



E44 Impact of the Implementation of the New Adversarial Criminal System on the Prosecution and Conviction of Serial Sex Offenders in Colombia

Juanita Montes, BSc, Fiscalía General de la Nación, Calle E 35 No. 4- 31 PISO 5, Bogota, COLOMBIA*

After attending this presentation, attendees will understand the experience of a Colombian prosecutor and the task of investigating and prosecuting serial sex offenders, as well as the obstacles posed by the recently adopted criminal system within a framework of tolerance towards sexual assault.

This presentation will have an impact on the legal community, as well as on investigators, detectives, and forensic experts involved in the process of investigating and prosecuting sexual predators. These offenders skillfully evade the action of the law and mingle with society; they are usually protected by procedural assurances that hinder their identification and prosecution. The experience obtained in the area of sex crime investigations will be described. This presentation will impact the forensic science community by sharing knowledge acquired in trying to overcome the obstacles that characterize the shift from an inquisitive criminal system to an accusatory criminal system. The following include some of the problems that must be overcome by the new system: old paradigms and differences of opinions among judges, prosecutors, victim advocates, and defense attorneys. Although these changes have occurred in the context of a culture that resists change, they have provided knowledge and created skills that will be useful for future criminal litigation.

It has been difficult to sort out situations where multiple interpretations of the new statutes have created an abundance of case law. The claims submitted by the public have had a significant impact, which ranges from taking justice into their own hands, sometimes promoting lynching of sexual predators and claiming life sentences for sex criminals. The above has changed the legal reality between one procedural situation and another or between one trial and another. This has become a challenge not only for those involved in the criminal process, but also for Colombian investigators and detectives.

Conducting investigations in an overly lenient legal framework, where automated searches for information in computer systems, such as

CODIS, are restricted and subject to prior approval by a judge; where questioning a suspect or offender is still a taboo; where the arrest of the suspect must comply with requirements that hinder the effectiveness and efficiency of police activities; all have forced investigators, detectives, and prosecutors to develop skills and abilities that will be discussed in this presentation.

This study will show how a case was closed when a judge accepted the allegations of the defense attorney and granted home arrest to a serial rapist who had raped at least five victims in a time period of six months. Arguments were submitted to demonstrate that the sex crimes committed by the same person on different dates, in different areas, against different victims, and with different evidence were not connected and therefore should not be prosecuted in one trial. Therefore, the perpetrator received the benefit of one conviction.

Among the cases presented here, how the case of a sexual predator was solved will be shown. The offender accepted responsibility for one sexual assault, while he was also considered a suspect in five additional assaults. Strangely, DNA testing overruled him as a potential donor of the sperm found on the victims. This occurred when the case was to be arraigned and a few days before the plea agreement and sentencing. Was this the conviction of an innocent person or the acquittal of a culprit?

The above mentioned examples will show the dilemma between the assurance of sexual offenders' fundamental rights or the rights of their victims. Both investigations and prosecutions should become more effective and efficient in order to respond to society at large.

Sexual Predator, Investigation, Prosecute