



Women, Gender, and Victimization

Rape and Sexual Assault

Section Highlights

- Historical perspectives on the sexual victimization of women
- Contemporary paradigms for sexual victimization
- Rape myths and rape myth acceptance
- Categories of sexual assault
- Criminal justice treatment and processing of female sexual assault victims

Historical Perspectives on Rape and Sexual Assault

Rape is one of the oldest crimes in society and has existed in every historical and contemporary society around the world. Laws prohibiting the act of rape, or intercourse under force, threat, or without the consent of the individual, have existed for almost four thousand years. One of the first laws prohibiting the crime of rape can be found in the Code of Hammurabi from Babylon. Ancient Greek, Roman, and Judaic societies also criminalized the act of rape under various circumstances. Some laws distinguished between the rape of a married versus an unmarried woman, and the punishments for these crimes varied based on the status of the victim (Ewoldt, Monson, & Langhinrichsen-Rohling, 2000). Others viewed rape not as a violent sexual offense but as a property crime (Burgess-Jackson, 1999). If the victim was an unmarried woman, the rape tainted her status and value for potential marriage. As a result, many fathers negotiated to have their daughters marry their rapists (Dodderidge, 1632). Even cases of forcible **sexual assault** (where the victim is compelled to engage in sexually based acts other than intercourse) brought shame to the victim, because the acknowledgment of a rape was an admission of sexual activity. In many cases of forcible sexual assault, women were blamed for tempting offenders into immoral behaviors. During criminal rape trials, a woman's sexual history was often put on display in an attempt to discredit her in front of a jury. By portraying female victims of sexual assault as complicit in the behavior, the responsibility of an offender's actions was mitigated. Such a

practice represented a double standard because the courts did not request similar information about a man's sexual history, because it would be considered prejudicial in the eyes of the jury (Odem, 1995).

Until the 20th century, early American statutes on rape limited the definition to a narrow view of sexual assault. Consider the following definition of rape that was included in the Model Penal Code in 1955:

Section 213.1: Rape and Related Offenses

1. Rape. A male who has sexual intercourse with a female not his wife is guilty of rape if
 - a. he compels her to submit by force or by threat of imminent death, serious bodily injury, extreme pain or kidnapping, to be inflicted on anyone; or
 - b. he has substantially impaired her power to appraise or control her conduct by administering or employing without her knowledge drugs, intoxicants or other means for the purpose of preventing resistance; or
 - c. the female is unconscious; or
 - d. the female is less than 10 years old.



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▲ **Photo 3.1** In response to a Toronto police officer's comment that "women should avoid dressing like sluts in order not to be victimized," over 3,000 people gathered at Queen's Park in Toronto on in 2012 to protest the rape myth that women ask to be sexually assaulted based on their appearance. Since then, "Slut Walks" have been organized around the world to raise awareness about the danger of rape myths and their effects on victims.

Code acknowledges that the absence of consent for sexual intercourse (including in cases involving intoxication or unconsciousness) constitutes rape. Second, the definition (while limited) acknowledges that sexual acts involving children are a crime.

While contemporary definitions of rape vary from state to state, many present-day laws include similar provisions. Today, most laws broadly define sexual victimization as sexual behaviors that are unwanted and harmful to the victim. Most emphasize the use of force or coercion that is displayed by the offender rather than focusing on the response or conduct of the victim. This is not to say that the actions of the victim (such as her attire or behaviors) are

What is wrong with this definition? First, it reduces the definition of rape to the act of intercourse, and it excludes other acts of sexual assault, such as oral sex, sodomy, or penetration by a foreign object. Second, it limits the victim-offender relationship to a male perpetrator and a female victim. While women make up the majority of victims, such a definition excludes cases of **same-sex sexual assault**, such as a female sexually assaulting another female or a male-on-male assault, or cases where the victim is a male (and the offender is female). Third, this definition requires that force, or the threat of force, must be used in order for an act to qualify as rape, and it focuses on violence and brutality as proof of the crime. Fourth, this definition creates a marital status exemption such that men cannot be prosecuted for raping their wives. Finally, the definition fails to acknowledge attempted rapes as a crime and the traumatic effects of these "near misses" of victimization. However, we do see some positive influences from the Model Penal Code that has influenced present-day laws on rape and sexual assault. First, the Model Penal

not chastised by defense counsel or members of the jury, but the law itself does not require victims to demonstrate physical levels of resistance.

Another development in contemporary rape laws involves the abolishment of the marital-rape exemption clause. Historical acceptance of the marital-rape exception is rooted in biblical passages, which state that “a man should fulfill his duty as a husband and a woman should fulfill her duty as a wife, and each should satisfy the other’s needs. A wife is not the master of her own body, but her husband is” (I Corinthians 7, 3–5). Today, every state has laws on the books that generally identify rape within the context of marriage as a criminal act. In an effort to resolve some of the limitations with the word *rape*, the term *sexual assault* is often used to identify forms of sexual victimization that are not included under the traditionally narrow definition of rape. These laws have expanded the definitions of sexual assault beyond penile-vaginal penetration and include sodomy, forced oral copulation, and unwanted fondling and touching of a sexual nature. Cases of child sexual assault are treated differently in many jurisdictions, and age of consent laws have led to the development of statutory rape laws. Finally, sex offender registration laws, such as Megan’s Law and Jessica’s Law, require the community receive notification of sexual offenders and the placing of residential, community, and supervision restrictions on offenders.

Defining Sexual Victimization

What behaviors are included within the definitions of rape and sexual assault? The answer to this question depends on the source. Historically, the Uniform Crime Reports considered only cases of forcible rape. Such a definition excluded the majority of cases of rape and sexual assault. In addition, this practice by the UCR did not account for cases of attempted rape/sexual assault. Although the Federal Bureau of Investigation (2012a, c) changed their data collection practice in 2012 to include both completed and attempted cases of rape and sexual assault, the National Crime Victimization Survey (NCVS) defines rape as the “forced sexual intercourse. . . (including) vaginal, oral, or anal penetration by offender(s).”¹ The NCVS collects data not only on penile penetration but also includes cases of penetration with a foreign object. At the same time, states vary significantly on their own definitions of these crimes. Some states limit rape to penile-vaginal penetration and use sexual assault as a catch-all category of other crimes, while other states use multiple statutes to distinguish between different forms of sexual assault. While some of these statutes are very specific, others combine multiple forms of assault under a single penal code definition.

The limited clarity on the legal definitions of rape and sexual assault, coupled with the personification of these crimes in popular culture and the media, can have a significant effect on victims. In many cases, people who experience acts that are consistent with a legal definition of rape or sexual assault may not label their experience as such. As a result, they do not see themselves as such and therefore do not report these crimes to the police, nor do they seek out therapeutic resources. In many of these cases, women who experience these acts do not define themselves as victims because their experience differs from their personal definitions of what rape and sexual assault look like. For example, the crime of sexual assault is perpetuated throughout fiction novels and made for television movies as a stranger who attacks a victim in his home or on a dark sidewalk at night. Despite the high degree to which such events are manifested within popular culture, real life cases of this nature are relatively rare. Indeed, findings from the NCVS data demonstrate that cases of **stranger rape** with female victims account for only 22% of all sexual assaults (Planty, Langton, Krebs, Berzofsky, & Smiley-McDonald, 2013). Such findings highlight that the majority of rapes and sexual assault are perpetuated by people who are known to the victim.

¹See definitions at <http://www.bjs.gov/index.cfm?ty=tda>.

The lack of an understanding of a definition of rape and sexual assault affects offenders, as well. Many people who admit to engaging in behaviors that meet the legal criteria for rape or sexual assault generally do not define their own actions as criminal. One of the most frequently cited studies on rape and sexual assault surveyed 2,971 college men regarding self-reported conduct that met the legal definitions of rape, attempted rape, sexual coercion, and unwanted sexual contact. Based on these reports, the results indicated that 1,525 acts of sexual assault had occurred, including 187 acts of rape. Of those whose acts met the legal definition of rape, 84% of the “perpetrators” believed that their acts did not constitute rape (Warshaw, 1994).

Prevalence of Rape and Sexual Assault

Despite the acknowledgment that rape and sexual assault are two of the most underreported types of crimes, the known data indicate that these crimes pervade our society. According to the Rape, Abuse and Incest National Network (RAINN), a rape, attempted rape, or sexual assault occurs approximately once every 2 minutes. According to the National Crime Victimization Survey, there were 431,840 victims of rape and sexual assault in 2015. When we think about how common these crimes are, this data translates to 1.6 victims per 1,000 individuals age 12 or older (Truman & Morgan, 2016). While the U.S. Department of Justice (2003) found that 40% of victims report their crime to the police, other research has placed this number significantly lower, at 16% for adult women (Kilpatrick, Resnick, Ruggiero, Conoscenti, & McCauley, 2007). Given the stigmatizing nature of this crime, it is not surprising that rape, attempted rape, and sexual assault are some of the most underreported crimes, making it difficult to determine the extent of this problem. While researchers attempt to estimate the prevalence of sexual assault, they are faced with their own set of challenges, including differences in defining sexual assault, the emphasis on different sample populations (adolescents, college-aged adults, adults, etc.), or different forms of data (arrest data vs. self-report surveys). Regardless of these issues and the data it yields, it appears that sexual assault affects most individuals in some way (either personally or through someone they know) at some point in their lifetime.

Prevalence studies report a wide range of data on the pervasiveness of rape and sexual assault in the United States. A national study on rape published in 2007 indicated that 18% of women in America have experienced rape at some point in their lifetime, with an additional 3% of women experiencing an attempted rape. A comparison of these findings to the Violence Against Women survey in 1996 indicates that little change has occurred in the prevalence of this crime over time (15% of all women). Indeed, these results demonstrate an increase in the number of rape cases, which is contrary to the belief that rape has declined significantly in recent times. Findings from studies such as these have led researchers, rape-crisis organizations, and policy makers to posit that one in four American women will be victimized by rape or sexual assault (or an attempt) within their lifetime.

Rape Myths

Rape myths are defined as “attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women” (Lonsway & Fitzgerald, 1994, p. 134). Table 3.1 highlights some of the most commonly perpetuated myths about rape.

The acceptance of rape myths by society is a contributing factor in the practice of victim blaming. First, the presence of rape myths allows society to shift the blame of rape from the offender to the victim. By doing so, we can avoid confronting the realities of rape and sexual assault in society. This denial serves as a vicious cycle: As we fail to acknowledge the severity of rape and sexual assault, which leads to victims not reporting their crime to

authorities, this results in greater acceptance that the crime is not taken seriously by society as a whole. Second, the presence of rape myths lends support to the notion of a just world hypothesis, which suggests that only good things happen to good people and bad things happen to those who deserve it. Rape myths, such as “she asked for it,” serve to perpetuate the notion of the just world in action (Lonsway & Fitzgerald, 1994).

Offenders often use rape myths to excuse or justify their actions. Excuses occur when offenders admit that their behavior was wrong but blame their actions on external circumstances outside of their control. In these instances, offenders deny responsibility for their actions. Statements such as “I was drunk” or “I don’t know what came over me” are examples of excuses. In comparison, justifications occur when offenders admit responsibility for their actions but argue that their behavior was acceptable under the circumstances. Examples of justifications include “She asked for it” or “Nothing really happened.” Miscommunication appears to play a significant role for men, as well, who ask, “When does no mean no, or when does no mean yes?” By suggesting that men “misunderstand” their victim’s refusal for sexual activity, the responsibility of rape is transferred from the offender back to the victim.

Some victims accept these excuses or justifications for their assault that minimize or deny the responsibility of their offender. In cases where the male offender “got carried away,” female victims often accept the actions of the offender as a natural consequence of male sexuality. In these cases, victims feel that they deserve their victimization as a result of their own actions. Many victims argue that “they should have known better” or that “they didn’t try hard enough to stop it.” In these cases, victims believe that they put themselves at risk as a result of their own decision-making process.

The prevalence and acceptance of rape myths in society does a significant disservice to both victims and society in general in terms of understanding the realities of rape. These myths permit us to believe that stranger rape is “real” rape, whereas **acquaintance rape**, by persons known to the victim, is interpreted as less serious, less significant, and less harmful because the offender is known to the victim. Rape myths perpetuate the belief that women should be more fearful of the **symbolic assailant**—the stranger who lurks in the alley or hides in the bushes and

Table 3.1 • Rape Myths

- A woman who gets raped usually deserves it, especially if she has agreed to go to a man’s house or park with him.
- If a woman agrees to allow a man to pay for dinner, then it means she owes him sex.
- Acquaintance rape is committed by men who are easy to identify as rapists.
- Only women can be raped or sexually assaulted by men.
- Women who do not fight back have not been raped.
- Once a man reaches a certain point of arousal, sex is inevitable, and he cannot help forcing himself on a woman.
- Most women lie about acquaintance rape because they have regrets after consensual sex.
- Women who say “No” really mean “Yes.”
- Certain behaviors such as drinking or dressing in a sexually appealing way make rape a woman’s responsibility.
- If she had sex with me before, she has consented to have sex with me again.
- A man cannot rape his wife.
- Only bad women get raped.
- Women secretly enjoy being raped.



▲ **Photo 3.2** The Code of Hammurabi is one of the oldest legal artifacts in the world and dates back to 1772 BC. It includes punishments for 282 different crimes, including rape. Today it is housed at the Louvre Museum in Paris, France.

surprises the victim. Rape myths suggest that in order for a woman to be raped, she needs to fight back against her attacker and leave the scene with bruises and injuries related to her efforts to thwart the assault. Rape myths also suggest that real rape victims always report their attackers and have evidence collected and that an offender is identified who is then arrested, prosecuted, and sentenced to the fullest extent under the law. Alas, this rarely occurs within our criminal justice system. Instead, the majority of cases involve victims who know their offender, and victims who do not report these cases to the police. Even when such cases are reported, the prosecution of an offender can be a difficult task. Here, the consequence of pervasive rape myths in society serves to limit the public's understanding about the realities of rape, which in turn can limit the victim's opportunity for justice.

Acquaintance Versus Stranger Assault

As illustrated above, cases of stranger rape are not the most common type of sexual assault. Young women are socialized to be wary of walking alone at night, to be afraid that a scary man will jump out of the bushes and attack them. Unfortunately, many prevention efforts that advise women on what they can do to keep themselves safe from sexual assault often focus on these situations of stranger danger. While these tools are certainly valuable in enhancing women's safety, they fail to acknowledge the reality of sexual assault. Acquaintance rape accounts for 90% of all rapes of college women (Sampson, 2003). Additionally, 60% of all rape and sexual assault incidents occur either at the victim's home or at the home of a friend, neighbor, or relative (Greenfeld, 1997). Cases of acquaintance rape and sexual assault tend to entail lower levels of physical force by the offender and involve less resistance by the victim compared to cases of stranger rape (Littleton, Breitkopf, & Berenson, 2008). Alas, each of these realities is missing from the stereotypical scripts about rape and sexual assault.

It is difficult to assess how many sexual assault victims disclose their victimization to police. Research conducted by Millar, Stermac, and Addison (2002) documented that 61% of acquaintance rapes are not reported to the police. In comparison, Rickert, Wiemann, and Vaughan (2005) found that only one of 86 study participants made a report to law enforcement authorities, and an additional four victims sought services from a mental health professional. While these findings demonstrate a dramatic range of reporting rates, it is safe to conclude that acquaintance rape is significantly underreported. Society tends to discount the validity of acquaintance rape, suggesting that it is a lesser criminal act than stranger rape (i.e., real rape). Yet research demonstrates that victims of acquaintance rape suffer significant mental health trauma as a result of their victimization. This trauma is often exacerbated by the fact that many victims of acquaintance rape tend to blame themselves for their own victimization. In many cases, these victims are less likely to seek assistance from rape crisis or counseling services.

Spotlight on Rape Culture

In August 2012, Steubenville was thrust into the national spotlight after a 16-year-old girl was sexually assaulted by several of her peers. What made this case particularly noteworthy is that her assault was videotaped and her assailants posted the video on social media sites, such as YouTube and Twitter. In the photos and videos, two Steubenville High football team members, Trent Mays and Ma'lik Richmond (both 16 at the time of the offense), are shown carrying the victim by her hands and feet because she was so intoxicated that she was unable to walk. Video also documents the accused penetrating the victim's vagina with their fingers and flashing her breasts to the camera (Abad-Santos, 2013).

Many blamed the victim (who was so intoxicated that she did not know she had been violated until she saw the photos and videos online) and called her a “train whore.” Even one of the football coaches joined in on the blaming, stating, “What else are you going to tell your parents when you come home drunk like that and after a night like that? She had to make up something. Now people are trying to blow up our football program because of it” (Abad-Santos, 2013). During the trial, the defense counsel introduced testimony that tried to paint the victim as culpable in her own attack by calling two former friends who testified that the victim not only had a history of drinking in excess but also told contradictory stories about the events of the evening (Welsh-Huggins, 2013a).

The judge found that the victim was so intoxicated that she lacked the cognitive ability to consent to sexual activity (Oppel, 2013). Both Mays and Richmond were found guilty in juvenile court and sentenced to one year in the state juvenile correctional facility. Mays received an additional one-year sentence for the crime of distributing nude images of a minor (Ng, 2013). In her report of the verdict, CNN reporter Poppy Harlow critiqued the court's decision, stating that it had been “incredibly difficult [to watch] as these two young men—who had such promising futures, star football players, very good students—literally watched as they believed their life fell apart” (Harlow, 2013). Richmond was released from custody after serving nine months of his sentence (Fox News, 2014). Mays served two years in a youth facility (Jablonski, 2015).

Alas, cases such as Steubenville are more common than we think. In 2015, three high school football players from Dietrich, Idaho, sexually assaulted a mentally disabled teammate by inserting a coat hanger into his rectum at the school locker room following a football practice. The victim's family argued that the attack occurred after months of racist abuse and bullying. The judge in the case was quoted as saying “this is not a rape case . . . this is not a sex case. This started out as penetration with a foreign object. . . . Whatever happened in that locker room was not sexual. It wasn't appropriate. There's nothing in this record that supports anything close to the sexual allegation against this young man” (LaGanga, 2017). School officials waited for several days before reporting the event to



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▲ **Photo 3.3** Santa Clara County Superior Court Judge Aaron Persky drew significant criticism for his decision to sentence former Stanford University student Brock Turner to only six months in jail for sexually assaulting an unconscious woman. Prosecutors had requested that Turner be sentenced to six years. Turner was released after serving three months of his sentence.

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the local authorities and instead conducted their own investigation and collected evidence from the locker room. Evidence also suggests that they recorded conversations with the victim in an effort to discredit him. Ultimately, the offenders went unpunished for the crime. One of the offenders was 18 years old at the time of the event, yet was sentenced to just probation for his crime, which was pled down to felony injury to a child (Boone, 2017), and adult felony charges were dropped against at least one of the juveniles involved in the case (KBOI news staff, 2016). The light sentence brought criticism to the judge and drew comparisons to the case of Brock Turner. Turner was sentenced to six months for assaulting an unconscious woman at a Stanford University fraternity party. Turner blamed the events of the evening on the culture of drinking that pervades university life. Under state sentencing recommendations, he could have faced fourteen years in prison, though prosecutors only asked for six years. In handing down his sentence, Judge Persky expressed concern that a harsher sentence could have a “severe impact” on the offender (Koren, 2016). Turner’s father also defended his son’s actions and advocated that his son should receive probation, stating “that is a steep price to pay for 20 minutes of action out of his 20 plus years of life” (Miller, 2016).

Following his release, Turner will be required to register as a sex offender for life. In December 2017, Turner’s attorney filed an appeal for a new trial and requested that the registration requirement be removed.

Cases such as Steubenville, Dietrich, and Brock Turner highlight the role that rape culture continues to play in our society. These forms of violence contribute to a culture of rape whereby offender actions are minimized and blame for these events is often diverted.

Drug-Facilitated/Incapacitated Sexual Assault

A **drug-facilitated rape** is defined as an unwanted sexual act following the deliberate intoxication of a victim. In comparison, an **incapacitated rape** is an unwanted sexual act that occurs after a victim voluntarily consumes drugs or alcohol. In both cases, the victim is too intoxicated by drugs and/or alcohol to be aware of her behavior, and she is therefore unable to consent. Kilpatrick et al. (2007) found that 5% of women experience drug-facilitated or incapacitated rape.

Recent research has discussed a rise in incapacitated rapes through the involuntary drugging of victims. The terms *date rape drug* and *drug-facilitated sexual assault* have been used to identify how the involuntary consumption of substances have been used in sexual assault cases. Table 3.2 provides a description of the different types of substances that are commonly used in cases of drug-facilitated sexual assault. In many cases, these substances are generally colorless, odorless, and/or tasteless when dissolved in a drink and result in a rapid intoxication that renders a potential rape victim unconscious and unable to recall events that occurred while she was intoxicated. One research study identified that less than 2% of sexual assault incidents were directly attributed to the deliberate covert drugging of the victim (Scott-Ham & Burton, 2005). However, these findings document reported cases of sexual assault, and it is reasonable to conclude that many cases of drug-facilitated sexual assault go unreported, because victims may be reluctant to report a crime for which they have little recollection.

With the exception of alcohol, the majority of the substances that are used in cases of drug-facilitated sexual assault (such as GHB, or gamma-hydroxybutyrate, ketamine, and Rohypnol) are labeled as controlled substances, and the possession of these drugs is considered a federal offense under the Controlled Substances Act of 1970. In addition, the Drug-Induced Rape Prevention and Punishment Act of 1996 provides penalties for up to 20 years for the involuntary drugging of an individual in cases of violence (National Drug Intelligence Center, n.d.). Many states have enacted laws that provide specific sanctions in cases of drug-facilitated sexual assault. For example, Colorado Penal Code § 18-3-402(4d) distinguishes cases of drug-facilitated sexual assault as one where “the actor has substantially impaired the victim’s power to appraise or control the victim’s conduct by employing, without the victim’s

Table 3.2 • Substances Commonly Used in Drug-Facilitated Sexual Assaults**GHB (Gamma-Hydroxybutyric acid)**

- GHB comes in a few forms—a liquid that contains no odor or color, a white powder, and a pill. GHB has not been approved by the FDA since 1990, so it is considered illegal to possess or sell. GHB can take effect in as little as 15 minutes and can last for 3 to 4 hours. GHB is considered a Schedule 1 drug under the Controlled Substances Act. GHB leaves the body within 10 to 12 hours, making it very difficult to detect.

Ketamine

- Ketamine is an anesthetic that is generally used to sedate animals in a veterinarian's office. Ketamine can be particularly dangerous when used in combination with other drugs and alcohol. It is very fast acting and can cause individuals to feel as if they are dissociated from their body and be unaware of their circumstances. It can cause memory loss, affecting the ability of a victim to recall details of the assault.

Rohypnol (Flunitrazepam)

- Rohypnol is a dissolvable pill of various sizes and colors (round, white, oval, green-gray). Rohypnol is not approved for medical use in the United States, and much of the supply comes from Mexico. However, the manufacturer of this drug recently changed the chemistry of the pill such that if it is inserted into a clear liquid, it will change the color of the drink to a bright blue color, allowing for potential victims to increase the chance that they could identify whether their drink has been altered. Rohypnol effects can be noticeable within 30 minutes of being ingested; the individual appears overly intoxicated, and the drug affects their balance, stability, and speech patterns. Like many other substances, Rohypnol leaves the body in a rapid fashion, generally between 36 and 72 hours of ingestion.

Alcohol

- Alcohol is one of the most common "date rape" drugs. Here, victims drink to excess, placing themselves at risk for sexual assault. Not only do victims willingly consume alcohol, it is (generally, based on the age of the individual) legal and easily obtained. The consumption of alcohol impairs judgment, lowers inhibition, and affects a victim's ability to recognize potentially dangerous situations.

Spotlight on the Invisible War: Rape in the Military

As a prestigious military academy, the Air Force Academy in Colorado Springs, CO, receives high rankings for its training of pilots (as well as its football team). However, 2003 brought a new level of attention to the Academy, as allegations of sexual abuse among the ranks were made public. Not only did victims suggest that rape and sexual assault occurred within the student body on a regular basis, victims suggested that military officials knew of the abuse but did little to stop the systematic assault of female cadets by their male counterparts. Women who came forward with allegations were often punished by their superiors, leading many victims to remain silent about the abuse they endured. While six cadets came forward as part of the allegations, a survey of female graduates that same year suggested that the issue of rape, sexual assault, and sexual harassment is much more prevalent than these few cases. Over 88% of the female graduates participated in the survey, and 12% of women acknowledged that they experienced completed or attempted rape at some point during their college career. An additional 70% of women referenced cases of sexual harassment, including pressure to engage in sexual behaviors (Schemo, 2003). While the most common form of victimization involved sexual harassment, female cadets were significantly more likely to indicate that they had experienced

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forms of unwanted sexual touching, sexual coercion, or rape. In addition, women were almost four times more likely to experience multiple acts of victimization compared to men (Snyder, Fisher, Scherer, & Daigle, 2012). Table 3.3 highlights some of the findings from this study.

Table 3.3 • Sexual Victimization at Military Academies

Type of Victimization	All Victims (%)	Males (%)	Females (%)
Unwanted sexual attention	22.65	10.79	41.24
Sexual harassment	55.73	38.40	82.89
Unwanted sexual contact	15.85	8.96	26.65
Sexual coercion	7.99	4.39	13.64
Rape	3.45	2.41	5.07
Total victimization	58.90	41.85	85.57
Multiple victimizations	25.00	12.23	45.04

SOURCE: Snyder, Fisher, Scherer, & Daigle (2012).

are in place at all the military academies. In addition, each campus has added a special victims legal counsel to help individuals whose cases are handled through the military justice system.

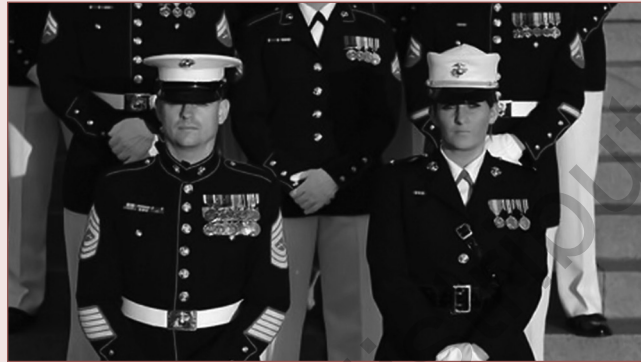
The most recent data from the 2015–2016 academic year notes that while the overall number of cases has decreased, the number of reports at West Point and the Naval Academy have increased. At West Point, there were 26 reported cases of sexual assault, compared to 17 cases in the previous year. Similarly, there were 28 cases reported at the Naval Academy, compared to 25 in 2014–2015. Meanwhile, the number of reported incidents at the Air Force Academy dropped significantly. In 2014–2015 there were 49 reported cases. This year, there were 32 reported cases. In addition, more victims are choosing to have their cases handled by the military justice system (Cooper, 2017; Department of Defense, 2017).

Unfortunately, cases of rape and sexual assault are not limited to the military academies. In an effort to bring attention to the issue of rape in the military, filmmakers Kirby Dick and Amy Ziering presented their film *The Invisible War* at the Sundance Movie Festival in 2012. Drawing from real stories from military personnel, the film portrays the victimization of these soldiers and the response, or lack thereof, by military officials. Their story paints a grim picture about sexual violence in the military as they suggest that 20% of all active duty women are sexually victimized. Other scholars have indicated that 34% of active duty women (and 6% of men) suffer

²Data is collected for the fiscal year.

In response to these events, a Sexual Assault Prevention and Response (SAPR) team was developed in June 2005 and provides two victim advocates as well as a 24/7 hotline. When a sexual assault is reported, victims have the choice of filing a restricted or unrestricted report. While a restricted report allows victims to receive counseling and other services from the sexual assault response team, these reports remain confidential and no charges are filed. In an unrestricted case, the Air Force Office of Special Investigations is able to assess whether criminal charges will be filed against the perpetrator (Branum, 2013). In addition, SAPR delivers approximately 11 hours of training over the cadet's four-year educational experience on rape and sexual assault prevention. Similar programs

harassment of a sexual nature (Lipari, Cook, Rock, & Matos, 2008). Official data from 2015¹ notes that 6,083 reported of sexual assault involving service members as either victims and/or subjects were reported. Most of these reports were unrestricted and may be reviewed by the military justice system. Since [the documentary's] release, the Invisible No More Campaign has generated new conversations about how to combat this issue. Following his review of the film, Secretary of Defense Leon Panetta ordered that all sexual assault investigations be altered to provide multiple avenues for victims to report cases of assault. Previous military policy dictated that the assault be reported to the victim's immediate supervisor. Panetta also directed each branch to develop a Special Victims Unit to respond to allegations of sexual assault.³



▲ **Photo 3.4** Ariana Klay was gang raped in 2009 by a fellow marine and his civilian friend. When she reported the rape to her commanding officer, he replied, "It's your fault for wearing running shorts and makeup." One of her perpetrators was given immunity in the case while the other was convicted of adultery and indecent language and was sentenced to only 45 days in military jail. Klay and others have fought for changes to the way sexual assault cases are handled in the military

Despite recent changes, rape in the military continues to be a problem. In 2012, Air Force Staff Sergeant Luis Walker was convicted on twenty-eight counts of rape, sexual assault, and aggravated sexual misconduct against ten victims and received 20 years for this crimes (Peterson, 2012). While this one case led to a successful outcome, there are many others where victims fail to secure meaningful justice. Meanwhile the culture of sexual violence continues within our military branches. Recently, a criminal investigation was opened into a secret Facebook group involving over 30,000 active and veteran men from the U.S. Marines where photos of female Marines are posted without their permission. Many of the photos involve either nude images or women in various states of undress and are accompanied by sexist and derogatory commentary (Phillips, 2017).

In an effort to create systemic changes on how sexual assault cases are handled by the military, members of the U.S. Senate have made attempts to change the Uniform Military Code of Justice. Senators Kirsten Gillibrand (D-NY) and Claire McCaskill (D-MO), who are both members of the Senate Armed Services Committee, have tackled this issue head on and have challenged military officials to increase their understanding about rape in the military. According to Gillibrand, "Not every single commander necessarily wants women in the force. Not every single commander believes what a sexual assault is. Not every single commander can distinguish between a slap on the ass and a rape because they merge all these crimes together" (*NY Daily News*, 2013, para. 11). In December 2013, Congress passed the Military Justice Improvement Act, which makes a number of significant reforms for how cases of sexual assault are handled within the military ranks. These include an end to the statute of limitations for rape and sexual assault cases, makes retaliation against victims a crime, and bars military commanders from overturning convictions on sexually based crimes. It also mandates a dishonorable discharge for those convicted of such crimes (O'Keefe, 2013).

³See http://www.notinvisible.org/the_movie for information about the film *The Invisible War*.

consent, any drug, intoxicant, or other means for the purpose of causing submissions.” Here, state law provides an assessment of a victim’s ability to consent to sexual relations and holds that the level of intoxication, combined with the resulting mental impairment of the individual, must affect the victim’s ability to exercise reasonable judgment. Here, the law provides for an elevated punishment of these cases. While sexual assault is generally considered a class 4 felony (punishable by 2–6 years in prison), drug facilitated sexual assault is considered a class 3 felony and calls for a punishment range of 4–12 years. The mandatory parole in these cases also increases from 3 to 5 years.

While there has been increased attention to sexual assault due to involuntary intoxication, this is not the primary form of drug-facilitated sexual assault. Rather, cases where the victim is sexually assaulted following her voluntary intoxication of alcohol make up the majority of drug-facilitated sexual assaults. In a sample of rape cases of college-aged women, alcohol was involved in 79% of cases of nonforcible rape (Kilpatrick et al., 2007). The use of drugs and alcohol places women at a greater risk for sexual assault. Not only may women be less aware of the risk for sexual assault and labeled as a target for potential offenders due to a reduction of their inhibitions, but they may also be unable to resist their attackers due to their incapacitated state. Additionally, while voluntarily intoxicated individuals are legally incapable of giving consent for sexual activity (Beynon, McVeigh, McVeigh, Leavey, & Bellis, 2008), these victims are often held as the most responsible of all sexual assault victims, since they chose to use intoxicating substances recreationally. As a result, the actions of perpetrators in these cases are most likely to be excused or diminished (Girard & Senn, 2008).

Spousal Rape

Earlier in this section, you learned about how early laws on rape included a marital exception clause, which argues that women automatically consent to sex with their husbands as part of their marriage. Even once the legal rights of women began to increase, the relationship between a man and wife was viewed as a private matter, not one for public scrutiny. This belief system permitted the criminal justice system to maintain a “hands-off” policy when it came to **spousal rape**. As existing rape laws began to change throughout the 1970s and 1980s, increased attention was brought to the marital rape exception. In 1978, only five states defined marital rape as a crime. While all 50 states have either eliminated laws that permitted marital rape or had expressly included laws that prohibited this practice, several states still have exceptions in the law that limit how marital rape is defined. For example, in Oklahoma, the crime of spousal rape requires that there be the use of force (or threats of use of force) (O.S. §, 21 45 1111). In South Carolina, cases of sexual battery must be reported to law enforcement within thirty days of the offense (SC Code §16-3-615).

While U.S. laws generally prohibit marital rape, it is still legal in many other countries around the world (Fus, 2006). While Nigerian criminal law has criminalized rape in general (and provides for a life sentence for offenders), the law does not acknowledge rape by a spouse as a crime. In fact, “Section 282 of the Penal Code expressly states that sexual intercourse by a man with his own wife is not rape” (Chika, 2011). India also provides legal immunity in cases of rape when the victim is their wife (Mandal, 2014). Meanwhile, other regions of the world (such as South Africa and Britain) have criminalized marital rape but provide for lenient sentencing structures for offenders (Rumney, 1999; *S v Modise*, 2007)

The majority of cases of marital rape involve cases of emotional coercion rather than physical force in the assault. Examples of emotional coercion include inferences that it is a *wife’s duty* to engage in sex with her husband (referred to as social coercion) or the use of power by a husband to exert sexual favors from his wife (referred to as interpersonal coercion). A third form of emotional coercion involves cases where a wife engages in sex for fear of unknown threats or damages that may occur if she refuses. Many of these occurrences are related to cases of domestic violence, where the possibility of violence exists. Cases of marital rape by the use of physical force are referred to as battering rape. In cases of battering rape, the sexual assault is an extension of the physical and emotional violence that occurs within the context of the relationship (Martin, Taft, & Resick, 2007). The physical effects of marital rape are generally greater compared to cases of stranger and acquaintance rape.

Contrary to popular belief, marital rape is as prevalent as other forms of rape, but this victimization is generally hidden from public view. Results from randomized studies showed that 7% to 14% of women experienced completed or attempted rape within the context of marriage, cohabitating, or intimate relationship (Bennice & Resick,

2003). Community samples tend to yield significantly higher rates of marital rape; however, they tend to draw from shelters or therapeutic settings, which offer skewed results. These studies find that 10% to 34% of women studied experienced rape within the context of marriage (Martin et al., 2007).

One of the challenges in the reporting and punishment of marital rape is that the perception persists that marital rape is not *real* rape. Research notes that acts of sexual assault (such as oral sex without consent) are less likely to be viewed as a form of marital rape. However there is a gender difference in these perceptions, because women are more likely than men to view nonconsensual acts such as vaginal and anal penetration, as well as penetration with an object as marital rape. Marital rape is also viewed as the least serious form of rape, compared to rape by a stranger, acquaintance (Kirkwood & Cecil, 2001; Ferro, Cermele, & Saltzman, 2008). Marital rape is only viewed as a serious act when there is a history of violence in the relationship, and victims receive greater levels of blame if there is a history of infidelity in the relationship. Such perceptions not only impact how others view these situations but can also lead to self-blaming behaviors by the victim (Langhinrichsen-Rohling & Monson, 1998; Munge, Pomerantz, Pettibone, & Falconer, 2007).

Despite the criminalization of spousal rape, the cultural acceptance of marital rape still fails to identify these women as victims. By leaving these victims with the belief that their experiences are not considered real rape, these women are less likely to seek assistance for their victimization. Thus, marital rape remains a significant issue in the United States and around the world.

Campus Sexual Assault

When defining **campus sexual assault**, many assume that these incidents are limited to crimes that occur on a college campus. However the term is much broader and includes experiences of rape and sexual assault that occur during the collegiate experience. Rates of sexual assault appear to be higher on college campuses, where it is estimated that between 20% and 25% of women will experience a completed or attempted rape at some point during their collegiate career (Fisher, Cullen, & Turner, 2000). University life contains many variables that may increase the risk for sexual assault—campus environments that facilitate a “party” atmosphere, easy access to alcohol and drugs, increases in freedom, and limited supervision by older adults (Sampson, 2003). In this environment, the majority of sexual assaults against university women occurred between the evening and early morning hours during or after a party. Alcohol was involved in most of these cases where the victims knew their attackers. Victims are also more likely to be younger and less knowledgeable about the dangers of sexual assault and its relationship to the school/party experience. In addition, the more that students engage in substance use, the greater the risk for victimization because they are more likely to cross paths with a motivated offender (Hines, Armstrong, Reed, & Cameron, 2012).

Research notes that the risk of sexual assault among college-age individuals is highest during the first year of the university experience. During this year, one in six female students experience either an attempted or completed incapacitated or forcible sexual assault. In addition, women who have previously experienced sexual violence during adolescence are more likely to be revictimized in college (Carey, Durney, Shepardson & Carey, 2015).

The recent attention to campus sexual assault involves Title IX of the Education Amendments of 1972 and states that “no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” (20 U.S.C. §1681). At the time of its implementation, it was primarily used to ensure that women have equal access to programs such as law school and medical school (which had historically used quota systems to limit access to women) or to provide support and access for women’s programs within college athletics (which had been either missing or lacked adequate funding). Directives such as the 2011 Dear Colleague letter where the Department of Education stated that the provisions in Title IX, which prohibit discrimination and harassment on the basis of sex, were also applicable in cases of sexual violence, initiated many of the changes that we see today on campuses. This call to action, coupled by the creation of the White House Task Force to Protect Students from Sexual Assault, resulted in increased requirements for schools to both respond to current acts of harassment and take steps to prevent similar acts in the future (Office of Civil Rights, 2011). One of the challenges facing colleges has been that these mandates are generally unfunded. This means that campuses must find a



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▲ **Photo 3.5** Emma Sulkowicz, a visual arts major from Columbia University, carried a mattress everywhere on campus during her senior year as part of a performance demonstration and protest of the way that her allegations of sexual assault were managed by the university.

way to support these new or enhanced infrastructures. Perhaps the best way to describe these efforts is to expand the focus from a responsive framework (albeit one that many colleges and universities were doing a poor job at) to one that includes prevention efforts as well as an accountability factor. For example, campuses have created requirements for training employees, procedures for reporting cases, and processes for responding to complaints. In addition, campuses are required to adopt prevention curriculum for students as well as provide support systems and resources for victims. While faculty are often mandatory reporters of any known incidents (regardless of whether they occurred on or off campus), most campuses have options for both confidential and anonymous reporting. Victims also have the option to pursue their case through campus disciplinary structures and to report the case to local authorities for criminal processing.

What effect have these changes had on campus sexual assault? Research notes that despite a renewed focus on educating students about campus resources in this area, students remain unfamiliar with the resources that are available (Burgess-Proctor, Pickett, Parkhill, Hamill, Kirwan, & Kozak, 2016). Bystander education programs are

Spotlight on Statutory Rape

Statutory rape refers to sexual activity that is unlawful because it is prohibited by legal statute. Unlike other forms of violent sexual assault, statutory rape generally involves individuals who are legally unable to consent to sexual activity because of their age.

While statutory rape laws were initially introduced to protect adolescents from adults, particularly in cases where there was a dramatic age difference, these laws have also been used against adolescents and their peers. Some would consider these to be victimless crimes because individuals in these cases often do not define themselves as a victim. Rather, they see themselves as willing participants in sexual activity. It is purely the legal distinction of who can, and who cannot consent, that makes these acts a crime. There are two different types of statutory rape laws. The first category includes states where the age of consent is considered a minimum age and sex with anyone under that age is considered a crime. For example, the age of sexual consent in California is 18, and anyone who engages in intercourse with someone under the age of 18 is in violation of the state's statutory rape law. So two 17-year-olds that engage in intercourse would be considered to be breaking the law. In the second category are states that define an age range between the individuals. In these cases, it would be considered a crime if one of the individuals was of a minimum age and the other individual was older by a specified number of years under the statute. For example, in Missouri, someone who is at least 21 years old who has sexual intercourse with someone younger than 17 is considered to have committed second degree statutory rape. (§ 566.034 (1)). In comparison, Tennessee state law considers statutory rape a criminal act if (1) it involves sexual penetration; (2) the victim is at least 13 but younger than 18; and (3) the offender is at least four years older than the victim. In addition, Tennessee requires that offenders under the age of 18 be tried as juveniles (§ 39-13-506).

Several states have increased their prosecution of statutory rape cases in an effort to reduce teen pregnancy and the demand on welfare. During the 1990s, legislators targeted welfare reform as a major cause of action. In passing The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), legislators noted a significant increase in the number of unwed teen mothers between 1976 and 1991 and indicated that these young single mothers were more likely to apply for welfare benefits. In responding to this issue, legislators noted that “an effective strategy to combat teenage pregnancy must address the issue of male responsibility, including statutory rape culpability” (H.R. 3734-7). Encouraged by this directive, states began to increase their prosecutions of statutory rape cases. One of the most significant examples of this practice comes from California, where then-Governor Pete Wilson allocated additional funding to form a vertical prosecution unit specifically for statutory rape cases. Vertical prosecution units (where prosecutors stay with a case from the beginning and specialize in a particular offense category) generally yield a higher conviction rate because victims are more likely to participate in the process (Donovan, 1996). However, California is not the only state involved in increasing the prosecutions of these crimes. In an effort to assist prosecutors, Mississippi recently passed a law that requires the collection of DNA from babies born to mothers under the age of 16 in case the evidence is needed in statutory rape criminal cases (Diep, 2013).

The increased prosecution of statutory rape cases leads to collateral consequences for offenders. In many states, the conviction of statutory rape requires that offenders must register as a sex offender, which can significantly limit their academic standing as well as their ability to secure employment. Unfortunately, the minimum age of consent laws and state registry requirements fail to distinguish between “two immature high school kids hooking up at a party [and] a pedophile molesting the toddler next door” (Downey, 2007, B1). One suggestion is for states to adopt age-gap provisions to their statutory rape laws. Meanwhile, other states have adopted Romeo and Juliet laws, which maintain the age-gap provision, but do not include the sexual registry requirement. In Florida, if a victim is at least 14 years old and consented to sexual activity with someone who is no more than four years older, the offender can petition to have the registration requirement removed (The Florida Senate, 2011). However, these Romeo and Juliet clauses are not without problems in their own right, because many states do not provide exceptions for cases of same-sex statutory rape. Here, it is important that LGBT youth be protected in the same ways under the law, and states should work to close these gaps (Higdon, 2008). Provisions such as this can help ensure that the focus of statutory rape prosecution returns to situations of coercion of a victim by an offender, not on youthful offenders engaging in consensual sexual activity.

also showing positive effects in changing attitudes about sexual assault (Banyard, Moynihan, & Plante, 2007) and increasing bystander effectiveness (Katz & Moore, 2013). In addition, there is significant variation between institutions of higher education in how allegations of sexual assault are managed. For example, while some campuses use an adversarial trial-like model where evidence is presented and witnesses provide testimony and are cross-examined, others have implemented a process that is more focused on information gathering (Konradi, 2016). Such processes typically adopt a preponderance of the evidence for their burden of proof standard. While significant progress has been made to address issues of campus sexual assault, there is still significant work to be done.

LGBTQ Sexual Violence

Much of the existing research on rape and sexual violence involves a male offender and a female victim. Many of the theories to explain rape involve the use of violence by men to exert power and control over women. This explanation is rooted in a heterosexist ideology. Indeed, our laws, which in many states identify the crime of rape as the unlawful penetration of a penis into a vagina, do not allow for us to legally identify these same-sex cases as rape (though most have additional statutes of sexual assault that would be inclusive of same-sex acts of sexual violation).

Historically, much of the discussion about same-sex rape was limited to male-on-male sexual assault, and many of these studies were conducted within an incarcerated setting. Over the past decade, the focus on same-sex victimization has increased. Research from the National Alcohol survey noted that women who identified as bisexual were almost three times as likely (14.9%) to report sexual abuse as adults compared to heterosexual women. Rates for women who identified as lesbian had lower rates of victimization than those who identified as bisexual (8.1%), but higher rates of violence compared to heterosexual adult women (Drabble, Trocki, Hughes, Korcha, & Lown, 2013). Racial differences in victimization are also prevalent among the LGBT population, with Latina and Asian American LGBT women experiencing higher rates of adult sexual violence than white women (Balsam, Molina, Blayney, Dilworth, Zimmerman, & Kaysen, 2015). In addition, women who identify as lesbian are more likely to be abused by a family member (Sigurvindottir & Ullman, 2015). Over the course of their lifetime, a significant portion of the LGBTQ population experiences some form of sexual victimization. The National Intimate Partner and Sexual Violence Survey estimates that 46% of lesbian women and 75% of bisexual women are sexually assaulted in their lifetime. Similar results are noted for gay men (40%) and men who identify as bisexual (47%) (Walters, Chen, & Breiding, 2013). While the data on the prevalence of victimization vary from study to study, these studies have one key theme in common; LGBTQ individuals experience sexual violence at significantly higher rates than heterosexual individuals.

Research on recovery for victims of sexual violence notes that women who identify as bisexual or lesbian report higher levels of psychological and social challenges as a result of their victimization. Dealing with symptoms of post-traumatic stress disorder was the most common psychosocial outcome for all victims, yet women who identified as bisexual or lesbian reported significantly higher levels of PTSD compared to heterosexual women. Bisexual and lesbian women also report higher levels of problem drinking, drug abuse, and depression, compared to heterosexual women. Black bisexual women also reported higher levels of problem drinking compared to white bisexual women. (Sigurvindottir & Ullman, 2015).

While the research on sexual violence among lesbian, gay, and bisexual communities is increasing, a significant gap remains in studying violence and trauma within the transgendered community. Transgendered individuals are more than twice as likely to experience rape or sexual assault than LGBQ individuals (Langenderfer-Magruder, Wells, Kattari, Whitfield, & Ramos (2016). The National Center for Transgendered Equality notes that nearly half (47%) of all transgendered individuals are sexually assaulted at some point in their lifetime. For many transgendered individuals, violence begins at a young age, with 13% of individuals reporting sexual violence in K–12 as a result of being transgendered. Such rates are particularly high for trans women (21%) and crossdressers (18%). Rates of violence significantly increase for individuals who engage in prostitution and other acts of sex work (72%), with nearly one in five engaging in sex work to obtain money, food, or shelter. Of those who are arrested for sex work and other criminal violations, nearly one quarter (22%) believed that their identity as transgender influenced the officer's decision to make an arrest (James, Herman, Rankin, Keisling, Mottet, & Anafi, 2016). The effects of this violence are significant because transgendered men and women are significantly more likely to attempt suicide, compared to transgendered individuals who do not have a history of sexual violence (Testa, Sciacca, Wang, Hendricks, Bradford, & Bongar, 2012).

Reporting rates for sexual violence among the LGBTQ population are low. Research by Langenderfer-Magruder, et al. (2016) notes that 23.2% of cisgender individuals (with cisgender females more likely to report than cisgender males) and 15% of transgendered victims report their victimization to the police. LGBTQ individuals who report same-sex sexual violence are often confronted with a system where agents of the criminal justice system may reflect homophobic views (Wang, 2011). Such perspectives can potentially silence victims and prevent them from seeking legal remedies and social services. In cases where individuals do report these crimes to law enforcement, many victims state that their cases are mishandled by authorities (Stotzer, 2014).

While federal law states that crimes against someone on the basis of their "actual or perceived gender-related characteristics" is illegal, few states have incorporated such language into their statutes (Human Rights Campaign Foundation, 2014). Advocacy services have also been slow in responding to the unique and multiple needs of this population (Turrell & Cornell-Swanson, 2005). Given the unique intersectionality between sexual identity and sexual

violence, programs need to consider how programs need to be adapted to deal with these multiple marginalities. While the recent reauthorization of the Violence Against Women Act includes provisions for the LGBTQ community, some community service providers express a fear that offering services to the lesbian, gay, bisexual, and transgender (LGBT) population could potentially restrict their donations from government or socially conservative individuals and organizations. These conflicts limit the opportunities to identify same-sex sexual assault as a social problem (Girshick, 2002).

Racial Differences in Sexual Assault

Research suggests that women of color have different experiences of sexual assault, compared to Caucasian women. These differences can be seen in prevalence rates, reporting behaviors, disclosure practices, help-seeking behaviors, and responses by the justice system. For example, research indicates that 18% of White women, compared to 19% of Black women, 34% of American Indian/Alaska Native women, and 24% of women who identify as mixed race report a rape or sexual assault during the course of their lifetime (Tjaden & Thoennes, 2006). Two important issues are raised with these statistics: (1) We already know that rape generally is underreported, so it is possible to assume that the true numbers of rape and sexual assault within different races and ethnicities may be significantly higher than these data indicate; and (2) given the unequal distribution of these statistics by race and ethnicity, compared to their representation in the general population, it is reasonable to conclude that women of color are victimized at a disproportionate rate compared to their White sisters. Despite these issues, the experience of rape and sexual assault within minority communities is significantly understudied in the scholarly research. Here, we ask the question: How do race and ethnicity affect the experience of rape and sexual assault and the response to these crimes by the criminal justice system?

While much of the literature on racial differences in rape and sexual assault focuses on the African American female experience, statistics by Tjaden and Thoennes (2006) highlight the extreme rates of rape within the American Indian and Alaska Native population (AIAN). These data are particularly troubling given that the AIAN population is a small minority in the population, making up only 1.5% of the U.S. population (U.S. Bureau of the Census, 2000). Research using the National Crime Victimization data indicates that compared to other racial and ethnic groups, AIAN women are most likely to experience rape within an intimate partner relationship, versus stranger or acquaintance relationships. Within this context, they were more likely to have a weapon used against them and to be physically assaulted as part of the attack. Alcohol and drugs also play a stronger role in the attacks of AIAN women, with more than two thirds of offenders under the influence of intoxicants, compared to only one third of offenders in cases involving White or Black victims. While AIAN victims are more likely to report these crimes to the police, the majority of these reports come from people on behalf of the victim (family, officials, others) rather than the victim herself (Bachman, Zaykowski, Lanier, Poteyva, & Kallmyer, 2010).

Data is also limited on the Asian American/Pacific Islander experience with sexual violence. While data notes that women from these communities report the lower rates of rape and sexual assault, they are also unlikely to believe that rape can occur within a relationship (NAWHO, 2002). Research also notes that Asian American men and women are more likely to engage in victim blaming in cases of rape and sexual assault (Lee, Pomeroy, Yoo, & Rheinboldt (2005). These findings likely influence the low reporting rates for Asian American victims, because they are the less likely to disclose their victimization (Shenoy, Neranartkomol, Ashok, Chaing, Lam, & Trieu, 2010). Many victims also fail to seek support to cope with their victimization, with a majority of victims citing feelings of shame as a barrier in help seeking (Lee & Law, 2001). This is particularly important because it can have long-term consequences, such as increases in alcohol use as a way to cope with their victimization (Nguyen, Kaysen, Dillworth, Brajcich, & Larimer, 2010).

Research by Boykins et al. (2010) investigates the different experiences of sexual assault among Black and White women who sought emergency care following their attack. While no racial or ethnic differences were found between victims in terms of the location of the assault (home, car, outdoors) or whether the offender was known to the victim, Black women were significantly more likely to have a weapon used against them during the attack

than White women (42% vs. 16.7%). The intoxication of the victim (and offender) also varied by race, because White women were more likely to be under the influence of alcohol (47.2% of White women reported being under the influence, compared to 23.8% of Black women), as were their perpetrators (47.2% of offenders against White women were under the influence, compared to 23.8% of offenders against Black women). In contrast, the use of illicit drugs prior to the assault was more common among Black victims compared to White victims (28.7% vs. 12.5%). However, there were no racial or ethnic differences in the reporting of the assault to police or of the offering or acceptance of counseling resources. Despite the importance of these findings, it is important to keep in mind that few victims seek out emergency services following their assault, which may skew the interpretation of these results.

Not only are women of color less likely to disclose sexual assault, but there are also a number of factors that vary by race and ethnicity that can affect the disclosure and recovery process. Research by Washington (2001) showed that less than half of the women interviewed had disclosed their victimization; when they did disclose, they did so to friends or family members within 24 hours of the assault. However, most of these women experienced incidents of victim blaming as a result of their disclosure. As a result of historical personal and cultural experiences with law enforcement, the majority of these women did not seek out the police to make an official report of their attack. In addition, many of the Black women talked about not reporting as a cultural expectation of keeping their business to themselves. They also mentioned not wanting to perpetuate additional racist views against members of the African American community, particularly if their assailant was also Black.

We have this element in our community that it's the White man or the White race that causes most, if not all, of the problems we have in our communities. If we begin to point out the Black male for specific problems, we tend to get heat . . . and even from some women because we as women have been socialized as well. And it's "Don't bring the Black man down. . . . He's already going to jail, dying, rumored to be an endangered species; so why should we as Black women bring our wrath against him?" (Washington, 2001, p. 1269)

Cultural expectations also limited the help seeking for some African American victims. These women assumed the identity of the "strong Black woman," which in turn restricted many women from seeking out therapeutic resources because "only crazy people went to therapy" (Long & Ullman, 2013, p. 310). Rather than share their victimization, which could make them appear weak, victims would not disclose their assaults, even to close friends or family members. Alas, the lack of support often led to psychological challenges for many survivors. For these women, finding someone that they could trust and talk to about their victimization proved to be a healing experience (Long & Ullman, 2013).

Likewise, cultural expectations also can inhibit the official reporting practices of women within the Asian American and Pacific Islander population (AAPI). As in the African American community, there is a high level of distrust of public officials (often because of negative experiences either in the United States or in the cases of immigrant and refugee individuals, in their home country) as well as a cultural expectation to keep personal issues in the private sphere. Research has highlighted that many AAPI women fail to understand the definitions of rape and sexual assault, which limits the likelihood that such incidents will be reported (Bryant-Davis, Chung, & Tillman, 2009). Concerns over immigration status and language barriers also limit victim reporting. These same factors affect the use of therapeutic resources because AAPIs have the lowest utilization of mental health services of any racial or ethnic minority group (Abe-Kim et al., 2007).

Within the Hispanic community, Latina women have the highest rates of attempted sexual assault of all ethnic groups. Stereotypes of Latina women as passionate and sexual women can lead to victim blaming by the victim herself and therefore limits the likelihood that they will report (or that their reports will be taken seriously). Given these challenges, it is important for agencies in Hispanic/Latino communities to reach out to the population and dismantle some of the stereotypes and attitudes that can inhibit reporting and help-seeking behaviors (Bryant-Davis

et al., 2009). Indeed, research indicates that Hispanic/Latina women are more likely to seek out informal resources (68.9%) versus make a report to the police (32.5%). Their utilization of informal resources included seeking medical attention (34.7%) and disclosing their victimization to a parent (26.6%). However, the rates of disclosure (both formally and informally) were significantly reduced if the victim had a history of childhood victimization (Sabina, Cuevas, & Schally, 2012).

Culture shapes the manner in which people represent themselves, make sense of their lives, and relate to others in the social world. Indeed, the experience of trauma is no different, and we find that women of color are less likely to engage in help-seeking behaviors from traditional models of assistance. While many women of color believe that agencies such as rape-crisis centers can provide valuable resources to victims of sexual assault, they may be hesitant to call on these organizations for fear that these organizations would be unable to understand their experiences as women of color. In addition, many victims may be unaware that such services are available, particularly given the potential language barriers (Sabina et al., 2012). Instead, victims may turn to sympathetic leaders and women within their own communities. To increase the accessibility of these services to women of color, victims and scholars argue that services need to be culturally sensitive and address the unique considerations that women of various racial and ethnic identities face as victims of sexual assault (Tillman, Bryant-Davis, Smith, & Marks, 2010).

The Role of Victims in Sexual Assault Cases

Many women do not identify themselves as victims. According to a national survey of college women, 48.8% of women who were victimized did not consider the incident to be rape. In many cases, victims may not understand the legal definition of rape. Others may be embarrassed and not want others to know. Finally, some women may not want to identify their attacker as a rapist (Fisher et al., 2000).

According to the National Crime Victimization Survey, 32.5% of victims of rape and sexual assault reported their victimization to the police (Truman & Morgan, 2016). Several factors increase the likelihood that a victim will report the crime to the police, including injury, concern over contracting HIV, and their identification of the crime as rape. Victims are less likely to report the crime if the offender is a friend or if they were intoxicated (Kilpatrick et al., 2007). For college-age women, less than 5% of completed and attempted rapes were reported to the police. While women do not report these crimes to law enforcement or school officials, they do not necessarily stay silent, because over two-thirds of victims confided in a friend about their attack. The decision by victims to not report their assault to the police stems from a belief that the incident was not harmful or important enough to report. For these women, it may be that they did not believe that they had been victims of a crime or did not want family members or others to know about the attack. Others had little faith in the criminal justice system, because they were concerned that the criminal justice system would not see the event as a serious incident or that there would be insufficient proof that a crime had occurred (Fisher et al., 2000).

Victims who do report their crimes often do so to prevent the crime from happening to others (Kilpatrick et al., 2007). Documented key findings from the National Violence Against Women Survey show that only 43% of reported rapes resulted in an arrest of the offender. Of those reported, only 37% of these cases were prosecuted. Fewer than half (46.2%) of those prosecuted were convicted, and 76% of those convicted were sentenced to jail or prison. Taking unreported rapes into consideration, this means that only 2.2% of all rapists are incarcerated. Of those who reported their rape, less than half of victims indicated that they were satisfied with the way their case was handled by the authorities (Tjaden & Thoennes, 2006).

In addition to the low levels of initial reports to the police, victims may also withdraw their participation as their case moves through the criminal justice system. This is particularly common in cases where the assault experience does not reflect stereotypical notions of what rape and sexual assault look like to the average individual. For example, a case involving an assault by a stranger where a weapon was used against the victim is a mythological view

of what sexual violence looks like. These cases are most likely to involve participation by the victim. Cases where there are witnesses to the attack are also more likely to encourage victim participation in the criminal justice process, particularly in cases where the witness can corroborate a victim's story of the assault. At the same time, some victims may be discouraged by the criminal justice process and withdraw their participation, particularly when victims are aware of the low conviction rates (Alderden & Long, 2016).

In other cases, victims decide to report their assaults in an effort to increase community awareness and attention by the criminal justice system to crimes of sexual violence. These victims acknowledge that the small number of successes within the legal system in these types of cases may mean that traditional avenues of justice may not be available to them. In some cases, victims talk of wanting to protect future victims from their assailant, even if nothing came of their report personally. Here, the need to raise awareness in their community trumped their own needs for closure. In the words of one victim,

I looked back and thought; well I'm not going to let one situation put me off from doing the right thing and going through. I know it would be a harrowing experience sitting there telling them what happened over and over again, but at the end of the day you know people need to be accountable for what they've done. And I thought I've, whether it goes to court or whether it doesn't I've done everything in my power you know to prevent something. (Taylor & Norma, 2012, p. 34)

Many victims make these reports knowing that people and officials may not respond favorably or that family members may reject them, particularly in cases where the offender is a close relative or family friend. These are significant hardships that influence many victims to not disclose their victimization to either officials or personal social networks. Despite these challenges, some victims believed that reporting the crime helped in their survival because it validated their victimization experience (Taylor & Norma, 2012).

Victims of rape and sexual assault have both immediate and long-term physical and emotional health needs. Over half of the victims of sexual assault experience symptoms of posttraumatic stress disorder (PTSD) at some point during their lifetime. Symptoms of PTSD can appear months or even years following the assault. The levels of emotional trauma that victims experience lead to significant mental health effects, such as depression, low self-esteem, anxiety, and fear for personal safety. Women with a history of sexual assault are more likely to have seriously considered attempting suicide and are more likely to engage in behaviors that put them at risk, including risky sexual behaviors with multiple partners, extreme weight loss measures, and substance abuse involving alcohol and illegal drugs (Gidycz, Orchowski, King, & Rich, 2008; Kaukinen & DeMaris, 2009). Women who are victimized by strangers may experience anxiety and fear about their surroundings, particularly if the assault occurred in a public setting. For women who were assaulted by a family member, acquaintance, or date, they may experience issues with trusting people.

Given the limits of the criminal justice system, how can we meet the needs of victims in rape and sexual assault cases? The current rape crisis movement developed in response to the perceived need for prevention, community awareness, and amelioration of victims' pain. However, even the best community services are limited, and there is a lack adequate resources to effectively combat all needs for victims of sexual assault. While attempts to help survivors of sexual assault involve friends, family members, community agencies, and criminal justice personnel, efforts in help seeking may actually enhance the trauma that victims experience because of lack of support, judgment, and blame by support networks. Additionally, victims may experience further trauma by being forced to relive their trauma as part of the official processing of the assault as a crime (Kaukinen & DeMaris, 2009). Because of these negative experiences in disclosure, many victims choose to keep their assault a secret.

Ultimately, cases of rape and sexual assault can be very difficult to prove in a court of law. Convictions are rare, and many cases are plea-bargained to a lesser charge, many of which carry little to no jail time. Alas, the acceptance of rape myths by police, prosecutors, judges, and juries limits the punishment of offenders in cases of sexual assault.

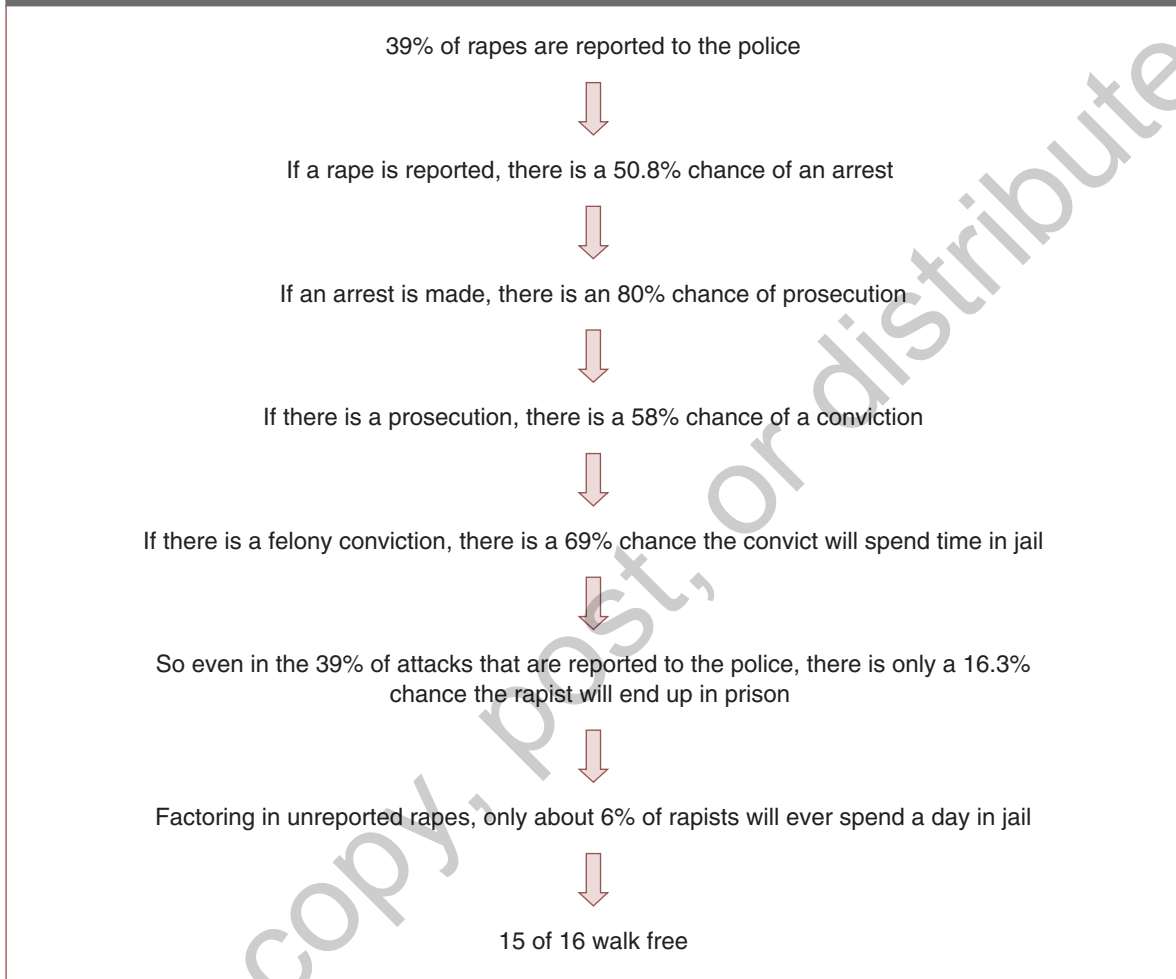
Figure 3.1 • Punishment and Rape

Figure 3.1 highlights how each stage of the criminal justice system reduces the likelihood that offenders will be arrested, charged, and punished for these cases. The effects of these practices can further discourage victims from reporting these crimes, believing that little can be done by criminal justice officials.

Conclusion

Research on rape and sexual assault indicates a number of areas where the criminal justice system and other social institutions can improve prevention and intervention efforts. Given that adolescents and young adults have higher rates of acquaintance rape and sexual assault, much of these prevention efforts have been targeted toward college campuses. While college campuses have increased their educational activities aimed toward preventing rape on campuses in recent times, these efforts may still be inadequate given the number of assaults that occur on campuses

around the nation each year. However, the age of victimization appears to be decreasing, indicating a need for education efforts focused on high school students.

Victims indicate that an increase in public education about acquaintance rape and increased services for counseling would encourage more victims to report their crimes (Kilpatrick et al., 2007). Programs focusing on rape and sexual assault prevention should provide accurate definitions of sexual assault behaviors, the use of realistic examples, discussions about alcohol use and sexual assault, and an understanding of what it means to consent to sexual activity. By tailoring education efforts toward combating myths about rape, these efforts can help reduce the levels of shame that victims may experience as a result of their victimization and encourage them to seek help following a sexual assault. Services need to be made available and known to students, in terms of both services and outreach on campus and information available online.

SUMMARY

- Rape is one of the most underreported crimes of victimization.
- The risk of rape and sexual assault appears to be higher on college campuses.
- The acceptance of rape myths by society contributes to the practice of victim blaming.
- Many victims of rape and sexual assault fail to identify their experiences as a criminal act.
- Excuses and justifications allow perpetrators of rape and sexual assault to deny or minimize levels of blame and injury toward their victims.
- The majority of rapes and sexual assaults involve individuals who are known to the victim prior to the assault.
- The term *date rape drugs* has been used to identify a group of drugs, such as GHB, Rohypnol, and ketamine, that have been used to facilitate a sexual assault.
- Victims of rape and sexual assault are at risk for long-term physical and emotional health concerns.

KEY TERMS

Acquaintance rape 95	Rape 97	Statutory rape 104
Campus sexual assault 103	Same-sex sexual assault 92	Stranger rape 93
Drug-facilitated rape 97	Sexual assault 91	Symbolic assailant 95
Incapacitated rape 97	Spousal rape 102	

DISCUSSION QUESTIONS

1. How has the definition of rape evolved over time?
2. Why do many victims of rape and sexual assault choose not to report their crimes to the police?
3. What impact do rape myths play in victim blaming and the denial of offender culpability?
4. Why do many victims of rape and sexual assault fail to identify themselves as victims of a crime?
5. Why are acquaintance rape cases not viewed as “real” rape?

6. What tactics do perpetrators use to coerce sex from their victims?
7. In what ways can prevention efforts be used to educate women and men about the realities of rape and sexual assault?
8. What are the short- and long-term effects of sexual assault? How might early sexual assault yield a pathway to later victimization or offending?

WEB RESOURCES

Bureau of Justice Statistics: <http://bjs.ojp.usdoj.gov>

The National Center for Victims of Crime: <http://www.ncvc.org>

National Clearinghouse on Marital and Date Rape: <http://ncmdr.org/>

NCVC Rape Shield Laws: http://www.ncvc.org/ncvc/main.aspx?dbID=DB_FAQ:RapeShieldLaws927

Office of Victims of Crime: <http://www.ojp.usdoj.gov>

RAINN—Stateresourcesforsexualassault: <http://www.rainn.org/get-help/local-counseling-centers/state-sexual-assault-resources>

Rape, Incest and Abuse National Network: <http://www.rainn.org>



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READING /// 5

Rape myths are a powerful tool that can alter how victims, offenders, and peers of these two populations understand crimes of rape and sexual assault. In this research study, Dr. Hayes-Smith and Dr. Levett look at whether the sharing of information about available sexual resources on college campuses is impacted by students' beliefs in these myths about rape.

Student Perceptions of Sexual Assault Resources and Prevalence of Rape Myth Attitudes

Rebecca M. Hayes-Smith and Lora M. Levett

Ground-breaking legislation such as the Student Right-to-Know and Campus Security Act of 1990 (n.d.) requires colleges to publicly report statistics on crime and to educate students on campus about policies designed to prevent crime and secure the campus environment. Later amendments to this Act require the creation of specific policies designed to prevent and respond to sexual assault on campus (Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 1998, 2011). Now referred to as the Clery Act,¹ it provides guidelines on what information is supposed to be made widely available to students. According to the Act, college administrators should adequately educate students about crime and provide resources for students when crime occurs. Given the prevalence of sexual assault on college campuses, educating students about it and providing resources for victims of sexual assault is especially important. Recent studies, however, demonstrate that resources directed at victims/survivors of sexual assault on campus range in their content and availability to students (Hayes-Smith & Hayes-Smith, 2009; Karjane, Fisher, & Cullen, 2002). However, even in

those cases in which adequate resources were available on campus, it was still not clear whether those resources or programming efforts actually reach or affect the student population.

It is no longer a contested issue among researchers and scholars that sexual assault on college campuses is a widespread phenomenon (Boeringer, 1999). One needs only to conduct a search using a library search engine or even Google® to find numerous studies focused on sexual assault issues at universities (e.g., Fisher, Cullen, & Turner, 2000; Karjane et al., 2002; Koss, Gidycz, & Wisniewski, 1987; Perkins, 1997). A groundbreaking study by Koss (Koss et al., 1987) measured the prevalence of sexual assault beyond official statistics. Even though the Koss study was met with a backlash regarding the prevalence of sexual assault (see Roiphe, 1993), this study is still commonly used to demonstrate that sexual assault is more widely spread on campus than official statistics may suggest. Research has moved beyond simply studying the prevalence of sexual assault on campus and has expanded to things such as the close association between sexual assault and alcohol (Abbey, 2002; Mohler-Kuo, Dowdall,

SOURCE: Hayes-Smith, R. M., & Levett, L. M. (2010). Student perceptions of sexual assault resources and prevalence of rape myth attitudes. *Feminist Criminology*, 5(4), 335–354.

Koss, & Wechsler, 2003; Ullman, Karabatsos, & Koss, 1999) or how common it is for a sexual assault victim to know the offender (Greenfield, 1997), how often women self-blame (Warshaw, 1988), and, important to this study, what colleges [or] universities are doing to remedy the problem (Karjane et al., 2002).

Availability and Adequacy of Sexual Assault Resources on Campus

With researchers and scholars acknowledging the high prevalence of sexual assault occurring among college women and with legislation like the Clery Act, university administrators have taken steps to create programs to educate and assist their student bodies. Recent studies examining the availability and adequacy of resources on college campuses, however, have shown that there appears to be no uniformity across schools on response to sexual assault and resource availability (Hayes-Smith & Hayes-Smith, 2009; Karjane et al., 2002). In one study, researchers found that most of the schools complied with the federal requirement to report crime but were not necessarily consistent with current laws stating how to keep these records (Karjane et al., 2002). Even basic resources such as information about how to file criminal charges were not uniform across schools. Less than half of the institutions reported providing new students with sexual assault educational materials.

Given that students may seek information on the Internet, a subsequent study examined the resources available to students online and found that some schools fared better at providing online resources than other schools (Hayes-Smith & Hayes-Smith, 2009). This content analysis of universities in the Midwest showed that a few schools provided large amounts of information, much of which was victim centered, such as using the term *survivor* and stating, “it is not your fault.” Most schools, however, barely provided the basic information online such as sexual assault policies and crime statistics (Hayes-Smith & Hayes-Smith, 2009).

Both of these studies called for better and more information on sexual assault policies and resources for students on campus (Hayes-Smith & Hayes-Smith, 2009; Karjane et al., 2002). Suggestions included developing

models for sexual assault education beyond current federal mandates and included recommendations drawn from sexual assault research designed to reduce belief in rape myths. Thus, part of the goal of disseminating sexual assault resources on campus is to dispel belief in rape myths.

Sexual Assault Programming and Deprogramming

Researchers have noted the difficulty involved with creating programs that attempt to prevent and react to the problem of sexual assault (see Yeater & O’Donohue, 1999). Programs created to either respond to or prevent sexual violence are likely to take into account the correlation between rape myth acceptance and sexual aggression in men (Bohner et al., 1998; Hamilton & Yee, 1990; Lanier, 2001) and rape myth acceptance and victim blaming behaviors in women (Cowan, 2000). Thus, these programs should attempt to dispel rape myths.

Both males and females have shown evidence of adhering to rape myths, although men are more likely to endorse rape myths compared to women (Lonsway & Fitzgerald, 1994). For example, in a study conducted by Amnesty International (2005), men were more likely than women to attribute blame to a woman for her own sexual assault if her wardrobe was revealing. This is troubling for a few reasons. First, acceptance of rape myths in men has been associated with their self-reported likelihood [that] they would commit a sexual assault (although rape myths only partially explain the motivation behind men’s violence against women; Bohner et al., 1998). One study showed a positive correlation between men’s attitudes about rape myths and their inclination toward sexual assault in both written sexual assault scenarios in which men responded to a realistic date rape scenario and in individual items asking about sexual aggression (Bohner et al., 1998). Furthermore, making rape myth attitudes accessible (by measuring them prior to measuring rape proclivity) increased the likelihood that the men would report higher rape proclivity in a subsequent survey. In a related exploratory study testing the validity of a rape myth scale, Burgess (2007) also found that men’s acceptance of rape myths was correlated with self-reported sexual aggression. A longitudinal study further supported

this and did not find support for the notion of rationalization whereby men who rape will begin to adhere to rape myths as a justification mechanism (Lanier, 2001). This same study also found that reducing adherence to rape myths in males would likely be effective in lowering sexually aggressive behavior (Lanier, 2001). These studies show that men who believe in rape myths may be more likely than men who do not to engage in sexually coercive or aggressive behavior, and programs should address this issue. Alternatively, it is also possible that rape myths may function as a justification for violent behavior, although more research is needed to address this possibility.

Programs should attempt to reach both men and women (Yeater & O'Donohue, 1999). Women who are disproportionately likely to be victims of sexual assault and who show evidence of adhering to rape myths make it difficult to reverse the cycle of violence against college-aged women (Cowan, 2000). Specifically, women who believe in rape myths may be contributing to [both] blaming the victim in crimes of sexual assault and the continual de-emphasizing of sexual assault compared to other crimes in our society, [which are] termed "internalized oppression" (i.e., one's own group attributing blame to the victim; Cowan, 2000). Women who report feelings of hostility toward women or hold negative stereotypes about women are more likely than those who do not to victim blame in incidences of sexual assault and to trivialize the occurrence of violence toward women (Cowan, 2000). Ultimately, when a woman believes in rape myths or has negative attitudes toward women, this may exacerbate the problem of sexual assault, thus, increasing victim and self-blame. Thus, programs designed to educate women can attenuate this problem.

False beliefs about sexual assault may result in victims blaming themselves or not believing that a sexual assault actually occurred. Women who endorse rape myths are less likely to define sexual assault behavior as such, despite the fact that the behavior in question meets the legal definition (Fisher et al., 2000; Norris & Cubbins, 1992). In addition, if a victim's claims that a sexual assault occurred are rejected by others because others believe that the victim is at fault, it can reconfirm self-blaming feelings, increasing the likelihood of victims not reporting victimization or seeking help (Schwartz & Leggett, 1999; Warshaw, 1988). The use of alcohol has also been linked with the victim self-blame phenomenon, in which victims

will blame themselves and in turn not report the sexual assault because they believe it is their fault due to their use of alcohol (Schwartz & Leggett, 1999). Koss et al. (1987) found that 74% of perpetrators and 55% of sexual assault victims had been drinking alcohol right before the incident. At least half of sexual assaults include alcohol consumption by both or either parties involved in the assault (see Abbey, 2002 for a complete review). Many women report that the reason they believe the sexual assault is their fault is because they consumed an alcoholic beverage and were too intoxicated to consent. Belief in these types of rape myths can keep women from reporting or seeking out necessary resources to help them recover (Schwartz & Leggett, 1999; Warshaw, 1988).

Another example of a rape myth that likely perpetuates victim-blaming behavior is that rape is committed primarily by strangers. This myth is particularly problematic given that evidence continues to show that the majority of sexual assault is committed by someone the victim knows (Greenfield, 1997). On a college campus, this myth is especially harmful given that students may not exercise appropriate caution around acquaintances in risky situations (such as spending time alone with a friend at a party) yet are cautious when walking alone at night.

Collectively, these studies illustrate the importance of having programs that attempt to educate about *and react* to the occurrence of sexual assault. However, even if we create advocacy programs to assist survivors of sexual assault and educate the general population about sexual assault, we may not be successful in accomplishing those goals if the programs are not reaching the intended audiences. This study attempts to examine whether sexual assault resources are reaching the students and, if resources are reaching students, whether students' attitudes about sexual assault change.

Presumably, students receive educational information about sexual assault and therefore the students should hold more accurate beliefs about sexual assault. That is, past advocates of these types of resources and programs have noted that the programs should educate students through dispelling inaccurate beliefs about sexual assault and ultimately produce attitudinal change consistent with the education proffered; indeed, this is part of the goal in having sexual assault resources available to students (Heppner, Humphrey, Hillenbrand-Gunn, & DeBord, 1995). Thus, in our study, we attempted to

measure whether attitudes about sexual assault were changed as a result of receiving sexual assault resources. Theories of attitude change, such as the elaboration likelihood model of persuasion (ELM; Petty & Cacioppo, 1986), demonstrate how attitudes about sexual assault may be changed as a result of exposure to these resources (e.g., Gidycz et al., 2001; Heppner et al., 1995). Specifically, the ELM states that attitude change takes place through two processes: central and/or peripheral processing. If one processes a message centrally (such as a sexual assault education program), change is likely to take place if the target of change is motivated to listen to the message, has the ability to understand the message, and thinks thoughtfully about the content of the message. Processing a message centrally is more likely to result in a stable, long-term attitude change compared to processing a message peripherally (i.e., relying on heuristics like the message sender's expertise or attractiveness in being persuaded; Petty & Cacioppo, 1986). Thus, exposure to sexual assault resources should presumably produce stable attitude change about attitudes toward sexual assault (e.g., rape myths) if students are centrally engaged in learning about those resources. So in our study, . . . exposure to [higher level] resources should be associated with [attitude change toward] lower [quality] beliefs in rape myths if those resources are being properly received (although in this study, the exact causal nature of the relationship cannot be assessed). However, it is possible that beliefs about sexual assault (and rape myths) may be resistant to attitude change due to the continued presence of patriarchy throughout society and the backlash hypothesis (DeKeseredy, 1999).

The backlash hypothesis is concisely defined as a simultaneous surge of criticism onto women as advances are being made in women's favor (Faludi, 1991). For example, DeKeseredy (1999) showed that when research attempts to highlight the prevalence of violence against women, critics immediately emerge and criticize the research methodology, usually by attacking the lack of the male victims. He calls this the "but women do it too" argument, which belittles the importance of raising awareness about violence that is directed mainly toward women (DeKeseredy, 1999). This type of backlash, where the focus is taken off of women, can make it particularly difficult for sexual assault programs to reach female students, whereby they may think sexual assault is not going

to happen to them. If an individual does not believe that a topic (e.g., sexual assault) is relevant to him or her or is important, he or she is not as likely to pay attention to the messages about the topic, making the job of spreading information difficult (Kahlor & Morrison, 2007).

Study Overview

The present study examined whether students were receiving information regarding sexual assault resources at a university that provided several resources. We examined whether students knew of the available resources, believed they would use the information, and considered the information informative. We also asked students how they would recommend the information be disseminated to students. In addition, we explored whether knowledge about the availability of sexual assault resources was associated with lower belief in rape myths. Last, we examined gender differences in knowledge of sexual assault resources and acceptance of rape myths.

Method

Participants

Participants were 224 criminology undergraduate students from a large southeastern university. Students were 61% female and 38% male (2% did not report their sex). The majority of the students were White (60%), followed by Hispanic/Latino (20%), Black (10%), Asian (6%), and other (4%). The average age was 21 ($SD = 2$) ranging from 18 to 46. The largest percentage of students were 3rd years (37%) followed by 4th years (28%), 2nd years (23%), 1st years (8%), and a few 5th years (3%).

Measures

Knowledge of sexual assault resources. Students' knowledge of resources was first measured by asking if they had received information on sexual assault resources when they began their education at the university. If they answered "yes," they were asked the following "yes" or "no" questions: (a) Did it include information about the number of sexual assault incidents? and (b) Do you know where to get information about sexual assault on campus?

To measure more general knowledge of sexual assault resources on campus, students responded to several statements. In responding to each statement, students indicated their agreement on a 7-point Likert-type scale ranging from 1 (*strongly disagree*) to 7 (*strongly agree*). The scale assessing general knowledge of sexual assault resources on campus averaged the items indicated in Reading Table 5.1 ($\alpha = .77$, scale ranging from 1.00 to 6.25). Three additional items were not included in the final scale because they did not factor in with the above scale, but mean responses to these items are reported in the results section. These items are also included in Reading Table 5.1.

Students also were asked nine questions measuring their awareness of each of the nine resources available at the university or in the community. Students indicated with a “yes” or “no” response whether they had knowledge

of each of the following campus resources: (a) sexual assault victim advocates, (b) an office of victim services, (c) sexual assault counselors, (d) a “safe place” for victims of sexual assault, (e) a “Take Back the Night” rally, (f) a sexual assault crisis hotline, (g) a women’s resource center, (h) a policy on sexual assault, and (i) a facility to get a forensic medical exam. The total number of “yes” responses were summed to create a scale; students’ scores on this scale ranged from 0.00 to 9.00.

Students also were asked a question regarding where they would seek information on sexual assault issues. They responded to the following question: “Which one of the following places would you be most likely to seek information on sexual assault issues?” Students chose one of 6 choices (i.e., phonebook, crisis hotline, police, Internet, the university’s web site, and other).

Reading Table 5.1 • Students’ Mean Responses to Knowledge of Sexual Assault Resources Available on Campus

	Mean Response (SD)	Median (item range)	% Disagree	% Agree	% Neutral
Scaled Items					
I am familiar with the procedures of reporting incidents of sexual assault at [the university]	3.30 (1.51)	3.00 (1–6)	59.2%	29%	12%
I am knowledgeable about the role of Judicial Affairs in sexual assault cases at [the university]	3.10 (1.49)	3.00 (1–7)	66%	21%	13%
I am familiar with the services offered by an Office of Victims Services	3.02 (1.46)	3.00 (1–7)	68%	19%	14%
I know where to go to receive help if I or someone I know were sexually assaulted at [the university]	4.17 (1.61)	5.00 (1–7)	36%	7%	57%
Individual Items					
If you report a sexual assault at [the university], you do not have to file a police report with the police	3.65 (1.55)	4.00 (1–7)	33%	20%	47%
I know what happens at a “Take Back the Night” rally	2.53 (1.62)	2.00 (1–7)	73%	13%	14%
I know the number (or where to get it) to the Sexual Assault Crisis Hotline	3.60 (1.90)	4.00 (1–7)	49%	41%	10%

NOTE: Students responded on a scale ranging from 1 (*strongly disagree*) to 7 (*strongly agree*).

Quality of resources. Those students who responded that they received information about sexual assault from the university rated the quality of the information they received. Again, students responded to statements on 7-point Likert-type scales ranging from 1 (*strongly disagree*) to 7 (*strongly agree*). Higher ratings indicate a more positive evaluation of the resources. All items are included in Reading Table 5.2.

Distribution of sexual assault resources. Participants also responded to an open-ended question asking where and how they would like to see information about sexual assault disseminated on campus. This question was coded for common themes using two independent coders. Overall agreement rates were high ($\kappa = .85, p < .01$). One hundred ninety-eight students answered the open-ended question, and several students gave more than one suggestion.

Rape Myth Scale. The Rape Myth Scale was developed by Burt (1980; see also Burt, 2004) to examine acceptance of rape myths. The scale included 11 statements, and participants indicated agreement with those statements on 7-point Likert-type scales ranging from 1 (*strongly disagree*) to 7 (*strongly agree*). For example, one item reads, “A woman who goes to the home or apartment of a man on

their first date implies that she is willing to have sex.” The entire Rape Myth Scale was used in the survey (available in Burt, 2004). We also created three additional items to add to the scale because of the relationship between sexual assault and alcohol use and sexual assault and drugs (Mohler-Kuo et al., 2003; Ullman et al., 1999): (a) If the victim of sexual assault was drinking alcohol at the time of the incident, it is partially his or her fault that the sexual assault occurred. (b) If the victim of sexual assault willingly took drugs at the time of the incident, it is partially his or her fault that the sexual assault occurred. (c) Even if a victim of sexual assault was drunk at the time of the incident, the sexual assault is not his or her fault. When conducting factor and reliability analyses on the new scale, two items from the original Rape Myth Scale did not factor on the construct and reduced the reliability of the overall scale (“any female can get raped” and “one reason women falsely report rape is that they frequently have a need to call attention to themselves”). These two items were dropped because they did not factor. Given that we added items to Burt’s Rape Myth Scale, we conducted an exploratory factor analysis with varimax rotation to examine the factor structure. Burt (1980) originally proposed a single factor structure; however, this factor structure has been debated in the field (see Lonsway & Fitzgerald, 1994). Some have shown that the items in the scale rotate onto 3

Reading Table 5.2 • Students’ Mean Responses to Quality of Resources Available on Campus

Scaled Items	Mean Response (SD)	Median (item range)	% Disagree	% Agree	% Neutral
The sexual assault resources given to students at [the university] is not informative enough	4.02 (1.25)	4.00 (1–7)	18.6%	23.1%	58.2%
I do not know enough about the sexual assault resources at [the university] to use them in a sexual assault situation	4.70 (1.52)	5.00 (1–7)	21.5%	63.3%	15.2%
The sexual assault information was very straightforward and easy to understand	4.40 (1.01)	4.00 (1–7)	9.8%	32%	58.3%
I would probably use the sexual assault information given to me by [the university] if I encountered a sexual assault situation	5.37 (1.25)	6.00 (1–7)	15.8%	80.2%	12.2%

NOTE: Students responded on a scale ranging from 1 (*strongly disagree*) to 7 (*strongly agree*).

(Hall, Howard, & Boezio, 1986) or 4 (Briere, Malamuth, & Check, 1985) factors. Others, however, report that the scale retained its original single factor structure (Krahe, 1988; Margolin, Miller, & Moran, 1989). In our factor analysis, a single factor emerged. Items included in the scale had factor loadings between .52 and .78. Items with smaller factor loadings were eliminated from the scale. The three new items were included in the final scale and scores were added according to Burt (2004 $\alpha = .86$; range: -36.00 to 13.00). Students were also randomly assigned to complete the Rape Myth Scale before or after the measures inquiring about sexual assault resources to test for social desirability of responses to rape myth items.

Results

Student Knowledge of Sexual Assault Resources

When students were asked if they had received sexual assault resources, only roughly half of the students (54%) reported receiving information, 13% reported they had not received any information, and 33% reported not remembering if they had received information. Of the students who reported receiving information, 30% reported that the information included reports of the number of sexual assault incidents, and 39% reported they knew where to get information about sexual assault at the university. A series of chi-square tests revealed male and female students did not differ in their responses to these items, $p > .05$.

For the scale and items measuring knowledge of resources, the means of responses to most items were below the scale average, indicating that overall, many respondents were not aware of many of the resources. For the overall scale, students averaged 3.39 ($SD = 1.17$). This indicates that the overall average of students' knowledge of resources was below the median response. To provide the best picture of the data, we included descriptions of participants' responses in Reading Table 5.1. We also divided participants' responses into categories indicating proportions of students who agreed, disagreed, and were neutral in response to the items on the scales provided. Male and female students did not significantly differ in their knowledge of resources for either the scale or the individual items.

As expected, students who had indicated receiving resource information significantly differed from those students who indicated not receiving resources on the knowledge of resource scale. Students who remembered receiving information about sexual assault resources were more likely to report more knowledge of resources compared to those students who did not report or did not remember receiving information.

Next, we examined knowledge of specific resources on campus. Students knew an average of 4.00 resources out of the 9 which were available. 58% of students knew between 0 and 4 of the resources, and 42% knew about 5 or more of the available resources. All resources were readily available on campus. The students' knowledge of specific resources scale did not significantly differ by gender. Again, students who had indicated receiving resource information significantly differed on how many specific resources they knew about. Students who reported receiving information on entering the university knew about more resources compared with students who reported they had not received resources or those who did not remember receiving resources.

To determine where students would seek out information on sexual assault, a percentage was calculated for all responses indicating the proportion of students who would seek information from each of the sources. Overall, 41% of the students reported they would refer to the police, 34% reported they would use the Internet, and 11% reported they would go to the university's web site.

We asked students who answered that they had received information on sexual assault if the information was helpful and useful. Again, to provide the best picture of the data, we included descriptions of participants' responses in Reading Table 5.2. After examining the item distributions, it appears that students would use the university's sexual assault resources but still do not know enough about them to indicate whether or not they are informative and/or helpful. Students' responses to these items did not significantly differ by gender.

Students suggested the following mechanisms for distributing sexual assault information: a full school course (21%) or incorporating the information into current classes (11%), informative publications on campus (18%), disseminating information during new student orientation (18%), using the Internet (either through the university's portal or through a separate web site; 14%),

organizing a campus event (20%), using an online course similar to the university's currently required alcohol awareness course (10%), using resources outside the university, including media outlets, such as commercials and billboards (2%), and using the school newspaper (1%).

Student Belief in Rape Myths

The Rape Myth Scale was coded so that negative scores mean an overall lowered acceptance of rape myths. The items were summed to create the scale not including the two items that did not factor in as discussed above. Overall acceptance of rape myths was low indicating that overall, students were low in their belief of rape myths.

A one-way ANOVA testing for gender differences in beliefs in rape myths showed an effect of gender on beliefs in rape myths. Women were less likely than men to accept rape myths. The relationship between gender and students' acceptance of rape myths remained significant even when students' knowledge of resources (as measured by a *yes, no, or I don't remember* question) was entered into the model in a two-way ANOVA. Both the effects of knowledge of resources and the interaction between gender and knowledge of resources were not significant. That is, knowledge of resources was not related to a lower belief in rape myths.

Discussion

Although some students at this university reported receiving information about sexual assault resources, the majority of our sample did not. Arguably, this group of university students has had more exposure than the average student to the issue of sexual assault because they are criminology students. Only half of the students, however, reported that they had received information about sexual assault resources at the university (despite the fact that all students should have received the information). Two possibilities may explain why so many students reported not receiving information: The university may not be uniformly distributing the information, or students may not be paying attention or actively engaged when they receive the information.

With students reporting low knowledge of the resources available on campus (including general knowledge and knowledge of specific available resources) and

women in the sample not significantly differing from men in their knowledge of sexual assault resources, this reveals a problematic picture. Many (if not most) resources available at this campus are directed toward women because this university has a reactive response as opposed to a preventative response to the problem of sexual assault. Therefore, the resources intended to assist women in case of sexual assault may not be serving women to the best possible capacity. However, students who reported receiving resource information did report more knowledge of sexual assault resources than those who reported that they did not receive such information. The university may need to consider a new dissemination strategy to ensure that the students have knowledge of all the resources available to them and are actively engaged in learning from those resources.

Our main suggestion is that a new approach should be taken by using the Internet as a primary source of dissemination.

In our study, 24% of students indicated that disseminating the information about sexual assault and sexual assault resources through the Internet (either through a required online course or a web site) may be the best way to reach the student body. Even though with this sample many responded they would go to the police for resources—which could be due to the fact they are criminology students—some students also reported that they would turn to the Internet for information in a sexual assault situation, indicating support for the idea that the university should provide sound information for students online (Hayes-Smith & Hayes-Smith, 2009). Places like Facebook® and Twitter®, popular college networking sites, may be an ideal place to disseminate resource information. These sites allow its users to subscribe as a fan to pages and have ways to contact users of an entire network (which each university is a network) notifying them of upcoming events. Given the popularity of these sites, it might make sense for universities to use them in disseminating information about available services at the university, including sexual assault resources.

Indeed, theoretically, creating interactive, long-term Internet-based programs makes sense. That is, research on sexual assault prevention programs has demonstrated that participating in a long-term program designed to teach students about sexual assault issues (e.g., consent) produced the most stable change in students' attitudes

(Anderson & Whiston, 2005; Borges, Banyard, & Moynihan, 2008). The interactive nature of using the Internet may make students more actively engaged and motivated to process the information meaningfully, which according to the ELM is likely to result in central processing of the information (Heppner et al., 1995; Petty & Cacioppo, 1986). This type of processing is likely to result in attitude change that is stable over time and resistant to counter-persuasion arguments (Heppner et al., 1995).

The suggestion of using Internet networking sites is more complicated than it appears; when using these sites, there is more to it than simply creating a profile. As Hayes-Smith & Hayes-Smith (2009) found in their study, simply having a web site with information does not mean it is quality or easily accessible. To use networking sites, there would likely need to be a process in which some marketing strategies might prove helpful to gain proper visibility. For example, on the network site Facebook®, creating a profile that is not public requires users to request inclusion, and because it is not public, it only appears on specific searches versus general keyword searches. The private profile increases security but decreases visibility. Security is an important issue to consider with programs geared toward survivors of sexual assault but may be of less concern when considering the prevention programs, where visibility is more likely to be helpful than harmful. Of course, these are only speculations, and future research should address the effectiveness of networking sites regarding resource dissemination and awareness.

Another interesting student suggestion for disseminating sexual assault resources and educating students about sexual assault was the call for a required online course. This suggestion is particularly pertinent to the university in this study as they already have one required online course to educate students about alcohol. This course is required for all incoming students and may have prompted the students to come up with the idea of an online course for educating students about sexual assault issues and resources. The online course could be given to all freshman-level students prior to their being allowed to register for classes, and they would have to acquire a specific grade. It would be feasible for the university to add sexual assault information to the alcohol course given the established relationship between alcohol and sexual

assault (Koss et al., 1987; Mohler-Kuo et al., 2003). Past research suggests that if such programming is to be successful in changing students' attitudes about sexual assault, it would need to engage students and send a meaningful, relevant message likely to invoke stable attitude change (Anderson & Whiston, 2005).

The alternative explanation regarding resource dissemination is that students receive information about sexual assault resources, but they may not be reading or paying attention to these resources. As Kahlor and Morrison (2007) propose, it is possible that students receive information but do not find it relevant. In this study, the majority of students who reported receiving resources seemed unable to evaluate the helpfulness or quality of the resources; this supports the notion that they are not paying attention. In addition, simply knowing that resources on campus exist to help victims of sexual assault may not be enough; universities may need to make more concerted efforts to educate the student population about sexual assault. A more involved program would need to be created to raise visibility *and* awareness. Indeed, research has shown that making the information more personally relevant to students increases the likelihood they will pay attention to the message and therefore change relevant attitudes and behaviors (Grube, Mayton, & Ball-Rokeach, 1994).

Regardless of dissemination, knowledge of resources was not correlated with a reduced acceptance of rape myths by men *or* women, and so maybe universities should implement more sexual assault prevention programs. It is possible that attitudes about sexual assault are ingrained in our culture, that the current programming and resources are not successful in reducing acceptance of rape myths because the programming does not successfully combat the backlash that continues to occur against the programs (DeKeseredy, 1999). Proactive programming may be more successful in producing attitude change. Sexual assault prevention programs are more proactive and attempt to educate both men and women about the culture that surrounds the incidence of sexual assault, whereas the programs that are reactive are only geared toward women (the survivors) and are helpful after the fact but not prior to. Scholars have long since suggested the importance of focusing sexual assault programs on men (Karjane et al., 2002; Schwartz & Dekeseredy,

1997). It has been argued that men, especially those who are in college, tend to facilitate a culture surrounding male peer support that is conducive to sexual assault (Sanday, 2007; Schwartz & Dekeseredy, 1997). The fraternity culture oftentimes facilitates the male peer support and encourages the objectification of women (Sanday, 2007).

Research evaluating sexual assault prevention programming is generally supportive of the prevention technique in dispelling commonly held rape myths (Breitenbecher, 2000; Foubert, 2000; Lanier, 2001). There are programs that educate men about how to stop violence against women, such as the national program Men Can Stop Rape (www.mencanstoprape.org) or Men Against Violence (see Choate, 2003, for a description). These programs generally focus on the notion that men are the ones with the most power to stop the violence because they are the typical perpetrator in these types of crimes. Thus, these programs attempt to create a new culture by encouraging men to assert that they will not tolerate violence against women (Schwartz & Dekeseredy, 1997). Fraternity members who were subjected to the Men against Violence training reported positive experiences with the program and expressed that prior to the program they were unaware of many of the issues surrounding sexual assault, such as alcohol and consent (Choate, 2003). Research has shown that men and women may communicate consent in different ways (Hickman & Muehlenhard, 1999), so

such programs may help attenuate this gender gap and educate men about sexual assault issues (and therefore, may be successful in preventing sexual assault). These programs complement programs educating women about the availability of sexual assault resources.

Conclusion

Overall, this study shows that even if sexual assault resources are available at a university, it does not mean students are receiving, using, or learning from them. Our nonprobability sampling method makes it impossible to generalize these findings to the whole university. However, this sample provided a conservative test of whether students were receiving resources; that is, this study was conducted with a sample of students currently enrolled in criminology, law, and society classes (in which they may receive information about those resources). Arguably, this sample should have had higher knowledge of sexual assault resources compared to those of the average student. Future research may benefit from using a random sample. However, even with this conservative sample, we demonstrated that merely providing resources about sexual assault may not be able to accomplish purposes intended. That is, if students do not know about the resources available to them, how will they use them in a time of need?

DISCUSSION QUESTIONS

1. How much knowledge do students have about sexual assault resources on their college campus?
2. What can universities do to reduce students' acceptance of rape myths?
3. How might university administrators use the findings of this study to make changes to their programs on campus?

Note

1. The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092) requires all public and private institutions of higher education that receive federal aid to disclose campus crime reports and campus

security policies. Schools are required to publish a crime report and policies regarding crime, for example, sexual assault. The manner in which the schools are to disclose this information is not explicitly specified in the report.

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READING /// 6

In the section, you learned about how alcohol is the most common drug that contributes to rapes and sexual assaults. Drug-facilitated rape victims are often viewed as blameless; however, the discussion changes when someone voluntarily becomes intoxicated and is ultimately sexually violated. This study by Clare Gunby, Anna Carline, and Caryl Beynon includes focus group research with students enrolled at a British university and uses a hypothetical vignette of a potential offender and victim of rape following their consumption of alcohol.

Regretting It After?

Focus Group Perspectives on Alcohol Consumption, Nonconsensual Sex, and False Allegations of Rape

Clare Gunby, Anna Carline, and Caryl Beynon

Introduction

It is well documented that young people, including students, are high consumers of alcohol (Kypri, Cronin, & Wright, 2005; YouGov, 2010) and that they frequently use alcohol to facilitate sexual encounters, including increasing their confidence to approach members of the opposite

sex (Bellis et al., 2008; Sumnall, Beynon, Conchie, Riley, & Cole, 2007). Research also indicates that this association between alcohol and sexual outcomes serves to influence judgments around the consensual nature of alcohol-involved intercourse¹ (George & Stoner, 2000). Indeed, recent social network responses to the conviction of the Welsh footballer Ched Evans for the rape of an extremely

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intoxicated woman, including the public “tweeting” of the victim’s name, highlight the profound impact that alcohol consumption can have on third parties’ assessments of the legitimacy of alcohol-involved rapes (Bancroft, 2012).

Drawing upon the findings of an empirical research project with university students, this article provides a timely examination of young peoples’ attitudes and understandings around alcohol consumption, nonconsensual sex, and the role of alcohol in the false allegation process. More specifically, the project examined how, and to what extent, perspectives around false rape allegations and voluntary intoxication intertwine. It also examined more broadly how alcohol-involved intercourse is perceived by students and, by implication, possible attitudinal difficulties that may arise in achieving convictions in alcohol-involved rape cases. To this end, four focus groups were conducted based on a real case in which sex took place between two very drunk acquaintances and consent was contested.

The analysis that follows provides critical insights into how complainant and defendant credibility and responsibility are constructed and explores what is deemed to constitute consent. This is an area where further research is required in order to develop understanding around attitudes that may impinge on the treatment of rape complainants who have been drinking (Stern Review, 2010) and to gain clarity on how the association between alcohol and sex may influence judgments around the consensual nature of intercourse and, by default, link to ideas and understandings around false rape allegations. The article also offers preliminary insights into perspectives that may be drawn upon by jurors in their deliberations of alcohol-involved rape cases.

The article is presented over four sections. To commence, an outline of the law of rape and the key issues and research which relate to this $A = r^2$ are presented. Second, the study methodology is detailed followed by a critical analysis of the research findings. The final section of the article provides conclusions and suggestions for further research.

The Law of Rape and Research Context

In England and Wales, rape law was reformed in 2003 among concerns regarding the low reporting and conviction rate for the offence (Home Office, 2002). Rape is now

governed by Section 1 of the *Sexual Offences Act 2003* and involves the nonconsensual penile penetration of a person’s mouth, vagina, or anus. As with the previous law, the absence of consent is pivotal: The prosecution must prove beyond a reasonable doubt that the complainant did not consent, and the jury must be satisfied that the accused did not hold a reasonable belief in consent. In making this latter assessment, the jury is to take into account “all the circumstances, including any steps [the defendant] has taken to ascertain whether [the complainant] consents” (Section 1(2)).

For the first time, the 2003 Act implemented a statutory definition of consent. Section 74 states, “a person consents if he agrees by choice, and has the freedom and capacity to make that choice.” Further significant reforms were implemented by virtue of Sections 75 and 76, which contain a range of evidential and conclusive presumptions regarding the absence of consent. Under these provisions, if the prosecution proves the existence of certain factors, it will be presumed that the complainant did not consent and/or that the defendant did not hold a reasonable belief in consent. While the presumptions in Section 75 are evidential and can therefore be rebutted by the defendant, under Section 76, lack of consent and/or belief in consent is conclusively presumed. Consequently, the circumstances which fall into this latter section are more narrowly construed, relating to cases involving certain types of deception. In contrast, the presumptions in Section 75 are wider and considered to represent situations in which most people would agree that consent was unlikely to be present (Home Office, 2002: p. 16). They include the use, or threats, of violence along with cases of involuntary intoxication/drink spiking. For the purposes of the present analysis, cases that involve *voluntary* intoxication would only fall within Section 75 if the complainant was so drunk that she became unconscious (Section 75 (2)(d)).

In 2006, a government consultation asked whether Section 75 should be amended to include situations involving extreme voluntary intoxication (Office for Criminal Justice Reform, 2006). One third of respondents argued that presumption Section 75(2)(d) should be changed to include situations in which the complainant was “too affected by alcohol or drugs to give free agreement.” Certain respondents referred to situations in which men may “seek to take advantage of the fact that women

are drunk [voluntarily] and therefore have less capacity to resist pressure or coercion” (Office for Criminal Justice Reform, 2007: p. 6). These proposals, however, were abandoned due to the fear of “mischievous accusations” (Office for Criminal Justice Reform, 2006: p. 12), arguments that presuppose some linkage between intoxication and the potential for false rape allegations.

Voluntary intoxication short of the point of unconsciousness therefore falls under the general Section 74 definition of consent, where specific consideration is to be given to whether or not the complainant retained the capacity to consent. The complexities of capacity and intoxication are well documented in the case of *R v Bree* (2007). While initially convicted for rape following sex with a complainant who was voluntarily and exceptionally intoxicated, his conviction was quashed on appeal due to the trial judge’s inadequate jury directions (see Cowan, 2008; Elvin, 2008; Gunby, Carline, & Beynon, 2010 for a critical analysis of *Bree*, 2007). The Court of Appeal held that the jury should have received assistance with the meaning of the term *capacity* when a complainant is affected by her own voluntarily induced intoxication and noted that “capacity to consent may evaporate well before a complainant becomes unconscious” (*Bree*, 2007: p. 167 [case]). However, little further guidance was provided as it was considered to be a “fact-specific” issue and not appropriate to create a “grid system” which would enable the point of incapability to be linked to “some prescribed level of alcohol consumption” (*Bree*, 2007: p. 167).

Rape Myths, False Allegations, and Intoxication

Despite the reforms to the law of rape in 2003, continued concerns regarding the criminal justice system’s handling of rape cases, along with the frequently reported 6% conviction rate and high levels of case attrition (Kelly, Lovett, & Regan, 2005), prompted a review into how rape complaints were handled by public authorities in England and Wales. The review noted that *rape myths* continue to impact upon the criminal justice process (Sanders, 2012; Stern Review, 2010), including myths which presuppose many rape allegations are false (Ellison & Munro, 2010a; Kelly, 2010; Kelly et al., 2005). Such perspectives have historically influenced legal practice, including, for

example, the extensive cross-examination of the complainant’s sexual history and corroboration warnings (see Temkin, 2002). While many of these provisions have been abandoned, or restrictions around their use applied, beliefs around the frequency of false rape reports continue to influence legal and political thinking and to problematise women’s accounts of rape (Kelly, 2010). Recent suggestions to provide anonymity for those accused of rape, for example, were premised partially on arguments that false allegations impact frequently in rape cases (Almandras, 2010).

Adherence to such perspectives, and their complex relationship to the police recorded no-crime code, has been documented among police officers (Kelly, 2010; Kelly et al., 2005) as well as among members of wider society. Burton, Kelly, Kitzinger, and Regan (1998) found that from a sample of 2,039 young people, 74% agreed that females often or sometimes “cry rape” when really they just have second thoughts. The London-based Opinion Matters (2010) survey identified one in five participants aged 18–50 years agreed that most claims of rape are probably not true, with men being more likely to endorse this perspective. More recent findings have documented that 47.7% of male students aged 18–24 years, compared to 33.6% of female, agreed with the statement that a significant proportion of rapes reported to the police were false allegations (Gunby, Carline, Bellis, & Beynon, 2012). While gender is not a definitive predictor of adherence to false rape allegation beliefs, studies that have found gender distinctions may partially be explained through reference to differences in sexual expectations among young men and women (see Beres, 2007; Gunby et al., 2012; Humphreys, 2007).

Ideas around the elevated nature of false rape allegations remain despite evidence that levels of false rape reporting are no different to (Rumney, 2006), or potentially lower than (Kelly, 2010), the levels of false complaints found across other crimes. Estimates suggest that between 2% and 8% of rape allegations are possibly false (see Kelly et al., 2005; Lonsway, Archambault, & Lisak, 2009). While further research is undoubtedly needed (Stern Review, 2010), ideas around the elevated frequency of false rape allegations appear to have a limited evidence base.

Running parallel are studies which highlight that third parties often hold a woman who was drinking prior

to being raped partially accountable and are hesitant to convict the accused (Finch & Munro, 2005, 2007; Gunby et al., 2012). If parties are depicted as equally intoxicated prior to nonconsensual sex, there is an increased reluctance to hold a defendant criminally liable for rape, even when the complainant's degree of intoxication has rendered her incapable of giving consent (Finch & Munro, 2005). However, when a defendant is depicted as sober, or less intoxicated than the victim, participants are more likely to hold the defendant criminally liable (Finch & Munro, 2005). When evaluating whether a complainant is able to consent, participants have been found to focus on a victim's level of consciousness at the time, with a number believing that as long as she maintained consciousness, she retained the capacity to reason (Finch & Munro, 2005), attitudes which contrast with the legal position (Bree, 2007 [case]).

It is possible to hypothesize that hesitance around believing an intoxicated female's account of rape relates to assumptions around the accusation being false and the consequence of a sober retraction of consent (Cowan, 2008). If rape victims believe such assumptions are made, they may feed further into the culture of reluctance to report rape and seek support. Evidence illustrates that such fears are not unfounded with skeptical attitudes around alcohol-involved rape and false allegations impacting on the way cases are dealt with by police, prosecutors, judges, and juries (Stern Review, 2010).

Methodology

Design, Recruitment, and Materials

Four single sex focus groups were carried out with a total of 21 students (12 female and 9 male). Single sex groups were used in recognition that men and women often talk differently about rape (Beres, 2007; Gunby et al., 2012; Schneider, Mori, Lambert, & Wong, 2009) and to minimize participants feeling inhibited to discuss perspectives due to having opposite sex individuals present. Participants were full-time undergraduate or postgraduate students studying on psychology (seven participants), criminology (three participants), medicine (two participants), and teacher training (nine participants) courses at an East Midlands university in England. A student sample was selected due to the 18- to 24-year demographic being

increasingly at risk of experiencing nonconsensual sex (Abbey, Zawacki, Buck, Clinton, & McAuslan., 2004; Walby & Allen, 2004). In light of students and young people using alcohol to facilitate sexual encounters, and the normalization of heavy drinking among this group (Bellis et al., 2008; Kypri et al., 2005), students were considered an appropriate sample choice to enable informed debates to be generated which may be specifically pertinent to this demographic. The study vignette (see below description) was based around the behavior of two students, which further made the sample an appropriate choice in terms of asking participants to reflect on experiences they may be able to relate to.

Participants were recruited through nonprobability sampling techniques. Existing contacts at the given university were asked to disseminate information about the study to a subset of individuals. Six individuals volunteered to participate through this process and were asked to invite their peers to take part in the study. It is recognized that a nonrandom sampling approach, and the decision to include individuals within focus groups who were familiar with each other, may impact on the nature of discussions. However, Doherty and Anderson (2004) emphasize the potential for socially desirable responding (the tendency to give positive descriptions) when adopting discussion-based methods that examine controversial rape perspectives.

Ellison and Munro (2010a: p. 799) also acknowledge that individuals may be "well versed" in "socially appropriate" attitudes in relation to rape. Howarth (2002) argues that to enable controversial, sensitive, and distressing topics to be discussed openly and with confidence, group participants should be known to each other at some level. Due to the emotive nature of the research topic, desire to foster uninhibited conversation and potential for socially desirable responding—especially in the presence of unknown individuals—it was rationalized that the recruitment strategy suggested by Howarth (2002) was appropriate. A focus group method was chosen to encourage debate between participants and to allow for the emergence of rich data. This approach also significantly reduces the directive influence of the interviewer (Morgan, 1997) and better corresponds to the process of jury deliberation, thus, highlighting the complex and potentially contradictory ways in which attitudes inform deliberations.

Discussions were based around a vignette that modelled the facts reported in the Bree (2007) case. As discussed, this is recognized to epitomize the problems associated with having sex when parties are extremely drunk, thus, enhancing the study's ecological validity (Doherty & Anderson, 2004). The vignette described Benjamin and Michelle who were briefly acquainted, spending a night out, initially with another couple and then later alone. They were witnessed leaving a bar in the early hours of the morning and walking to Michelle's flat where she vomits due to the alcohol consumed. Sex takes place which Michelle reports to a friend, and later to the police, as being nonconsensual. Michelle argues that her recollection was "very patchy" (Bree, 2007: p. 161) despite recognition that she had not consented at the time. Benjamin maintains throughout his statement to the police that sex was consensual.

While the authors were not aware of other studies that have used this case as a specific vignette, it was selected due to the fact that it has been the catalyst for much debate in the United Kingdom (see Cowan, 2008; Elvin, 2008; Wallerstein, 2009). Study findings are therefore argued to be applicable to, and enhance, the wider international work which has examined the role of alcohol consumption on third parties' attitudes towards sex and its consensual nature (for example, Norris & Cubbins, 1992; Wall & Schuller, 2000).

A focus group guide was used to direct conversation and addressed the following topics:

Whether participants personally felt that Benjamin should be found guilty of rape and why;

If not guilty of rape, then of some other crime;

The factors that impacted on whether participants personally believed Michelle had been raped;

Whether participants' personal perspectives would have differed if only Michelle had been drinking.

Initially, focus group participants were blind to the outcome of the Bree (2007) case. Towards the end of each focus group, participants were told that Bree (2007) was

found "not guilty," in order to encourage further reflections on why Benjamin may have been acquitted. In light of the fact that most focus group participants had themselves decided that Benjamin should be acquitted, telling them that this had been the outcome resulted in no further information being elicited. Once focus groups had finished, all participants were informed of the decisions of both the jury and the Court of Appeal in the case.

All participants were provided with written copies of the legal definition of rape, sexual assault, and the Section 74 consent definition to ensure they were aware of these definitions prior to commencing the focus group.

Analysis and Discussion

The following analysis focuses on three primary topics: "not quite rape," "false allegations of rape," and "voluntary intoxication and intercourse." Within each higher order theme, further subthemes were identified and examined in order to draw out key perspectives relating to intoxicated sexual intercourse and false allegations of rape.

Not Quite Rape

Participants were reluctant to label the vignette sex as rape and the subthemes that were developed to compose this topic included "physical injury evidence," which denoted the lack of injury within the case vignette. The subtheme "stereotype of rapist and rape" was also developed to capture arguments around the behaviour of Benjamin failing to conform to that of a stereotypical sex attacker.

Physical Injury Evidence. The majority of participants did not perceive the sex depicted in the vignette to be representative of rape and almost all participants argued that they would have personally acquitted Benjamin. Key to this decision was their inability to be sure beyond reasonable doubt that rape had occurred, with certain misconceptions influencing judgements. It was argued that rape is "difficult to prove" (Focus Group 1, Female 4; (FG1, F4)) and that there were no signs of "physical evidence" (FG1, F1) indicating rape had taken place. Consistent with past research (Ellison & Munro, 2009, 2010a), multiple participants expected evidence of physical injury: "this is like such an unspeakable, horrible thing to happen to you,

and I've no idea what it could possibly feel like. But I'd expect to see some scratches or bruises on her, or something" (FG2, M3).

Several participants focused on this lack of physical evidence and argued that had severe bruising, cuts, or broken bones been present, this would be indicative of rape and convince them of such. Corroborative evidence is typically absent in rape cases and a lack of physical injury undoubtedly makes an allegation harder to prove and the criminal burden of proof more difficult to reach. It was clear that for certain participants, such evidential concerns influenced their arguments regarding the need for physical injury. However, for a smaller subset it was evident that rape was viewed as synonymous with violence. For this latter group, there is perhaps a dissonance between the legal stance and lay expectation. That is, the law does not require evidence of injury in order for consent to be deemed absent (see *R v Heard*, 2007; *R v Olujoja*, 1981). Legally, the harms that arise from rape are viewed in relation to the sex that takes place without consent; the presence of injury simply acts to exacerbate the seriousness of the crime. Perspectives that assume rape involves injury may feed into ideas around false allegations of rape, where it may come to be assumed that if there is no evidence of violence, the allegation is potentially false.

Stereotype of Rapist and Rape. Participants emphasized that the defendant "offered to spend the night in her bed. So, obviously, he does not mean it in a conscious term to be rape" (FG1, F2) and had not "pinned her down and shagged her" (FG1, F4). Certain actions perpetrated by Benjamin prior to the sex, such as bringing Michelle a glass of water and helping to clean her up after having been sick, were perceived to demonstrate he was "obviously quite respectful of her" (FG3, F5). Participants were consequently reluctant to define the sex as involving activity that should be criminalized: "... there's a certain lack of morality on his part. He's... I think, taking advantage of someone is vastly different to um... it's vastly different to committing a sort of offence..." (FG4, M1). Instead, it was argued that Benjamin had acted morally wrong, been "foolish" (FG4, M2), made "an error of judgement" (FG4, M1), and although a possible "scumbag" (FG2, M4) for taking advantage, had not necessarily "done anything wrong in the eyes of the law" (FG2, M4).

Participants did not consequently feel that his behavior was sufficient to warrant a prison sentence, and further reasons for this perspective focused on the normalization of the sex depicted: "it must happen too often to send people to prison for doing that" (FG1, F4). Such normalization suggests that the sex portrayed has to some extent come to be unquestionably accepted as reflective of the reality of heavy drinking situations, unsurprising in light of the noted research which demonstrates alcohol is used by young people to facilitate their sexual encounters (Bellis et al., 2008; Sumnall et al., 2007).

While reluctant to describe the vignette sex as a crime, participants acknowledged it was "obviously an unpleasant experience" (FG1, F4) but more in line with a "really bad one-night stand" (FG1, F1). Sex was conceptualized to have been the result of mixed messages, poor communication, and a reduction in inhibitions. While these arguments lend weight to research that suggests when parties are equally intoxicated, participants look for a "mid-point" between rape and consensual sex to describe that intercourse (Finch and Munro, 2005), the current study suggests that this mid-point behavior is far more aligned with consensual sex (Gunby et al., 2012). The implications that stem from these arguments are that if participants are reluctant to conceptualize the situation depicted in the vignette as one that could involve the commission of a crime initially, they start from an assumption that will doubt the veracity of the complainant's rape allegation. If the scenario is not what constitutes rape for them, then how can her complaint be conceptualized as true?

False Allegations of Rape

The topic of false allegations was spontaneously raised by participants in all four focus groups without direction from the investigator, arguably demonstrating the pervasive nature of the issue. The subthemes that emerged from this topic included participants' perceptions around the "motivations" that drive a false allegation, "their frequency," and the "ramifications of a false allegation."

Motivations for a False Allegation of Rape. Participants in three of the groups raised for debate whether Michelle "regretted it afterwards..." (FG2, M3) or questioned whether "she has consented in a way, but she doesn't like

the fact that she's done it" (FG3, F4), thus, providing the backdrop for a false allegation to be made:

... being used is a very schoolyard term to have used ... it kind of shows that her initial reaction was that she'd been used; she hadn't been raped. And then later on, perhaps when she'd thought about it ... I don't know, perhaps she altered events in her head, to say it's rape. (FG3, F3)

The possibility of a rape allegation being the consequence of events being "altered" to fit with a rape experience is an issue individuals are entitled to consider when assessing the legitimacy of a case. However, the fact Michelle did not initially label her experience as rape is used by several participants to question the validity of her account. This perhaps highlights a limited understanding around the factors that impact on the labelling process (see Bondurant, 2001; Kahn, Jackson, Kully, Badger, & Halvorsen, 2003). Such findings sit within a wider framework that indicates third parties often expect rape complainants to adhere to stereotypical victim scripts which include the display of emotion, immediately reporting to the police (Ellison & Munro, 2009; Temkin & Krahe, 2008), and as currently suggested, to categorically identify and label that experience as rape.

While a subset of participants argued that the vignette was unlikely to be a false report, protests were sometimes qualified: "I don't see what she would get out of crying rape. I mean, unless she's got a boyfriend or something" (FG2, M5). The existence of a relationship appeared to increase the potential for a false allegation, based on the premise that such extreme actions would enable the complainant to "cover-up" (FG4, M2) her indiscretion. False reports were also viewed as a method for seeking revenge, motivations identified in related literature (Ellison & Munro, 2010a; Kelly et al., 2005; Lonsway et al., 2009):

But also, I look at it um if she's used the term been used, she could also be using this court case as a way to get back at him. If she feels, herself, that she's been used, she could be thinking oh this is my way to get back at him, to show him that I didn't want it to happen; that I feel used, so I'll get my revenge, I'll do payback more

than anything, rather than feeling like she's been raped afterwards. (FG3, F2)

Frequency of False Allegations of Rape. After the issue of false rape allegations had been raised by participants, they were asked whether they felt such reports were commonplace. Almost all participants argued they were likely to be infrequent due to there being "no real reward" (FG3, F5) and that women would not want to go through the intrusive physical examination that would stem from making a claim. While this perspective perhaps sits at odds with the frequency with which participants suggested the vignette could be an example of a false report, such a contradiction resonates with existent findings. Ellison and Munro (2010a) for example, identified that when individually questioned on abstract rape perspectives, participants' attitudes did not always mirror those which become apparent via the group process of deliberating a concrete case example. The social process of discussion, in conjunction with addressing issues of reasonable doubt and belief, resulted in a more complex interplay of factors being considered, which potentially triggered additional logics (including in the current instance, the possibility of an allegation being false). While this may be one explanation for the dissonance in perspectives identified via direct questioning and the more subtle deliberative process, it is also possible that participants were aware that directly agreeing that false reports were frequent could have been perceived unduly unsympathetic (Doherty & Anderson, 2004), with such suggestions consequently remaining unendorsed.

While directly arguing that false rape allegations were likely to be infrequent, participants nevertheless stated that "it's easy to say rape, which I do think happens" (FG1, F1). It may be the perceived ease with which a false allegation can be made which linked to assumptions around the vignette being an example of a false report. As noted, this philosophy has resonated within criminal law and impacted on rape legislation (Rumney, 2006). While Matthew Hale's (1736: p. 634) famed argument that rape is an accusation easily made, yet hard to be defended, no longer resonates as profusely within legal thinking, Ellison and Munro (2010a) argue that the sentiment is still propelled via media reports (Gavey & Gow, 2001; Kitzinger, 2009; Lilit Project, 2008). Lonsway et al. (2009) similarly argue that media accounts of false

allegations, often made against popular cultural figures, contribute towards the overestimation of false allegations in everyday life and can serve to enhance assumptions around false allegations being commonplace, despite participants acknowledging to “not knowing anything about it really” (FG2, M3).

The Ramifications of False Allegations. Multiple participants across the groups argued that false reports can “ruin people’s lives” (FG1, F1) and the “rumours will carry on” (FG1, F6), even if the accusation is identified as false. In this sense, the wrongs of a false rape allegation were seen to relate to the impact of having the term *rapist* attributed to an individual. The repeated arguments that focused on men being wrongly and knowingly accused of rape, disproportionately outweighed the conversation held in relation to the harms of the rape offence to the complainant and wider society. Gavey (2005) has noted that an overriding focus around the “wrongness” of false rape allegations, above and beyond the harms of rape itself, is an established feature of Western society and an example of the way in which the traumas of rape are marginalized.

Concern for the defendant was also expressed in relation to rape accusations and decisions to convict generally. Reflecting Ellison and Munro’s (2010b) findings, a participant argued, “I don’t think his entire life and career should be marred by a conviction, based on this” (FG3, F2), a comment that demonstrates awareness around the ramifications of being found guilty of rape. The majority of participants argued that in such ambiguous circumstances, and with such long-term implications, the defendant should be given the “benefit of the doubt” (FG1, F5). While such verdicts may relate to the problems of being sure beyond reasonable doubt when deciding on guilt, it was clear that for certain participants, in evaluating whether rape had occurred, the focus hinged on the harms of having the rape label attributed to the defendant.

Related to this issue, certain participants argued that the ramifications of being accused of rape made it irresponsible to take a complaint to the police unless the victim was *sure* rape has occurred: “so, if you’re not sure, then I think it’s quite irresponsible to make that claim” (FG2, M2). Although this perspective was challenged, for a small number of participants, there was the

expectation that when memory of events was hampered by alcohol, at a minimum, the complainant should seek legal advice on how to proceed rather than “cry rape” (FG2, M3) at the onset.

This argument again fails to recognize the impact of sexual offences where the associated trauma may inhibit the ability to take immediate coherent action. It perhaps also demonstrates a naivety over the workings of the criminal justice system and a complainant’s ability to access such legal advice, outside of the official police reporting route. The comment rightfully suggests that certain individuals may be confused about the sex they have experienced and may benefit from contact with someone suitably trained who could advise, and help categories, what had been encountered without placing pressure to officially report the incident. It is possible that for certain individuals, the reporting process is a fact-finding endeavor. If at the police reporting stage, it is established that rape has not occurred, this may feed into notions of false allegations of rape, with the genuinely confused complainant being perceived to have made a hasty decision to report, which they subsequently retract, and which may come to be conceptualized as a retraction based upon a sober reevaluation of the facts.

Voluntary Intoxication and Intercourse

Participants offered more general perspectives on alcohol-involved intercourse, with these conversations implicating potential difficulties in achieving convictions in alcohol-involved rape cases, while also elaborating further on the extent to which such views intertwine with wider ideas around false allegations. The subthemes developed included the “impact of alcohol on inhibitions,” Michelle’s “capacity to consent,” and the “dual impact of alcohol on defendant and complainant behaviour.”

Impact of Alcohol on Inhibitions. A large proportion of participants argued that alcohol reduces inhibitions and increases the potential for engaging in behaviors that may later be regretted: “alcohol lowers your inhibitions and fuels you to do things that perhaps you shouldn’t” (FG3, F6). It was argued that if sex takes place during a period of extreme drunkenness, rape may be the “first reaction

when they wake up” (FG1, F3). It was rationalized that while sex may have been consensually engaged in at the time, it may be regretted the following day and relabeled as nonconsensual:

... has she not to some extent woken up and just regretted it, and kind of come to and suddenly thought oh God, what are people gonna think of me, what am I thinking of myself? So, it's kind of an afterthought as well. (FGL, F2)

It was clear that when participants talked about a complainant modifying the sex that took place to align it with a rape act, this was not always deemed a conscious or vindictive process but one that may also be more subtle:

When you're drunk, you sometimes ... you know, you're not sure what happened or what was a dream. And when you've spoken to Naomi, when you've still been drunk, that might all mesh into what you remember as well. (FG2, M3)

False allegations were thus constructed as both the product of an overt decision to make a complaint for the purpose of covering up regretted sex as well as potentially being the product of more subtle processes which involved events being “altered” during the course of trying to account for, and rationalize, regretted intercourse. It was clear that it was this impact of alcohol on inhibitions and behavior specifically, which related to participants' assumptions that false reports were more likely when drinking—either through an intentional decision to make a false claim or via the impact of alcohol on cognition, recollection, and the restructuring of events the next morning. Indeed, this explanation was offered significantly more frequently than motivations that focused on making a false claim for the purpose of revenge or to protect an existent relationship. While certain participants argued that having drunk alcohol prior to a rape is likely to decrease a complainant's likelihood of reporting the assault, due to fears around being perceived noncredible, the majority of participants argued that people are more likely to use alcohol “as their excuse” (FGL, F5) for engaging in uninhibited behaviors. These findings support larger scale quantitative data which indicate that

81.1% of students ($N = 869$) aged 18 to 24 years agreed that being drunk when having sex increases the likelihood of a false rape allegation being made (Gunby et al., 2012).

Capacity. Section 74 of the Sexual Offences Act 2003 makes clear that an individual must retain the capacity to consent in order for that consent to be valid. Participants emphasized the difficulties of evaluating the vignette case facts and being able to accurately gauge Michelle's level of alcohol intoxication and, by default, degree of capability. While a subset of participants focused on the complainant having been sick, and felt that this should have been a sufficient indicator to prevent the defendant from having sex with her, it was not deemed sufficient in isolation to convince participants that she lacked the capacity to consent entirely: “you can have a few drinks and be sick, and not even really be that drunk” (FG3, F3). Certain participants also drew upon Michelle's ability to effectively verbalize and walk without staggering to determine her capacity: “if you can walk, you know, quite well, you'd think that someone was okay” (FG3, F3).

While the law acknowledges that an individual may lose the capacity to consent before the point of unconsciousness, the study suggests that for certain participants, such extreme states of intoxication may only be deemed suitable markers (Finch and Munro, 2006). These comments are perhaps unsurprising in light of arguments around the capacity construct being unhelpful in illuminating the nuanced stages of intoxication. Under such circumstances, it is argued that lack of capacity will typically be judged through reference to an extreme point (Cowan, 2008; Elvin, 2008). Despite these comments, there was a consensus that alcohol impacts differently on people, making it difficult to establish the point at which an individual loses the capacity to consent:

Alcohol affects different people differently, and there are different times alcohol will affect the same individual. You can have three beers and be absolutely fine on one night. You could have a beer and a cocktail another night and be blasted. (FG1, F1)

Participants thus expressed their sympathy for the defendant at this point, arguing it would have been impossible “to judge it really” (FG4, M2) and that in the

absence of “a breath test” (FG2, M5), it was unreasonable to assume he should be able to appreciate whether the complainant retained the capacity to consent.

The Dual Impact of Alcohol on Defendant and Complainant Behavior: Constructing Female Responsibility.

When participants were asked who they personally felt should take responsibility for ensuring consent was clearly established in a sexual situation, all participants argued that responsibility should be shared, or, it was a man’s moral duty to ensure his partner was fully consenting. However, if both parties were equally intoxicated, men were deemed able to forfeit such duties: “I think in a normal sexual situation, it would be shared. But when you’re both drunk, I think it’s just whoever’s the most sober should make the decision” (FG3, F4).

The majority of participants argued that if through alcohol the complainant was left too intoxicated to retain the capacity to consent to intercourse, alcohol may have similarly impacted on the defendant’s ability to identify whether his partner had the capacity, thus, “making you more likely to think that they’d [the partner] given reasonable consent” (FG2, M2). While intoxication is not a factor that can be taken into account when determining whether the defendant held a reasonable belief in consent (*DPP v Majewski*, 1977; *R v Heard*, 2007), it was clear participants did not recognize this or, if they did, still sympathized with the drunken defendant: “but if he’s drunk to a certain extent that he does reasonably believe that B consents, then he hasn’t done anything wrong, in the eyes of the law” (FG2, M6). It is realistic to assume that for certain individuals, extreme intoxication will incorrectly be viewed as a reasonable excuse for believing consent had been given.

When participants were asked whether they personally felt that Benjamin would have been found guilty of rape if only the complainant had been drinking, there was consensus across the groups that there would have been an increased likelihood. If sober, the defendant was perceived to be in a position where he could appreciate the complainant’s degree of capacity and had “enough coherence to have the responsibility to make the judgement call” (FG1, F6): “If you’re sober and you know that someone is drunk, then you know full well that your moral responsibility is not to take advantage of them. . . . I dunno if it’s a law thing . . . you just wouldn’t, would you?”

(FG2, M6). This argument implies that the law is not the motivator that drives appropriate sexual encounters, but rather, a sense of morality influences behavior. Moral responsibility, however, still appeared to be something that could be forfeited when parties were equivalently intoxicated, but not when there was a disparity in that intoxication. These findings support the research that has identified that third parties perceive it unfair to hold a defendant criminally liable for rape if each individual is equally intoxicated (Finch and Munro, 2005; Gunby et al., 2012) yet are more inclined to label sex as rape when a complainant is drinking independently (Norris and Cubbins, 1992), or the defendant is less intoxicated (Finch and Munro, 2005). While Finch and Munro (2005) argue that a less drunk or sober defendant is perceived to be in a position whereby he is able to ensure the complainant has the capacity to consent, the current study indicates that an intoxicated defendant is perceived to be in a disadvantageous position whereby he is unable to clearly gauge the complainant’s level of intoxication and therefore her capacity. Being in such a position was seen to reduce the defendant’s responsibility for ensuring consent was present.

A subset of participants focused on the complainant’s lack of verbalized “no” in rationalizing why they were insufficiently convinced that rape had taken place: “. . . at no point has she said . . . or she can’t recall saying no to sex” (FG4, M1). The dissonance between the law, which does not require consent to be verbally expressed (*R v Heard*, 2007), and lay assumption is again apparent. Female participants specifically emphasized that sexual intentions must be effectively communicated:

She needs to say no beforehand. There’s no point in saying I didn’t want to do it afterwards . . . that’s just gonna confuse everyone. So, like yeah, it’s up to the woman to say before it happens, yes or no in an obvious and clear way. (FG3, F3)

The implications of this argument are multiple. It feeds into ideas around the retraction of consent which underpin previous arguments around false allegations being made upon reevaluation of the sex that occurred, as well as suggesting that if a verbalized “no” is not given, this could be deemed indicative of the allegation being

false. It also implies that in the absence of clear articulation, the defendant will be left without sufficient ability to negotiate, or read, the sexual situation. As previously noted, under Section 1(2) of the Sexual Offences Act 2003, juries are required to take into account any steps taken by the defendant to ascertain consent, which could include asking a partner whether they are happy for the sexual interaction to progress. Despite being provided with the legal definition of rape, and participants therefore being aware of this responsibility on defendants, a minority (of women) still deemed the female to be the party who should take control over clarifying sexual expectations. While research suggests that men are more likely to endorse attitudes which feed into beliefs relating to false allegations (Gunby et al., 2012; Opinion Matters, 2010), women have been found to more frequently assume that other women should take some degree of responsibility for nonconsensual sex (Finch & Munro, 2007; Opinion Matters, 2010). This includes taking responsibility for avoiding miscommunication and for effectively communicating nonconsent through overt verbal responses (Ellison & Munro, 2010a).

While emphasizing the need for sexual intentions to be clear, it was paradoxically noted that it could be a “passion killer” for the man to ask whether he could have sex with his partner. In this sense, consent was still viewed as more natural and appropriate if controlled by the woman. The articulation of such arguments reflect the traditional sexual scripts that suggest men are responsible for the initiation of sexual encounters and the active pursuit of sexual outcomes, care of their higher sex drive. Women by contrast are seen to set sexual parameters and provide “control” over the time and place of sex (Frith, 2009). It is interesting to note that women still drew upon these scripts of supposedly “normal” male and female sexuality to ground their arguments and which perhaps provided a basis for explaining why women’s ability to verbally resist male sexual advances received such scrutiny.

Female participants also highlighted the importance of personal responsibility when drinking and recognizing the ramifications of extreme drunkenness: “. . . I think people do have responsibilities to look after themselves. And I think that the amount that she drank, and the fact that she went out with another couple, will really go against her in that sense” (FG3, F4). The disproportionate focus on women (as opposed to men) taking personal

responsibility when drinking may relate to women being at enhanced risk of experiencing sexual offences initially (Kershaw, Nicholas, & Walker, 2008), hence, their perceived role in attempting to reduce that vulnerability. Women are often subject to awareness raising campaign literature that warns them against the dangers of extreme drinking, leaving friends unattended on evenings out, and accepting drinks from strangers (Neame, 2003), also potentially sensitizing women to such arguments. While it is acknowledged that campaign literature is increasingly incorporating messages that are directed at men, in attempts to reduce the prevalence of rape, such messages will take time to infiltrate into public consciousness and to temper those which have long focused on the modification of female behavior (Neame, 2003).

While all individuals should perhaps work towards recognizing potential vulnerabilities when drinking, and to equally recognize such vulnerabilities in others, it is noteworthy that there was no comparable discussion around men needing to consider how much alcohol they consumed on a night out, or the possible impacts of their intoxication on their ability to read consent-relevant cues. The overriding focus on the steps that women should take to avoid sexual offences resonates with findings that indicate when rape occurs, the spotlight resides firmly on the female’s actions prior to the assault (Finch & Munro, 2005, 2007; Kelly et al., 2005; Temkin & Krahe, 2008).

Conclusion

A key aim of the research project was to investigate how perspectives towards false allegations and alcohol intoxication intertwine. By investigating such attitudes, it is possible to reflect on the perceived role of alcohol within the false reporting process, provide insights into the way lay individuals apportion responsibility, and illuminate stereotypes that may exist. Accordingly, the study falls within the recommendations of the Stern Review (2010) to provide additional research that can enhance understandings of false rape allegations, thus, enabling unfounded stereotypes to be challenged.

The study highlighted considerable consensus across participants’ perspectives regarding alcohol-involved rape. When members of a drinking dyad are presented as equally intoxicated, there was a reduced willingness to label the depiction of nonconsensual sex as rape. While

alcohol intoxication is not a defense to a sexual offence, it was evident that participants viewed comparable degrees of drunkenness as a factor that was sufficient to reasonably mitigate the defendant's responsibility for ascertaining consent. When nonconsensual sex took place between equally intoxicated individuals, that intercourse was collectively constructed to be the unpleasant, but somewhat understandable, outcome of extreme intoxication, raising clear concerns around the potential for alcohol-involved nonconsensual intercourse to be recategorized at trial as simply being constitutive of "bad sex."

The impact of alcohol on cognition and inhibitions was deemed central in encouraging individuals to partake in behaviors they would not if sober. The potential for sex to occur, care of a disinhibited state, and later be reformulated as nonconsensual (either intentionally or via more subtle processes) to account for that behavior underpinned the assumption that false rape reports are more likely when drinking. Throughout the discussions, it was evident that the focus remained on Michelle's actions

prior to the intercourse, including her failures for having not explicitly verbalized nonconsent and for placing herself in a vulnerable position. No equivalent arguments were made in relation to the steps Benjamin could have taken to ensure consent was present and how his extreme alcohol consumption may have increased his potential for misperceiving Michelle's sexual intentions. To this end, additional awareness raising is paramount to help articulate the legal stance on rape, [to articulate] the rape victim experience, to emphasize that intoxication is not a defense to a charge of rape, and to raise awareness around men also being instrumental in preventing nonconsensual experiences. Awareness raising should also focus specifically on attitudes held in relation to false allegations of rape and dissemination of the facts that can dispel such myths. It is acknowledged that further research is needed to help categorically clarify rates of false rape reporting and the factors associated with these allegations. Only then will the extent of the situation, and the contextual factors surrounding false reports, be fully understood.

DISCUSSION QUESTIONS

1. Did the students think that Benjamin should be found guilty of rape? Are there differences between male and female students in this assessment?
2. What role did voluntary intoxication play in evaluating the victim/offender status of Benjamin and Michelle?
3. How are false allegations of rape viewed in light of the intoxicated state of Benjamin and Michelle?

Note

1. Alcohol-involved intercourse is defined here as sex that takes place between parties when one or both have been drinking voluntarily and are extremely intoxicated.

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