

The Reality of Sexual Assault in New Hampshire

a report from the Research Committee of the Governor's Commission on Domestic and Sexual Violence

This report presents the findings of an exploratory study designed to examine how the criminal justice system responds to adult female sexual assault, a crime that has affected nearly one in four women in NH. During the process of interviewing professionals from different disciplines, it became clear that everyone is frustrated with the limitations of the current response.

"The jury...is under the impression that we all have CSI labs with people working for millions of dollars. It appears that they believe that if there is no DNA evidence then something did not occur." Prosecutor

"For some [victims], depending on treatment from other agencies, the stress of going through the [criminal justice] process may be more than they can handle; they choose to heal in their own way." Crisis Center Advocate

"The system definitely has to change... Everybody agrees it's not OK to rob a bank. But everyone has a different idea about what's OK with sex." Victim Witness Advocate

Snapshot of Findings

I. Rapes don't get prosecuted because of public misperceptions.

Jurors attitudes reflect public misperception of the reality of adult female sexual assault and thus make it difficult, if not impossible, to successfully prosecute these cases. Public opinion and lack of knowledge impacts the ability to successfully prosecute adult female sexual assault cases and decisions about whether to bring cases forward.

II. Different system goals hinder responses to victims.

There is a lack of consistent collaboration among the various disciplines responding to adult female sexual assaults. The responses of interviewees showed the ways in which different parts of the system have different goals and a different focus.

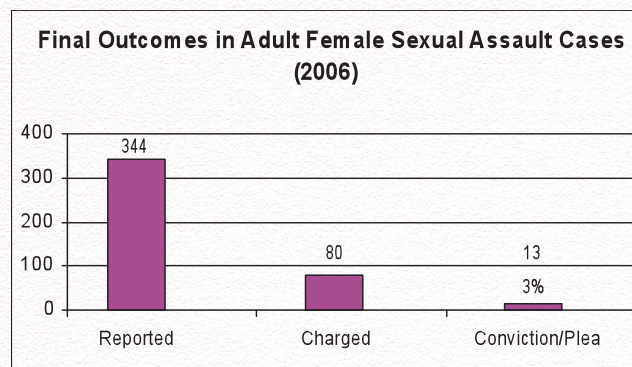
III. Real rape? Deserving victims?

There are inconsistent and ineffective responses to adult female sexual assault across the state.

The professionals interviewed understand the complexity of victim reactions, but everyone agrees that "the system" as a whole still endorses stereotypes about "real rape" or "deserving victims".

IV. The system is broken.

The criminal justice system is not designed to respond to the challenges of adult female sexual assault cases. Interviewees across disciplines agreed that a new approach is needed to effectively deal with adult female sexual assault cases.



Only 13 out of 344 offenders (3%) were known to be convicted or pled guilty, according to information available from law enforcement for 2006.

Outlining the Problem

- Approximately 23% of women in NH have been the victim of a sexual assault, according to the 2007 New Hampshire Violence Against Women Survey [1].
- The majority, approximately 88%, of these assaults were perpetrated by someone known to the victim.
- According to the National Crime Victimization Survey, sexual assault was the least likely of all violent crimes to be reported to law enforcement between 1992 and 1999. This was the case again in 2006. [2]
- The Bureau of Justice Statistics reports that between 1992 and 2000, an average of 69% of sexual assaults were never reported to law enforcement.

Sexual Assault Realities

- Most sexual assaults are perpetrated by someone known to the victim.
- Few sexual assaults result in physical injury.
- Forensic evidence is not present in every case of sexual assault.
- Perpetrators are rarely held accountable by the criminal justice system.

A number of studies have been conducted to explore why so few sexual assault cases are reported to the criminal justice system, and although questions still remain, it is apparent that an overwhelming reason for lack of reporting is the deeply entrenched rape myths embedded in our culture. A number of research studies conducted in the mid 1990's showed that law enforcement was less likely to make an arrest if the victim's credibility was questionable, if the suspect was known to the victim, or if there was no substantive forensic evidence [4]. These studies also showed that the decision by prosecutors to charge was similarly affected by the same factors.

A study published in the Criminal Justice Policy Review in 2005 revealed that since most sexual assaults were perpetrated by non-strangers, and few of these assaults involved physical injury, most sexual assault cases focused the attention on the victim - her moral character and her behavior preceding the assault [5]. Sexual assault cases are also affected by the relationship between the victim and suspect. Stranger cases are investigated more thoroughly and are less likely to be unfounded* by the police or rejected by the prosecutor [6]. The general perception that sexual assault victims will receive a negative reaction, such as disbelief and blame for the assault, from these systems makes it reasonable to assume this factors into a victim's decision to report sexual assault [7].

To understand the impact these myths have on the successful prosecution of sexual assault cases, it is necessary to acknowledge the myths themselves. General perceptions of what constitute "real rape" characterize the assault as an act of violent, forceful penetration committed by a stranger during a surprise attack while brandishing a weapon [8]. Typically a "real" victim is portrayed as a morally upright woman who was sober and fought back against her perpetrator. These myths persist even though statistics show the majority of women are assaulted by someone they know, and that physical injury is not common in most sexual assaults.

Although many people acknowledge that these generalizations are not accurate, they clearly have an impact on how sexual assault cases are handled in the criminal justice system. The further away from the "classic" perception of a victim, the less likely we are to find a positive outcome for the victim. A 2001 study published in the Journal of Interpersonal Violence indicated that victims of stranger rape were more likely to have their cases prosecuted than victims of non-stranger rape; victims who were physically injured were more likely to have their cases prosecuted than victims without physical injury and sexual assaults involving weapons were more likely to be prosecuted than those that did not involve weapons [9].

The Study

This study looked at how adult female sexual assault cases move through the criminal justice system; whether there are impediments to the successful prosecution of adult female sexual assault cases, and if so what they are; and how the system's response to adult sexual assault can be improved. The findings represent a compilation of themes that emerged from interviews with law enforcement officers, prosecutors, sexual assault nurse examiners (SANEs), victim witness advocates, and crisis center advocates across the state of New Hampshire.

Former Attorney General Kelly Ayotte sent letters to law enforcement agencies, county attorneys, victim witness advocates, crisis center advocates, and SANE nurses in ten communities across the state, requesting that members of each of those disciplines participate in structured interviews. A total of 51 interviews were conducted face-to-face between October 2008 and February 2009. Communities were chosen by population size and a mix of rural and urban locations, designed to be representative of the ten state counties. To insure the protection of the participants' identities, no tape-recording devices were used during the interviews. Detailed notes were taken to capture participant responses. A three-digit identifying number was assigned to each interview coded by discipline.

Data analysis was conducted by a research team comprised of Dr. Sharon Murphy, three graduate student interviewers, a crisis center advocate and a member of law enforcement. Research team meetings were held weekly between February and June 2009. Funding for the research was provided by the University of New Hampshire's Office of Student and Academic Services

Overall Findings

I. Jurors attitudes reflect public misperception of the reality of adult female sexual assault and thus make it difficult, if not impossible, to successfully prosecute these cases.

Public opinion and lack of knowledge impacts the ability to successfully prosecute adult female sexual assault cases.

"When picturing a sexual assault or rape, for the most part they [jury] visualize a stranger, knock-down, drag out. That's not how it is... I can count on one hand how many cases have been between total strangers."

Victim Witness Advocate

"If there is victim "baggage", we seriously weigh that when deciding to move forward, consider impairment, alcohol, drugs, mental state."

Prosecutor

There was clear acknowledgement of a mismatch between individuals who said they believe victims, which was indicated by all interviewees, and whether "the system" will believe the victim.

"The jury...is under the impression that we all have CSI labs with people working for millions of dollars. It appears that they believe that if there is no DNA evidence then something did not occur."

Prosecutor

"It's harder to prosecute if a victim has a hard time articulating or if her affect is inappropriate or inconsistent."

Prosecutor

Factors that often determine if a case will move forward include:

- The victim’s emotional reactions,
- If she recants,
- Whether she consumed drugs or alcohol,
- Consistency in her statements to law enforcement and prosecution,
- What her previous history is with police,
- Physical evidence, such as signs of trauma or injury, presence of DNA, forensic evidence and photographs influenced credibility.

When discussing what helps cases move forward, interviewees focused almost exclusively on the victim rather than on the actions of the accused perpetrator. Victims’ credibility and forensic evidence seem to be at the center of whether a case will be taken seriously by the criminal justice system.

II. There is a lack of consistent collaboration among the various disciplines responding to adult female sexual assaults.

The responses of interviewees showed the ways in which different parts of the system have different goals and a different focus. One prosecutor, for example, talked about his/her job as trying to “make all the pieces add up” so that victims get justice and perpetrators are held accountable. Victim witness advocates are the victim’s liaison with the prosecutor and court process.

Law enforcement officers explained that their role focuses on “getting as many good pieces of the puzzle as possible.” SANE nurses described how they conduct medical/forensic examinations, testify in court, and provide support to victims. Crisis center advocates provide victims with information, advocacy and support before, during and after the criminal justice process.

“It’s been my experience that they [crisis center advocates] come in with a preconceived notion that it’s going to be one way and when we tell them that’s it’s going to be another way... there has been friction.”

Law Enforcement

“There needs to be more collaboration and referral.”

Crisis Center Advocate

Clearly all of these pieces are critical. However, there was consensus across the interviews that professionals are eager for new ways to coordinate work across these areas, improve communication and understand each discipline’s role, and develop more effective multi-disciplinary responses. Others talked about the challenges of collaboration and the desire for new ways to promote communication. For example, a number of SANE nurses expressed their desire for a more organized response by pointing out that they do not “hear what happens to the cases” and have

limited communication with police or prosecutors. Prosecutors acknowledged that because of the large number of different police departments throughout their counties, there “is no single way that adult cases are prosecuted.” Like SANEs and prosecutors, law enforcement and crisis center advocates also see the need for more communication, pointing out that other agencies don’t always understand their role in the process. The interviews reflected a real willingness and interest in trying to improve responses but professionals seem to feel stuck as to how to proceed.

“If communication is good, then everything else falls into place.”

Victim Witness Advocate

III. There are inconsistent and ineffective responses to adult female sexual assault across the state.

The professionals interviewed understand the complexity of victim reactions, but everyone agrees that “the system” as a whole still endorses

“Whoever is responding will affect the person the rest of her life...society doesn’t understand how sexual assault can affect somebody.”

Crisis Center Advocate

“More personnel is always an issue, more specialized training in the dynamics of sexual abuse, and then I guess more communication with individual officers whose cases are not going forward – why and how they could improve themselves to bring stronger cases in the future.”

Law Enforcement

stereotypes about “real rape” or “deserving victims”. All of the professionals interviewed agreed that variability in training and expertise in handling sexual assault cases contributes to the ineffectiveness of responses. The system has many good people but there is also a great deal of inconsistency in their responses. The problem is not any one or several parts of the system in particular but different levels of knowledge and training across all disciplines. Some likened the way a victim will be treated or how a report of adult female sexual assault will be handled to a “roll of the dice.”

Few participants identified themselves or their profession as the source of these problems in the system but rather seemed to refer to the “system” as a whole.

Professionals from all disciplines remarked that they learned important

information during specialized training they would never have been aware of otherwise, and yet interviewees remarked that there have not been the resources for such training to be widely and consistently available. All of the professionals interviewed expressed an interest in having more specialized training.

“I would love to have a sexual assault response team (SART). We don’t have any money. We have an investigative manual for small departments. We would love to have that team.”

Prosecutor

“We have excellent training and if you haven’t had the training there will be holes in the collection of evidence.”

SANE

IV. The criminal justice system is not currently designed to respond effectively to the unique challenges of adult female sexual assault cases.

“Testifying is not easy, interviewing is not easy. Going through an exam is very difficult to do. That’s just three basic parts... add the trauma not to mention any other complications [such as] disease; add in telling your family, your husband, judgment from your friends. If there were a way to use taped interviews as testimony [that] would be good, but we can’t do that, you can’t cross examine a video tape. I think it’s just our system, it’s not for victims.”

Law Enforcement

Interviewees across the above listed disciplines agreed that a new approach is needed to effectively deal with adult female sexual assault cases. While improvements in response to this crime have been made, and there are many people who do their best to support and seek justice for victims, the overall sexual assault response system rarely provides positive outcomes for victims.

“The system definitely has to change...Everybody agrees it’s not OK to rob a bank. But everyone has a different idea about what’s OK with sex.”

Victim Witness Advocate

“For some [victims], depending on treatment from other agencies, the stress of going through the [criminal justice] process may be more than they can handle; they choose to heal in their own way.”

Law Enforcement

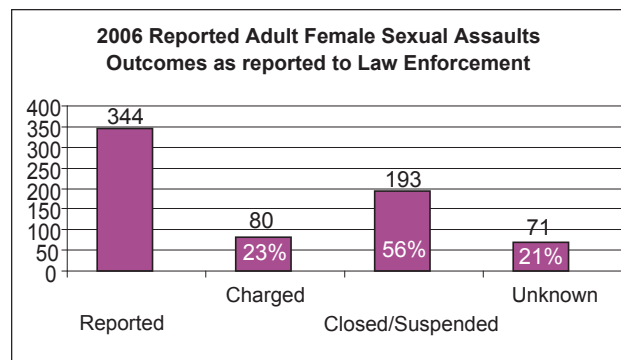
Criminal Justice System Data

NH lacks a consistent and uniform means of tracking adult female sexual assault cases through the criminal justice system.

In addition to the interviews conducted in this study, letters were sent to all of the police departments and county attorney's offices in the state requesting case disposition data on all adult female sexual assaults reported in 2006.

All of the NH law enforcement agencies and county attorney's offices were contacted. Of the 231 law enforcement agencies, 152 were able to provide data. Of the ten county attorney's offices, only two provided data. Agencies have different reporting requirements and records management systems, and the lack of a uniform data collection system makes it difficult to track cases through the criminal justice system.

Due to a lack of NH law enforcement data, we sought information from two national criminal justice reporting systems and discovered outdated categories, and inconsistent tracking systems within both the law enforcement and prosecution communities. Neither Federal nor State governments are able to accurately track adult female sexual assaults. This is partially due to inconsistency in the definitions of sexual assault categories between local, county, state and federal law enforcement agencies. Without uniform data, we cannot draw definitive conclusions; however, the graph below demonstrates criminal justice outcomes of adult sexual assault, based on the limited data available.



Law enforcement agencies that did respond received reports of sexual assault from 344 adult females in 2006. Of these there were 52 arrests; there were 13 known convictions or plea agreements; 193 were closed or suspended, and 71 cases have unknown outcomes. Unknown, for the purposes of this data, means the law enforcement agency was not able to tell us what happened with these cases. Cases that are closed or suspended refer to cases that do not move beyond the law enforcement agency that received the report into the court system.

It is clear that compared to the number of adult female sexual assaults reported to law enforcement in New Hampshire, very few victims see their cases progress completely through the criminal justice system. **In this study, information as reported to law enforcement for 2006 indicated only 13 perpetrators were known to be convicted or pled guilty out of 344 cases that were reported.**

Recommendations

- **Initiate a public awareness campaign about the realities of sexual assault.**

A comprehensive campaign must be initiated to address misconceptions.

Contrary to popular belief most sexual assaults are perpetrated by someone known to the victim, few of them result in any physical injury and forensic evidence is not present in every case of sexual assault. This campaign must also use the available data to address the misperception that perpetrators are held accountable by the criminal justice system, when in fact that is rarely the case.

- **Promote multi-disciplinary, collaborative, victim-centered responses.**

All disciplines agree that victim participation is crucial for the successful investigation and prosecution of sexual assault cases. It is essential to develop an effective, multidisciplinary response to adult sexual assault that is informed by the needs of the victim. New Hampshire has a Sexual Assault Resource Team (SART) initiative underway with a goal of increasing the successful prosecution of cases of adult sexual assault in NH through the development and sustainability of victim-centered SARTs. The Attorney General's office has made this a priority and encourages all law enforcement agencies in the state to get involved in the process.

- **Identify and fund inter-disciplinary training.**

It is critical for all professionals to understand the roles and responsibilities, goals and challenges of all other disciplines involved in sexual assault cases. In order to ensure quality, consistent and effective responses to adult female sexual assault more training and support for each profession responding to sexual assault is essential. Specialized training is identified as a key component of effective responses and must occur on a continual basis.

- **Develop and fund a coordinated system for gathering and tracking criminal justice data on all cases of sexual assault.**

It is clear that data collection throughout the criminal justice system is using outdated terminology and does not include all sexual assault categories. Some agencies do not have any records management system capable of collecting such data. A NH specific, criminal justice data sharing system, Justice One (J-One), began development in 1995. It will allow for a comprehensive analysis of how cases of adult female sexual assault, and all cases with victims of violent crimes, progress through the criminal justice system. This system has been in the development stages for the state of NH for 15 years and funding for this project should become a priority.

Conclusion

Public misperceptions of sexual assault have a profound impact on the way adult female sexual assault cases move through the criminal justice system. These misperceptions result in a focus on the victim's actions, as opposed to the perpetrator's actions, during the investigation and prosecution of these cases. The Research Committee is dedicated to presenting the findings from this study in order to educate the public on the realities of adult female sexual assault and to encourage consistent and effective, multi-disciplinary responses to these cases in the future.

[1] Mattern, G., Banyard, V., Bujno, L., Laflamme, D., Moynihan, M. & Potter, S. (2007).

[2] Bureau of Justice Statics (2003 & 2007).

[3] Hart, T., Rennison, C. (2003). Reporting Crime to Police, 1992-2000. BJS Special Report, NCJ 195710

[4] Chen, Y., Ullman, S. (2010). Women's Reporting of Sexual and Physical Assaults to Police in the National Violence Against Women Survey. *Violence Against Women*, 16(3) 262-279

[5] Beichner, D., Spohn, C. (2005). Prosecutorial Charging Decisions in Sexual Assault Cases: Examining the Impact of a Specialized Prosecution Unit. *Criminal Justice Review*, 16(4) 461-498

* Unfounded means the allegation has not been substantiated.

[6] Beichner, D., Spohn, C. (2005).

[7] Chen, Y., Ullman, S. (2010).

[8] Du Mont, J., Miller, K., Myhr, T. (2003). The Role of "Real Rape" and "Real Victim" Stereotypes in the Police Reporting and Practices of Sexually Assaulted Women. *Violence Against Women*, 9(4), 466-486

[9] Campbell, R., Wasco, S., Ahrens, C., Sefl, T., Barnes, H. (2001). Preventing the "Second Rape": Rape Survivors' Experience with Community Service Providers. *Journal of Interpersonal Violence* 16(12), 1239-1259.

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The New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV) is an umbrella organization that provides technical and financial support to 14 member agencies who provide services to survivors of sexual assault, domestic violence, and stalking. Member agency services are free, confidential, and available to all victims regardless of age, race, gender, religion, sexual orientation, physical ability or financial status.

NHCADSV Crisis Centers and Contact Information:

Response to Sexual and Domestic Violence

(Berlin, Colebrook, Lancaster)

*office number (603) 752-5679

Turning Points Network

(Claremont, Newport)

*office number (603) 543-0155

Rape and Domestic Violence Crisis Center

(Concord)

*office number (603) 225-7376

Starting Point

(Conway, Ossipee)

*office number (603) 356-7993

Sexual Harassment and Rape Prevention

Program (SHARPP)

(UNH, Durham)

*office number (603) 862-3494

Monadnock Center for Violence Prevention

(Keene, Jaffrey, Peterborough)

*office number (603) 352-3782

New Beginnings

(Laconia and all of Belknap County)

*office number (603) 528-6511

WISE (Lebanon)

*office number (603) 448-5922

The Support Center at Burch House

(Littleton, Woodsville)

*office number (603) 444-0624

YWCA Crisis Service

(Manchester, Derry)

*office number (603) 625-5785

Bridges: Domestic and Sexual Violence

Support

(Nashua, Milford)

*office number (603) 889-0858

Voices Against Violence

(Plymouth)

*office number (603) 536-5999

A Safe Place

(Portsmouth, Rochester, Salem)

*office number (603) 436-4619

Sexual Assault Support Services

(Portsmouth, Rochester)

*office number (603) 436-4107

Statewide Hotlines:

Sexual Assault: 1-800-277-5570

Domestic Violence: 1-866-644-3574