

Hearing Worksheet Example

(I cleaned up the worksheet from our training 8/14/2025 and added some suggestions from the discussion with the other panelists) ***Always use the exact language of the CRR when you make your own work sheet.***

“Sexual assault” - Any sexual act that constitutes rape, sodomy, sexual assault with an object, fondling, incest, and statutory rape, as defined below:

- “Rape” is penetration, no matter how slight,
 - of the vagina or anus with any body part or object,
 - or oral penetration by a sex organ of another person, or by a sex-related object,
 - without the consent of the victim. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent. Attempted Rape is included.

*One possible set up

Facts making occurrence more likely	Facts making occurrence less likely

- “Sodomy” is oral or anal sexual intercourse with another person,
 - without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.

*Possible Question: what behaviors led you, respondent, to believe complainant consented?

- “Sexual Assault with an Object” is
 - using an object or instrument

- to unlawfully penetrate, however slightly,
- the genital or anal opening of the body of another person,
- without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity. An “object” or “instrument” is anything used by the offender other than the offender’s genitalia.
- “Fondling” is
 - the touching of the private body parts of another person
 - for the purpose of sexual gratification,
 - without the consent of the victim, including instances where the victim is incapable of giving consent because of their age or because of their temporary or permanent mental or physical incapacity.
- Consent to sexual activity is knowing and voluntary.
 - Consent to sexual activity requires of all involved persons a conscious and voluntary agreement to engage in sexual activity.
 - It is the responsibility of each person to ensure they have the consent of all others engaged in the sexual activity.

**Possible Question: What actions did you take, respondent, to ensure you had consent to X?*

- Consent must be obtained at the time of the specific activity and can be withdrawn at any time.
- Consent, lack of consent, or withdrawal of consent may be communicated by words or non-verbal acts.
- Someone who is incapacitated cannot consent. Silence or absence of resistance does not establish consent.
- The existence of a dating relationship or past sexual relations between the Parties involved should never by itself be assumed to be an indicator of consent.
- Further, consent to one form of sexual activity does not imply consent to other forms of sexual activity.
- Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.
- Coercion and force, or threat of either, invalidates consent.

- Incapacitation. A state in which rational decision-making or the ability to consent is rendered impossible because of

- a person's temporary or permanent physical or mental impairment,
- including but not limited to physical or mental impairment resulting from

- drugs or alcohol,

**possible question: Which of you was the most intoxicated at the time you entered respondent's room?*

- disability,

- sleep,

- unconsciousness

- or illness.

Consent does not exist when the Respondent knew or should have known of the other individual's incapacitation. Incapacitation is determined based on the totality of the circumstances.

- Incapacitation is more than intoxication, but intoxication can cause incapacitation. Factors to consider in determining incapacity include, but are not limited to, the following:

1. Lack of awareness of circumstances or surroundings (e.g., an inability to understand, either temporarily or permanently, the who, what, where, how and/or why of the circumstances; blackout state)
2. Inability to physically or verbally communicate coherently, particularly with regard to consent (e.g., slurred or incoherent speech)
3. Lack of full control over physical movements (e.g., difficulty walking or standing without stumbling or assistance)
4. Physical symptoms (e.g., vomiting or incontinence).