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Rule 413 Evidence of Similar Crimes in Sexual Assault Cases

(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule and Rule 415, "offense of sexual assault" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

(1) any conduct proscribed by chapter 109A of title 18, United States Code;
(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;
(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;
(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or
(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

Notes of Advisory Committee on Rules (1972)

There is no Advisory Committee Note to Rule 413. The Rule was promulgated by Congress and not by the process outlined in the Rules Enabling Act, 28 U.S.C. § 2074(a). Federal Rules of Evidence 413-415 were adopted in 1994, in Pub. L. 103-322, Title XXXII, § 320935, 108 Stat. 2135, effective July 9, 1995. See **Legislative History of Rules 413, 414 and 415, below.**

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Rule 414 Evidence of Similar Crimes in Child Molestation Case

(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

(d) For purposes of this rule and Rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State (as defined in section 513 of title 18, United States Code) that involved—

(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;
(2) any conduct proscribed by chapter 110 of title 18, United States Code;
(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;
(4) contact between the genitals or anus of the defendant and any part of the body of a child;
(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or

physical pain on a child; or
(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

Notes of Advisory Committee on Rules (1972)

There is no Advisory Committee Note to Rule 414 The Rule was promulgated by Congress and not by the process outlined in the Rules Enabling Act, 28 U.S.C. § 2074(a). Federal Rules of Evidence 413-415 were adopted in 1994, in Pub. L. 103-322, Title XXXII, § 320935, 108 Stat. 2135, effective July 9, 1995. See **Legislative History of Rules 413, 414 and 415, below.**

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Rule 415 Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in Rule 413 and Rule 414 of these rules.

(b) A party who intends to offer evidence under this Rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

Notes of Advisory Committee on Rules (1972)

There is no Advisory Committee Note to Rule 415 The Rule was promulgated by Congress and not by the process outlined in the Rules Enabling Act, 28 U.S.C. § 2074(a). Federal Rules of Evidence 413-415 were adopted in 1994, in Pub. L. 103-322, Title XXXII, § 320935, 108 Stat. 2135, effective July 9, 1995. See Legislative History of Rules 413, 414 and 415, below.

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Legislative History of Rules 413, 414 and 415

By its Act of September 13, 1994, P.L. 103-322, Title XXXII, Subtitle I, § 320935(b)—(e), 108 Stat. 2137, Congress specified the language of Rules 413, 414 and 415, as reflected above. The Act further specified:

"**(b) Implementation.** The amendments made by subsection (a) [adding Rules 413—415] shall become effective pursuant to subsection (d).

"**(c) Recommendations by Judicial Conference.** Not later than 150 days after the date of enactment of this Act, the Judicial Conference of the United States shall transmit to Congress a report containing recommendations for amending the Federal Rules of Evidence as they affect the admission of evidence of a defendant's prior sexual assault or child molestation crimes in cases involving sexual assault and child molestation. The Rules Enabling Act shall not apply to the recommendations made by the Judicial Conference pursuant to this section.

"**(d) Congressional action.**
(1) If the recommendations described in subsection (c) are the same as the amendment made by subsection (a) [adding Rules 413—415], then the amendments made by subsection (a) shall become effective 30 days after the transmittal of the recommendations.
"(2) If the recommendations described in subsection (c) are different than the amendments made by subsection (a) [adding Rules 413—415], the amendments made by subsection (a) shall become effective 150 days after the transmittal of the recommendations unless otherwise provided by law.
"(3) If the Judicial Conference fails to comply with subsection (c), the amendments made by subsection (a) [adding Rules 413—415] shall become effective 150 days after the date the recommendations were due under subsection (c) unless otherwise provided by law.

"**(e) Application.** The amendments made by subsection (a) [adding Rules 413—415] shall apply to proceedings commenced on or after the effective date of such amendments.".

Pursuant to the act, the Judicial Conference considered the admission of character evidence in certain sexual misconduct cases. The report was submitted to Congress on Feb. 9, 1995, in accordance with § 320935(c) of the Violent Crime Control and Law Enforcement Act of 1994 (§ 329035(c) of Act Sept. 13, 1994, P.L. 103-322. The text of the report is as follows:

"I. INTRODUCTION

"This report is transmitted to Congress in accordance with the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322 (September 13, 1994). Section 320935 of the Act invited the Judicial Conference of the United States within 150 days (February 10, 1995) to submit 'a report containing recommendations for amending the Federal Rules of Evidence as they affect the admission of evidence of a defendant's prior sexual assault or child molestation crimes in cases involving sexual assault or child molestation.' "Under the Act, new Rules 413, 414, and 415 would be added to the Federal Rules of Evidence. These Rules would admit evidence of a defendant's past similar acts in criminal and civil cases involving a sexual assault or child molestation offense for its bearing on any matter to which it is relevant. The effective date of new Rules 413-415 is contingent in part upon the nature of the recommendations submitted by the Judicial Conference.

"After careful study, the Judicial Conference urges Congress to reconsider its decision on the policy questions underlying the new rules for reasons set out in Part III below.

"If Congress does not reconsider its decision on the underlying policy questions, the Judicial Conference recommends incorporation of the provisions of new Rules 413-415 as amendments to Rules 404 and 405 of the Federal Rules of Evidence. The amendments would not change the substance of the congressional enactment but would clarity drafting ambiguities and eliminate possible constitutional infirmities.

"II. BACKGROUND

"Under the Act, the Judicial Conference was provided 150 days within which to make and submit to Congress alternative recommendations to new Evidence Rules 413-415. Consideration of Rules 413-415 by the Judicial Conference was specifically excepted from the exacting review procedures set forth in the Rules Enabling Act (codified at 28 U.S.C. §§ 2071-2077). Although the Conference acted on these new rules on an expedited basis to meet the Act's deadlines, the review process was thorough. "The new rules would apply to both civil and criminal cases. Accordingly, the Judicial Conference's Advisory Committee on Criminal Rules and the Advisory Committee on Civil Rules reviewed the rules at separate meetings in October 1994. At the same time and in preparation for its consideration of the new rules, the Advisory Committee on Evidence Rules sent out a notice soliciting comment on new Evidence Rules 413, 414, and 415. The notice was sent to the courts, including all federal judges, about 900 evidence law professors, 40 women's rights organizations, and 1,000 other individuals and interested organizations.

"III. DISCUSSION

"On October 17-18, 1994, the Advisory Committee on Evidence Rules met in Washington, D.C. It considered the public responses, which included 84 written comments, representing 112 individuals, 8 local and 8 national legal organizations. The overwhelming majority of judges, lawyers, law professors, and legal organizations who responded opposed new Evidence Rules 413, 414, and 415. The principal objections expressed were that the rules would permit the admission of unfairly prejudicial evidence and contained numerous drafting problems not intended by their authors.

"The Advisory Committee on Evidence Rules submitted its report to the Judicial Conference Committee on Rules of Practice and Procedure (Standing Committee) for review at its January 11-13, 1995 meeting. The committee's report was unanimous except for a dissenting vote by the representative of the Department of Justice. The advisory committee believed that the concerns expressed by Congress and embodied in new Evidence Rules 413, 414, and 415 are already adequately addressed in the existing Federal Rules of Evidence. In particular, Evidence Rule 404(b) now allows the admission of evidence against a criminal defendant of the commission of prior crimes, wrongs, or acts for specified purposes, including to show intent, plan, motive, preparation, identity, knowledge, or absence of mistake or accident.

"Furthermore, the new rules, which are not supported by empirical evidence, could diminish significantly the protections that have safeguarded persons accused in criminal cases and parties in civil cases against undue prejudice. These protections form a fundamental part of American jurisprudence and have evolved under long-standing rules and case law. A significant concern identified by the committee was the danger of convicting a criminal defendant for past, as opposed to charged, behavior or for being a bad person.

"In addition, the advisory committee concluded that, because prior bad acts would be admissible even though not the subject of a conviction, mini-trials within trials concerning those acts would result when a defendant seeks to rebut such evidence. The committee also noticed that many of the comments received had concluded that the Rules, as drafted, were mandatory —that is, such evidence had to be admitted regardless of other rules of evidence such as the hearsay rule or the Rule 403 balancing test The committee believed that this position was arguable because Rules 413-415 declare without qualification that such evidence 'is admissible.' In contrast, the new Rule 412, passed as part of the same legislation, provided that certain evidence 'is admissible if it is otherwise admissible under these Rules.' Fed. R. Evid. 412(b)(2). If the critics are right, Rules 413-415 free the prosecution from rules that apply to the defendant—including the hearsay rule and Rule 403. If so, serious constitutional questions would arise.

"The Advisory Committees on Criminal and Civil Rules unanimously, except for representatives of the Department of Justice, also opposed the new rules. Those committees also concluded that the new rules would permit the introduction of unreliable but highly prejudicial evidence and would complicate trials by causing mini-trials of other alleged wrongs. After the advisory

committees reported, the Standing Committee unanimously, again except for the representative of the Department of Justice, agreed with the view of the advisory committees.

"It is important to note the highly unusual unanimity of the members of the Standing and Advisory Committees, composed of over 40 judges, practicing lawyers, and academicians, in taking the view that Rules 413-415 are undesirable. Indeed, the only supporters of the Rules were representatives of the Department of Justice.

"For these reasons, the Standing Committee recommended that Congress reconsider its decision on the policy questions embodied in new Evidence Rules 413, 414, and 415.

"However, if Congress will not reconsider its decision on the policy questions, the Standing Committee recommended that Congress consider an alternative draft recommended by the Advisory Committee on Evidence Rules. That Committee drafted proposed amendments to existing Evidence Rules 404 and 405 that would both correct ambiguities and possible constitutional infirmities identified in new Evidence Rules 413, 414, and 415 yet still effectuate Congressional intent. In particular, the proposed amendments:

"(1) expressly apply the other rules of evidence to evidence offered under the new rules;

"(2) expressly allow the party against whom such evidence is offered to use similar evidence in rebuttal;

"(3) expressly enumerate the factors to be weighed by a court in making its Rule 403 determination;

"(4) render the notice provisions consistent with the provisions in existing Rule 404 regarding criminal cases; "(5) eliminate the special notice provisions of Rules 413-415 in civil cases so that notice will be required as provided in the Federal Rules of Civil Procedure; and

"(6) permit reputation or opinion evidence after such evidence is offered by the accused or defendant. "The Standing Committee reviewed the new rules and the alternative recommendations. It concurred with the views of the Evidence Rules Committee and recommended that the Judicial Conference adopt them.

"IV. RECOMMENDATIONS

"The Judicial Conference concurs with the views of the Standing Committee and urges that Congress reconsider its policy determinations underlying Evidence Rules 413-415. In the alternative, the attached amendments [this note] to Evidence Rules 404 and 405 are recommended, in lieu of new Evidence Rules 413, 414, and 415. The alternative amendments to Evidence Rules 404 and 405 are accompanied by the Advisory Committee Notes, which explain them in detail.

Judicial Conference Proposed Amendments To FRE 404 And FRE 405 In Lieu Of FRE 413-FRE 415

[Proposed] RULE 404. CHARACTER EVIDENCE NOT ADMISSIBLE TO PROVE CONDUCT; EXCEPTIONS; OTHER CRIMES

(4) Character in sexual misconduct cases. Evidence of another act of sexual assault or child molestation, or evidence to rebut such proof or an inference therefrom, if that evidence is otherwise admissible under these rules, in a criminal case in which the accused is charged with sexual assault or child molestation, or in a civil case in which a claim is predicated on a party's alleged commission of sexual assault or child molestation.

(A) In weighing the probative value of such evidence, the court may, as part of its rule 403 determination, consider:
(i) proximity in time to the charged or predicate misconduct;
(ii) similarity to the charged or predicate misconduct;
(iii) frequency of the other acts;
(iv) surrounding circumstances;
(v) relevant intervening events; and
(vi) other relevant similarities or differences.

(B) In a criminal case in which the prosecution intends to offer evidence under this subdivision, it must disclose the evidence, including statements of witnesses or a summary of the substance of any testimony, at a reasonable time in advance of trial, or during trial if the court excuses pretrial notice on good cause shown.

(C) For purposes of this subdivision.
(i) "sexual assault" means conduct--or an attempt or conspiracy to engage in conduct--of the type proscribed by chapter 109A of title 18, United States Code, or conduct that involved deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person irrespective of the age of the victim--regardless of whether that conduct would have subjected the actor to federal jurisdiction.
(ii) "child molestation" means conduct--or an attempt or conspiracy to engage in conduct--of the type proscribed by chapter 110 of title 18, United States Code, or conduct, committed in relation to a child below the age of 14 years, either of the type proscribed by chapter 109A of title 18, United States Code,

or that involved deriving sexual pleasure or gratification from inflicting death, bodily injury, or physical pain on another person--regardless of whether that conduct would have subjected the actor to federal jurisdiction.

(b) Other crimes, wrongs, or acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith except as provided in subdivision (a)....

Note to Rule 404(a)(4)

The Committee has redrafted Rules 413, 414 and 415 which the Violent Crime Control and Law Enforcement Act of 1994 conditionally added to the Federal Rules of Evidence. super1 These modifications do not change the substance of the congressional enactment. The changes were made in order to integrate the provisions both substantively and stylistically with the existing Rules of Evidence; to illuminate the intent expressed by the principal drafters of the measure; to clarify drafting ambiguities that might necessitate considerable judicial attention if they remained unresolved; and to eliminate possible constitutional infirmities.

The Committee placed the new provisions in Rule 404 because this rule governs the admissibility of character evidence. The congressional enactment constitutes a new exception to the general rule stated in subdivision (a). The Committee also combined the three separate rules proposed by Congress into one subdivision (a)(4) in accordance with the rules' customary practice of treating criminal and civil issues jointly. An amendment to Rule 405 has been added because the authorization of a new form of character evidence in this rule has an impact on methods of proving character that were not explicitly addressed by Congress. The stylistic changes are self-evident. They are particularly noticeable in the definition section in subdivision (a)(4)(C) in which the Committee eliminated, without any change in meaning, graphic details of sexual acts.

The Committee added language that explicitly provides that evidence under this subdivision must satisfy other rules of evidence such as the hearsay rules in Article VIII and the expert testimony rules in Article VII. Although principal sponsors of the legislation had stated that they intended other evidentiary rules to apply, the Committee believes that the opening phrase of the new subdivision 'if otherwise admissible under these rules' is needed to clarify the relationship between subdivision (a)(4) and other evidentiary provisions.

The Committee also expressly made subdivision (a)(4) subject to Rule 403 balancing in accordance with the repeatedly stated objectives of the legislation's sponsors with which representatives of the Justice Department expressed agreement. Many commentators on Rules 413-415 had objected that Rule 403's applicability was obscured by the actual language employed.

In addition to clarifying the drafters' intent, an explicit reference to Rule 403 may be essential to insulate the rule against constitutional challenge. Constitutional concerns also led the Committee to acknowledge specifically the opposing party's right to offer in rebuttal character evidence that the rules would otherwise bar, including evidence of a third person's prior acts of sexual misconduct offered to prove that the third person rather than the party committed the acts in issue.

In order to minimize the need for extensive and time-consuming judicial interpretation, the Committee listed factors that a court may consider in discharging Rule 403 balancing. Proximity in time is taken into account in a related rule. See Rule 609(b). Similarity, frequency and surrounding circumstances have long been considered by courts in handling other crimes evidence pursuant to Rule 404(b). Relevant intervening events, such as extensive medical treatment of the accused between the time of the prior proffered act and the charged act, may affect the strength of the propensity inference for which the evidence is offered. The final factor--'other relevant similarities or differences'--is added in recognition of the endless variety of circumstances that confront a trial court in rulings on admissibility. Although subdivision (4)(A) explicitly refers to factors that bear on probative value, this enumeration does not eliminate a judge's responsibility to take into account the other factors mentioned in Rule 403 itself--'the danger of unfair prejudice, confusion of the issues, ... misleading the jury, ... undue delay, waste of time, or needless presentation of cumulative evidence.' In addition, the Advisory Committee Note to Rule 403 reminds judges that 'The availability of other means of proof may also be an appropriate factor.'

The Committee altered slightly the notice provision in criminal cases. Providing the trial court with some discretion to excuse pretrial notice was thought preferable to the inflexible 15-day rule provided in Rules 414 and 415. Furthermore, the formulation is identical to that contained in the 1991 amendment to Rule 404(b) so that no confusion will result from having two somewhat different notice provisions in the same rule. The Committee eliminated the notice provision for civil cases stated in Rule 415 because it did

not believe that Congress intended to alter the usual time table for disclosure and discovery provided by the Federal Rules of Civil Procedure.

The definition section was simplified with no change in meaning. The reference to 'the law of a State' was eliminated as unnecessarily confusing and restrictive. Conduct committed outside the United States ought equally to be eligible for admission. Evidence offered pursuant to subdivision (a)(4) must relate to a form of conduct proscribed by either chapter 109A or 110 of title 18, United States Code, regardless of whether the actor was subject to federal jurisdiction.

Congressional Discussion - House of Representatives

Cong. Record H8991-92 (Aug. 21, 1994)

Floor Statement of the Principal House Sponsor, Representative Susan Molinari, Concerning the Prior Crimes Evidence Rules for Sexual Assault and Child Molestation Cases (Cong.Rec. H8991-92, Aug. 21, 1994):

Mr. Speaker, the revised conference bill contains a critical reform that I have long sought to protect the public from crimes of sexual violence--general rules of admissibility in sexual assault and child molestation cases for evidence that the defendant has committed offenses of the same type on other occasions. The enactment of this reform is first and foremost a triumph for the public--for the women who will not be raped and the children who will not be molested because we have strengthened the legal system's tools for bringing the perpetrators of these atrocious crimes to justice.

Senator Dole and I initially proposed this reform in February of 1991 in the Women's Equal Opportunity Act bill, and we later re-introduced it in the Sexual Assault Prevention Act bills of the 102d and 103d Congresses. The proposal also enjoyed the strong support of the Administration in the 102d Congress, and was included in President Bush's violent crime bill of that Congress, S. 635. The Senate passed the proposed rules on Nov. 5, 1993, by a vote of 75 to 19, in a crime bill amendment offered by Senate Dole. This Chamber endorsed the same rules on June 29, 1994, by a vote of 348 to 62, through a motion to instruct conferees that I offered.

The rules in the revised conference bill are substantially identical to our earlier proposals. We have agreed to a temporary deferral of the effective date of the new rules, pending a report by the Judicial Conference, in order to accommodate procedural objections raised by opponents of the reform. However, regardless of what the Judicial Conference may recommend, the new rules will take effect within at most 300 days of the enactment of this legislation, unless repealed or modified by subsequent legislation.

The need for these rules, their precedential support, their interpretation, and the issues and policy questions they raise have been analyzed at length in the legislative history of this proposal. I would direct the Members' attention particularly to two earlier statements:

The first is the portion of the section-by-section analysis accompanying these rules in section 801 of S. 635, which President Bush transmitted to Congress in 1991. That statement appears

on pages S 3238 [to] S 3242 of the daily edition of the Congressional Record for March 13, 1991.

The second is the prepared text of an address--entitled "Evidence of Propensity and Probability in Sex Offense Cases and Other Cases"--by Senior Counsel David J. Karp of the Office of Policy Development of the U.S. Department of Justice. Mr. Karp, who is the author of the new evidence rules, presented this statement on behalf of the Justice Department to the Evidence Section of the Association of American Law Schools on January 9, 1993. The statement provided a detailed account of the views of the legislative sponsors and the Administration concerning the proposed reform, and should also be considered an authoritative part of its legislative history.

These earlier statements address the issues raised by this reform in considerable detail. In my present remarks, I will simply emphasize the following essential points:

The new rules will supersede in sex offense cases the restrictive aspects of Federal Rule of Evidence 404(b). In contrast to Rule 404(b)'s general prohibition of evidence of character or propensity, the new rules for sex offense cases authorize admission and consideration of evidence of an uncharged offense for its bearing "on any matter to which it is relevant." This includes the defendant's propensity to commit sexual assault or child molestation offenses, and assessment of the probability or improbability that the defendant has been falsely or mistakenly accused of such an offense.

In other respects, the general standards of the rules of evidence will continue to apply, including the restrictions on hearsay evidence and the court's authority under Evidence Rule 403 to exclude evidence whose probative value is substantially outweighed by its prejudicial effect. Also, the government (or the plaintiff in a civil case) will generally have to disclose to the defendant any evidence that is to be offered under the new rules at least 15 days before trial.

The proposed reform is critical to the protection of the public from rapists and child molesters, and is justified by the distinctive characteristics of the cases it will affect. In child molestation cases, for example, a history of similar acts tends to be exceptionally probative because it shows an unusual disposition of the defendant--a sexual or sadosexual interest in children--that simply does not exist in ordinary people. Moreover, such cases require reliance on child victims whose credibility can readily be attacked in the absence of substantial corroboration. In such cases, there is a compelling public interest in admitting all significant evidence that will illumine the credibility of the charge and any denial by the defense.

Similarly, adult-victim sexual assault cases are distinctive, and often turn on difficult credibility determinations. Alleged consent by the victim is rarely an issue in prosecutions for other violent crimes--the accused mugger does not claim that the victim freely handed over [his] wallet as a gift--but the defendant in a rape case often contends that the victim engaged in consensual sex and then falsely accused him. Knowledge that the defendant has committed rapes on other occasions is frequently critical in assessing the relative plausibility of these claims and accurately deciding cases that would otherwise become unresolvable swearing matches.

The practical effect of the new rules is to put evidence of uncharged offenses in sexual assault and child molestation cases on the same footing as other types of relevant evidence that are not subject to a special exclusionary rule. The presumption is in favor of admission. The underlying legislative judgment is that the evidence admissible pursuant to the proposed rules is typically relevant and probative, and that its probative value is normally not outweighed by any risk of prejudice or other adverse effects.

In line with this judgment, the rules do not impose arbitrary or artificial restrictions on the admissibility of evidence. Evidence of offenses for which the defendant has not previously been prosecuted or convicted will be admissible, as well as evidence of prior convictions. No time limit is imposed on the uncharged offenses for which evidence may be admitted; as a practical matter, evidence of other sex offenses by the defendant is often probative and properly admitted, notwithstanding very substantial lapses of time in relation to the charged offense or offenses. See, e.g., United States v. Hadley, 918 F.2d 848, 850-51 (9th Cir. 1990), cert. dismissed, 113 S.Ct. 486 (1992) (evidence of offenses occurring up to 15 years earlier admitted); State v. Plymate, 345 N.W.2d 327 (Neb.1984) (evidence of defendant's commission of other child molestations more than 20 years earlier admitted).

Finally, the practical efficacy of these rules will depend on faithful execution by judges of the will of Congress in adopting this critical reform. To implement the legislative intent, the courts must liberally construe these rules to provide the basis for a fully informed decision of sexual assault and child molestation cases, including assessment of the defendant's propensities and questions of probability in light of the defendant's past conduct.

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