologize. He wanted to talk to her. He was out in the parking lot and asked her to come down. They talked for a long time in the car driving around. From here on out the time frames are kind of a blur. He told her that he was a convert who grew up in Denver. He was 25 and divorced. He asked her about her ex boyfriend. He said he wanted to go to New York and do shows. He took her to his apartment. She thought that he lived with a mutual friend of theirs. He told her that he lived with their mutual friend and it was implied that they were roommates.

When they got to his apartment as soon as he locked the door behind them he started kissing her. He had candles lit and he was kissing her really fast and was pushing her towards his bedroom. She was wearing her pajamas and he kept trying to take off her bottoms and she kept pulling them back up. He had pinned her down and kept telling her that he loved her and that he didn't want to hurt her. She kept saying "please stop" and he would say "I'm only going to do..." whatever he was going to do. He eventually got her pants off and her shirt and bra. He was touching her all over. He penetrated her vagina with his penis slowly. He eventually penetrated her all the way. She is not sure if he came inside her because at one point he had a condom on. He kept talking and asking her questions trying to keep her focused. He kept biting her nipples to the point that they were bleeding. He bit her in the vaginal area. She is not sure what part of her genitalia that he bit but it really hurt. He penetrated her digitally for a long time. He kept telling her if she was curious she could touch his penis but she refused.

After he finished he held her from behind around trying to comfort her. She was crying and shaking. He fell asleep that way. Emily just lay there awake for several hours. When he woke up he raped her again. Before he penetrated her he kept telling her that he didn't want to hurt her that morning but he kept trying to penetrate her. He finally did. It was extremely painful. He tried again to have sex but he couldn't get erect. He apologized for not being to become erect. Emily was afraid that he wouldn't let her out of his apartment and so she tried to normalize the situation as much as possible. She asked him what his plans were for the day and he asked her the same thing. She made up

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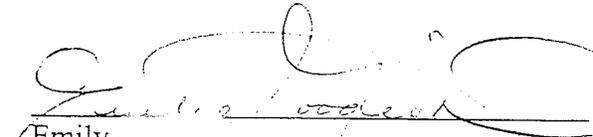
things that she would be doing. He asked her over and over again what she was going to say to her roommates. He told her not to say anything to anybody (he told her several times while he was assaulting her "isn't this wonderful, we'll have to do it again. This is our little secret." He would always use her name in his sentences. He would whisper in her ear.

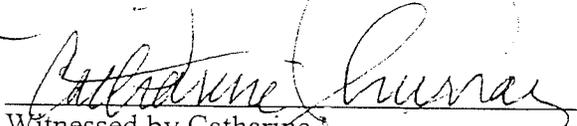
He took her home and she slept. Later when she took a shower her vaginal area stung and her nipples hurt. She could see bit marks on her nipples. He would bite in the same place every time and it cut them. Later that night she went out to dinner with friends. She broke down and told them that she had been raped.

They took her to see the bishop. It wasn't helpful. He called later to tell her to go to the ER. She went and was tested for many things. She was examined but didn't tell anybody about her nipples. It was kind of a blur. She was there about 6 hours. She talked to a police officer from Provo PD.

Joshua keeps calling her telling her that he is really worried about her. He acts like everything is normal. It is difficult for her to hear from him. The first message he left for her was "Thanks for letting me hang out with you last night. Give me a call if you want to." Emily wants him to stop calling her.

She has slept pretty much solid the last few days but still feels exhausted. She has nightmares and keeps replaying the situation in her mind. She has told her mother, father, one guy in her ward, and her three friends. Emily still feels responsible for what happened and feels that somehow it is her fault. At this point she doesn't want to press charges because she doesn't want to ruin his life and it would be humiliating with anyone else found out. (They share mutual friends).

  
Emily 10/23/07

  
Witnessed by Catharine

DISCOVERY SENT TO  
DEFENSE ATTORNEY

NOV 19 2007

I request this statement be shared with Biv police and any law enforcement agency regarding such.

  
Emily 10/23/07  
Date

witness: JS Baker

Mon Nov 4 14:42:08 MST 2001 / Lt. Lemmon

**IR # 011494**

Andrus and I went to M residence. We identified ourselves at which time he invited us in. He was dressed in a bathrobe and excused himself to put on something else. I noticed a young lady walking from the bedroom to the bathroom. She was small in stature and had dark colored hair.

M came out of the bathroom at which time I asked him if he would be willing to come to my office to discuss his relationship with Emily Referring to the young woman in the bathroom, I recommended that we talk in my office as what we had to talk about was of a confidential nature. M readily agreed to my invitation. He said he would come to see me around 11:00 a.m.

M arrived at my office around 11:00 a.m. at which time I conducted the following interview:

Subject: Joshua  
Officers: Arnold Lemmon & Matthew Andrus  
Date: 05 Nov 01  
Interview tape transcribed by Shasta Hamilton

AL: Tell me about, tell me who you are? Tell me where you're from and I know...

JM: Denver, Colorado. Oldest of four kids, convert to the Church, my family owns a bakery, that I've grown up in my entire life and worked in very hard as well.

AL: A labor intensive profession I suppose.

JM: I know work, I'm not afraid of work, I know work. The hours are very, very long and lousy and labor work and stuff so I understand about that a lot. I've been here in Provo for a little over three years now I guess and I've just been going to school and working, and living, divorced, unfortunately. There's nothing else I can think of.

AL: What's your major?

JM: Music, dance theater. So, sing, dance, act, and usually do musicals, I was taking this semester off from musicals so I could focus more on my school work and stuff but.

AL: Is BYU your first institution that you've been to?

JM: No.

AL: Where else?

JM: I went to University of Denver.

AL: That's right in Denver.

JM: Um-hm and I left there because they wanted to turn me into Mr. Opera Singer Man and I, I like singing, to do more musical style, you know, musicals and Broadway style, as opposed to like operas and classicals, and art songs and all of that kind of stuff. So I studied abroad for half a year and went to school in England and so that was a really good experience after being wonderfully accepted into the program.

AL: I want to declare I'm not doing the alleged rape case, that's Provo City, you've interviewed with Devon Jensen. Where are you with that anyway?

JM: I haven't heard anything from him since that day that I...

AL: Oh really.

JM: I haven't heard anything.

AL: Gosh when did we talk? It's been a week.

JM: I mean it was last, it was the Wednesday, like a week and a half ago. I haven't heard anything from him or anything. I haven't heard squat and so I'm like okay, nothing else here, what's going on cause I haven't heard anything whatsoever.

AL: Emily                      That's their case but there's a splinter case here and I just kind of wanted to get your side of it. I'm a big believer in getting both sides of people's stories.

JM: That's good.

AL: She said that she met you in a, I'm just reading this statement here, in a ballet class. How did that happen?

JM: There's two ballet classes, one at 8:00 a.m. that goes to 9:30 and the second one goes from 9:30 to 11:00. And same level of ballet, I'm in the 8:00 a.m. class and she's in the 9:30 class and the teachers tell us you know that we have to make-up for missing a class, we can just go to the other class to do a make-up. Just attend that class and go through their exercises (inaudible) to make-up for that absence and I met her going to the other ballet class. So that's how that happened, so we don't even have the same class together whatsoever, we don't have any classes together, not the same major, nothing.

AL: Let me read through this "he was making up a class. Emily states that her first interaction with a man named Joshua was about one month ago into her ballet class. He was making up a

class and stared at her and smiled the whole time. He would always come up and kiss her on the cheek and give her a hug. On Friday morning, October 19<sup>th</sup> he saw her. They were talking after his voice lesson." So are they trying to make you an opera singer here?

JM: No, that was just my regular lesson with my vocal coach (inaudible).

AL: "He started kissing her on the mouth and had her up against the wall." I guess this is the, is this the Richard's Building?

JM: No, no, no, this is down at the JK, not the JK..

AL: The Jesse Knight Building, down there at the bottom of the hill.

JM: The Knight Mangum Building.

AL: Yeah, the Knight Mangum not the Jesse..

JM: The KMB.

AL: KMB. Okay. "He started kissing on the mouth and had her up against the wall. This made her uncomfortable and she froze. He got carried away and touched her breasts underneath her clothing. He tried to touch her vaginal area underneath her underwear. She backed up and asked him to take her home. He dropped her off at a friend's house. And then he was saying "I hope you are not mad at me." Give me your account.

JM: Okay well you've read that statement as well, um.

AL: Were did you read it?

JM: I've read that entire account.

AL: Oh have you?

JM: Yeah.

AL: Oh, from the Detective?

JM: From the Detective because I had reviewed this with him. Yes, I'd met her via class and looks were exchanged, smiles exchanged, what have you and it grew from there into hugs and kisses and reciprocation of both ends. Okay, it was a definite, mutual thing and I think that one thing that's left out of that statement there is that a lot of things were mutual, okay?

AL: You've got your say, you tell me.

JM: From the respect, from the standpoint of she would come up and give hugs. She would come up and flirt, what have you. As far as the kissing, behind, with the building there. Yeah, I came out of my voice lesson, what have you, kisses, whatever, and the interesting part that she left out...

AL: Fails to mention.

JM: Right, kind of deletes is that she suggested, before any pressing up against the wall, we were inside just kissing, she failed to mention is that she asked me to go outside with her, you know that she didn't want anybody to see. Okay. She's like "Want to come outside." That's when we went outside.

AL: Okay, help me geographically.

JM: Okay, you're inside the KMB...

AL: You're on the bottom level?

JM: Bottom level. You know you come out and there's that alley that goes up by the Clyde Building?

AL: Um-hm, got you.

JM: And that math building, what have you. But that alley in between there, was out back there and went back into the stairwell that's back there too.

AL: I know exactly where you're at.

JM: I've never been over the stairwell area before so I was kind of like okay. But she's the one who suggested we go out there in the first place. Also, yes there was rubbing, there was touching, there was kissing, there was making out. Okay, there was on both hands, okay. She neglects to say that she was rubbing up against my body as well, her own body, okay. Moving her body up against mine as well. And that she did also have me up against the wall at one point, as well. And through the entire thing too, that she left out I continually, that I told the Detective this too down at Provo City, continually kept asking "Are you okay? Are you okay? Is this okay? Just tell me when to stop."

AL: Okay I want you to, I want your side of this thing.

JM: And that's, and I'm telling you...

AL: Tell me exactly what you did. As you said earlier, okay.

JM: Going over. Outside of her shirt. I asked those questions.

AL: You touched her breasts outside of her shirt?

JM: Um-hm.

AL: Okay. But you are always saying..

JM: Always checking back with her, okay.

AL: You are getting affirmative feedback.

JM: Right. It's like because I don't want to get you upset, I don't want to offend you, I don't want to push you to a place you don't want to go.

AL: Okay.

JM: Okay, you know keep the conversation, keep the, you know, the communication, you know let's keep it open here. Okay. Went up her clothes, whatever. "Are you okay?" "Yes, yes." Odd you know, just like her reaction, it was very sensual positive reaction. Okay with the sighs, the even more aggressive kissing on her end in return.

AL: What do you mean by sighs?

JM: Ahh, (inaudible) I mean I don't know how to accurately describe it but so and yes, felt around like this area here. Okay.

AL: Skin to skin.

JM: Skin to skin and she was doing the same as well, on myself. Had her hands all over my chest and what have you as well. Neglects to leave that out.

AL: Yeah well, they always do.

JM: You know and basically when we came to, I had to go leave, I had other commitments studying and I had to go to work when it happened. So I'm like okay, I go "Is there.." and this is when I was like "Are you doing anything Monday, are you doing anything later this evening? I would like to meet up with you and do something with you, hook up with you, you know, maybe go get something to eat, what have you. Are you doing anything?" "No." "Okay, may I have your number?" "Of course." She gives me her number.

AL: This is all in that same day?

JM: All in that same day, all of it, everything, this happened in one day. Okay, and I asked her for her number, she gave it no problem, okay. Then as we come back around the building she left her backpack inside. I said "Well I'm sorry I made you..." because she was waiting for her voice lesson too, so "I'm sorry I made you late for you voice lessons" she's "Well I'm not going (inaudible) so don't worry about it, you just go in and get my bag" "Okay". I go in and get her bag and come back out. "Can you give me a ride towards my friend's apartment?" "Sure, of course, no problem." I take her, drive her to her friend's apartment, drop her off, still kisses, holding hands, what have you the whole time, walking to the car, driving, and dropping her off. That's the situation, "I'll call you when I'm done with work (Inaudible)

AL: Okay this thing at the..

JM: KMB.

AL: KMB, the outside part, how long are we talking?

JM: I got out of my lesson, I would have to say less (inaudible) fifteen minutes, fifteen, twenty minutes.

AL: Now, as you touched her breasts, you are pinging off, I use the term pinging...

JM: That would accurately describe it, pinging off and reciprocating, okay yes I can go to the next level, yes this is acceptable.

AL: So you went skin to skin, touched her breasts. Did you ever touch her vaginal area? Skin to skin?

JM: Hair and outside the labial folds but nothing as in, like no internal.

AL: So you didn't finger her or anything, but you felt her pubic hair, her labia.

JM: Right.

AL: And what did she say?

JM: And what's she saying during all of this?

AL: Yeah.

JM: Lots of sighs, lots of smiles, um, and not too much besides that besides also "Are you enjoying yourself?" "Yes" "Are you enjoying this?" "Yes, I'm enjoying this."

AL: Okay. Let me get Matt in here.

(Phone call to get Matthew Andrus)

JM: And what's going on with the ban, if I may ask?

AL: Yeah, and that's what I wanted to cover here in a minute but I want to get Matt in here.

MA: What's up?

AL: Do you remember Matt? From a couple of years ago.

JM: A long time ago, yeah.

MA: It's been a little while.

AL: I didn't mean to kick you out, we were just covering this other case. I just wanted to get Josh's uptake on it. Matt did a case with you, how long ago?

MA: Oh, it was about a year wasn't it?

AL: And you said you were married.

JM: It was two years ago.

MA: Was it two?

JM: Yeah.

AL: So you were living at Wy...

JM: Wyview.

AL: Wyview. And it involved a burglary.

JM: This is correct.

AL: Give me your uptake on that. What you recall about it?

JM: I was friends with the lady over there and I had no idea about it, still to this day what that was all about.

AL: What was her name?

JM: Libby.

AL: It had a weird last name.

JM: Elizabeth

AL: I knew there was...

JM: But alleged to have gone into her house and taken things or what have you.

AL: Josh did you ever go in that house without permission.

JM: No, no way on earth without permission.

AL: Have you ever been arrested for stealing? Have you ever stolen anything in your life?

JM: No. I've never been arrested, never been charged with, well charged obviously, not charged but accused.

AL: Have you ever, what's the biggest thing you've ever stolen in your life?

JM: The biggest thing I've ever stolen? I would say I've never stolen anything besides mints when you leave a restaurant but not stealing.

AL: Okay, let me, I'm going to make an observation and I want to be really candid with you. You are a charismatic guy, I've talked to enough women that, if I talk to one more woman about you I think I'll have a panic attack. I've talked to former employers, I've talked to a lot of people.

JM: For instance?

AL: For instance, I know that you embezzled some money from back in Macaroni Grill. I know you burglarized that place up there.

JM: (inaudible) I still hold a (inaudible) on that one.

AL: You have a great, a super history. A super history of being a predator of, you know you and I talked the other night...

JM: Right.

AL: Of stealing, you know the list goes on and on and on. The only thing that's going to get you anywhere with all of this mess is for you to suck it up and tell us the truth, bottom line. And I want to start with that burglary, because I want to use that as a bargaining chip and say "Look, this kid was honest, he may have made some mistakes" but I know you did that burglary, I know

you went into that woman's house, I know you stole her keys. And for your own well being I'm asking you for the first time in your life to be straight, you are looking at a frigging First Degree Felony on this stuff and I think this lady is cooking a lot this up.

JM: Thank you.

AL: You know. I think you're suave, you're debonair and all of that but I think you'd cover your basis in a very up front way "Is this okay? Can I do this? Can I put this in here? Can I touch that?" But you're looking at a First Degree Felony. I know you did that damn burglary up there and I'd like to use that as some leverage and say "Look, the kid is honest with us okay, he's up front with us." I can't see you getting buried but I know you've got a heck of a track record.

JM: How is that a bargaining chip if I may?

AL: Because we have, we can share this with any law enforcement agency in the United States, Canada, you name it, okay. We have a criminal case on you, that we interviewed you and you denied, okay. Now, and that's a peanut case compared to what you're looking at here.

MA: And it all shows, what am I looking for, it, you are building a line here with Macaroni Grill, with this, I mean, substantiated or not, once this stuff starts coming out, it still builds a chain, a direction, okay. So if you don't cooperate, hmm, whatever.

AL: I think, I think that what's her name, Emily, got in over head. I think that woman in your apartment this morning was there of her own volition, okay. I think Emily got in over her head and said "Oh no, no," I see it happen to Freshman, Freshman women here all of the time. "Gosh now look what I've done" and then it's back to Jesus and they are all going to repent and everything. I can't, I can't see unjustly banning you from this campus for the rest of your life if what I feel is true with it, okay. But you haven't been honest with me, my (inaudible) there in the past and I want to be able to go to the administration and say "Look the kid at least is being honest with me" and I know you did that burglary and so do you, you know you took her keys and all I want you to do is be honest with me so I can represent you in a forthright manner. If you are guilty, so what you are guilty, suck it up and be done with it but the roof is coming down on you and I can't buy this, that you did all of this stuff here and she just said "Well then take me home." That's not the way a victim handles it, the victim ain't going to give you her phone number so I'm asking you for your own well-being, and I'm asking you to tell us about that case up there and then I'm just going to sit down with the administration and say "Look, he's being honest with this stuff, he's being honest with this stuff. Sure what he's done is wrong, this is all consensual crap, you're both, you know, but it's consensual.

JM: Yeah.

AL: But the burglary wasn't consensual and I'm going to share that burglary, Provo City is going to come up here and ask for a record on you and I want to be able to tell them, "Hey, we're

clearing that up” but you lied to Matt and I don’t appreciate that. I want you to tell us about that and then I’m going to bat for you for this. So tell us about the frigging burglary and don’t lie. You’ve got a history of being, again, you’ve got a great work ethic, you’re charming, you’re good looking, women fall head over heels with you, they go to bed with you in a heartbeat but it’s consensual kind of stuff. I mean I’m jealous, I can’t, I don’t have that charisma I guess but the bottom line is you’re digging yourself a hole but I want to be honest and forthright with you over this ban business and over this incident that occurred on our campus. I want to be in a position to believe you and the only chip I’ve got, the only chip I’ve got in that process is this burglary and I know you did it. There is no doubt in my mind, it’s a long time ago but it’s still on our records and I don’t, and so I’ve got to get in a position that I can believe you. My gut tells me I believe you on this and so I’m using this as a basis, now tell me about it. And be honest. Please, for your own well-being.

JM: (Inaudible) I found the keys when I was down working (inaudible) I found the keys. Her and her husband had a mess of video games that I didn’t have, greed got the better of me and I took the key that I found and went in and took those games.

AL: What did you end up doing with them?

JM: What did I end up doing with them, in the long run?

AL: Yeah.

JM: I ended up taking them to the DI actually.

AL: Did you really?

JM: Yeah, and the reason that I was not forthright with Matt is because he has no idea or inclination of (inaudible) about a completely screwed up marriage situation that I was in.

AL: Tell me what, and you know I was telling Matt that had to be a motivator.

JM: And that’s completely the motivator, completely, okay. You can talk to my family, my friends, about it.

MA: See the only information I had was, you know I didn’t know anything about your personal life but I knew you did this and you weren’t honest with me.

JM: And that’s because of the personal (inaudible).

AL: What, give me an idea, what was going on?

JM: I would have to say by far was beyond a shadow of a doubt the worse time of my life was

being married because either this girl or whatever was supposed to do this, this, this, and this, okay. And then I married her, overnight change on her and ended up alienating my family from me for a year because basically you know she gave me the alternative you know its me or them.

AL: Wow.

JM: And I'm thinking (inaudible) I got married she knew I chose you this is a big responsibility that I should take, okay. So I ended up turning away from my family for a year during that marriage of the subtle and degrading manipulation from her. She had me in such a place of fear and no understanding that if I would have just said Kate listen, "I got greedy, I made a mistake her, I found these keys and I misused them and I took, you know, these few video games here" and instead of telling that to her because she would have had absolutely no understanding about that, no...

AL: She would have had you over more of a manipulative barrel.

JM: Right, something that would have been much worse than anything else and...

AL: I can understand that.

JM: So it was to, and I'm grateful that I'm out of that marriage now.

AL: Now how long have you been divorced?

JM: I've been divorced for a year and a half now.

AL: Where was she from?

JM: Denver.

AL: So is she back to Denver now?

JM: I don't know where she's at, to be completely honest I have no idea, no idea and..

AL: So..

JM: So I'm grateful I'm out of that now because now I can be me again, I don't have to try to please this person who has demanded so much and manipulated me so much.

MA: What did, what was her hang up with your family, if you don't mind me asking?

JM: No, no, that's fine. Her hang up with my family is that they weren't LDS, the bottom line was "Oh, they're not Mormon and they're damned" and quote unquote calling my brother and

my father "Evil Incarnant" was not really, and basically just always passing judgment on my family because they just weren't LDS and they aren't interested in it. It's not their thing, they're not interested but that wasn't good enough for them it's like...

AL: Were you married to my mother in-law?

JM: And it was, and it was awful...

AL: So. I can understand that. So you had a fear that if you spilled your guts to Matt and your wife finds out and things are bad anyway, it's a mess. How did you get those keys?

JM: How? I just found them, when while I was cleaning that night she must have dropped them somewhere along the way, either to or from the car because..

MA: How did you know they were her keys?

JM: Because I had seen them before and because the Wyview keys have a particular look to them because I have the same ones.

AL: What time of day was this that you went into the apartment?

JM: It was in the middle of the night, oh, oh for in the apartment? You know, to be honest with you I don't even remember what time of day to be completely honest.

AL: So you go in, did you know where the video, what is it?

JM: Just video games, just little cartridge games. You know like Nintendo games, okay.

AL: I don't have a Nintendo so I..

JM: Yeah.

AL: So had you seen them there before?

JM: Yeah, because her husband and I, you know, friends hanging out, whatever, us two couples hung out and so once again, my ex-wife didn't like them because they were a little too liberal because they were from California and their views were, I'm not kidding you, I sw-I'm not kidding you on this...

AL: I was born in California, does that make me bad?

JM: I hope not. It makes you a little more realistic I hope. But her view was that they were too liberal and whatever and so we ended up severing that friendship with them because they were

not the type of couple that she wanted to hang out with. So I had been hanging out with them and whatever so it was a very in-out thing.

MA: Your wife was still aware of the investigation at the time. She came over with you when you came in the station the first time.

JM: Yeah.

MA: Did she ever ask you any questions about the video games, I mean you were still in possession of them at the time, didn't she ever get the wiser?

JM: No, no. Thank goodness in that respect.

AL: How long after you got into the apartment did you, you say you took them to the DI?

JM: It wasn't until, I took them to the DI like much later, like..

AL: Weeks, days, months, years?

JM: Not years and not months, probably a few weeks later.

AL: Okay, I'm going to ask you a person question and you be honest with me, continue to shoot straight with me. I have found over the years, sometimes people don't steal things because they need them, they don't steal them because of their pride, they just get a rush. What was your motivation?

JM: My motivation has always been a collector of video games I know that sounds...

— Tape clicks off. — Tape turned over to side B.

MA: Which leads me to believe that this has happened before.

JM: No, not before like, always in the sense that I've always collected (inaudible) since I was a little kid, I've always collected Star Trek stuff, always collected, you know, collect old things and have always just done this, collecting things, it's always.

AL: Now these are friends, what's their names? Tweets?

JM: Tweets. Not, more acquaintances than anything.

AL: Had you done things socially?

JM: A few.

AL: Had you been, you had been in that apartment socially?

JM: Once, for dinner, yeah.

AL: Is that where we (inaudible)?

MA: Yeah.

AL: Of the there's, there's, you've got four people, Tweets and, is it, you're a ladies guy, I know that. Were you, who of the two of these were you best friends with? Mrs. Tweet or Mr. Tweet?

JM: The lady, definitely because we worked together every night, you know.

AL: Had you ever done anything with her of a consensual nature, kissing, anything like that?

JM: Kissing.

AL: Making out?

JM: Yes.

AL: Touching?

JM: (Inaudible)

AL: Did you ever have intercourse with her?

JM: No.

AL: No skin to skin touching. Where, kissing in her apartment, your apartment?

JM: Oh, at work.

AL: At work. Was there a motivation for her to court this, revenge on her part, had you guys had a falling out or?

JM: I guess we did because I ended up not talking to her and she had me go talk to the sexual harassment people about us.

AL: Have you been up talking to Melissa ?

JM: That was back in the day, yeah, after we had a falling out. After this whole burglary thing or what have you.

AL: Did you ever, I call them trophies, did you ever go in that apartment and get any, like her underwear or anything like that, strictly video games?

JM: Strictly video games.

AL: Are you a trophy guy? Was that your trophy hanging outside today?

JM: No, that's my neighbors, that's one of my guy friends and it's more of a joke, a Halloween decoration sort of thing.

AL: I don't know, kind of a trophy guy.

MA: It scared me.

AL: So the only time, how many times did you go into that apartment using those keys?

JM: Just that once.

MA: What did you do with the keys?

JM: Ditched them in a dumpster.

AL: There at the apartment complex?

JM: Anything else?

MA: Well, we've done a lot of these types of investigations, um, one thing that really stands out in my mind is, entering an apartment to take something is a big step, okay, that I've never seen a case where that's the first thing that somebody has ever done as far as a theft, okay. I'm just curious about your past, not that it has anything to do anything but..

JM: Well apparently it does if you're asking me?

MA: What I'm saying is that one thing that I like to do in these types of circumstances, I like to get a history of what led a person, what kind of things had a person engaged in prior to this, before they took this step because everything is progressive, and you know that.

JM: Yeah.

MA: It may start out with a candy bar when you're a kid and things like that but to actually enter somebody's apartment, that's a pretty big step.

JM: I think one thing that also should be weighed in account to what should lead to such a bold

step or whatever is that the situation with my wife at the time had changed me into such a person that I made so many irrational decisions, of course embezzling from Macaroni Grill, okay, completely like that, that's what I'm talking about, I made very, very irrational decisions in a way that wasn't me, wasn't thinking because of where I had been pushed in that relationship with her that I had to hide and shield so much of myself and had to put up so many walls and defenses and parts of me just wanted to lash out so much and instead of going home and being like "This is crap about my family" you know, "This is bullshit, we shouldn't be having this problem here, with this, with my family," instead of confronting it and just being "All we're here and everything's so happy and perfect and lovely, here in Happy Valley, nothing could ever be wrong" you know, instead take out my aggression, take out my pent up thing, rush, whatever you need to get it out of your system, went to that level.

MA: What other kinds of things did you take?

JM: Out of the apartment?

MA: No, from anywhere. What other kinds of things did you take?

AL: Where were you working? Where were you working here on campus?

JM: Down at the RB, uh, custodial.

MA: What hours?

JM: From 10:30, 10 until 2:00.

MA: We get a lot of stuff stolen down there.

AL: Have you..

MA: Out of Lost and Found did you ever take anything?

JM: No.

MA: Signature cards? (Inaudible) lost Signature Card (inaudible).

AL: How much should I believe you at this point?

JM: I have no idea, that's for you..

AL: No, you tell me.

JM: And also when you review the tape you can tell that you were..

AL: I don't have to review the tape. Do you want me to explain the law of that? Does that bother?

JM: That's fine.

AL: In Utah, as long as one party is aware that they are being taped, I mean I wasn't even doing it, it's on I thought you, I generally tape interviews, I hate to take notes.

JM: I want to know right now though how this deals with the ban and be realistic with me because you know what, is there a possibility for me, because I mean, I know that I'm not demanding to come back to school to go to school, I would like to come up here to go to the theater, I'd like to come up here to go to church which I can't do right now, I'd like to come up here to go to the Health Center until my insurance runs out here in the next two months. I don't expect to be going to school here next semester or never.

AL: How much, okay then and shoot straight with me then, I think you...

JM: And I'm not asking for that, I'm just asking to have access to campus just like every other person.

AL: I think you've been fairly honest with me so I'll be fairly honest with you. Are you, how much of a risk are you with our coeds on campus? You're a ladies guy.

JM: As you pointed out, yes. At this point in the game I'll tell you, nothing, because you know what, after being burned by this which I completely believed was consensual and still do to this day, after being burned like that, forget it.

AL: The young lady that was in your apartment this morning, was she a coed here?

JM: No she isn't, she doesn't go to school.

AL: Where does she go to school?

JM: She doesn't go to school.

AL: Can you assure me she is not a coed here?

JM: I assure you.

AL: You'd be willing to have her come up and tell me she is not a coed?

JM: We can do that.

AL: Do it.

JM: (Inaudible)

AL: And then I'll review your ban with you.

JM: I love these bargaining chips back and forth, it's kind of like this, I just, I just decided that I think it's funny, it's like a witch hunt. Even though she doesn't go to school here or anything like that it's like...

AL: It's not a witch hunt.

JM: But you understand what I'm saying though.

AL: Josh, I've talked to enough women that...

JM: No, no, no, I'm saying like I know how it goes in this Church and it goes with this whole thing. We'll lessen this and do this for you if you tell us this, it's just deciding what (inaudible).

AL: It has nothing to do with the Church Josh.

JM: I've just noticed the same...

AL: I'm a sworn peace officer for the State of Utah.

JM: I appreciate that.

MA: Josh can I ask one thing again?

JM: Sure.

MA: Um, and this is completely up to you but you gave me a written statement at the time that I interviewed you before at, well to be quite frank with you, it doesn't look good now.

JM: So now we're going to go back in history here now?

MA: Um, it's just part of the report. I'll just ask you, do you want to give me an amended written statement concerning what you said today in contrast to what you wrote before?

JM: And what would that entail?

MA: Just basically what you told us today.

JM: Yeah, in the respect that what now I'm going to be charged with something else here.

MA: It's always been an open case on this, okay. I haven't closed it yet. All I'm saying is that you've told me one thing now which is completely contrary to what you put on paper before. I'm just asking you, would you like to give a written statement about what you said today.

JM: And are you pursuing this now?

MA: I've always been pursuing this, I never stopped pursuing this, okay. It's always been an open case, ever since then. I never called you up and told you I closed the case, did I?

JM: No but is that a law?

MA: Is what a law?

AL: It is with me, I'm managing him, I'm hard to get along with.

MA: If I don't catch a bad guy, it's not a closed case.

JM: And I apologize for lying to but do I have to go in and make amends to it, I don't know what you're going to do to me or whatever.

MA: I'm just asking...

JM: Okay, here's closure to the case.

MA: I'm just asking, do you want to do another written statement...

JM: And I'm just asking you as well...

MA: Well I've got to have some resolution with this case, where that's going to go right now, I don't know, I'm going to have to file...

AL: Josh, if I really thought you were a bad guy, I've got enough right now, I could tell him to arrest you, it's a Felony and I could have you booked into jail today and walk home tonight and look in the mirror and say I did my job. I'm not going to do that. I'm trying to decide, you're banned from this University, okay, I initiate 98% of all of the bans and it's rare that I do one on a student, it's really rare. I take it real seriously.

JM: I mean granted, you should.

AL: And that's why, you know, I read that case over with him half a dozen times and there was no doubt in my mind that you did the burglary and so I, yeah, I'm just trying to determine how

much here you're telling me the truth.

JM: And where do we lie on that?

AL: I think you've been pretty square with me. I think you're a victim too. You sound like you've been a victim of a hell of a manipulative marriage, I don't envy that, I wouldn't want to be in that. No one deserves that and I think I can understand, things are bad anyway so you do a burglary and you tell him, it's going to get back to your wife and things are bad anyway, I can, I'm not a machine, I can understand it. What I'm trying to assess now is, are you a threat? You know.

JM: Going back to...

AL: And to be honest, I'll ask, it's his job to get a written statement out of you.

JM: Do you consider me a threat? Be square with me.

MA: I'm not privy to everything you guys have talked about and maybe I'm coming into it kind of slanted because you lied to me before but if you were to ask me and I were the bad guy I would say, yes you are a threat and that would just be just from me but I'm not privy to all of the information...

AL: I think what I and I'm a big believer that...

JM: (inaudible) am I a threat to come up here to see a show, am I threat to come up and go see the doctor, am I a threat to go to my ward?

AL: If what she says is true, yes. If what she says is false, no. And I think I'm going to polygraph her. By the way Provo said they were going to poly you, have you heard anymore?

JM: I haven't heard anything. By the way, if you're going to polygraph her, there's plenty more information if you need it, like, as far as that evening, if you want, I don't know if that deals with you or not because...

AL: Tell me now.

JM: Well, if you want to throw in some questions in there, to polygraph her on, okay...

AL: Lay it on me now.

JM: Well...

AL: Like what?

MA: Do you want me in here for this?

AL: You're okay. We're not a (inaudible) in here.

MA: I just didn't know (inaudible) so.

AL: I'm going to staff all of this with you. Go ahead.

JM: As far as this whole sexual encounter with her and what have you, you asked if she gave me the number, yeah she did. Did she say it was okay for me to call her? Yeah. Did she show up at my place of employment that evening and waved at me, smiled at me, what have you? Yeah.

AL: Olive Garden.

JM: Okay. And as far the sexual encounter, ask her if she gave me oral sex? The only person who's not, I didn't ask her to, she did it of her own volition. As far as always checking back with her and stuff, did I take her home that morning to (inaudible) was she laughing and smiling during the whole thing? Did she keep saying show me what to do? This is new, I don't know what I'm doing for (inaudible) sex, show me. And that's why so much of that is all (inaudible), (inaudible) part of my life. Bottom line is, sure I made (inaudible) but (Inaudible) from where we are at right now (inaudible) present okay and knowing that that happened in a time where my life was all jacked up (inaudible) okay, (Inaudible) where I am now, where I'm at now anything (inaudible).

AL: Have you ever had any motivations like this before?

JM: This, no.

AL: Well, why don't you two go into your office, I would encourage you to get a statement, a closing statement, that's up to you guys. This, I'm going to sit down and I'm going to ask you about the squirreliest question you've even been asked in your whole life. If you are sitting in my chair and you know that guy over there, is he a threat?

JM: (inaudible) especially after this kind of crap comes up, believe me, my defense is concerning Emily (inaudible) as I'm and my friends know it, my family knows it, my defense is that I'm (inaudible). Am I a threat to anybody on this campus? No. And I'm not even asking to go to school here, to be honest with you, I know it's done. Okay, I know it would be such an uphill battle to try and get back in here at school that I just want to just walk away quietly and peacefully and let it go, okay. The only thing I'm asking for is that if I come up here to support a friend in a show, that I won't have to be arrested. That's all I'm asking for. I'm asking to go to Church, my Bishop knows all about this, he's the one that said, "Hey, go ahead, petition this. Ask for this ban to be lifted." He's the one that counseled me to do this, okay. I just want to go to Church.

AL: What ward are you in?

JM: 202.

AL: Are you in the Seventh Stake?

JM: Yeah. Good job.

AL: Yeah, I was a High Councilman and I was in the Bishopric in that Stake. I thought that building was still in our Stake.

JM: Yeah, (inaudible) talked to me and (inaudible) and to answer your question, if the roles were reversed right now (inaudible) even if it's a modification of the ban, or if it's just performances, games, church, health center.

AL: Well you two, amend this statement, is this the case?

MA: Yeah.

AL: If you go in and amend this statement.

JM: And I would hope that this, be honest with you, just gets dropped. I'm sorry about it, it's frivolous, I know it's stupid, I know it's silly, I know that you have a job to do, but I also hope that you guys can be understanding about it.

AL: Well I got bigger fish to fry than you but..

JM: Thank you.

AL: And I'm not saying that in a demeaning...

JM: No, no but I mean, this has weighed heavy on my mind about what's going on with this, what's going on with this and as far that I hope that this can be dropped too; over video games and a bad marriage, because it's not...

AL: How long were you kids married?

JM: Over a year.

AL: I was going to give you...

JM: And there's no history here, and no established pattern of...

(Hard to hear with Matt Andrus answering his phone.)

JM: You know because I can't be sitting idle back here going what's going on?

AL: What are your plans? Now are you still working at..Olive Garden.

JM: Working, that's all I'm doing right is working and I just want to get this and this cleared up and then I'm going to go from there, okay. Most likely I'm just going to be leaving this place on line. Go back to Colorado and help out the family.

AL: Get him started on that and then I want to ask you about the Mark (inaudible) case but I've got to run in a minute.

JM: So those are...

AL: Do you need a pen, Matt?

JM: So that's kind of why I came, to try and get this reconciled and then...

MA: Do you have this Detectives....

AL: Here I'll give you my card.

JM: I have your card.

AL: (Inaudible) can you read that? All right, thank you for your candidness, I appreciate it very much.

JM: Thank you, it's (inaudible).

AL: That's the end of the interview, Mr. Meyer just left my office, the time is 11:50 and the date is Monday, November 5<sup>th</sup>, it's Monday, November 5<sup>th</sup>.

27229855  
MR. 63-49-01 E01 10/20/01

229

Robereta 2325 RM / BED # 11

CURRENT MEDICATIONS

TIME: GCS: E V M Tot RTS  
RESP. CRT  
CARDIO  
NEURO  
SKIN  
MUSC - SKEL  
 ET  O<sub>2</sub>  
 IV  
 CPR  SPINAL PREC.  SPLINT  ICE  
 ELEVATE  DRESSING  OTHER  
TRIAGE NURSE X

RESTRAINED  YES  NO  UNK  
HELMET  YES  NO  UNK  
AIRBAG DEPLOYED  YES  NO  UNK  
WORK RELATED  YES  NO  UNK  
MODE OF ARRIVAL  Rescue / Amb.  Wheelchair  
 REPORTABLE CASE DATE TIME  
AGENCY:  
WT LMP 2 W/CS

PATIENT ASSESSMENT  
TIME OF RN INITIAL ASSESSMENT  
RESP CARDIO NEURO EENT GI GU GYN  
SKIN MUSC-SKEL PSYCH-SOC TEACH / LEARN PAIN  
VISUAL ACUITY OD OS OU

LABS  
 Electrolyte  
 Basic Metabolic  
 Comp Metabolic  
 Hepatic  
 CBC  
 Mar Diff  
 PTT  
 Lipase  
 Amylase  
 Beta HCG  
 Qual  
 Quant  
 Lactate  
 Uric Acid  
 Magnesium  
 Phosphorus  
 Cholesterol  
 LDH  
 GGT  
 CK  
 MB  
 Troponin  
 ISO  
 TSH  
 UA w/Micro  
 Dip  
 Urine Culture

PHYSICIAN'S REPORT

For Official Purpose Only  
Released by the County Attorney to  
DM JUL 29 2002  
Recd. police report x 2  
- refused -

CHIEF COMPLAINT Pt to ER room 112  
HISTORY  
No rape that occurred last night  
Pt said a guy she does not know  
well took her to his apartment  
et forced her to have intercourse  
against her will. Pt denies injury  
Pt does not want to press criminal  
charges or file a report. Pt is  
requesting physical exam et testing  
for STD. Rape crisis is at  
bedside (0040) Dr Oliver into  
eval (0040) crisis into eval.  
(0120) Pmvo Police in to interview AP  
(0200) Dr Oliver in for vaginal exam  
(0240) Pt medicated PO  
(0240) Pt medicated IM (0310) Dr  
Oliver in to reeval (0320) RN in  
to draw labs sent (0320) Pt  
given aftercare instructions  
released in stable condition  
to A/C BYU Health center

PHYSICIAN'S ORDERS  
Crisis Consult

DIAGNOSIS  
Alleged Sexual Assault

PHYSICIAN SIGNATURE  
DISCHARGE ASSESSMENT: TIME: 0324  
LOC:  Alert  RESP:  Unlabored   
SKIN:  Pink, Warm, Dry   
 Dchg  AMA  Admit  Transfer  
Report given to:  
 Verbal  Written instructions given to  
 Patient / SO verbalized understanding  
CONDITION ON DISCHARGE / TRANSFER:  
 Satisfactory  Fair  Serious  Critical  Expired  
DISCHARGE MODE:  
 Ambulatory  Crutches  Wheelchair  Stretcher  Carried  
Accom By: roommate

PAIN: (SOURCE, CHARACTER, INTERVENTION)

Table with 7 columns: TIME, T, P, R, BP, SaO<sub>2</sub>, O<sub>2</sub>, PAIN SCORE. Rows show vital signs at 2257, 0050, 0245.

Table with 4 columns: TIME, MEDICATION / DOSE, ROUTE / SITE, INIT. Rows show medications: Phenergan 25mg PO, Ciprod 500mg PO, Ovril 28 (2), Roxephin, Hep B vaccine.

X-RAYS  
 Chest  Ultrasound  
 Port  
 C-Spine  MRI  
 Cross Tbl  
 Flat Plate / Upright (ABD)  
 CT  Other  
 Head  
 Abd

PATIENT BELONGINGS  
BAG ON PT. NONE  
Clothing     
Wallet / Purse     
Money     
Jewelry     
Glasses     
Dentures     
Other     
DISPOSITION:  Not Disrobed  Patient  
 Family  Security  
 SEE BELONGINGS LIST  Soc. Svcs.

Table with 6 columns: #, IV FLUID / AMT / MEDICATION ADDED, RATE / HR, SIZE, SITE, STARTED BY, Time Dc'd, Amt Infused, Dc'd By

INITIAL SIGNATURE / TITLE  
SEE ADDENDUM ED FLOW SHEET

EMILY  
27229855  
MR. 63-49-01 E01 10/20/01

ENCOUNTER ERROR DATE OF ADMISSION: 10/20/2001

CHIEF COMPLAINT:

The patient is a 19-year-old female with an alleged sexual assault and intercourse approximately four to six hours before arrival to the emergency room.

HISTORY OF PRESENT ILLNESS:

Apparently this occurred during and after a date with a known alleged assailant but the patient refuses to want to obtain a legal examination or file charges at this time with the police. It has been recommended that she do so, at least that would give her the option of filing charges later on. We recommended this about three to four times but she has refused each recommendation.

REVIEW OF SYSTEMS:

She denies any other physical trauma. She denies any head trauma, headache, abdominal pain, nausea, vomiting, shortness of breath or difficulty breathing. She does complain of a little bit of pelvic area discomfort but no vaginal spotting or bleeding.

PAST MEDICAL HISTORY:

Past medical history is unremarkable. Last menstrual period was less than a week ago. Tetanus is apparently current by history and she denies any possibility of pregnancy at this time.

MEDICATIONS: None.  
ALLERGIES: None.

For Official Purpose Only  
Released by the County Attorney to

DM JUL 29 2002

PHYSICAL EXAMINATION:

Vital signs are stable. She is in moderate distress, extremely emotionally labile and crying periodically throughout at least my initial interview. Later on after some initial counseling she seems to be much more calm and not crying. Neurologically otherwise she is Glasgow 15, alert and oriented times three. Cranial nerves II through XII are intact. The neck is supple. Deep tendon reflexes, motor and sensory is appropriate and symmetrical. I do not see any obvious signs of any bruises or contusions on trunk or extremities. The HEENT examination is within normal limits. The neck is supple. Respirations are clear and equal. The cardiovascular examination is regular without rubs or murmurs. Abdominally she is completely nonacute. The pelvic and genitourinary examinations show no

UTAH VALLEY REGIONAL MEDICAL CENTER

P.O. Box 390  
1034 North 500 West  
Provo, UT 84605

PATIENT: ~~XXXXXXXXXX~~ EMILY  
MRN: 229630 ACCT: 27229855  
DOB: ~~08/13/82~~  
ROOM: ER  
PHYSICIAN: ~~TAMARA~~  
DATE OF EVENT: 10/20/01

show no signs of any tears, contusions, abrasions or lacerations. The extremities also are within normal limits. The skin, as mentioned previously, is negative for any obvious contusions, ecchymosis or lacerations. Neuropsychologically, as mentioned previously, she is much more calm at this time but was initially quite emotionally labile and crying.

**EMERGENCY DEPARTMENT COURSE:**

A serum pregnancy is negative, hepatitis screen is negative and HIV is pending. I sent down a vaginal culture. I have given her 500 mg of Rocephin IM and started her on Cipro 500 mg p.o. q.d.. I have also started her on Combivir one b.i.d. over the next four weeks and she has had a crisis consultation with multiple outpatient references for psychological support.

**CLINICAL IMPRESSION:**

Alleged sexual assault.

**PLAN:**

We will keep her on outpatient Cipro times one week and Combivir b.i.d. times one month. She has been advised to follow up with her primary physician in two weeks to recheck liver functions. We have also given her Ovril two p.o. now with Phenergan and we will give her another two Ovril p.o. 12 hours from now with another Phenergan. She is also to follow up with her primary physician if she misses or goes over her next expected menstrual period by one week. She is to repeat hepatitis immunizations at three and four months and repeat HIV screenings at 9 and 12 months. She leaves the emergency room with a roommate is satisfactory and stable condition.

**"I AUTHORIZE MY NAME TO BE AUTOMATICALLY AFFIXED TO THIS REPORT AS SIGNIFYING THAT I DICTATED THIS REPORT."**

M.D.

RO/cs

DD: 10/24/2001 12:05:01 DT: 10/25/2001 13:07:39

VJ: 752159 DOC: 570996

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**UTAH VALLEY REGIONAL  
MEDICAL CENTER**

P.O. Box 390  
1034 North 500 West  
Provo, UT 84605

**PATIENT:** GC EMILY  
**MRN:** 634901 **ENC:**  
**DOB:**  
**PHYSICIAN:** 277E  
**DATE OF ADMISSION:** 10/20/2001

Utah Valley Regional Hospital  
1034 North 500 West, Provo, UT 84605  
Triage Nursing Record

Last: \_\_\_\_\_ First: Emily Acuity: 2 Urgent  
Medical Record #: \_\_\_\_\_

DOB: \_\_\_\_\_ Age: 19 year old Sex: Female

Expected Area: Waiting Room  
Stated Primary Dr: Health Center BYU ,

MOA : 1 Ambulatory  
Arrival Date: 10/20/2001 Arrival Time: 22:57  
Triage Date : 10/20/2001 Triage Time : 22:57

Complaint : Other Pain  
Industrial: No  
Glasgow : 15  
Pain Score: 01

Triage Note: pt here for rape crisis eval. took place last night

Past Medical History (PMH): none

Allergies: none

Medications: paxil

Interventions:

Tetanus/Immunizations: Current

LMP: 2 wks ago

BP : 122/72  
Pulse: 87  
Resp : 16  
Temp : 95.5f  
SaO2 : 95  
SuppO2: RA

- Pt requests a physical exam & STD/HCG testing only  
- Pt doesn't want to press charges or file a report

- R. CRISIS here to be c pt. -

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Room #: \_\_\_\_\_

The above Triage Information is stored and signed electronically by Triage/Primary Nurse: \_\_\_\_\_  
11:00 pm , on 10/20/2001.

SEXUAL ASSAULT HISTORY AND PHYSICAL EXAMINATION FORM

Patient Information

Name Emily Case # 01038
DOB Age 41
Address 1121 DAVID JOHN HALL PROVO 84604
Phone Number 801-371- OK to leave messages yes no
Name of Parent/Guardian VALERIE & GARY
Name of Hospital/Clinic WVFPC
Date of Examination 10/23/01 Time of arrival 1500
Patient seen by examiner at 15:00 Discharge Time 11030
Person accompanying patient to hospital PARENTS
Police Officer DET. JENSEN Badge # 097
Police Department PROVO Agency Case # 211005A
Rape Crisis Worker DCFS Case Worker
Persons assisting with examination(RN,LPN etc.) MONICA MYERS MA
Support Person Who Can be Contacted in Case of Emergency
Name Relationship Phone #

Medical History

- 1. Number of vaginal deliveries 0.
2. Have you ever had a problem with blood clots? yes no.
3. Do you have any heart disease? yes no
4. Allergies to medications: SULFA
5. Current medications: PAXIL 10mg
6. First day of your last menstrual period. 10/9/01 7. Age of Menarche 13 y/o
8. Date of last Tetanus Immunization ?
9. Name of Person Providing History (if someone other than patient)
10 Hx of blood transfusion in the last 28 days yes no
11. Hx of bone marrow transplant yes no 12. Hx Genital Surgery (last 60 days) yes no
13. Other

Incident History

1. Date of Assault 10/20/2001 2. Time of Assault ~ 3:00 am
3. Location of Assault (City) PROVO (County) UTAH
4. Place of Assault (home, car, etc) APARTMENT
5. Describe any physical injuries or pain resulting from the assault. bite injuries to breasts and vulva area

6. Date and time of last consensual intercourse within 72 hours - other than this event on 10/20/2001
7. Number of suspects 1

8. Relationship to suspects: (stranger) (family-specify) (acquaintance) (other-specify)
8. Brief narrative: patient was lured into suspects apartment where he fondled her, restrained her with his hands, removed her clothing, penetrated her vagina with finger, bit her breasts & vulva, forced her to have intercourse twice.

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Patient Name EMILY Case# 01038

Acts Described By Patient:

Penetration of vagina	Yes	No	Attempted	Unsure	Position of patient and suspects(s)/Location of offense
Penis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>on back, stomach</u>
Finger	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>sitting</u>
Foreign Object	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Penetration of rectum	Yes	No	Attempted	Unsure	
Penis	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Finger	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Foreign Object	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Oral contact of genitals	Yes	No	Attempted	Unsure	
suspect to patient	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
patient to suspect	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Oral contact of anus	Yes	No	Attempted	Unsure	
suspect to patient	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
patient to suspect	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Hand to genital contact	Yes	No	Attempted	Unsure	
suspect to patient	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
patient to suspect	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

Did ejaculation occur	Yes	No	Attempted	Unsure	
Inside body orifice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>condom on - ejaculate in vagina</u>
Outside body orifice	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Suspect licking patient	Yes	No	Attempted	Unsure	
Suspect licking patient	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Suspect kissing patient	Yes	No	Attempted	Unsure	
Suspect kissing patient	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Suspect biting patient	Yes	No	Attempted	Unsure	
Suspect biting patient	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>mpples - caused bleeding vulva</u>
Did patient injure suspect?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<u>biting as above noted.</u>

Verbal threats made by the suspect: "don't tell anyone or I'll get kicked out of BYU"

Other: \_\_\_\_\_

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General appearance and affect of patient: appearance is casually dressed female - somewhat flat affect, concerned.

Describe condition of clothing (tears, presence of foreign material:) not available

Patient dress during assault (Nude, partially nude) describe partially nude part of the time & nude part of the time

Items taken from scene by patient: took clothing

Items left at scene by patient 0

Did suspect take item(s) from patient or scene?  Yes  Unsure  No

Lapse of consciousness:  Yes  No

Patient:  Alcohol  Drugs  Unsure  No

Suspect  Alcohol  Drugs  Unsure  No

(Clarify how patient knows about drug/ETOH use, observed, smell, behavior)

**Post Assault Hygiene**

	Yes	No
Urinated	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Defecated	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Genital Wash/Wipe	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Bath/Shower	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Douche	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Removed/Inserted		
Tampon	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Sponge	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Diaphragm	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Condom	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Drank or rinsed mouth	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vomited	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other		

**Physical Coercion by suspect(s):**

	Yes	No	Describe: (area of body and type of equipment used)
Grabbing/Holding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>arms, stomach, thighs, breasts.</u>
Hitting	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Kicking	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Choking	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
If yes, describe sclera			
Physical restraints	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Weapon Injuries	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Weapon type			
Burned	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

**Methods of Concealment:**

	Yes	No	Unsure	Yes	No	Unsure
Condom <u>2</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Gloves	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mask	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Washes self	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Washes patient	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Clean Scene	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Lubrication	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Type Used		
Other:						

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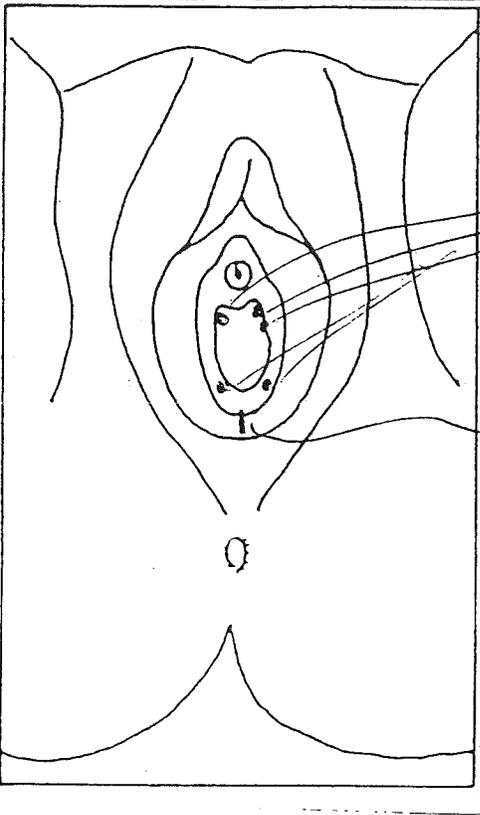
NOV 19 2001

EMILY

DIA-26

ANOGENITAL EXAMINATION

VULVA



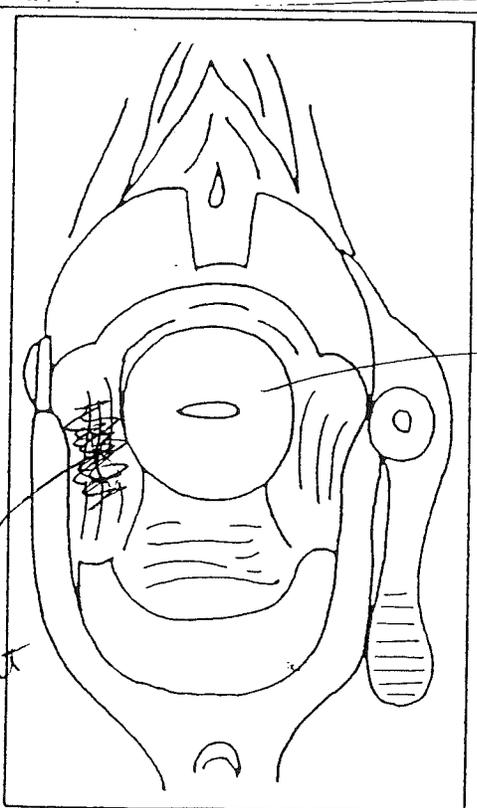
FOURCHETTE

laceration ~ 1.2 cm

HYMEN

ANUS/RECTUM

VAGINA



CERVIX

significant erythema of cervix

purple and present

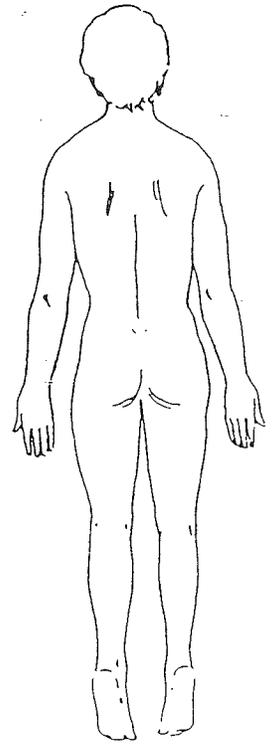
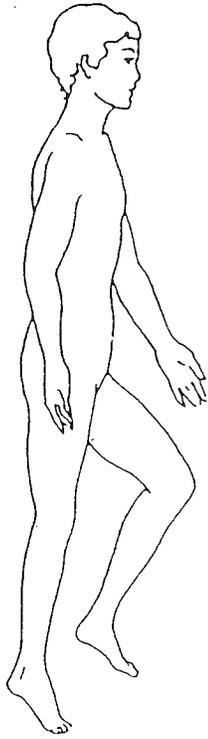
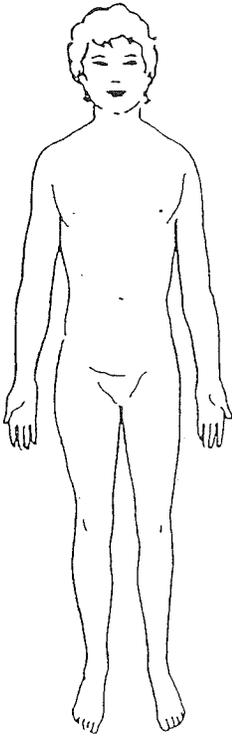
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DEFENSE ATTORNEY

CASE #

01038

NOV 19 2001

EmilV



EXTRAGENITAL EXAMINATION

HEAD AND NECK

⊕

ANTERIOR

TRUNK

nipples cracked, possible healing laceration on superior aspect of (R) nipple.

POSTERIOR

EXTREMITIES

⊕

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NOV 19 2001

CASE #

01036

Smith

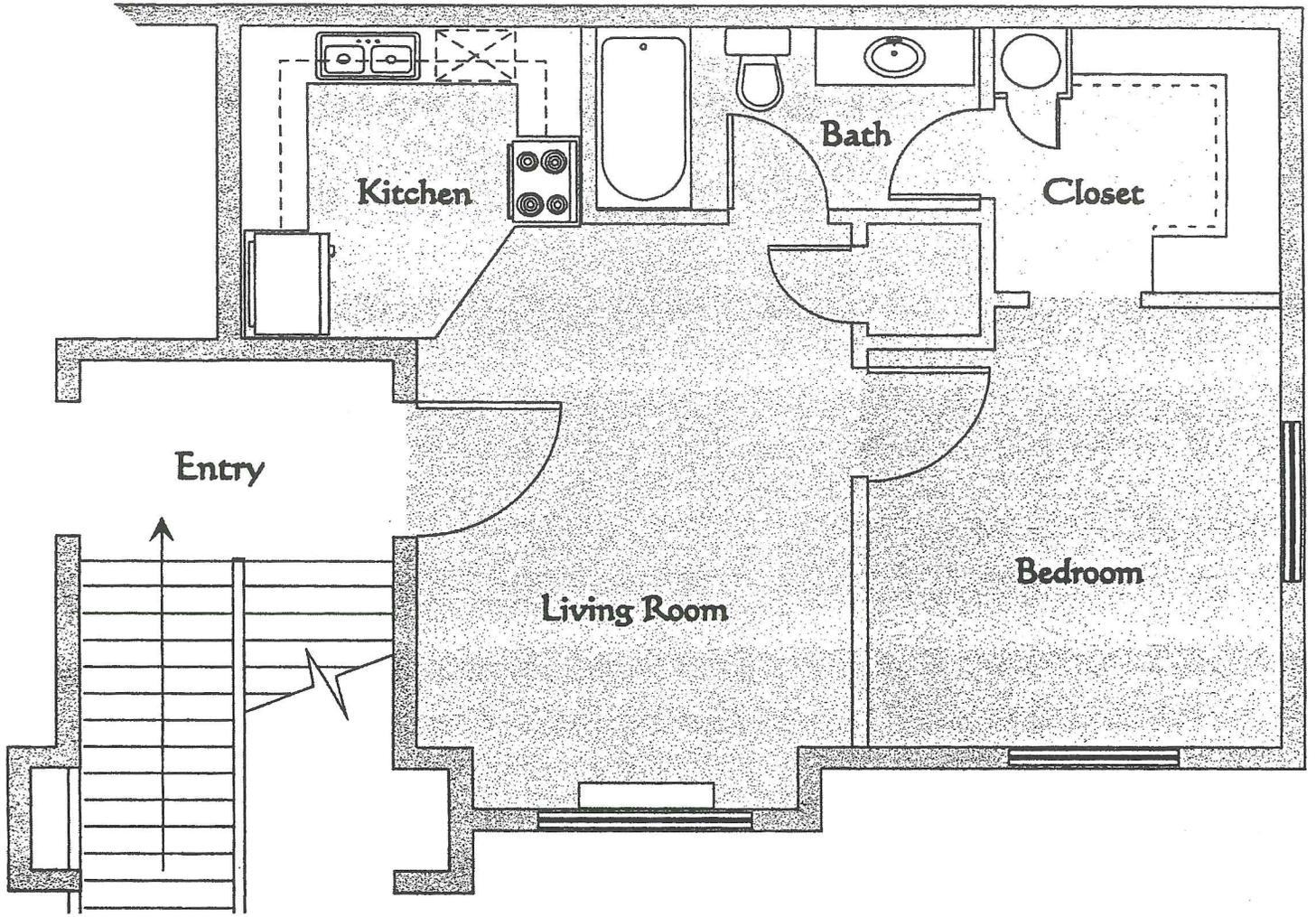


Josh's room

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SEP 03 2002



KAY BRYSON #0473  
Utah County Attorney  
100 East Center, Suite 2100  
Provo, Utah 84606  
Telephone: 801-370-8026  
Fax: 801-370-8051

IN THE FOURTH JUDICIAL DISTRICT COURT  
IN AND FOR UTAH COUNTY, STATE OF UTAH

<p>THE STATE OF UTAH, Plaintiff, vs. JOSHUA M Provo, UT 84604 DOB: Defendant.</p>	<p>INFORMATION  Case no. Judge  OTN</p>
---	---

KAY BRYSON, Utah County Attorney, State of Utah, accuses the defendant(s) of the following crime(s):

**COUNT 1: RAPE**, a first degree felony, in violation of 76-5-402, in that **Joshua M.**, on or about October 20, 2001, in Utah County, Utah, did have sexual intercourse with another, without his/her consent.

**COUNT 2: FORCIBLE SODOMY**, a first degree felony, in violation of 76-5-403(2), in that **Joshua M.**, on or about October 20, 2001, in Utah County, Utah, engaged in a sexual act upon or with a person 14 years of age or older, involving the genitals of one person and the mouth or anus of another person, regardless of the sex of either participant, without the consent of the other.

**COUNT 3: FORCIBLE SEXUAL ABUSE**, a second degree felony, in violation of 76-5-404, in that **Joshua M.**, on or about October 20, 2001, in Utah County, Utah, touched the anus, buttocks, or any part of the genitals of another, or touched the breasts of a female person 14 years of age or older, or otherwise took indecent liberties with the actor or another, with intent to cause substantial emotional or bodily pain to any person or with the intent to arouse or gratify the sexual desires of any person, without the consent of the other, regardless of the sex of any participant.

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DEFENSE ATTORNEY

NOV 19 2001

Information is based on evidence provided by: Officer D. Jensen, Provo Police Department.

Defendant appears by: Summons ( ) Warrant (X) In-Custody ( )

Carlyle K. Bryson  
UTAH COUNTY ATTORNEY

Mariane O'Bryant  
DEPUTY UTAH COUNTY ATTORNEY  
MARIANE O'BRYANT

DISCOVERY SENT TO  
DEFENSE ATTORNEY

NOV 19 2011