Student Advisory Memorandum No. 10

August 15, 1991

To: College Presidents

From: Vice Chancellor Robert E. Diaz

Re: New State Laws Regarding Dissemination of Sexual Assault Prevention Information

Effective September 1, 1991, state law requires that each college shall inform incoming students about sexual assault prevention measures through a variety of activities in order to inform students about sexual assault, promote discussion, encourage reporting of incidents of sexual assault and facilitate prevention of such incidents.

In my Student Advisory Memorandum No. 5 dated December 21, 1990, I advised you of the new legislation regarding campus security and reporting requirements. In addition, Vice Chancellor Tilden J. LeMelle wrote to you on June 13, 1991 urging that you submit your reports directly to the State Education Department and copy his office.

I have been advised, that the required information has not been forwarded to the State Education Department or the Vice Chancellor for Student Affairs and Special programs. The first annual reports are due at the State Education Department by September 30, 1991.

Accordingly, and with a view towards coordinating and assuring compliance with the law, please send your reports to my office to the attention of Esdras Tulier, Esq., no later than September 13, 1991. Thereafter, your yearly reports should be forwarded to the Vice Chancellor for Student Affairs and Special Programs. Attached is a format for your reports which should facilitate your efforts in this regard.
The law requires dissemination of the following information to incoming students: 1) applicable laws, ordinances and regulations on sex offenses, 2) the penalties for commission of sex offenses, 3) the procedures in effect at the college for dealing with sex offenses, 4) the availability of counseling and other support services for the victims of sex offenses, 5) the nature of and common circumstances relating to sex offenses on college campuses, and 6) the methods the college employs to advise and update students about security procedures.

I am therefore enclosing the following materials which may be used by a college to disseminate such information to incoming students:

I. Sections of The New York State Penal Law regarding sex offenses.

II. Itemized penalties for commission of these sex offenses.

III. Board of Trustees Policy Against Sexual Harassment.

IV. A sample statement as to the availability of counseling and other support services, outside of the college, for the victims of sex offenses (colleges should modify and add to this statement its particular practices and resources - see Attachment IV-a for a sample).

V. A sample statement as to the nature of and common circumstances relative to sex offenses on campus (colleges should modify and add to this statement as appropriate).

VI. A sample statement as to the methods the college employs to advise and update students about security procedures (colleges should modify and add to this statement as appropriate).

c: Deputy Chancellor Laurence F. Mucciolo
Acting Vice Chancellor Tilden J. LeMelle
Chief Student Affairs Administrators
Legal Affairs Designees

SEXASSAU
MDS/ga/iv
Memorandum

To:        Assistant Commissioner for Academic Program Review
            New York State Education Department

From:      President ____________________________

Via:       Vice Chancellor for Student Affairs and Special Programs
            The City University of New York

Re:        Certification of Compliance with Section 6450 (1-a)
            of the Education Law

This is to certify that __________________ College has
provided information to incoming students about:

(1) the applicable laws, ordinances and
    regulations on sex offenses, (2) the penalties
    for commission of sex offenses, (3) the
    procedures in effect at the college for dealing
    with sex offenses, (4) the availability of
    counseling and other support services for the
    victims of sex offenses, (5) the nature of and
    common circumstances relating to sex offenses on
    college campuses, and (6) the methods the college
    employs to advise and update students about
    security procedures.

Copies of the material provided to students are
submitted herein.

Signed_____________________________

President

College________________________________

Dated________________________________

C: Vice Chancellor for Legal Affairs
The City University of New York

ET/jc/iv
AFFAIRS
§ 130.20 Sexual misconduct
A person is guilty of sexual misconduct when:
1. Being a male, he engages in sexual intercourse with a female without her consent; or
2. He engages in deviate sexual intercourse with another person without the latter’s consent; or
3. He engages in sexual conduct with an animal or a dead human body.
Sexual misconduct is a class A misdemeanor.
(L.1965, c. 1030.)

§ 130.25 Rape in the third degree
A person is guilty of rape in the third degree when:
1. He or she engages in sexual intercourse with another person to whom the actor is not married who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than seventeen years old.
Rape in the third degree is a class E felony.
(L.1965, c. 1030; amended L.1987, c. 510, § 1.)

§ 130.30 Rape in the second degree
A person is guilty of rape in the second degree when, being eighteen years old or more, he or she engages in sexual intercourse with another person to whom the actor is not married less than fourteen years old.
Rape in the second degree is a class D felony.
(L.1965, c. 1030; amended L.1987, c. 510, § 2.)

§ 130.35 Rape in the first degree
A male is guilty of rape in the first degree when he engages in sexual intercourse with a female:
1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.
Rape in the first degree is a class B felony.
(L.1965, c. 1030.)

§ 130.40 Sodomy in the third degree
A person is guilty of sodomy in the third degree when:
1. He engages in deviate sexual intercourse with a person who is incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Being twenty-one years old or more, he engages in deviate sexual intercourse with a person less than seventeen years old.
Sodomy in the third degree is a class E felony.
(L.1965, c. 1030.)

§ 130.45 Sodomy in the second degree
A person is guilty of sodomy in the second degree when, being eighteen years old or more, he engages in deviate sexual intercourse with another person less than fourteen years old.
Sodomy in the second degree is a class D felony.
(L.1965, c. 1030.)

§ 130.50 Sodomy in the first degree
A person is guilty of sodomy in the first degree when he engages in deviate sexual intercourse with another person:
1. By forcible compulsion; or
2. Who is incapable of consent by reason of being physically helpless; or
3. Who is less than eleven years old.
Sodomy in the first degree is a class B felony.
(L.1965, c. 1030.)
§ 130.55 Sexual abuse in the third degree

A person is guilty of sexual abuse in the third degree when he subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person.

Sexual abuse in the third degree is a class B misdemeanor.

(L.1965, c. 1030.)

§ 130.60 Sexual abuse in the second degree

A person is guilty of sexual abuse in the second degree when he subjects another person to sexual contact and when such other person is:

1. Incapable of consent by reason of some factor other than being less than seventeen years old; or
2. Less than fourteen years old.

Sexual abuse in the second degree is a class A misdemeanor.

(L.1965, c. 1030.)

§ 130.65 Sexual abuse in the first degree

A person is guilty of sexual abuse in the first degree when he subjects another person to sexual contact:

1. By forcible compulsion; or
2. When the other person is incapable of consent by reason of being physically helpless; or
3. When the other person is less than eleven years old.

Sexual abuse in the first degree is a class D felony.

(L.1965, c. 1030.)

§ 130.67 Aggravated sexual abuse in the second degree

A person is guilty of aggravated sexual abuse in the second degree when he inserts a finger in the vagina, urethra, penis, or rectum of another person causing physical injury to such person:

(a) By forcible compulsion; or
(b) When the other person is incapable of consent by reason of being physically helpless; or
(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the second degree is a class C felony.

(Added L.1988, c. 450, § 1.)

§ 130.70 Aggravated sexual abuse in the first degree

A person is guilty of aggravated sexual abuse in the first degree when he inserts a foreign object in the vagina, urethra, penis or rectum of another person causing physical injury to such person:

(a) By forcible compulsion; or
(b) When the other person is incapable of consent by reason of being physically helpless; or
(c) When the other person is less than eleven years old.

2. Conduct performed for a valid medical purpose does not violate the provisions of this section.

Aggravated sexual abuse in the first degree is a class B felony.

(Added L.1978, c. 723, § 2; amended L.1981, c. 696, § 2; L.1988, c. 450, § 2.)

"Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothes. (Eff. 7/27/84, Ch. 650, L. 1984)
THE BOARD OF TRUSTEES
THE CITY UNIVERSITY OF NEW YORK

A. POLICY AGAINST SEXUAL HARASSMENT: RESOLVED. That the following policy prohibiting sexual harassment be adopted, effective immediately:

POLICY

It is the policy of The City University of New York to prohibit harassment of employees or students on the basis of sex. This policy is related to and is in conformity with the equal employment opportunity policy of the University to recruit, employ, retain and promote employees without regard to sex, age, race, color or creed. Prompt investigation of allegations will be made on a confidential basis to ascertain the veracity of complaints and appropriate corrective action will be taken.

It is a violation of policy for any member of the University community to engage in sexual harassment. It is a violation of policy for any member of the University community to take action against an individual for reporting sexual harassment.

POLICY GUIDELINES

A. Definition:

For purposes of this policy, unwelcome sexual advances, requests for sexual favors, and other verbal or written communications or physical conduct of a sexual nature constitute sexual harassment when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or academic standing,

(2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting such individual, or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Responsibilities:

(1) The President of each college is responsible for overseeing compliance with the implementation of this policy.

(2) Each dean, director, department chairperson, administrator or other person with supervisory responsibility is responsible within his/her area of jurisdiction for the implementation and dissemination of this policy.

C. Procedures:

1. Students claiming harassment on the basis of sex shall report such harassment to the Dean of Students. Upon receipt of such complaint, the Dean shall make an informal confidential investigation and report his or her findings to the President with appropriate recommendations. The Dean shall consult with the Campus Title IX Coordinator in this process.

2. Employees covered by collective bargaining agreements which include gender discrimination as a ground for grievance, shall utilize the grievance procedure provided in their respective agreements.

3. Employees not covered by a collective bargaining agreement or covered by an agreement which does not include gender discrimination as a ground for grievance, shall utilize the following procedure:

(a) Each college president shall appoint a panel of at least three persons to handle complaints arising in the college; an appropriate announcement of the formation of the panel and its membership should be disseminated to the college community.
(b) Individuals who believe that they have been harassed on the basis of sex should communicate with a member of the panel. The panel member should be available for consultation and assistance and should attempt to resolve the problem in a manner which is fair and equitable and which is consistent with this University policy.

The initial effort by a panel member in response to a complaint shall be made on an informal basis and every effort shall be made to insure the privacy of both the complainant and the accused.

(c) If no informal resolution of the allegations is achieved, the panel member shall promptly submit written report with recommendations to the President.

(d) Following receipt of the report, the President may take such further action as he/she deems necessary, including the initiation of disciplinary proceedings.

4. Allegations of sexual harassment under C.1 and C.3 above should be made within 30 days of the date of alleged occurrence, except for extenuating circumstances.

5. The University Offices of Faculty and Staff Relations and Legal Affairs are available to assist the colleges in the implementation of these procedures.

EXPLANATION: The policy is in accordance with guidelines of the United States Equal Employment Opportunity Commission, which recommend that employers adopt policy guidelines expressing strong disapproval of sexual harassment and develop appropriate investigative procedures and sanctions for improper conduct. These guidelines make such principles applicable to all members of the University community.

January 25, 1982, Cal. No. 5.A.

[Signature]

Martin J. Warmbrand, Secretary of the Board

A true copy of resolution adopted by the Board of Trustees
People Against Sexual Abuse, Inc.
718-834-9467

Brooklyn

Queens

Brooklyn Women's Anti-Rape Exchange

Brooklyn

Queens

Refrerential Agencies

New York Women's Agenda

24 Hour HOline

212-277-7777

(FeMale Answered)

212-277-4000

VIctim Services Agency

24 Hour HOline

212-277-7777

NYWRA

(FeMale Answered)

212-277-4000

VIctim Services Agency

24 Hour HOline

212-277-7777

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VIctim Services Agency

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VIctim Services Agency

24 Hour HOline

212-277-7777

NYWRA

(FeMale Answered)
Rape Intervention Program/Crime Victim Assessment

Training and community education.

Rape and community education. Support groups, counseling, and referrals. Community referrals to counseling centers. For more information call:

New York, N.Y. 10011
158 West 11th Street
Department of Community Medicine
St. Vincent's Hospital and Medical Center
212-750-8000

Crisis Program

Assistance and other community organizations.

Crisis and other community organizations.

New York, N.Y.
1 Carnegie Hall Place
Department of Ombudsmen and Ombudsmen's
Montefiore Medical Center
2535 Grand Concourse, 1st Floor

Rape Crisis Intervention Program of
Women's Survivors Space

Brooklyn, 11220
718-439-4612

New York, N.Y.
622 West 166th Street
Social Service Department
Prevention Hospital
212-305-9069

New York, N.Y.
10032

Crisis intervention.

Programs for children residing in the shelter.

Brooklyn, 11229
212-79

Women's Survivors Space

New York, N.Y.
10012

212-870-1875

New York, N.Y.
10030

114 St.
St. Luke's/Roosevelt Hospital Center

Prevention Project

Rape Intervention Program/ Crime Victim Assessment


New York, N.Y.
10011
308 East 137th Street
1st Floor

212-49-4929

City Coalition on Child Sexual Abuse, Inc.
Support for Orthodox Victims of Rape and Incest

Follow-up services are free of charge.

Information and referral: Caldor's, 212-361-3755

Victims of Violent Assault Program (Bellevue Hospital Center)

Sexual Assault Victims Assisted Program

Additional services are free of charge.

Emergency: Family Services, 212-361-3755

Dedicated to helping Orthodox Jewish women and their families

Domestic violence prevention program in collaboration with

New York, N.Y. 10016

1 Police Plaza

New York City Police Department

Sex Crimes Unit, Detective Bureau

Homicide Stalled by Female Detectives for Sex Crime Victims. Takes

Available for Education and Public Education: Resource, Advocacy, Support and Public

Child Abuse, Violence, and Family Violence. Legal

212-267-7100

New York, N.Y. 10007

2 Lafayette St.

Victims Services Agency

212-582-2091

Time Sq. Station

Box 413

Sanctuary for Families Inc.

Outreach and Public Education: Training for Professionals and
NYC Sex Crimes Report Line
(212) 987-5555
Victim Services Agency
(212) 577-7777
BRAYA (Brooklyn Rape Awareness
and Victim Advocacy Project)
783-7908
Exchange - Phone counseling 6-8 PM
330-0310
Brooklyn Women's Anti-Rape
BWARE (Brooklyn Women's Anti-Rape)

Off-Campus Resources:

Vice President for Student Life
780-5325
Women's Center
780-5777
Personal Counseling
780-5929
Safety and Security Office
780-5511

NYC Sexual Assault Prevention Line
(212) 987-5555
Victim Services Agency
(212) 577-7777
BRAYA (Brooklyn Rape Awareness
and Victim Advocacy Project)
783-7908
Exchange - Phone counseling 6-8 PM
330-0310
Brooklyn Women's Anti-Rape
BWARE (Brooklyn Women's Anti-Rape)

You have the right to an education here that is free from discrimination and harassment.

Center for Students with Disabilities

If you believe you are being (or have been) sexually harassed, you should report it to the
Office of the Vice President for Student Life or seek assistance from the Vice President for Student Life and/or the
Women's Center.

If you are a victim of sexual assault or sexual misconduct, you should report it to the
Office of the Vice President for Student Life or seek assistance from the Vice President for Student Life and/or the
Women's Center.

Help for Sexual Assault Survivors on Campus:

Center for Student Support Services
277 New York Hall
You can report to Sexual Assault Survivors on the phone at 780-5325.

Help for Sexual Assault Survivors on Campus:

Center for Student Support Services
277 New York Hall
You can report to Sexual Assault Survivors on the phone at 780-5325.
Check identification of strangers before opening your apartment door.

Always close your blinds/shades/curtains at night.

Car with the engine on. A window lock is not enough.

If you live in a high rise with a window, you must secure the window with a window lock. If you live in an apartment with a window, always keep your apartment door and your car doors in secluded areas at night.

When possible walk with a friend instead of walking alone.

Other poorly lit or poorly populated locations.

Office doors, etc.: Campus card security is not an escrow. Anything makes you uncomfortable, run to an open area, desk, etc. Go inside.

Feel feelings and instincts. If something makes you uncomfortable, listen to and act upon your intuition. 

Learn to be willing to make a scene by speaking up or leaving.

Do not study alone in empty classrooms.

Use elevators, stairs and restrooms in well-lighted public places.

If inside, notice other people. The lighting, and access to exits, be alert and aware of your surroundings. Both inside and outside.

Preventing Strange Rape

Preventing rape is very different from preventing assault.

In much greater danger of date rape than assault by a stranger.

Research shows that women in college are more likely to be victim of date rape than of other acquaintance rape. This is especially true of black women.

Most people think of rape as a sudden attack perpetuated by a group of people, however, as many as eighty percent of all rape is perpetrated by dates, exboyfriends, or violence.

What are the Two Kinds of Rape?
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<th>SEXUAL ASSAULT OFFENSES</th>
<th>PENALTY</th>
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<tr>
<td>Sexual Misconduct</td>
<td>Class A Misdemeanor</td>
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<td>Penal Law 130.20</td>
<td>Imprisonment up to 1 year</td>
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<td>Rape/Third Degree</td>
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<td>Imprisonment 1 to 4 years</td>
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<td>Rape/Second Degree</td>
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<td>Rape/1st Degree</td>
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<td>Imprisonment 8 1/3 to 25 years</td>
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<td>Sodomy/First Degree</td>
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<td>Aggravated Sexual Assault/Second</td>
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<td>Degree</td>
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<td>Penal Law 130.67</td>
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Office of Student Activities
Office of the Nurse
Division for Student Development/Support
Information available in the following locations:
- Office of Student Activities
- Office of the Nurse
- Division for Student Development/Support

Security

Campus Security Escort Service

To request a security escort, call the Security Escort Service at 780-5600. Call 780-5600 for escort service in case of emergency.

If you are concerned about an incident on campus, you may contact the Office of Student Development/Support at 780-5600 or the Office of the Nurse at 780-5602.

For more information on the procedures for reporting incidents, please refer to the College Handbook, available from the Office of Student Development/Support.

Security

Campus Crime and
Harassment

Respect to Sexual
For Education with
College Strategies
Stress in relationships with co-workers, friends, and family

- Pressure, general dissatisfaction, isolation
- Weight loss or gain, insomnia, high blood pressure
- Depression, anxiety, loss of self-esteem
- Leaving job, college, or city
- Changing college or graduate school major

WHAT ARE COMMON REACTIONS TO HARASSMENT?

Sexual comments
Assault and rape
Suspect or overreaction for sexual interactions
Sending revoke invitations, cards, presents, or letters
Theft of physical or assault
Unwanted visits to someone's hotel room during conferences
Unwanted sexual attention
Inappropriate invitations for drinks, dinner, dates

WHAT ARE COMMON FORMS OF HARASSMENT?

Sexual Assault: Assault or rape behavior by threat of punishment
Sexual Coercion: Coercion of sexual activity or other sex-related behavior by means of verbal threats
Sexual Harassment: Solicitation of sexual activity or other sex-related behavior
Physical or verbal sexual advances
Sexual Harassment: Unsolicited, inappropriate, and offensive

Gender Harassment: Generalized sexist remarks and behavior

LEVELS OF HARASSMENT

DEFINED

SEXUAL HARASSMENT
Memorandum

To: College Presidents

From: Vice Chancellor Robert E. Diaz

By: Michael Solomon

Re: Student Advisory Memorandum No. 10
(New State Laws Regarding Dissemination of Sexual Assault Prevention Information)

Enclosed is a revised copy of Enclosure II setting forth the penalties for commission of the New York State Penal Law sex offenses. The titles of the last two sex offenses have been revised. Some revisions have also been made in the minimum sentences.

c: Deputy Chancellor Laurence F. Mucciolo
Acting Vice Chancellor Tilden J. LeMelle
Chief Student Affairs Administrators
Legal Affairs Designees

MDS/je
SAM10ENCL
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<thead>
<tr>
<th>SEXUAL ASSAULT OFFENSES</th>
<th>PENALTY</th>
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<tbody>
<tr>
<td>Sexual Misconduct</td>
<td>Class A Misdemeanor</td>
</tr>
<tr>
<td>Penal Law 130.20</td>
<td>Imprisonment up to 1 year</td>
</tr>
<tr>
<td>Rape/Third Degree</td>
<td>Class E Felony</td>
</tr>
<tr>
<td>Penal Law 130.25</td>
<td>Imprisonment up to 4 years</td>
</tr>
<tr>
<td>Rape/Second Degree</td>
<td>Class D Felony</td>
</tr>
<tr>
<td>Penal Law 130.30</td>
<td>Imprisonment up to 7 years</td>
</tr>
<tr>
<td>Rape/1st Degree</td>
<td>Class B Felony</td>
</tr>
<tr>
<td>Penal Law 130.35</td>
<td>Imprisonment 8 1/3 to 25 years</td>
</tr>
<tr>
<td>Sodomy/Third Degree</td>
<td>Class E Felony</td>
</tr>
<tr>
<td>Penal Law 130.40</td>
<td>Imprisonment up to 4 years</td>
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<tr>
<td>Sodomy/Second Degree</td>
<td>Class D Felony</td>
</tr>
<tr>
<td>Penal Law 130.45</td>
<td>Imprisonment up to 7 years</td>
</tr>
<tr>
<td>Sodomy/First Degree</td>
<td>Class B Felony</td>
</tr>
<tr>
<td>Penal Law 130.50</td>
<td>Imprisonment 8 1/3 to 25 years</td>
</tr>
<tr>
<td>Sexual Abuse/Third Degree</td>
<td>Class B Misdemeanor</td>
</tr>
<tr>
<td>Penal Law 130.55</td>
<td>Imprisonment up to 3 months</td>
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<tr>
<td>Sexual Abuse/Second Degree</td>
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<tr>
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<tr>
<td>Aggravated Sexual Abuse/Second Degree</td>
<td>Class C Felony</td>
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<tr>
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<td>Imprisonment up to 15 years</td>
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<tr>
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<tr>
<td>Penal Law 130.70</td>
<td>Imprisonment 8 1/3 to 25 years</td>
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</tbody>
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II (REVISED)