

APPENDIX C:

SAMPLE PROGRAM
OPENING AND CLOSING

INTRODUCING THE UNDERSTANDING SEXUAL VIOLENCE PROGRAM

The moderator's introductory remarks are crucial in setting the tone for the program. This Faculty Manual includes suggested topics for the program moderator to address in his or her opening remarks.

The manual also includes the written opening remarks made by the program moderator for the Mississippi *Understanding Sexual Violence* program. These remarks can be easily adapted for use in introducing your program.

A. Fairness is the Goal

There are several key points that the program moderator should make at the beginning of the program, including:

- Myths and stereotypes about sexual assault impugn the integrity of the judicial process;
- The goal of this program is to ensure fairness in the judicial process;
- Participants are not being asked to become victim advocates or prosecutors;
- Participants must always be mindful of protecting the defendant's rights; and,
- Judges have an obligation to create a process that is as fair as possible for everyone involved.

Some of the judges who participated in the pilot programs felt they were being asked to pre-judge the defendant or take on the role of victim advocate. That is not the case, and it is critically important for the program moderator to stress that fairness, not advocacy, is the goal. As the independent evaluator wrote in her evaluation of the pilot programs:

Because this program offers information that counters the prevailing beliefs about stranger and nonstranger rape, victims' reactions, and rapists' behaviors, judges need to be fully informed about the research demonstrating that what is believed to be "common knowledge" is actually false information. Thus, for judges to take the leadership role in ending the use of false information and flawed perceptions about both victim and offender behavior and appearance, they must be fully armed with all significant social science and medical research. Also, they need to have an understanding of legal issues related to sexual assault when their actions in the courtroom and their decisions are challenged.

The program moderator must address the fairness issue without undermining the credibility of the curriculum. One way to accomplish this is by offering examples of how judges are using the information in the curriculum to promote the fair administration of justice, without undermining defendants' rights.

B. Explain the Curriculum Format

The program moderator briefly explains the curriculum format and reviews the program agenda.

C. Introduce the Judicial Faculty and Any Other Presenters

The program moderator introduces the judges serving as small group facilitators. Explain that you will introduce the expert faculty at the start of their separate units.

D. Review the Participant's Binder and the DVD

The program moderator explains that the Participant's Binder includes all the materials they will need for the program—for example, the experts' slides and the program exercises—and that you will direct participants to each item as the program goes along.

Explain that the DVD is a resource for future reference that includes presentations on the topics that will be covered during the program and supporting materials for these presentations. Point out that in addition to the studies included on the ROM portion of the DVD, there is an associated website, www.njep.org/usvj dvd, which provides these materials and a searchable annotated database. The database covers a wide range of issues related to sexual assault, to be accessed as needed.

E. Discuss the Direct Applicability of the Program

The program moderator concludes his or her opening remarks by giving several examples of how the material is both relevant and applicable to the participants' role as judges. The Mississippi program moderator asked participants to consider the following issues at the conclusion of his opening remarks:

- The assessment of credibility of victims of nonstranger rape by judges and juries;
- The adequacy of the *voir dire* process in nonstranger rape cases;
- The admission of expert testimony about the behavior of victims of nonstranger rape;
- The extent to which plea bargains and sentencing in nonstranger rape cases adequately consider psychological injury; and,
- What can be done to minimize retraumatization of the victim of nonstranger rape during the trial process,

There are numerous other ways to conclude the opening remarks, but the key is to explain how the material covered has direct application to the judges' role in promoting fairness.

***Understanding Sexual Violence:
The Judge's Role
in Stranger and Nonstranger Rape and Sexual Assault Cases***

Sample Program Introduction

Opening Remarks by Judge Thomas J. Gardner, III
Mississippi Judicial College
Oxford, Mississippi
October 2000

Good morning. Welcome to the Mississippi Judicial College's Program on Understanding Sexual Violence.

Some general remarks about what you are about to see and hear in the next two days are in order. This presentation is the result of a considerable investment of time and resources. I trust you will find it both educational and useful.

Under the leadership of Lynn Hecht Schafran, the Director of the National Judicial Education Program to Promote Equality for Women and Men in the Courts, this program has been presented in over twenty states. The focus of the program is not to make you an advocate for anyone, but to promote fairness in the judicial process where sexual violence is involved.

In the course of the next two days, we will explore long held myths that no doubt influence you in handling cases of this nature.

In a few minutes you will be asked to take a short test. In May of this year several of us went to Nebraska to take part in this program. I took the same test that you will take soon. I was fairly confident that after 20 years on the bench, I had some understanding of the subject matter. Some of my ideas were just wrong. I think you will find that you, too, have misconceptions about this whole area.

We will hear from rape victims and take a look at the impact on them. We will look at Mississippi law and hear from an expert about the *voir dire* process. We will explore treatment of offenders and options in sentencing. You will hear from jurors who have served on sexual assault cases and about a new program just starting in our state: the Sexual Assault Nurse Examiner, or SANE program.

I believe that when this program ends tomorrow you will have a better understanding of the dynamics of sexual violence as you go about conducting the trial and in sentencing those convicted of, or pleading guilty, to crimes involving sexual violence.

Thank you for committing the extra time this session entails. Those of us who are participating in the presentation promise to make good use of your time.

Let me share with you what former judge Mary Morgan stated about this curriculum:

This curriculum is not about convictions or acquittals, about judges becoming advocates for rape victims, or about judges becoming prosecutors.

This curriculum is about the fact that rape myths impugn the integrity of the truth-finding process. The curriculum addresses the reality that there are multiple myths about rape – the act, victims and perpetrators. These myths are based on gender bias or sexism, race bias or racism. Judges share these myths, as do attorneys, court staff, jurors and the public at large. When myths come into the courtroom, the result is unfair trials in fact, or at the very least, in the perceptions of the public. Rape myths distort the process.

The job of a judge is not to be a prosecutor, or to take care of the alleged victims, or to obtain convictions. The judge's job is to manage a process we call court proceedings in as fair and impartial a fashion as possible – as little tainted by myths and stereotypes as possible. Judges must create a process that is as conducive as possible to finding truth and achieving justice.

It might also be helpful to you to understand that this program is about adult victims, not children.

[NOTE: Judge Gardner then introduced the members of the judicial faculty and the NJEP faculty and explained in the Participant's Binder.]

At the conclusion of the program tomorrow, you will be asked complete the evaluation contained in your materials. It is important that you do so. Your input is important.

Your identification badge has a colored ribbon, which identifies the small group with which you are to meet. When you go to a group discussion, be sure to join the proper group.

As you listen to the first presenter, please be thinking about the relationship of her presentation to the following subjects:

- The assessment of credibility of victims of nonstranger rape by judges and juries;

- The adequacy of the *voir dire* process and jury instructions in nonstranger rape cases;
- The admission of expert testimony about the behavior of victims of nonstranger rape;
- The extent to which plea bargains and sentencing in nonstranger rape cases adequately consider psychological injury; and,
- What can be done to minimize retraumatization of the victim of nonstranger rape.

[NOTE: This program began with the Victim Impact unit. We suggest you begin with the Sex Offenders unit for reasons explained in the Faculty Manual.]

CONCLUDING AND EVALUATING THE *UNDERSTANDING SEXUAL VIOLENCE PROGRAM*

A. Review the Rape Information Self-Test Answers and Commentary

Unless you discussed there Answers and Commentary after participants took the Self-Test at the start of the program, use them now as an overview and review of the entire program. The Answers and Commentary are in Appendix J.

B. Closing Remarks

At the end of the program, the program moderator takes a few minutes to make some closing remarks. Some important points to cover include:

- The purpose of the program is to ensure fairness in the judicial process;
- Another key goal is to help judges minimize retraumatization to the victims, while still protecting the defendant's rights;
- The material has direct application to participants' role as judges;
- The DVD, supporting materials and searchable, annotated database at www.njep.org/usvdvd, will serve as excellent resources in the future;
- Thank the participants for their attention and participation; and,
- Ask them to take a few minutes and complete the written evaluation, stressing the crucial importance of written feedback.

C. Written Evaluations

Please see Appendix I for a sample evaluation instrument.