



A key mission of the Center for Research on Violence Against Women is to ensure that the findings of quality research make it into the hands of advocates. This translation of research to practice ensures that science has an impact on the lives of women and children.

In 2010 the Center for Research on Violence Against Women conducted a survey with over 100 rape crisis and domestic violence advocates in Kentucky about what they needed to know from research to help them do their jobs. Advocates identified ten top issues. A series of ten briefs were prepared by the Center to answer the Top Ten Things Advocates Need to Know.

TOP TEN THINGS ADVOCATES NEED TO KNOW

1. What services do survivors of rape find most helpful, and what help do they say they need?
2. What type of sex offender is most likely to recommit their crimes? Incest offenders, rapists, or pedophiles?
3. What mental health issues are caused by experiencing intimate partner violence or sexual assault?
4. Do protective orders work? Who violates protective orders the most?
5. What is the impact of mandatory arrest laws on intimate partner violence victims and offenders?
6. What are the most significant long-term health consequences of chronic sexual or physical violence?
- 7. WHAT PERCENTAGE OF RAPE CASES GETS PROSECUTED? WHAT ARE THE RATES OF CONVICTION?**
8. Does treatment with intimate partner violence offenders work?
9. Does a report of intimate partner violence or sexual assault by a partner put a woman at risk of losing custody of her children?
10. How do women from different racial/ethnic backgrounds experience intimate partner violence (IPV) or sexual assault? Does race and ethnicity matter?

For more information on the Center for Research on Violence Against Women and to find PDFs of the Top Ten Things Advocates Need To Know Series, visit www.uky.edu/CRVAW

**WHAT PERCENTAGE OF RAPE CASES GETS PROSECUTED?
WHAT ARE THE RATES OF CONVICTION?**

REPORT AT A GLANCE

- A national study estimates only 37% of reported rapes are prosecuted.
- 18% of prosecuted rape cases end in a conviction.
- Research suggests a survivor's decision to report a rape case and continue within the legal system is one of the most important factors affecting the prosecution of rape cases.
- The criminal justice system can often deter women from continuing their cases due to secondary victimization. Women may be retraumatized by having to repeatedly tell their story and detailed investigations by law enforcement may make survivors feel like they are not believed.
- A Sexual Assault Nurse Examiner, Sexual Assault Response Team or other advocates may be effective in helping rape survivors understand the legal process without feeling further victimized by the process.
- Prosecutors often only take cases they can win, for rape cases many factors may be considered. Often cases are unwittingly approached with rape myths and stereotypes about race, class, gender and the deservingness of rape victims.
- Research shows that even when charges are filed, the legal system often downgrades or drops felony rape charges for guilty pleas on other crimes. This often does not feel like justice for survivors since the offender never has to admit or acknowledge that his actions were rape.
- More effort is needed in understanding and eliminating the gap between the ideals of cultural and legal rape reforms, and the application of these ideals within the realities of the criminal justice system.

In 2010 the Center for Research on Violence Against Women conducted a survey with over 100 rape crisis and domestic violence advocates in Kentucky about what they needed to know from research to help them do their jobs. Advocates identified ten top issues. This brief is one in a series of ten prepared by the Center to answer these top ten research questions.

Introduction

The most recent national study examining the prevalence of rape in the United States was reported in 2007 and estimated that 18% of women in this country have been raped in their lifetime (1). Based on their interviews with a representative sample of 5,000 women, the researchers in this study estimated that around 1 million women were raped in 2005, the year of the study. While that Rape in America report spotlighted the plight of 1 million women, however, official data from the Federal Bureau of Investigation indicate that only about 94,000 rapes were reported to law enforcement in the same year (2). Together, these data suggest that fewer than 10% of rapes that occur in the United States are ever reported to police.

When sexual assaults are reported to law enforcement, very few cases end up being prosecuted, with research indicating that only 14-18% of all reported sexual assaults ultimately get prosecuted (3, 4, 5, 6). When limited to rape only (rather than including all forms of sexual assault), prosecution rates are slightly higher. The National Violence Against Women Survey (7) estimated that 37% of reported rapes of adult women were prosecuted.

Not all prosecuted cases end in a conviction. The NVAWS estimated that only 18% of rape cases involving adult women result in a conviction. Since most rapes are not reported to police, the study estimated that only 3.4% of all rapes ultimately lead to a conviction for the offender. Several factors affect if and how a rape is reported and prosecuted, and whether or not the case results in a conviction. This report reviews research on the prosecution of rape, and examines factors which appear to affect the likelihood of prosecution or conviction.

Reported Rape Cases in the Criminal Justice System

The likelihood and outcome of rape case prosecution is dependent on a number of factors, as noted below:

1. First, as mentioned above, most rapes are never reported to police. Research suggests, however, that the sooner a rape is reported, the more likely it will be prosecuted. When a rape is reported early, there is a greater likelihood that medical forensic evidence can be collected (5, 8), and that law enforcement, prosecutors, and jurors will find the survivor's story credible (9, 10).
2. Women raped by strangers on average report the incident much sooner than those raped by a known person, even though the typical rape perpetrator is likely to be an intimate partner or acquaintance (4, 7). Research suggests that cases are more likely to be reported and prosecuted if they involve strangers, multiple offenders, and other crimes which co-occur with the rape (12).
3. More severe cases are also more likely to be prosecuted (9). One study conducted 102 in-depth interviews with women in Chicago, and found that only 25% of reported rape cases were prosecuted (4). In this particular study, 70% of the prosecuted cases had white victims, and 80% of the prosecuted cases closely fit the profile of a "classic rape case" involving a stranger offender, injuries, and/or weapon use (4).

Once a rape has been reported, the criminal justice process involves several gatekeeping steps from the initial report to prosecution. Much of the research on barriers to prosecuting rape cases focuses on two critical stages of the criminal justice system: the police investigation stage, and the prosecutor stage.

Police Investigation Stage

Contact with a law enforcement officer or detective is usually the first step towards prosecuting a rape case. The goal of police officers and detectives is to build a strong case of evidence and recommend to prosecutors that charges be filed (2).

Some research has suggested that police detectives, by whether they encourage or discourage a woman's decision to press charges, may be the biggest influence whether or not a legal case is pursued (13).

The survivor herself must play an important role in the investigation process, and many cases only go forward if the survivor participates (5, 14). This often means that a survivor must re-tell the story of her rape to many different people, over and over again, which can be traumatic and difficult. However, fulfilling detectives' requests for information during the investigation must take place before prosecutors will commit time and resources to prosecuting a rape case (14). Often these necessary steps for the investigation must be done at times and locations (for example, coming to the police station to identify a suspect in a line-up at whatever time the police can bring him into custody) which may continue to disrupt a survivor's day-to-day life activities (14).

Some survivors report that the detailed investigation by law enforcement can make them feel further violated and not believed, a situation researchers have termed the "second rape" or "secondary victimization" (15, 16, 17). Studies surveying rape survivors found that in the past police have doubted women's stories, were unsupportive or threatened to charge the women with crimes for not cooperating, or asked intrusive questions about the woman's sexual history or how they were dressed (18, 19, 20). A study by Patterson (21) suggests that survivors' perceptions of secondary victimization by detectives depended on the outcomes of cases:

"Victims whose cases had many factors of credibility and were ultimately prosecuted described their detectives as compassionate. On the other hand, victims whose cases had many factors typically viewed as lacking credibility indicated their detectives as engaging in secondary victimization." (p.342)

A large survey of 891 police officers in the southeastern U.S. found that officers who accepted more rape myths were less likely to believe rape victims without "classic rape case" circumstances (22).

However, research also finds that the assistance of an advocate improved survivors' experiences with police. Survivors with victim advocates were more likely to file a police report, were less likely to be treated negatively by police, and reported less distress from participating in the legal system (23). Other research suggests that a Sexual Assault Nurse Examiner (SANE) provides important support and confidence to women when they are first choosing to report a rape to law enforcement and seek prosecution (5).

Prosecutor Stage

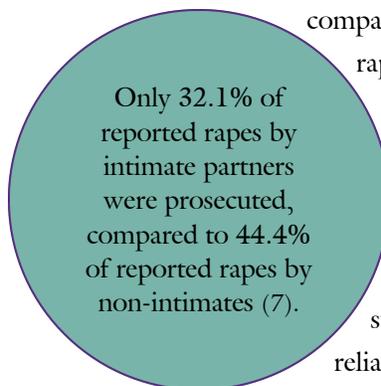
Once a police report has been filed and evidence is gathered, a prosecutor usually makes the decision of which, if any, criminal charges to bring against an offender (12). A research review by Miller, Iovanni, and Kelley (24) concludes that "prosecutors often only take cases they are reasonably sure they can win" (p. 278). For those survivors whose case doesn't meet those standards; is less clear with respect to evidence, their case may not seem winnable for prosecutors. In these instances, this often means that the needs of the rape survivor are lost among the practical concerns of meeting the legal requirements of the criminal justice system. Because they focus on successful prosecution if a case goes to trial, prosecutors may almost immediately press survivors on issues that might arise in trial, for example, her ability to withstand cross-examination by a defense attorney.

Research shows that a Sexual Assault Nurse Examiner (SANE), Sexual Assault Response Team (SART), or other advocates may be effective in helping rape survivors understand the legal process without feeling further victimized by the prosecution process (5, 24).

Unfortunately but important to report from the literature, at least one study reported that some women reported to researchers that they felt pressured by advocates who

worked together with prosecutors to convince her to accept certain legal decisions made against her wishes (14).

Other problems can arise for prosecutors when considering the likelihood of a successful prosecution. Evaluating the viability of a case can sometimes mean that prosecutors approach rape survivors with rape myths in mind, thereby unwittingly reproducing stereotypes about race, class, gender, and the deservingness of "real" rape victims (25). Data from the National Violence Against Women Survey demonstrate the consequences of these myths. In the nationally-representative study, only 32.1% of reported rapes by intimate partners were prosecuted,



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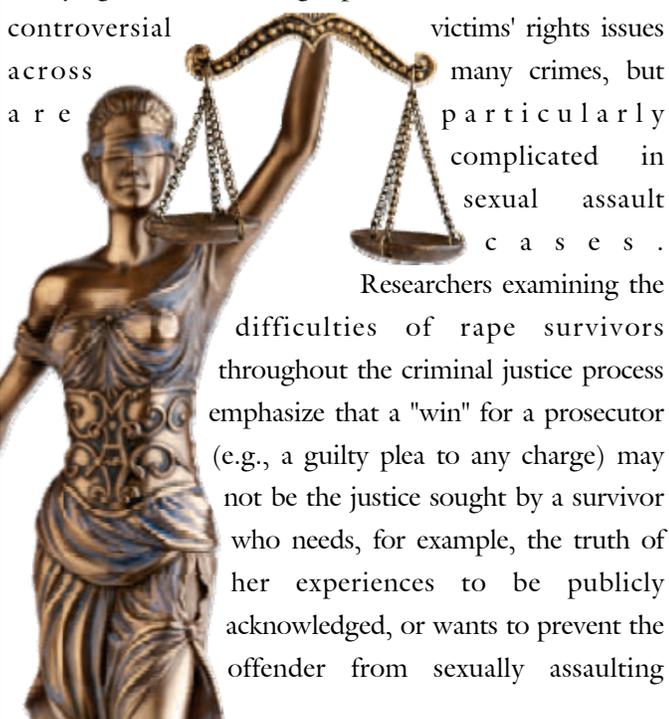
Conviction rates for intimate rapists were also significantly lower (36.4% to 61.9% of prosecuted cases), suggesting that prosecutors' reliance on rape myths when considering prosecution may be at least partially based on experiences in trying real cases (7). Likewise, interviews with rape survivors also show that white victims with stranger offenders fitting a "classic rape case" profile are most likely to have their cases prosecuted, and yet fewer than half of these offenders were convicted at trial (4).

Establishing the credibility of a survivor is an important part of both investigation and prosecution, but having her story repeatedly questioned at each stage of the legal process can be extremely difficult and discouraging to survivors and can ultimately affect the woman's decision on whether or not to pursue or continue participation in a prosecution (14, 21, 26). Prosecutors must walk a fine line between building a strong and credible case, and making the survivor feel like she is being accused of lying by the people who are there to help her.

Plea Bargains by Prosecutors

Reaching a plea deal can be favorable in some rape cases because it prevents the rape survivor from having to testify at trial and expedites the prosecution process. It may also be the only way to secure an omission of guilt from the offender. However the amount of influence a survivor has in the plea process affects whether or not she feels justice has been served (14, 27). In interviews with approximately 50 rape survivors about their cases, Konradi (14) found that women were most satisfied with plea negotiations when their level of actual participation most closely fit the level of involvement they desired. Some women felt angry, depressed, badgered, or dissatisfied when they had offered to testify but prosecutors went forward with a plea deal anyway, and other women who did not want to testify appreciated "the prosecutor's efforts to resolve the case short of trial as an extension of other efforts not to burden her" (p147). Research into plea deals in sexual assault cases finds that most plea bargains downgrade felony rapes to misdemeanor non-rape sex crimes, and at other times dropped sexual charges altogether in exchange for guilty pleas to other crimes like burglary, assault, or kidnapping (14, 28).

Participation in prosecution, plea negotiations, and testifying in sentencing phases are difficult and controversial victims' rights issues across many crimes, but are particularly complicated in sexual assault cases.



Researchers examining the difficulties of rape survivors throughout the criminal justice process emphasize that a "win" for a prosecutor (e.g., a guilty plea to any charge) may not be the justice sought by a survivor who needs, for example, the truth of her experiences to be publicly acknowledged, or wants to prevent the offender from sexually assaulting

others (5, 14, 29). A plea deal to a lesser charge or a conviction on a non-sexual crime may not feel like justice since the offender is never required to actually admit or acknowledge that he raped the survivor.

Research continues to identify the need for more sensitivity towards survivors' perspectives in order to prevent secondary victimization by the services attempting to help rape survivors to get justice.

Conclusion

Overall, research on rape prosecution reflects the highly personal and sensitive nature of sexual offenses and the ways in which these realities shape prosecution of rape cases. A major national study estimates that only 37% of reported rapes are prosecuted (7), and other research studies estimate that only 14-18% of reported sexual assaults of any kind lead to prosecution (5). Moreover, the estimated conviction rate among reported rape cases is only 18%, and if the total number of rapes based on victimization surveys instead of only those reported to police are considered, only 3.4% of rape incidents lead to a conviction (7). Research conducted to date suggests that a survivor's decision to report a rape and continue within the legal system is one of the most important factors affecting the prosecution of rape cases, and yet the criminal justice system in many ways can discourage or disappoint women seeking justice. Quick reporting of rape incidents (more often done by women raped by strangers) affects the potential to collect evidence and build a case, and is associated more sympathy from police. This fact, however, is related to the stereotypes and myths about rape held by police officers and detectives, many of whom base their judgments of a survivor's credibility on elements of a "classic rape case" involving a stranger offender, physical injuries from a survivor fighting back, or the use of a weapon by the rapist. The way in which police officers and detectives initially respond to a woman's report seems to be critical in whether a woman chooses to participate in further legal action, or feels she has experienced "secondary victimization" and harsh

treatment by the criminal justice system (13, 21). When a rape case is sent to a prosecutor, a survivor must endure more questioning and scrutiny from prosecutors who are attempting to build a strong case. Just like police officers and detectives, prosecutors also employ rape myths when examining the credibility of a survivor's potential testimony. The pressures put on the survivor in the prosecution stage may lead her to withdrawal her complaint or participation, and may affect whether or not her rapist is charged at all. Even when charges are filed, research shows that the legal system often downgrades or drops felony rape charges for guilty pleas on other crimes, which means that justice for survivors may not be as simple or fair as she expects (14, 27, 28). In all, research on the prosecution of rape reveals that more effort is needed in understanding and eliminating the gap between the ideals of cultural and legal rape reforms, and the application of these ideals within the realities of the criminal justice system.

MUST-READ RESOURCE

Taking the Stand: Rape Survivors and the Prosecution of Rapists

By Amanda Konradi. Praeger Publishers, 2007
ISBN 0-27599-718-9. \$49.95 Hardcover.

"While I knew that other women had gone through rape trials before me, no book existed that could tell me what it was like to testify in court, what it was like to talk to and work with detectives and attorneys, what choices I could make, what I could refuse to do, and what feelings I might have about my whole experience. Sometimes not knowing was in itself frightening." (p.2)

This empowering book provides detailed information for rape survivors going through the legal process based on interviews with approximately 50 rape survivors about their experiences before, during, and after their legal cases. While also providing critical insights and suggestions for reform, the book uses the stories of real women to guide rape survivors through the legal process so that they can better understand what to expect, and what they can do to guide or aid prosecutors in their efforts to get justice.

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