

Rape and Sexual Assault

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Rape is the most underreported crime in America. Significant changes to improve the treatment of sexual assault victims have occurred in the last two decades. The impact of reforms, led by the women's movement, can be seen in the legal, mental health, medical, and victim services arenas.

During the 1970s, the first rape crisis center was established. The treatment of victims in the criminal justice system was questioned, and hundreds of laws were passed to protect rape victims in the courts. Medical protocols have been developed and widely accepted. The mental health impact of rape is well documented in the literature, and the practices of mental health professionals have improved.

Although the treatment of rape victims today is vastly different from three decades ago, many victims still do not receive the assistance and treatment they need.

Statistical Overview

Obtaining an accurate measurement of rape and other types of sexual assault is a challenge. Determining the scope and nature of rape and other types of sexual assault depends on how these crimes are defined and measured. It is important to note that statistics are derived from different sources employing different practices to gather information.

In 1997, there were 96,122 reported forcible rapes. (*Federal Bureau of Investigation. (released November 22, 1998). Crime in the United States, Uniform Crime Reports, 1997, p.26. Washington, DC: U.S. Department of Justice.*)

- ✦ An estimated 70 of every 100,000 females in the country were reported rape victims in 1997, a decrease 1% from 1996 13% from 1993. (*Ibid.*)
- ✦ 1997 National Crime Victimization Survey, which includes both reported and unreported crimes, found that despite a decline of 7% in the nation's crime rate in 1997, rates of rape and sexual assault did not decline. (*Bureau of Justice Statistics. (1998, December). National Crime Victimization Survey. Washington, DC: U.S. Department of Justice.*)
- ✦ The National Violence Against Women Survey, the first national study on stalking, found that in the 12 months preceding the study, 0.3 percent of all women surveyed experienced a completed or attempted rape, and 1.9 percent experienced a physical assault. (*Violence Against Women Grants Office. (1998, July). Stalking and Domestic Violence: Third Annual Report to Congress Under the Violence Against Women Act, p.7. Washington, DC: U.S. Department of Justice.*)
- ✦ The National Women's Study (NWS), found that approximately 13% of adult women had been victims of completed rape during their lifetime (Kilpatrick, Edmunds, & Seymour, 1992; Resnick, Kilpatrick, Dansky, Saunders, & Best, 1993). During the year between interviews, 0.6% of adult women, or an estimated 683,000 women were victims of rape (Kilpatrick et al., 1992). In the two years between the first and third interviews, 1.2% of the adult participants in the NWS were raped. The results: an estimated 1.1 million women were raped in the United States during this two-year period (Kilpatrick, Resnick, Saunders, Best,

1997).

☞ Using a definition of rape that includes forced vaginal, oral, and anal sex, the National Violence Against Women Survey found that 1 of 6 U.S. Women and 1 of 33 U.S. men has experienced an attempted or completed rape as a child and/or adult. According to estimates, approximately 1.5 million women and 834,700 men are raped and/or physically assaulted annually by an intimate partner in the United States. (Tjaden, P. & Thoennes, N. (1998, November). *A Prevalence, Incidence, and Consequences of Violence Against Women: Findings From the National Violence Against Women Survey*, @ p. 2 & 5. *Research in Brief*. Washington, DC: National Institute of Justice, U.S. Department of Justice.)

☞ In 1996, more than two-thirds of rape/sexual assaults committed in the nation remained unreported. (Ringel, C. (1997, November). *Criminal Victimization in 1996, Changes 1995-1996 with Trends 1993-1996*, NCJ-165812, p.3. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.)

☞ The National Survey of Adolescents (NSA), a National Institute of Justice funded study of national household probability sample of 4,023 adolescents age 12-17, found that 8.1% of U.S. adolescents had been victims of at least one sexual assault (Kilpatrick & Saunders, 1997; Kilpatrick, Acierno, Saunders, Resnick, Best, & Schnurr, 2000). This indicates that an estimated 1.8 million 12 to 17 year olds have been sexually assaulted

☞ More than 52 percent of all rape/sexual assault victims were females younger than 25. (Perkins, C. (1997, September). *Age Patterns of Victims of Serious Crimes*, NCJ-162031, p.1. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice.)

☞ Women who suffered physical injury in addition to the injury suffered from the rape or sexual assault reported 37% of those crimes, while only 22% of rapes and sexual assaults without an additional physical injury were reported. (Craven, D. (1994.) *A Sex Differences in Violent Victimization*, @ NCJ-164508, p.5. Bureau of Justice Statistics, Special Report. Washington, DC: U.S. Department of Justice).

Introduction

Although rape has occurred throughout history, the birth of the anti-rape movement in the US occurred only in the early 1970s. In 1972, the first rape crisis centers were established in San Francisco, CA (Bay Area Women Against Rape) and Washington, D.C. These grass roots centers grew out of the women's movement. They recognized that rape was an all-too-common part of women's lives and that it had a devastating impact on health and freedom. The goals of centers were to educate society about rape and rape-prevention and to improve the treatment of victims.

In the nearly three decades since its birth, the anti-rape movement has accomplished many of its goals. Major accomplishments include:

- ☞ Widespread reform of rape statutes and other legislation.
- ☞ Improvements in the way criminal justice officials treat victims.
- ☞ A better understanding of the scope and impact of rape.
- ☞ Improved medical and mental health services.
- ☞ Better funding for rape crisis centers and others who assist victims.

Despite this progress, there is much to be done. The fact that well over a million Americans of all ages are raped each year suggests that efforts to prevent rape have not been entirely successful.

Most rape cases go unreported (Kilpatrick, Edmunds, & Seymour, 1992; Crowell & Burges, 1996; Ringel, 1996). In turn, those cases are never investigated or prosecuted. Despite vast improvements in the investigation and prosecution of rape, more are needed. Too few victims who sustain rape-related mental or physical health problems obtain effective treatment.

This page will address the following issues:

- ❖ Defining rape and other types of sexual assault
- ❖ The scope and mental health effects of rape
- ❖ Victims' concerns
- ❖ Improving cooperation from victims
- ❖ Improving the way criminal justice officials and victim assistance providers
- ❖ Improving the investigation and prosecution of rape cases

Evolution of the Definition of Sexual Assault and Rape

Several authors have observed (e.g. Bourque, 1989; Estrich, 1987; Koss, 1993) that many people still believe that rape occurs only when a stranger attacks an adult woman using overwhelming force. Using this definition, boys or men cannot be raped; girls and adolescents cannot be raped; no one can be raped by someone they know; and forced oral or anal sex does not constitute rape. Thus, attempts to discuss the topic are often frustrating because many people define rape differently.

Before the 1960s, the legal definition of rape was generally a common law definition used throughout the United States that defined rape as "A carnal knowledge of a women not one's wife by force or against her will."

In 1962, the United States Model Penal Code (MPC) was established and updated the definition of rape. The MPC defined rape as " A man who has sexual intercourse with a female not his wife is guilty of rape if . . . he compels her to submit by force or threat of force or threat of imminent death, serious bodily injury, extreme pain, or Kidnapping" (Epstein & Langenbahn, 1994, p. 7). In addition to *limiting* the definition of rape to a crime against a *woman*, this code was also very narrow because:

- ❖ It did not acknowledge rape within marriage or co-habiting couples.
- ❖ It focused on the victim's consent rather than the perpetrator's forcible conduct.
- ❖ Moreover, the MPC established a grading system for the rape and similar offenses.

For example, it stated that rape by a voluntary social companion was a less serious offense than rape by a stranger. In addition, it treated the rape of men as a lesser felony than the rape of women.

In the 1970s and 1980s, extensive rape reform legislation was enacted throughout the country. And the legal definition of rape dramatically changed. Michigan's 1975 Criminal Sexual Conduct Statute, became the national model for an expanded definition of rape. Today, Illinois' Criminal Sexual Assault Statute is considered the national model (Epstein & Langenbahn, 1994, p. 8). Both statutes broadly define rape to include:

- ❖ Gender neutrality, broadening earlier definitions of rape to include men.

- ❖ Acts of sexual penetration other than vaginal penetration by a penis.
- ❖ Distinguishing sexual abuse by the degree of force or threat of force used. That is similar to the "aggravated vs. simple" distinction applied to physical assaults.
- ❖ Threats, as well as overt force, are recognized as means of overpowering victims.
- ❖ Taking advantage of an incapacitated victim. This includes mental illness, victims under the influence of drugs and alcohol. Some states require that perpetrators give victims intoxicants to obtain sexual access.)

The Federal Definition of Rape

Despite these legislative changes, much of the debate that exists today about what constitutes sexual assault and rape stems from how rape should be defined (Crowell & Burgess, 1996).

For purposes of this chapter, rape and other forms of sexual assault are defined using the Federal Criminal Code (Title 18, Chapter 109A, Sections 2241-2233). Although criminal statutes regarding rape differ somewhat state-to-state, the Federal Code is national.

For example, in addition to incorporating the reform provisions discussed above -- gender neutrality and a broad definition of sexual abuse acts -- the Federal Criminal Code:

- ❖ Distinguishes between types of sexual abuse on the basis of the degree of force or threat of force used.
- ❖ Does not use the term "rape," and does not require the victim to label the act as rape to meet the elements of the crime.

The 1986 federal statute defines two types sexual assault:

- ❖ Sexual abuse
- ❖ Aggravated sexual abuse

Aggravated Sexual Abuse

Aggravated Sexual Abuse by Force or Threat of Force: When a person knowingly causes another person to engage in a sexual act... or attempts to do so by using force against that person, or by threatening or placing that person in fear that that person will be subjected to death, serious bodily injury, or kidnapping.

Aggravated Sexual Abuse by Other Means: When a person knowingly renders another person unconscious and thereby engages in a sexual act with that other person; or administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby:

- a) Substantially impairs the ability of that person to appraise or control conduct
- b) Engages in a sexual act with that person

Aggravated Sexual Abuse with a Child: When a person knowingly engages in a sexual act with another person who has not attained the age of twelve years, or

attempts to do so.

The definition for aggravated sexual abuse by force or threat of force is analogous to what is usually called *forcible rape*. Aggravated sexual abuse with children is a serious form of what is generally called *statutory rape*. However, aggravated sexual abuse by other means is a type of non forcible rape for which the perpetrator "shall be fined . . . imprisoned for any term of years or life, or both."

Sexual Abuse

The Federal Criminal Code definition of sexual abuse includes:

☞ Causing another person to engage in a sexual activity by threatening or placing that person in fear.

☞ Engaging in a sexual act if that person is incapable of declining participation in, or communicating unwillingness to engage in that sexual act.

Abusive Sexual Contact is defined as "when no sexual penetration actually occurred but when the intentional touching...of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person occurs."

Sexual Abuse of a Minor or Ward is defined as "knowingly engaging in a sexual act with a person between the ages of 12 and 15 years. (For additional information on sexual crimes against children, see the chapter on child victims).

Implications of Definitions

While great reforms have been made, the statute-based definitions for sex crimes fall short. They are lacking in the following areas:

- The victim's state of mind at the time of the crime, such as fear of death or serious bodily harm; and the victim's crime-related physical and psychological injuries.
- The types of unwanted sexual acts involved, the types of force or the coercion used, and the ages of victims and perpetrators.

Measuring Rape and Other Types of Sexual Assault

Estimates of the number of rapes and/or the number of women who have been raped differ because the sources of these estimates use different samples, different definitions of rape, different time frames of measurement, different ways of measuring whether a rape has happened, and different units of analysis in reporting statistics.

☞ The difference between *rape cases* and *rape victims* is that women can be raped more than once.

☞ There is a difference between the *incidence* of rape and the *prevalence* of rape. *Incidence* generally refers to the *number of cases* that occur in a given time period (usually a year), and incidence statistics are often reported as rates (e.g., the number of rape cases occurring per 100,000 women in the population).

☞ *Prevalence* generally refers to the *percentage of women* who have been raped in a specified time period (e.g., within the past year or throughout their lifetime).

There is clearly a difference between estimates based on reported vs. nonreported cases. Fourth, estimates of rape come from two basic types of sources: 1) government sources 2) studies conducted by private researchers funded by federal grants.

With respect to government sources, the FBI Uniform Crime Reports (UCR) provides data on an annual basis only on the number of rapes and attempted rapes that were reported to US law enforcement that year. As noted by Crowell and Burgess (1996), another limitation of the UCR is that it uses the narrow common-law definition of rape (i.e., a carnal knowledge [penile-vaginal penetration only] of a female forcibly and against her will), meaning that other types of rape defined by federal law are not reported.

The Bureau of Justice Statistics conducts the National Crime Victimization Survey (NCVS) each year to measure reported and unreported crime, including rape and other sexual assaults. Every six months, the NCVS interviews residents 12 years or older in approximately 50,000 randomly-selected households about crimes that happened since the last interview.

In addition to data about the number of rape *cases* each year and rape *rates* (i.e., number of cases per 10,000 women), the NCVS provides information about the percentage of cases reported to police and characteristics of cases. Because the NCVS is primarily measures the number of rapes per year among those 12 and older, it cannot measure rapes that occurred prior to the six-month reference period. Nor does it address children under age 12. Understandably, the NCVS and most other studies don't measure rapes of homeless women.

There are three major nongovernmental studies that provide additional information about rape.

- The National Women's Study (NWS), funded by the National Institute of Drug Abuse: longitudinal survey of a national probability household sample of 4008 adult women who were assessed at baseline and at one and two year follow-ups. The NWS generated the influential *Rape in America: A report to the nation* (Kilpatrick, Edmunds, & Seymour, 1992) as well as a number of other peer reviewed scientific publications. The NWS measured rapes and other sexual assaults occurring throughout victims' lifetime as well as new cases occurring to adult women during the follow-up period.
- The National Violence Against Women Survey (NVAW), funded by the National Institute of Justice and the CDC: used similar methodology to that pioneered by the NWS and interviewed 8,000 adult women and 8005 adult men (Tjaden & Thoennes, 1998). Rape and sexual assault were measured using screening questions virtually identical to those used in the NWS. Like the NWS, the NVAW measured the lifetime prevalence of rape as well as rapes that occurred during the year prior to the interview.
- The National Survey of Adolescents (NSA), funded by the National Institute of Justice: conducted interviews with a national household probability sample of adolescents age 12-17. These adolescents were interviewed about sexual assaults and other crimes that occurred throughout their lifetimes. Also, information was gathered about important characteristics of these sexual assault cases (Kilpatrick & Saunders, 1996) and about the mental health effect of such experiences.

National Information About the Scope and Key Characteristics of Rape Cases

Accurate information about rape cases and victims is necessary to ensure victims receive effective treatment and cases are thoroughly investigated and prosecuted. The best information comes from the surveys described above. These surveys are ideal because they include information about

reported and unreported cases.

Only a small percentage of rape cases are reported to police, and it is critically important that we learn more about these cases and the victims. Prior to describing the scope and case characteristics data, it is important to consider the following:

- ✦ Encouraging victims to report attacks to police is critically important because most rapists are recidivists who will continue to rape they are apprehended, prosecuted, and incarcerated.
- ✦ It is extremely important to understand the extent of America's sexual assault problem to properly address it.
- ✦ Different types of sexual assault cases require different investigative and prosecutorial strategies to enhance the prospects of successful prosecution.
- ✦ The size, funding, and staffing of law enforcement agencies in the US varies widely. A one-size-fits-all sexual assault protocol applicable across all jurisdictions does not exist.

Unreported Sexual Assault Cases

National research indicates that most sexual assaults are never reported to police. The best data on unreported crime comes from victimization surveys. The surveys interview representative samples of adults and/or adolescents asking if they have been victims and if they reported the crimes. Some surveys also ask why victims did not report these crimes.

- At the national level, major victimization surveys suggest that most sexual assaults go unreported. The National Crime Victimization Survey, conducted each year by the U.S. Department of Justice, found that only 32% of sexual assault cases were reported to police in 1994. The *Rape in America* survey conducted as a part of the National Women's Study found that only 16% of rape cases were reported to police or other authorities (Kilpatrick, Edmonds & Seymour, 1992). Data from the National Survey of Adolescents indicated that only 14.3% of sexual assault cases had been reported. Thus, these national studies indicate that somewhere between 14% and 32% of all sexual assaults or rapes are ever reported to police.
- A study of nonincarcerated sex offenders conducted by Dr. Gene Abel and his colleagues found that 126 men admitted that they had raped. *These 126 rapists had committed a total of 907 rapes involving 882 different victims. The average number of different victims per rapist was seven (Abel et al., 1987).*

These findings suggest that unreported rape constitutes a serious public safety problem. ***The Scope of the Rape and Sexual Assault Problem***

As was previously described in the Statistical Overview section, the NVAW produced an estimate that 14.8% of adult women in the U.S. had been raped sometime during their lives and that another 2.8% had been victims of an attempted rape (Tjaden & Thoennes, 1998). For adult men, comparable lifetime prevalence estimates for rape and attempted rape were 2.1% and 0.9% respectively. The NWS found that 12.7% of adult women had been victims of completed rape and 14.3% had been victims of other types of sexual assault. The National Survey of Adolescents estimated that 13.0% of female adolescents and 3.4% of male adolescents had been victims of a sexual assault at some point during their lives (Kilpatrick & Saunders, 1997).

Data from the NWS and NSA indicate that revictimization is a problem for women and adolescents. Thirty-nine percent of rape victims in the NWS had been raped more than once, and

41.7% of the adolescent victims said that they had been sexually assaulted more than once.

National Research on Rape

Due to myths, misconceptions and social attitudes about sex crimes, the National Victim Center, in partnership with the National Crime Victims Research and Treatment Center of the Medical University of South Carolina, published *Rape in America: A Report to the Nation* in 1992.

The report was based on *The National Women's Study* -- funded by the National Institute of Drug Abuse -- a three-year longitudinal study of a national probability sample of 4,008 adult women, (age 18 or older), 2,008 of whom represent a cross section of all adult women and 2,000 of whom are an over sample of younger women between the ages of 18 and 34.

The study provided the first national empirical data about forcible rape of women in America:

☞ Seven-tenths of one percent of all women surveyed had experienced a completed forcible rape in the past year. This means an estimated 683,000 adult American women who were raped during a twelve-month period.

☞ Thirteen percent of women have been victims of at least one completed rape in their lifetimes.

☞ Based on U.S. Census estimates of the number of adult women in America, one out of every eight adult women, or at least, 12.1 million American women, has been the victim of forcible rape sometime in her lifetime.

☞ While 56%, or an estimated 6.8 million women experienced only one rape, 39%, or an estimated 4.7 million, were raped more than once; and five percent were unsure as to how many times they were raped.

Prior to this study, national information about rape was limited to data on reported rapes from the *FBI Uniform Crime Reports* or data from the Bureau of Justice Statistics, National Crime Survey (NCS) on reported and unreported rapes in the past year. The number of rapes per year in *Rape in America* was approximately five times higher than the Uniform Crime Reports or the NCS. Recently, the NCS has been redesigned amid concerns that it failed to detect a substantial proportion of rape cases.

Age of Rape Victims

The NWS found that "rape in America is a tragedy of youth," with the majority of cases occurring during childhood and adolescence:

☞ Twenty-nine percent of all forcible rapes occurred when the victim was less than 11 years old.

☞ Another 32% occurred when the victim was between ages of 11-17.

☞ Slightly more than one in five rapes (22%) occurred between the ages of 18-24.

☞ Seven percent of rapes occurred between the ages of 25-29.

☞ Only six percent of rapes occurred when the victim was older than 29 years old.

National Women's Survey Age at Time of Forcible Rape (All Cases)


Less Than 11 Years of Age

The NVAW Survey found:

☞ 21.6% of first or only rape cases

experienced by women happened

before age 12.

- 32.4% of such cases happened between the ages of 12 and 17.
- 29.4% happened between the ages of 18 and 24.
- 16.6% happened at age 25 or greater.

Note: The NWS data represent a breakdown of victim's ages at the time of *all* rape cases; and the NVAW data are a breakdown of age at the time of first rape only.

The NSA also provides information about the age at time of 462 cases of sexual assault experienced by 12-17-year-old adolescents (Kilpatrick, 1996, from the *Mouths of Victims* paper).

- 29.9% had been assaulted before age 11.
- 16.3% between the ages of 11 and 12.
- 20.8% between the ages of 13 and 14.
- 20.8% between the ages of 15 and 16.
- 1.7% at age 17.

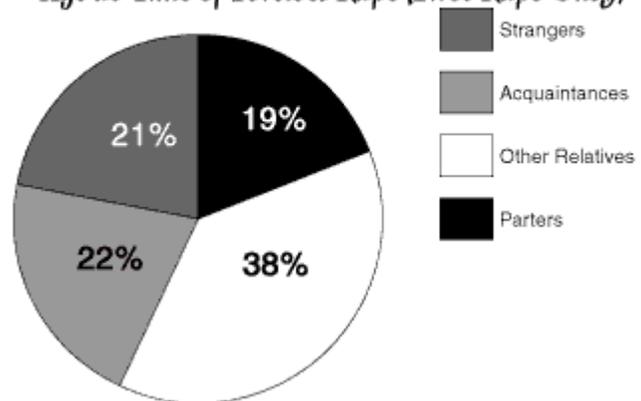
Note: In the remaining 8.7% of cases, victims were not sure or refused to provide age data.

Relationship of the Victim to the Offender

The NWS dispelled the common myth that most women are raped by strangers. For example:

- Only 22% of rape victims were assaulted by someone they had never seen before or did not know well.
- Nine percent of victims were raped by husbands or ex-husbands.
- Eleven percent by fathers or stepfathers.
- Ten percent by boyfriends or ex-boyfriends.
- Sixteen percent by other relatives.
- Twenty-nine percent by other non-relatives, such as friends and neighbors.

**National Violence Against Women Survey
Age at Time of Forcible Rape (First Rape Only)**



In addition to the data just presented, the NWS gathered information about new cases that happened to adult women during the two-year follow up period. This information on the 41 such cases provides excellent information about the breakdown for new rapes experienced by adult women (Kilpatrick, Resnick, Saunders, & Best, 1998) (Dohrenwend book chapter).

- 24.4% of offenders were strangers.
- 21.9% were husbands.

- ✦ 19.5% were boyfriends.
- ✦ 9.8% were other relatives.
- ✦ 9.8% were friends.
- ✦ 14.6% were other nonrelatives.

The NVAW survey used different categories for victim-perpetrator relationships but reported similar findings with respect to the types of perpetrators most prevalent in rape cases occurring after age of 18.

- ✦ 76% of perpetrators were intimate partners (i.e., current and former spouses, cohabiting partners, dates, and boyfriends/girlfriends).
- ✦ 16.8% were acquaintances.
- ✦ 14.1% were strangers.
- ✦ 8.6% were relatives other than spouses.

The NSA provides a different perspective because it provides data on cases during childhood and adolescence (Kilpatrick, 1996).

- ✦ 32.5% of perpetrators were identified as friends.
- ✦ 23.2% were strangers.
- ✦ 22.1% were relatives (fathers, stepfathers, brothers, sisters, grandparents, others).
- ✦ 18.1% were other nonrelatives known well by the victim.

Degree of Physical Injury

Another common misconception about rape is that most victims sustain serious physical injuries. Using lifetime cases from the NWS:

- ✦ Over two-thirds (70%) of victims reported no physical injuries.
- ✦ Only four percent sustained serious physical injuries.
- ✦ Twenty-four percent received minor physical injuries.
- ✦ Of considerable importance is that almost half of all rape victims (49%) described being fearful of serious injury or death during the rape.

Not surprisingly, the percentage of new rape cases (n=41) experienced by adult women in the NWS resulting in physical injuries was somewhat higher than cases that included childhood and adolescent rapes (Kilpatrick et al., 1998).

- ✦ 9.8% of victims reported serious physical injuries.
- ✦ 46.3% sustained minor injuries.
- ✦ 43.9% sustained no physical injuries.
- ✦ 58.5% said that they were fearful of serious injury of death.

The NVAW survey provides a detailed breakdown of physical injuries sustained and medical

treatment of the recent cases of rapes women experienced since age 18.

- ✦ 31.5% of women sustained some physical injuries.
- ✦ Only 35.6% of victims with injuries received medical treatment.

In the NSA, 85.5% of child and adolescent cases resulted in *no* physical injuries. Only 1.3% of victims reported serious injuries, and 11% reported minor injuries (Kilpatrick, 1996).

Implications of These Findings About the Scope and Characteristics of Rape for the Investigation and Prosecution of Rape Cases

Information from all of these sources provides compelling evidence that most rapes are committed by perpetrators who are known well by their victims. This has profound implications for how rape cases should be investigated and prosecuted. If most victims know the identity of their perpetrators, then the key investigative issue is not collecting evidence to identify the perpetrator. Instead, most cases will likely require evidence refuting claims by the alleged perpetrator that the sexual activity was consensual. Known perpetrators are unlikely to claim they were mistakenly identified as a defense because forensic examinations can conclusively link the perpetrator to the assault

Second, Susan Estrich (1987) notes that successful prosecution of rape cases often requires victims to produce evidence of physical injuries to prove that they did not consent.

The fact that the vast majority of rape victims do not sustain major physical injuries also has clear implications for investigation and prosecution. The first implication is that most victims will not exhibit overt physical injuries, causing many people to conclude the victim consented.

The second implication is that forensic examinations must focus on detecting evidence of physical injuries that are not consistent with consensual sexual activity. Law enforcement, prosecutors, and jurors need to be informed about these physical injury data.

This information indicates that most rapes and other sexual assaults involve relatively young victims - not adult women, as most people believe. This suggests that separate investigative protocols should be established for adult and child victims.

Implications for Sexual Assault Forensic Medical Examinations

In sexual assault cases, the victim's body is the primary "crime scene." The forensic medical examination is a critical part of evidence collection.

Based on the victim's report of what sexual acts occurred, the forensic exam collects evidence from the victim's body that can establish: 1) sexual activity occurred 2) that a given person committed the acts 3) the sexual act produces physical injuries consistent with forced sex.

The exam needs to collect evidence documenting that a sex act occurred to counter the defense that a suspect never had sex with the victim. The exam also needs to collect DNA or other evidence proving the named suspect committed the sexual act(s) in question. This evidence can be used to prove that the sexual act occurred and that the defendant was responsible for it.

The only remaining defense a suspect can use is a consent-defense. One of the few ways to counter a claim of consent is to collect evidence of physical injuries (to the vulva, vagina or anus) that are inconsistent with consensual sex.

Most sexual assault protocols for adult victims do not include state-of-the-art procedures for detecting physical injuries to the victim's vulva, vagina, or anus. Fortunately, new technology exists that may greatly increase detection of physical injuries.

The colposcope is a standard tool used by gynecologists for the evaluation of microscopic cervical, vaginal, or vulvar disease. Using a colposcope, the vulva, vagina, cervix, and/or anus can be examined at magnifications over 30 times the actual size. This permits detection of tears, bruises, or abrasions invisible to the naked eye. Colposcopic examination provides a much more objective and sensitive way of seeing and documenting genital, anal, and other injuries in sexual assault victims.

Conventional rape exams without colposcopes typically report evidence of genital injuries in only 19%-28% of cases (Slaughter & Brown, 1992). However, examiners using colposcopes find evidence of genital trauma in up to 87% of cases (Slaughter & Brown, 1992).

Another important finding is that colposcopic examinations of women who have had recent consensual sexual intercourse do not find evidence of physical injury. Thus, the colposcope is not only capable of detecting physical injuries invisible to the naked eye, but a trained expert examiner can also testify that such injuries do not occur during consensual sex.

The ideal acute sexual assault exam protocol would have two parts:

The first part would be similar to the existing protocol, which is conducted within 72 hours of the assault. However, the protocol would be changed to include a colposcopic exam.

The second part of the protocol would include a second colposcopic exam conducted 4-6 weeks after the assault. The purpose is to collect evidence of a victim's recovery from physical injuries detected during the first exam. That would provide evidence for an expert examiner to testify about recovery from injuries inconsistent with consensual sex.

A final advantage of the colposcope is that technology exists to take color photographs or make videotapes of the injuries detected. This documentation of injuries has been described as having a powerful impact on jurors. And defendants, who entered guilty pleas when confronted with this evidence.

The Need for a Comprehensive Approach

Improving the investigation and prosecution of rape cases cannot be accomplished by any single agency. At least two recent major reports strongly advocate interagency cooperation (Epstein, Langenhahn, 1994; National Victim Center, 1992). The National Victim Center Report, *A Looking Back, Moving Forward: A Guidebook for Communities Responding to Sexual Assault*, identified a number of agencies that should play a key role after an assault occurs.

These agencies and their roles are depicted in a figure contained in the above mentioned report (National Victim Center, 1992). This figure identifies roles for five types of agencies/disciplines in responding to sexual assaults:

- Medical
- Law Enforcement
- Prosecution
- Corrections
- Victim Services

As the figure indicates, victims who report rapes to law enforcement will likely have contact with medical and victim service professionals as well as law enforcement. If an arrest is made, prosecution professionals become involved. If there is a conviction, then corrections becomes involved. The NVC report strongly advocates establishing community sexual assault interagency councils with representatives from these areas. The report also suggests these interagency councils should negotiate a multiagency protocol specifying how sexual assault cases should be handled.

Even though establishing an interagency council is difficult and may be impractical in some communities, the importance of cooperation cannot be overemphasized. Law enforcement is critically important, but law enforcement cannot succeed without the assistance and support of other agencies.

The US has numerous police and prosecutorial jurisdictions. No single policy will fit the needs of all jurisdictions. In large metropolitan areas or large departments, it might be feasible to develop sex crimes investigation units. This is not feasible in small jurisdictions. Likewise, large metropolitan areas have many law enforcement agencies as well as major medical centers, rape crisis centers, and other victim service agencies. Small law enforcement agencies are often in small towns or rural areas that lack ready access to medical centers and victim services. Large agencies often have victim advocates, but small agencies rarely do.

Even though victims' needs and the elements of effective investigation and prosecution are the same regardless of jurisdiction, protocol should reflect the circumstances within different jurisdictions.

Reasons for Nonreporting and How to Increase Reporting

Why don't victims report rapes to police?

According to a recent BJS report (1994), attempted crimes, and crimes that did not result in physical injuries were less likely to be reported to police than completed crimes or those producing injuries. Victims of violent crimes who reported said they did so to help prevent future acts of violence and because they thought it was the right thing to do. A primary reason for not reporting was a victim's desire to maintain privacy.

The *Rape in America* report (Kilpatrick et al., 1992) included information relevant to why most victims are reluctant to report (see Figure 1). Major concerns identified by victims were: being blamed by others, their families finding out about the rape, other people findings out, and their names being made public by the news media.

A victim with these concerns would likely have substantial reservations about reporting the rape to police. However, it is reasonable to assume that addressing these concerns might encourage reporting.

A second part of the *Rape in America* report described the results of a national survey of 522 organizations that provided crisis-counseling services to adult victims, some of whom did not report to police. Representatives from these agencies provided a list of actions that would increase victims' willingness to report rapes to police. Below are the actions and the percentage of agencies that thought each action would be effective.

- Educate the public about acquaintance rape/99%
- Pass laws protecting confidentiality victims' identity/97%

- Expand counseling and advocacy services/97%
- Provide mandatory HIV testing for indicted defendants/80%
- Provide free pregnancy counseling and abortions/77%
- Provide confidential, free testing for HIV and STDs/57%

Efforts to increase the reporting of rape cases must be as big a priority as effective processing of cases. This requires a great deal of public education about rape, especially acquaintance rape. It will also require ensuring victims have access to needed support services and that they know their privacy will be protected to the extent that is legally possible. It also requires a public education campaign stressing the importance of reporting all rapes.

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