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### **PATHWAYS TO JUSTICE: The Movement of Adult Female Sexual Assault Cases Across the New Hampshire Criminal Justice System**

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# PATHWAYS TO JUSTICE:

## The Movement of Adult Female Sexual Assault Cases Across the New Hampshire Criminal Justice System

### PRIOR RESEARCH IN NH:

- 23% of New Hampshire women have been the victim of a sexual assault
- 53% of survivors were sexually assaulted by an acquaintance
- 18% were assaulted by an intimate partner
- 18% of the cases, the suspect was not identified
- 11% were assaulted by a stranger

Survivors asked for those who work within the systems of recovery (health, mental health, and advocacy) and the criminal justice system to provide all victims across the state with the same messages and help.

Professionals in the NH advocacy, health care and criminal justice systems were asked why sexual assault cases drop out of the criminal justice system. They reported:

1. impact of the CSI effect (popular crime scene television programs), on jurors' perception of sexual assault
2. a lack of coordination among professionals working on these cases
3. inconsistent responses and skill among responders across communities

### Introduction

The movement of adult female sexual assault cases across the justice system has gained national prominence recently from the National Institute of Justice, the Office of Violence Against Women, law enforcement, prosecution, victim advocacy organizations, victims of sexual assault, and researchers. Victims of sexual violence have been at the forefront of this phenomenon through their reports of traumatization based on interactions with community responders, the length of the criminal justice process, and their desire to be better informed of the steps involved in the process. In response to victims' accounts of the problems they face, researchers have sought to provide information about the size of the problem of sexual assault. A recent population-based study reported that 18.3% of U.S. women report being raped, 13.0% report sexual coercion, and 27.2% report unwanted sexual contact during their lifetime (Black, et al., 2011). Despite the high incidence of sexual violence, data from the National Violence Against Women Survey states that only 19% of sexual assaults are reported to law enforcement (Tjaden & Thoennes, 2006). Of those that are reported, only 12-35% of sexual assault cases result in arrest, and 9.7% resulted in felony charges (Spohn & Tellis, 2011).

While these studies indicate trends in reporting and prosecution of sexual assault cases nationally, little is known about the movement of sexual assault cases across the New Hampshire (NH) criminal justice system. Thus, there is a need to track NH sexual assault cases from the time a case is reported to law enforcement through prosecution and the courts. This state-specific information is important because it provides data on case attrition rates that can inform stakeholders and policy makers on strategies to ensure retention of cases within the criminal justice system. Retention of cases can better serve victims, increase the likelihood of reporting, decrease rape myths, and ultimately, increase

community safety. The current report presents the findings from a new study in which arrest and prosecution rates were tracked for adult female sexual assault cases reported to a sample of NH law enforcement agencies in 2008.

## Sexual Assault Studies in New Hampshire

Prior to the current study, four studies have investigated the problem of adult female sexual assault in NH. Three of these studies focused on survivors' experiences. The initial study in 2006 reported that 23% of NH women have been the victim of a sexual assault (Mattern, Banyard, Bujno, Laflamme, Moynihan, & Potter, 2007; Potter & Laflamme, 2011). The second study, conducted with survivors of sexual assault, revealed victims' desire for those who work within the systems of recovery (health, mental health, and advocacy) and the criminal justice system to provide all victims across the state with the same messages and help (Murphy, Moynihan, & Banyard, 2009, p. 159). The third study, which analyzed 11 years of data (1997-2007) collected by NH sexual assault nurse examiners (SANE) (Murphy, Potter, Pierce-Weeks, Stapleton, & Weisen-Martin, 2011), found that 53% of survivors were sexually assaulted by an acquaintance, 18% by an intimate partner, 11% were sexually assaulted by a stranger, and in 18% of the cases, the relationship between victim and suspect was not reported to the SANE. The fourth study examined professionals' (law enforcement, prosecutors, advocates, and health care professionals) perceptions about why attrition occurs in many adult female sexual assault cases. Professionals indicated that case attrition occurs because of the impact of the CSI effect, i.e., popular crime scene television programs, on jurors' perception of sexual assault, a lack of coordination among professionals working on these cases, and inconsistent responses and skill among responders across communities (Murphy, et al., 2010). In addition to professionals' perceptions,

law enforcement departments were asked to provide tracking information on adult female sexual assault cases that occurred in 2006. Data revealed that there were few convictions or guilty pleas.

In summary, previous NH studies have informed us about the magnitude of the problem of adult female sexual assault as well as characteristics of sexual assaults in NH, the types of services survivors most value, professionals' perceptions of the reasons for adult female sexual assault case attrition, and case attrition information based on a sample of law enforcement cases. The current study sought to build on this prior research by extending knowledge about the attrition of sexual assault cases in the NH criminal justice system. **To do this, we examined rates of arrest and prosecution to determine where and why cases drop out of the system and to inform pathways to justice that sexual assault cases travel.**

## Method

### STUDY DESIGN

The current study was a project designed by members of the Research Committee, a subcommittee of the Governor's Commission on Domestic and Sexual Violence. The Research Committee is composed of practitioners from law enforcement, advocacy, NH Sexual Assault Resource Team, the NH Sexual Assault Nurse Examiner program, and university researchers. Members of the Research Committee created a case tracking form for gathering data collected from law enforcement incident reports, prosecutor case files, and court records. Twelve communities were selected for the sample according to population size and mix of urban/rural communities. The research was conducted by University of New Hampshire (UNH) researchers and graduate research assistants. To ensure the protection of human subjects, the researchers received approval from the UNH Research Integrity Services for the case tracking form and all aspects of data collection. The Research Committee provided

**CASE CHARACTERISTICS**

**125 cases collected from law enforcement records in 12 NH communities**

- Average age of victim: 28.74 years
- Average age of suspect: 36.93 years
- 91.5% of victims were white
- 87.9% of suspects were white
- 61.2% of cases victim & suspect were acquaintances
- 28.9% of cases victim & suspect were intimate partners
- 7.4% of cases victim & suspect were strangers
- 2.5% victim & suspect were family members
- Nearly 13% of victims sustained physical injury
- 61.6% reported to law enforcement within 24 hours
- 38.2% had a medical/forensic examination
- 64% of the cases were charged as felonies
- 36% of the cases were charged as misdemeanors
- In 21.6% of the cases, additional charges were noted

guidance and support throughout the data collection period and the NH Attorney General requested participation of law enforcement departments in each of the sample cities.

**DATA SOURCE AND MEASURES**

Between June 2011 and August 2012, data from all 2008 adult female sexual assault cases (*N*=175) reported to police in 12 communities were collected by the UNH research team. All cases met the criteria for sexual assault as defined by NH 632:A (<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXII-632-A.htm>).

In addition to the sexual assault data, we simultaneously collected residential burglary data

also from 2008 incident reports. The burglary data was collected so that we could examine similar felony crime data to compare whether there were notable differences in case attrition. The comparative data from this portion of the study is forthcoming.

Initial selection criteria for eligibility in the study included cases that were charged as a misdemeanor, felonious, or aggravated felonious sexual assault; gender (only female cases were selected in which there was an individual male suspect); age (victims and suspects were at least 18 years of age at the time of the assault); and year in which the assault occurred (only cases perpetrated during 2008 were included). Consistent with prior research (Alderden & Ullman, 2012), we excluded cases in which there were multiple and/or female offenders due to the low rate of cases with multiple offenders and the high likelihood that these cases are treated differently than cases with an individual male offender. We excluded cases in which the identity of the offender was unknown because those cases could not be tracked. We also excluded cases determined to be unfounded given that we would not expect these to result in an arrest or otherwise move forward. We also excluded four cases in which the preponderance of data was missing. We tracked 125 of the 175 cases initially reviewed.

All cases that ended in an arrest were then reviewed at the prosecutorial level for case disposition. Lastly, those cases were followed to the court in which the case was heard. At each point of entry (law enforcement, prosecutor, court) a separate case tracking form was used to collect the variables of interest. The aggregated data is presented below.

**Findings**

Based on the selection criteria listed above, we tracked 125 sexual assault cases as they moved through the NH criminal justice system. The average victim age was 28.74 (*SD* = 10.78, Range = 18-70), and the

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#### FINDINGS

Of the 125 cases collected from law enforcement records in 12 NH communities:

- 37 (29.65) resulted in arrest
- 88 (70.4%) were closed without an arrest
- 15 (17%) had no documented reason in the police incident report as to why there was no arrest.

Of the 37 (29%) cases that resulted in arrest:

- In 21 (56.8%) cases, charges were ultimately dropped by the prosecutor.
- Of the remaining 16 cases, 15 (40.5%) resulted in a plea agreement
- 1 (2.7%) resulted in a conviction on the initial charge

Of the 125 cases of sexual assault reported to the police 16 (12.8%) resulted in prosecution.

average suspect age was 36.93 ( $SD = 13.42$ , Range = 18-83). Additionally, 91.5% of the victims were White, and 87.9% of the suspects were White. With regard to victim-suspect relationship, 61.2% were acquaintances, 28.9% were intimate partners, 7.4% were strangers, and 2.5% were family members. Nearly 13% of the victims sustained physical injuries, 61.6% reported the case to law enforcement within 24 hours of the assault, and 38.2% of victims had a medical/forensic examination. Further, 64% of the cases were charged as felonies, and 36% were charged as misdemeanors by law enforcement. In 21.6% of the cases, additional charges were noted.

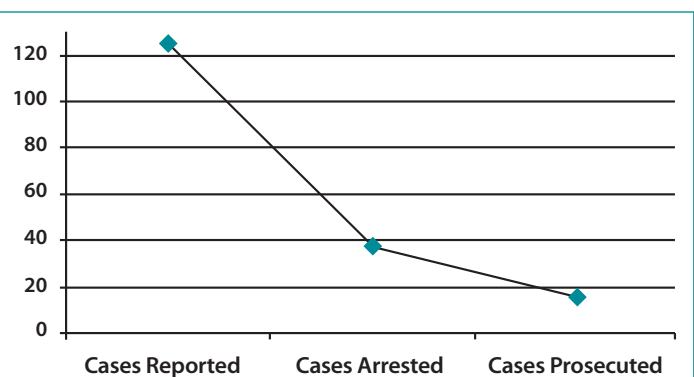
Of the 125 sexual assault cases, 37 (29.6%) resulted in an arrest and 88 (70.4%) were closed without an arrest.

In order to better understand why the 88 cases of sexual assault did not result in an arrest, we read the narrative portion of police incident reports in detail to determine the rationales for non-arrest. Fifteen (17%)

cases had no documented reason in the police incident report as to why there was no arrest. The remaining 73 cases included the following reasons for non-arrest: victim requested the case be closed (41 cases; 56.2% of cases), lack of evidence (20 cases; 27.4% of cases), victim lacked credibility (17 cases; 23.3% of cases), the suspect was developmentally delayed and/or mentally ill thus lacking competency (4 cases, 5.5% of cases), and the suspect could not be located (2 cases; 2.7% of cases). The totals exceed 100% because 16 (21.9%) cases included multiple reasons for non-arrest.

As noted above, 37 (29.6%) of the 125 cases that were reported to law enforcement did result in an arrest. We reviewed prosecutorial and court case records to determine the outcome of those cases. In 21 (56.8%) of these cases, charges were ultimately dropped. Of the remaining 16 cases, 15 (40.5%) resulted in a plea agreement, and one case (2.7%) resulted in a conviction on the initial charge. Of the 125 cases of sexual assault reported to the police 16 (12.8%) resulted in prosecution.

In order to better understand the 21 cases that initially resulted in arrest but were not prosecuted, we reviewed prosecutor case records. In eight of the 21 cases (38.1%) there was no documented reasons, five cases (23.8%) stated that there was a lack of evidence, four cases (19%) reported victim lack of cooperation,



**FIGURE 1. Sexual Assault Case Attrition in New Hampshire, 2008**

two (9.5%) cases reported victim credibility issues, one (4.8%) case stated that the defendant died, and one (4.8%) case stated the defendant was mentally ill.

## Conclusion

Our study showed that of cases reported to police, 29.6% resulted in an arrest and 12.8% resulted in prosecution. The most commonly cited reason for cases not resulting in an arrest included the victim's desire for the case to be dropped, which represented 56.2% of cases that did not result in an arrest.

However, over half of the police incident reports which indicated this, lacked explicit documentation or contained only minimal information regarding why the victim may have dropped the case.

Our data show that when compared to other communities across the country, NH rates of arrest are similar (12%-36% vs. 29.6%) (e.g., Alderden & Ullman, 2012; Spohn & Tellis, 2011). Over two-thirds of the sexual assault cases (70%) initially reported to police either result in dropped cases or with no arrest made. Our findings lend support to the belief that attrition rates are highest at the beginning of the process, and of the cases that did not result in an arrest, most were cited as "arrest not desired" by the victim (Fitzgerald, 2006, p. 4).

We also found 56% of the cases in which an arrest was made were dropped at prosecution. No reasons were listed for why the case did not move forward in 38% of the cases. As we noted with law enforcement incident reports, documentation of interactions with the victim in prosecutor case reports is important for understanding case attrition. Likewise, documenting services that have been offered, the timeliness of a case moving across the system, and the quality of interaction between victim and prosecutor would also be helpful in understanding the movement of a case. Clarifying the rates of arrest and prosecution is helpful for informing the justice system about the outcome of

cases but equally important is *why* many cases do not move forward. Providing a clear rationale in incident reports and prosecution case records can inform members of the justice community, advocates, health care professionals and policy makers on strategies to ensure retention of cases. Retention of cases can better serve victims, increase the likelihood of reporting, decrease false beliefs about rape and rape victims, and ultimately, increase community safety.

## Recommendations

Our previous report, "The Reality of Sexual Assault in NH," (2010) offered a number of recommendations and, since then, a number of state-wide initiatives have begun. The current study points to additional directions for improving response to the crime, and insuring those victims who seek assistance from the justice system receive the help they request. A multipronged approach to the problem will be important for any real change to occur. Thus we endorse the following recommendations from 2010 and offer new recommendations based on the current study:

### 1. Promote multi-disciplinary, collaborative, victim-centered responses.

- The N H Attorney General's office initiated Sexual Assault Resource Teams (SARTs) with a goal of increasing the successful prosecution of cases of adult sexual assault in NH. To date, this initiative has begun in some, but not all, communities across the state. We recommend continuation of these efforts on the part of justice, advocacy, and health care professionals in communities across NH.
- **We recommend that an advocate be included at the beginning of each case at the law enforcement level.**

Advocates are called to hospitals for all sexual assault cases prior to an examination by a SANE. Such practice could be extended to law enforcement agencies with the goal of providing support for the victim from the time of initial

## RECOMMENDATIONS

1. Promote multi-disciplinary, collaborative victim-centered responses to sexual assault.
2. Initiate a public awareness campaign about the realities of sexual assault.
3. Identify and fund inter-disciplinary training including new information on the impact of trauma on victims.
4. Extend law enforcement training to include documentation of all interactions with victims.
5. Seek ways to better understand why the majority of NH victims of sexual assault drop their case.
6. Provide technical assistance for law enforcement and prosecutors to adopt a computerized system for gathering and tracking data on all sexual assault cases.

contact with the first responder and throughout the process of investigation.

### 2. Initiate a public awareness campaign about the realities of sexual assault.

This recommendation was made in 2010 and has not been initiated. Given information regarding the prevalence of false beliefs about rape and rape victims, and the impact of false beliefs on all community members, we continue to endorse this recommendation. In addition to a public awareness campaign to eradicate false assumptions, we endorse a public awareness campaign that clarifies the movement of cases across the justice system.

### 3. Identify and fund inter-disciplinary training.

There is new information available through the National Institute of Justice on the impact of trauma on a victim of sexual assault and how trauma manifests during interviews with law enforcement and prosecution. This new information from the field of neurobiology can impact how investigations are conducted and can be used for training with first responders such as law enforcement, nurses, and advocates.

### 4. Extend law enforcement officers training in report writing to include documentation of all interactions with victims including resources offered, contacts and communication initiated.

We learned from the current study that many incident reports do not include documentation regarding interactions with victims nor the reasons why cases were not prosecuted. This is important information for understanding case attrition in NH and ultimately impacting interactions between professionals and victims.

### 5. Seek ways to better understand why the majority of NH victims of sexual assault drop their case.

We learned that in 56% of the cases we tracked, the police officer wrote in the incident report that the victim chose to drop the case. Why this happens with such frequency is most important to clarify in order to create a victim-centered system.

### 6. Develop and fund a coordinated computerized system for gathering and tracking criminal justice data on all cases of sexual assault.

This initiative, entitled Justice One (J-One), has begun since the last report was issued, however, it is not fully implemented. Without a computerized system, collecting data is highly labor intensive and therefore less conducive to consistent tracking.

## Project Collaborators

NH Coalition Against Domestic and Sexual Violence, the Research Committee of the Governor's Commission on Domestic and Sexual Violence, and university researchers.

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