

105.31 RAPE OR SEX OFFENSE CASES - RELEVANCE OF VICTIM'S PAST BEHAVIOR.

Evidence<sup>1</sup> has been received concerning prior sexual behavior<sup>2</sup> of the victim. You may consider this evidence only as it may tend to show

[that such behavior was between the victim and the defendant];

[that the act(s) charged [was] [were] not committed by the defendant];

[that the victim consented to the act(s) charged];

[that the victim behaved in such a manner as to lead the defendant to believe that the victim consented];

[that as the basis of expert psychological or psychiatric opinion, the victim fantasized or invented the act(s) charged].

If you believe this evidence, you may consider it only for the limited purpose for which it was received.

*NOTE WELL: This instruction may properly be given either at the time the evidence is received or in the charge, or both.*

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1. When the case is not a rape or sex offense case, see N.C.P.I.-Crim. 105.30.

2. Rule 412(a) defines "sexual behavior" as "sexual activity of the complainant other than the sexual act which is at issue in the indictment on trial."