ABSTRACT

Title of dissertation: CRIMINAL CASE PROCESSING OF SEXUAL
ASSAULTS IN ALASKA

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Discretion plays a role in nearly every facet of the American criminal justice
system. It is widely regarded as necessary to do justice but is not without criticisms –
especially when it leads to unfavorable or disparate treatment. The role of discretion in
sexual assault cases has been particularly scrutinized. Since the majority of sexual
assaults do not fit stereotypic beliefs about what constitutes a "real rape" and "genuine
victim," criminal justice officials use their discretion to filter these cases out of the justice
system.

This study explored this issue by examining two stages of the criminal justice
process: the police decision to refer cases for prosecution and the prosecutorial decision
to accept referred cases. In doing so, it contributes to this body of literature in three ways.
First, it included sexual assault cases that involve Alaska Native victims and suspects.
Second, it addressed a gap in the theoretical scholarship by examining the downstream

nature of police decision-making. And finally, it examined the formal reasons prosecutors give for charge dispositions.

This study found a significant amount of attrition of sexual assault cases as they progressed through the criminal justice system. Moreover, a combination of legally relevant and extralegal factors was found to be important, but not consistently across all types of sexual assaults. Among legal factors, the number of victim injuries was the most consistent predictor. Among extralegal factors, cases that involved Alaska Native suspects had significantly higher odds of case referral and case acceptance compared to white suspects. The effect of suspect race was particularly pronounced in cases with a white victim. Additionally, the findings suggest that not only are Native American defendants more likely to have their cases referred by police, but once referred, they are also more likely to have them accepted for prosecution.

Contrary to expectations, victim-suspect relationship, specifically non-stranger assaults, increased the odds of police referral compared to stranger cases. However, the opposite appears to be true for the decision to prosecute cases. Once referred, prosecutors were five times more likely to accept sexual assaults perpetrated by strangers. The implications of these findings are also discussed.

CRIMINAL CASE PROCESSING OF SEXUAL ASSAULTS IN ALASKA

By

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Dissertation submitted to the Faculty of the Graduate School of the
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DEDICATION

To my beloved mother, Mary Krista Smith. It was my greatest honor to hold your hand as you passed from this world to the next. Until I see you again, "save a place for me, save some grace for me."

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It would not have been possible to complete my doctorial studies without the support and guidance of countless wonderful people that have surrounded me. To all of the many individuals to whom I am deeply indebted, I look forward to thanking and celebrating with you in-person.

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CHAPTER 1: INTRODUCTION

"[Discretion] is inevitable because the translation of rule into action, the process by which abstraction becomes actuality, involves people in interpretation and choice. Law is fundamentally an interpretative enterprise in which discretionary behavior is compelled by...the vagaries of language, the diversity of circumstances, and the indeterminacy of official purpose"

Hawkins (1992 p. 11)

Discretionary decision-making in the criminal justice system has long been a keystone of empirical inquiry among criminologists and legal scholars. At the same time, national attention surrounding sexual assault victimization has generated a wealth of research documenting the problematic criminal justice response in these types of cases. Most research on court actor discretion is limited to final punishment outcomes, with far less attention paid to early case processing decisions made by police and prosecutors. Similarly, recent advances in forensic evidence collection and the proliferation of nurse examiner programs, call for updated investigation research specific to this class of offense. These common research limitations in the broad exercise of discretion, combined with recent changes in public policy and attitudes specific to sexual assault (O'Neil & Morgan, 2010), highlights the need for renewed research at the intersection of these two emergent social issues.

The Role of Discretion in the Criminal Justice System

The role of discretion in the administration of justice has been the subject of extensive inquiry regarding its nature (Baumgartner, 1992; Davis, 1969; Gottfredson & Gottfredson, 1988; Kessler & Piehl, 1998; Ohlin & Remington, 1993), the advantages and disadvantages associated with it (Feldman, 1992; Schneider, 1992), and the possibilities for controlling it (Davis, 1969; Feldman, 1992; Hawkins, 2003; Walker,

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1993). According to Davis, discretion occurs "whenever the effective limits on the power of a public official leave freedom to choose between possible courses of action or inaction" (1969 p. 4). Within the criminal justice system, discretion provides the means by which practitioners can substitute their own judgment, interests, or objectives to influence case outcomes (Kessler & Piehl, 1998). It allows officials to take into account a wide array of information – some of which may be inaccurate, unreliable, irrelevant, or contrary to the law. This creates uncertainties and anxiety about the use of discretion, particularly when it leads to the unfavorable treatment of individuals based on race, gender, or other improper grounds (Hawkins, 1992). This type of discretion is often vilified because it stands in contrast to the ideal that all are equal before the law.

The utility of discretion has also been acknowledged. As stated by Uviller (1984), "…crimes and criminals emerge from a variety of circumstances. Separately and in combination, the variants can never by fully anticipated or assessed; yet they are often critical to forming the just response" (p. 32). Thus, discretion gives the decision-makers flexibility to do justice, and it does so in two ways. First, it allows the decisions to be tailored to the particular circumstances of each case that should influence the outcome but could not be anticipated by the law (Schneider, 1992; Uviller, 1984). Second, discretion allows decision-makers to evaluate how well their decisions worked and to make adjustments in response to new information (Schneider, 1992). Herein lies the irony of discretion: It is necessary so that decision-makers can promote the spirit of the law. Laws cannot be written to always work as intended so criminal justice officials are necessarily given the authority to make judgments. Yet this same authority inevitably provides a conduit for injustice (Feldman, 1992).

Criminal justice outcomes are comprised of discretionary decisions following in sequence. Cases are processed in a dynamic and unfolding process in that they are referred from one decision-maker to another until resolved. One artifact of this serial conception of criminal justice decision-making is the unequal distribution of power across individuals and organizations (Hawkins, 2003). Among criminal justice actors, the police and prosecutors are often cited as having a significant amount of power in determining the trajectories of criminal cases (e.g., Kerstetter, 1990; LaFree, 1989).

Police have dual roles as both fact- and rule-finders (Schneider, 1992). Their responsibilities as fact-finders involve sorting out facts and drawing conclusions regarding alleged crimes. This requires judgments about the types of information considered relevant and reliable. This is important because even if information is readily available, police may not think to use it if they do not think of the situation in a way that makes that information relevant (Martin & Powell, 1995; Nisbett & Ross, 1980). In this way, police also act as rule-finders in that the relevancy of facts is determined by the identification and interpretation of applicable laws. The manner in which police make sense of the situations influences their investigative decisions and may lead to different lines of enquiry being pursued or dropped (Barrett & Hamilton-Giachritsis, 2013; Hawkins, 2003).

In turn, prosecutors rely on police investigation outcomes to make crucial decisions. They decide whether criminal charges should be filed and what those charges should be, and they exercise considerable discretion in making these decisions (Jacoby, 1980; Walker, 1993). The Supreme Court has unquestionably affirmed their discretionary authority:

So long as the prosecutor has probable cause to believe that the accused committed an offense defined by statute, the decision whether or not to prosecute, and what charge to file or bring before a grand jury, generally rests *entirely in his discretion* (*Bordenkircher v. Hayes*, 434 U.S. 357, p. 364 [emphasis added]).

Prosecutors also make critical decisions regarding plea negotiations. Given that more than 90% of criminal cases are disposed of via guilty plea (Pastore & Maguire, 2003), plea-bargaining is a defining feature of the criminal justice system and plays an essential role in determining case outcomes (Brown & Bunnell, 2006). The absence of oversight in plea bargaining decisions has led commentators to call the plea bargain the "single most unreviewed decision" in the entire criminal process (Gottfredson & Gottfredson, 1988, p. 114; see also Ball, 2006; Shermer & Johnson, 2010). Consequently, prosecutors are among the most powerful legal actors.

The decisions made by the police and prosecutors define the boundaries of possible decisions during the later stages of the criminal justice system. Yet much of the scholarship fails to appreciate this interconnectedness, which limits our ability to fully understand practitioner and organizational decision-making (Bernard & Engel, 2001; Kraska, 2006). "Future research should address the importance of decision-making at different stages of the criminal justice process to expose areas of potential unwarranted disparity or unfairness…" (Wilmot & Spohn, 2004 p. 340). This dissertation answered this call for research by investigating criminal case processing of sexual assaults cases reported to law enforcement.

Criminal Justice Discretion in Sexual Assault Cases

Nearly 50 years ago feminists brought national attention to the issue of sexual assault, which generated a proliferation of scholarly work and commentary (e.g. Brownmiller, 1975; Burt, 1980; Feild, 1978). Many of these early works emphasized the

pervasiveness of sexual assault victimization and the difficulties faced by victims in

obtaining justice. In particular, criminal justice officials were heavily criticized for using

their broad discretionary powers to discriminate against sexual assault victims

(Brownmiller, 1975; Estrich, 1987).

Sexual violence presents unique challenges to criminal justice officials because it

is rooted in a wider social discourse regarding the meaning and extent of sexual violence,

victim credibility, and victim blame (Taslitz, 1999; Taylor & Gassner, 2010).

Furthermore, many complaints of sexual assaults offer contradicting stories from the

victim and suspect with either no evidence or evidence that does not clearly favor one

party over the other (Bryden & Lengnick, 1997). Definitional ambiguities coupled with

intangible evidence allows for the argument that a distinct and selective bias operates in

the processing of sexual assault cases that does not occur with most other crimes. These

biases reflect the decision makers' beliefs regarding gender-roles and stereotypes about

"real" rapes and "genuine" victims (Brownmiller, 1975; LaFree, 1989). For example,

Estrich (1987) suggests that criminal justice officials differentiate between the

"aggravated, jump-from-the-bushes stranger rapes and…cases of unarmed rape by

friends, neighbors, and acquaintances" (p. 28). These distinctions are even more apparent

when the victim violated traditional gender-role expectations (Frohmann, 1991; Kalven

& Zeisler, 1966).

Although this line of thought is persuasive, the empirical evidence of

discrimination against sexual assault victims is inconsistent. This inconsistency may

reflect two key limitations of criminal case processing research. First, prior studies tend

to analyze a single decision point (e.g. Alderden & Ullman, 2011; Beichner & Spohn,

2001; Scott & Beaman, 2004). Single-stage studies mask disparities originating at other stages in the criminal justice process. Moreover, research examining decision-making stages towards the back-end of the legal process (e.g. Walsh, 1987) cannot account for the cumulative effects of police and prosecutorial decisions made toward the front-end of case processing. Given the substantial amount of discretion available to decision makers at earlier stages and the considerable level of attrition that occurs as cases move through the criminal case process, it is necessary to more closely examine outcomes at earlier stages.

The ability to reconcile findings from prior research, particularly sexual assault case outcomes, is further hampered because key factors, including evidentiary strength, are often omitted from analysis or operationalized in ways that inadequately captures the information police and prosecutors consider when making decisions (e.g., Beichner & Spohn, 2005; Campbell, Patterson, Bybee, & Dworkin, 2009; Felson & Pare, 2007; Phillips & Varano, 2008; Scott & Beaman, 2004; Tellis & Spohn, 2008). An inability to adequately control for these effects on criminal case process decisions may lead to inaccurate conclusions.

Current Research Aims

Scholars and victim advocates argue that sexual assault presents unique challenges to criminal justice officials. Unlike other crimes, where the status of the victim usually confers a sense of deserving sympathy and support, declarations of sexual assaults frequently invite judgment. Consequently, police and prosecutors often use their discretionary authority to drop cases based on biases and stereotypes regarding "real" rape and "genuine" victims (Brownmiller, 1975; Campbell et al., 2015; Estrich, 1987;

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LaFree, 1989; Spohn & Tellis, 2013; Taslitz, 1999; Taylor & Gassner, 2010). The goals of this dissertation are threefold. First, to provide a thorough description of sexual violence using a sample primarily comprised of Alaska Native women. The state of Alaska is known as the rape capital of the U.S. At 126 rapes per 100,000 persons, Alaska's rape rate is almost three times the national average; for child sexual assault, it's nearly six times (Federal Bureau of Investigation, 2015). And, according to the 2015 Alaska Victimization Survey, 35% of Alaska women have been victims of sexual violence in their lifetime and 1 in 34 women experienced sexual violence in the past year (University of Alaska Anchorage Justice Center, 2016).

Utilizing an integrated framework on legal decision-making drawn from feminist-conflict and uncertainty avoidance theories, a second goal of this dissertation is to identify the predictors of legal resolutions for sexual assault cases. Two outcomes are considered: the police decision to refer a case for prosecution and whether cases are prosecuted. By including decision points across different stages of criminal case processing, I am able to examine the differential effects of victim and case characteristics on police and prosecutorial outcomes.

As noted by several scholars (e.g., Frederick & Stemen, 2012), how prosecutors utilize their discretion, and what goes into prosecutorial decision-making, is not well understood. Thus, the third goal of this research is to address this limitation by exploring prosecutorial decision-making processes and the formal reasons given for charge dispositions.

Dissertation Outline

This dissertation adds to the scholarship on police and prosecutor decision-making and on sexual assault case processing by conducting a comprehensive assessment of the factors that influence case referral and prosecution in these cases. The remainder of this dissertation is as follows. In the next chapter, the empirical research on sexual assault is reviewed. In Chapter Three, the theories that serve as the basis for this research are summarized. First, the feminist-conflict theory is reviewed followed by uncertainty avoidance theory and the liberation hypothesis. This chapter concludes with the specific hypotheses that are tested.

Details regarding the research questions, data, measures, and analytic strategies are presented in Chapter Four. The results of this study are discussed in Chapters Five through Eight. The final chapter concludes with a summary and discussion of the research findings, strengths and limitations of the study, policy implications, and future research directions.

CHAPTER 2: LITERATURE REVIEW

"Although the evidence is sufficient to sustain the conviction…at no time prior to her outcry…. did she behave like a victim. Nor did Mr. Dumas behave like someone who had recently perpetrated a series of violent crimes against her."

Christopher McFadden, Georgia Appeals Court Judge (2014)[1]

Over the past several decades a growing body of research on sexual assault has emerged, raising concern over its prevalence. One of the first empirical studies, conducted by Russell (1983), indicated that 44% of women surveyed in the San Francisco area were victims of an attempted or completed rape. Koss, Gidycz, and Wisniewski's (1987) national study of college women revealed that approximately 25% of women had been victims of an attempted or completed rape during their lifetime. Since the publication of these two seminal studies, scholars have reported estimates ranging from 11% (Basile, Chen, Black & Saltzman, 2007) to 51% (Randall & Haskell, 1995). Epidemiological studies suggest that at least 18% of women will be sexually assaulted in their lifetime (Kilpatrick, Resnick, Ruggiero, Conosenti & McCauley, 2007; Tjaden & Thoennes, 1998). Among Alaska Native women, lifetime estimates are higher: approximately 35% will be sexually assaulted in their lifetime (Tadjen & Thoennes, 1998; University of Alaska Anchorage Justice Center, 2016). Taken together, these estimates suggest that sexual assaults are pervasive, yet they remain one of the most underreported violent crimes (Karjane, Fisher, & Cullen, 2002; Wright, 1984).

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[1] Georgia appeals court judge McFadden's rational for overturning Jeffrey Dumas's jury conviction of three counts of rape. Dumas was convicted in October 2010. McFadden overturned the conviction in February 2014.

Reporting Patterns

According to the National Violence Against Women Survey (NVAWS), only 16% of sexual victimizations were reported to the police (Tjaden & Thoennes, 2000). Bachman (1998) and Ullman and Filipas (2005) found that between 23-27% of cases were reported to the police. Reporting rates from other state-level or community-based studies range from 10-39% (Campbell et al., 2001; Kilpatrick et al. 2007; Koss, Gidycz, & Wisniewski, 1987).

Scholars have identified a number of factors related to nondisclosure. Feelings of shame or embarrassment discouraged victims from disclosing their sexual assault in a number of studies (Kilpatrick et al., 2007; Thompson et al., 2007) – particularly when the victim had consumed alcohol prior to the assault (Kilpatrick et al., 2007). Research also suggests that victims are less likely to report their victimization if they perceived the police as biased (Felson & Pare, 2005; Rennison, 2002), if they thought that their cases would not be prosecuted (Lizotte, 1985; Russell, 1975), or otherwise thought they would be treated badly by the criminal justice officials (Kilpatrick et al., 2007). Growing recognition of the underreporting of sexual assaults ultimately contributed, in part, to legal reforms aimed at improving the criminal prosecution of rape cases.

Rape Law Reform

Starting in the late 1970s and throughout the 1980s, a series of legal reforms were enacted throughout the United States. These reforms included the elimination of the requirement of victim resistance, prompt reporting, and corroboration (Hirschel & Dawson, 2000). Rape shield laws limited whether and under what circumstances testimony regarding victims' sexual history could be admissible as evidence during court

proceedings (Horney & Spohn, 1991). Most states also replaced the single crime of rape with a series of gender-neutral offenses based on seriousness and corresponding penalties in order to increase conviction rates (Bourque, 1989; Hirschel & Dawson, 2000; Horney & Spohn, 1991; Polk, 1985).

In addition to legal reforms, some law enforcement agencies and prosecutorial offices underwent organizational changes to improve their handling of sexual assault cases. For example, police departments developed specialized detective units to investigate sexual offenses (LaFree, 1989). States also created specialized prosecutorial units to bolster prosecutorial capabilities in sexual assault cases (Beichner & Spohn, 2005). Overall, the legal reforms and organizational changes served three primary purposes: (1) To encourage victims to disclose their victimization and cooperate with criminal justice officials throughout the legal process; (2) to shift the focus away from the victims' behavior to the perpetrators' actions, and; (3) to hold offenders accountable by increasing the conviction rates (Horney & Spohn, 1991; Konradi & Burger, 2000; Polk, 1985).

It is evident that the reform movement's efforts changed the laws. The more difficult question, however, is the question of the reform movement's effectiveness. Most scholars concede that there was limited or no effect[2] on the reporting, prosecution, or conviction of sexual assaults (Bachman & Paternoster, 1993; Bryden & Lengnick, 1997; Horney & Spohn, 1991; Kingsnorth, MacIntosh & Wentworth, 1999; Myers & LaFree, 1982; Konradi & Burger, 2000; Page, 2008; Polk, 1985). For example, the attrition rate

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[2] This is not to suggest that the reforms have not been successful in other areas. As noted by Spohn (1999), the reforms sent an important symbolic message regarding the seriousness of sexual assault and the treatment of sexual assault victims. In the long run, this symbolic message could lead to instrumental change (see also Bryden & Lengnick, 1997).

of sexual assault cases is high. Of the cases reported to police, only 25-50% are referred for prosecution (Campbell, Wasco, Ahrens, Sefl & Barnes, 2001; DuMont & Myher, 2000; Frazier & Haney, 1996; LaFree, 1989; Snodgrass, 2006). Prosecutors agree to prosecute between 48-78% of police referrals (Bouffard, 2000; Snodgrass, 2006; Tellis & Spohn, 2008). Once cases are accepted for prosecution, the conviction rate is high – on average, 90% (Chandler & Tonry, 1981; Frazier & Haney, 1996; Galvin & Polk, 1983; Snodgrass, 2006; Spears, Beichner, & Davis-Frenzel, 2001). However, this statistic is misleading. For example, in Snodgrass's (2006) study, 87% of sexual assault cases that were accepted by the prosecution resulted in a conviction; however, it was only approximately 11% of all reported cases in his sample. The statistics are even more dismal if conviction and incarceration rates are based on all reported and unreported victimizations. Tjaden and Thoennes (2006) found that of the 37% of cases that were prosecuted, approximately 46% resulted in a conviction and 76% of the convicted were sentenced to jail or prison. However, based on the responses of all sexual assault victims these percentages drop to eight, three, and two, respectively.

The attrition rate, set against the backdrop of extensive legal reforms and organizational changes to improve the criminal justice response to sexual assault allegations, has generated questions about the underlying mechanisms driving the attrition process. Some advocates and scholars (e.g., Kelly, Lovett, & Regan, 2005; Temkin & Krahé, 2008) cite the discrepancy between the number of cases reported to the police and the number of cases that result in conviction – also known as the 'justice gap' – as evidence of institutionalized sexism. Criminal justice officials' decisions are guided by restrictive definitions of what is a 'real rape' and normative expectations about female

role behavior (Brownmiller, 1975; Estrich, 1987; Temkin & Krahé, 2008). For example, when asked to describe a typical rape, people are likely to describe a stranger attack in an outdoor location with the assailant using physical force and active physical resistance by the victim (Krahé, Bieneck, & Scheinberger-Olwig, 2007). Because only a small proportion of sexual assaults fit these criteria (Fisher, Cullen & Daigle, 2005; Lea, Lanvers & Shaw, 2003), most sexual assault cases are dropped from the criminal justice system.

The justice gap might be evidence of institutionalized sexism; however, it is not self-evident based solely on attrition statistics. There are alternate interpretations of sexual assault case attrition: The criminal justice system is effectively screening out cases in which the victim does not cooperate, the perpetrator cannot be identified, or because of a lack of evidence. These hypothesized reasons have nothing to do with bias and undue skepticism of sexual assault victims. By themselves, rape attrition statistics do not provide a basis for excluding any of these scenarios. It is therefore important to examine the factors associated with decision outcomes throughout the investigative and legal processes in relation to the law.

The Rule of Law and Decision Making

Substantive and procedural laws specify the elements necessary for an incident to be labeled as a sexual assault crime and outline the criteria that must be met to establish guilt. Accordingly, laws represent a benchmark of normative decision-making against which decisions about specific cases can be interpreted (Temkin & Krahé, 2008). Conceptualizing decision-making from this standpoint allowed scholars to differentiate

between *legal* and *extralegal*[3] factors. Legally relevant factors include all the factors reflected in substantive and procedural laws. Examples include the nature and seriousness of the crime, presence of physical or forensic evidence, availability of witnesses, and whether a weapon was used during the sexual assault. In contrast, factors outside the purview or at odds with the law are categorized as extralegal. Examples of extralegal factors include the race, gender, and social class of the perpetrator and victim. The research, discussed in more detail below, indicates that both legal and extralegal factors influence sexual assault case outcomes.

Legally Relevant Factors

A substantial amount of research supports the influential role legally relevant factors have in shaping decision making processes and outcomes (see Beichner & Spohn, 2005; Campbell et al., 2015; Chandler & Torney, 1981; Holleran, Beichner, & Spohn, 2010; LaFree, 1989; Spohn, Beichner, Davis, & Frenzel, 2001; Spohn & Holleran, 2001; Spears & Spohn, 1996; Tasca et al., 2013; Williams, 1981). These factors include the amount of force used during the assault, witness corroboration, and the documentation of victim injuries, each of which is discussed in more detail below.

Use of Force

The amount force used during the commission of a sexual assault has been studied in two broad categories: the use of physical force and weapon use or presence of a weapon during the assault. The presence of weapons or the use of force may indicate to criminal justice practitioners the seriousness of the incident, and therefore, result in these

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[3] It should be noted that although most studies examine and make comparisons between legal and extralegal factors, there is some conceptual ambiguity between these terms. This has resulted in inconsistencies in how researchers have defined and categorized variables making it difficult to make comparisons across analyses (see Spohn & Holleran, 2001).

practitioners working harder to solve cases. Moreover, it may suggest to practitioners that the victims were truly assaulted against their will and thus were "real" victims.

Research in this area supports this possibility; the use of physical force by the perpetrator during the assault increases the likelihood of case progression, perhaps because the use of force corroborates the victims' non-consent – especially in assaults that result in visible injuries (Bouffard, 2000; DuMont & Myhr, 2000; Rose & Randall, 1982; Tasca et al., 2013).

The presence of a weapon also increased the probability of arrest and prosecution in a number of empirical studies. For instance, Kerstetter (1990) found that the presence of a weapon during the incident was a significant predictor of whether there was a felony filing made by the prosecutor's office in cases involving non-strangers. Additionally, LaFree (1989) found that the presence of a weapon increased the likelihood of arrest and charging of suspects. These findings were supported by more recent studies that found cases were significantly more likely to result in charges by the prosecution if the suspect used a gun or knife (Beichner & Spohn, 2005; Spohn & Tellis, 2012).

Witnesses

The presence of witnesses, particularly those supporting victim claims, can assist criminal justice practitioners in providing evidence supporting victim allegations, and research on sexual assault processing does indicate that the presence of witnesses plays an important role in case decision making. For instance, Frazier and Haney (1996) found that police were more likely to question an identified suspect when there were witnesses present. Spears and Spohn (1996) found that the presence of a witness significantly impacted prosecutors' charging decisions, but only for those cases involving victims less

than 13 years of age. Kingsnorth et al. (1999) found that cases in which the presence of witnesses supporting victim allegations were significantly more likely to be accepted for prosecution as compared to cases in which no witnesses were present. In fact, the presence of witnesses supporting victim allegations significantly increased the likelihood that the case would be prosecuted in both stranger and non-stranger cases. They also found that cases in which witnesses contradicted victim allegations were significantly less likely to be accepted for prosecution as compared to cases in which no witnesses were present. Beichner and Spohn (2005) also found that the availability of witnesses increased the likelihood that suspects would be charged by prosecutors.

Victim Injuries

Several studies have found that cases are more likely to proceed through the criminal justice system when victim injuries are present. For instance, Chandler & Toney (1981) found that the presence of victim injuries significantly discriminated between cases that resulted in felony filings and those that were dismissed. Kerstetter (1990) found victim injury was an important factor that discriminated between cases that were founded for acquaintance sexual assault cases. Frazier and Haney (1996) reported that police were significantly more likely to question an identified suspect and significantly more likely to file charges against suspects when victims sustained injuries. Beichner and Spohn (2005) also found that that injury increased the likelihood that prosecutors would charge suspects. Specifically, those cases in which victim injury was noted were significantly more likely to result in charges by the prosecution.

There is also research that suggests that the significance of victim injury is conditioned by victim-suspect relationship. Kingsnorth and colleagues' (1999) found that,

overall, victim injury significantly increased the likelihood that a case would be prosecuted. However, when the analysis was conditioned by victim and suspect relationship, victim injury was only significant in the non-stranger model; cases involving non-strangers in which the victim was injured were significantly more likely to be fully prosecuted. Victim injury was not a significant predictor of prosecutorial decisions in stranger cases. Similarly, Spohn and Holleran (2001) found that although victim injury was not significant in the full model, victim injury was significant in the intimate partner model; cases involving intimate partners where the victim was injured were significantly more likely to result in the suspect being charged by the prosecution. These findings suggest that extralegal factors are also influential in sexual assault case processing outcomes and may even condition the effects of legally-relevant variables.

Extralegal Factors

A number of studies demonstrate a link between outcomes of sexual assault cases and a host of different extralegal factors. These include, among others: victims and suspect demographic characteristics (Chandler & Torney, 1981; Rose & Randall, 1982; DuMont & Myhr, 2000); the victim-suspect relationship (Chandler & Torney, 1981; L'Armand & Pepitone, 1982; Rose & Randall, 1982; LaFree, 1989; Kerstetter, 1990; Bouffard, 2000; Spohn & Tellis, 2012); and victim reputation (Spohn & Spears, 1996; Whatley, 1996; Kingsnorth et al., 1999; Beichner & Spohn, 2005) and behaviors at the time of the incident (Frohmann, 1991; Jordan, 2004; LaFree, 1989; Schuller & Stewart, 2000; Spohn & Spears, 1996; Spohn & Holleran, 2001). The research findings, however, are not consistent as to the nature and strength of the effects.

The influence of race on the processing of sexual assault cases has received a great deal of attention. Some of the research has focused on individual race effects. Rose and Randall (1984) concluded that less serious charges were more likely to be filed in sexual assault cases involving minority victims compared to Caucasian victims. Spohn, Beichner, and Davis-Frenzel (2001) found that prosecutors were significantly more likely to reject charges if either the victim or the suspect was a racial minority. Campbell and colleagues found that prosecution was attempted more frequently for Caucasian victims than for minority victims (Campbell, Wasco, Ahrens, Sefl, & Barnes, 2001).

It is possible that the race effect is conditioned by the stage of criminal justice processing or by the type of sexual assault. Spohn, Gruhl, and Welch (1987) found that defendant race had an effect on prosecutors' decisions to file charges. Hispanic and African American defendants were significantly less likely than Caucasian defendants to have their cases rejected during the initial decision to prosecute. However, there was no race effect on the subsequent decisions to dismiss charges. Spohn and Holleran (2001) found that prosecutors were one and a half times more likely to file charges in stranger (compared to acquaintance) cases that involved Caucasian victims. Spohn & Cederbloom's (1991) results revealed that race was a significant predictor of incarceration, but only for acquaintance rapes. Race was not a significant predictor in stranger rapes.

Other researchers have emphasized the importance of examining the effect of the racial composition of the victim/suspect racial dyad. In LaFree's (1981) analysis of more than 900 sexual assault complaints to police over a six-year period, the victim and

suspect race had little effect on case outcomes; however, the racial composition of the victim and suspect racial dyad mattered a great deal. Specifically, African American suspects charged with sexually assaulting Caucasian victims were consistently treated more harshly while African American suspects charged with sexually assaulting African American victims were treated more leniently (see also Chandler & Torney, 1981; LaFree, 1989). Walsh (1987) reached similar conclusions based on his study of sentences imposed on defendants convicted of sexual assault. He observed that African American defendants who sexually assaulted Caucasian victims received more severe sentences compared to African American defendants who assaulted African American victims.

Spohn (1994) provided further evidence of the importance of the victim/suspect racial dyad. She found that African Americans convicted of sexually assaulting a Caucasian victim faced a greater risk of incarceration compared to African Americans who sexually assaulted African Americans and Caucasians who sexually assaulted Caucasians. In a later study, Spohn and Spears (1996) found that the average sentence for African American offenders convicted of sexual assaulting Caucasian victims was over four years longer than the average sentence for Caucasian offenders convicted of sexually assaulting Caucasian victims and over three years longer than the average sentence for African American-on-African American sexual assaults. However, these findings did not hold true for decisions made after arraignment, including the decision to dismiss all charges and to convict. African Americans charged with sexually assaulting Caucasian victims were more likely to have all charges dismissed before trial and less likely to be convicted. Spohn and Spears (1996) speculated that the differences in the conviction rate

might reflect their finding that Caucasian offenders were significantly more likely than African American offenders to plead guilty.

Not all research supports the influence of the victim/suspect racial dyad on case processing decisions. Tellis and Spohn (2008) found limited support for the importance of victim/suspect racial dyad. In particular, sexual assaults involving Hispanic perpetrators and Caucasian victims were more often cleared by arrest versus unfounded. This effect was not observed in cases with African American perpetrators and Caucasian, Hispanic, or African American victims. In a more recent study, Tasca and colleagues assessed the impact of the victim/suspect racial dyad on two police decisions: identification of a suspect and arrest (Tasca, Rodriguez, Spohn & Koss, 2013). The victim/suspect racial dyad did not significantly predict either decision.

Victim Age

The link between victim age and case outcomes has been explored, but there is no consensus on its relationship. Several studies find no victim (or suspect) age effect for prosecutorial charging decisions (Spohn & Holleran, 2001) or for suspect identification and the police decision to arrest (Tasca et al., 2013). In contrast, Rose and Randall (1982) found that younger women were significantly more likely to have their cases dismissed compared to older victims. The authors speculated that these women were viewed as more likely to file a false report to hide consensual sex.

Other scholars argue that cases involving younger women are taken more seriously. For example, Kingsnorth et al (1999) found that younger victims were more likely to have their case fully prosecuted. The authors suggested that these findings reflect prosecutors' views that younger victims garner more sympathy from juries or

those cases justify a greater risk in allocating scarce resources to prosecute because they are more offensive due to the young age of the victim. More recently, Spohn and Tellis (2008) found that prosecutors were nearly four times more likely to file charges if victims were between the ages of 13 and 16 compared to victims' age 17 or older.

DuMont and Myher (2000) found that cases involving older women were more likely to drop out at the police-level of processing; for each 10-year increase in age, victims were 45% less likely to have charges filed (see also DuMont & Parnis, 2000). Similarly, Chandler and Torney (1981) found that victims between the ages of 20 and 29 were more likely to have their cases progress in the legal system compared to victims in their thirties. Perhaps older women are less willing or are perceived as less willing to engage in a lengthy legal process because they are generally more burdened by personal obligations including raising children, advancing in their career, and caring for elderly parents (DuMont & Myhr, 2000).

Victim-Suspect Relationship

There is no legal distinction between acquaintance and stranger rape. However, the influence of victim and suspect relationship on sexual assault case outcomes is one of the most consistent findings in the literature (Brownmiller, 1975; Estrich, 1987; Lonsway & Fitzgerald, 1994; Taslitz, 1999). Bouffard (2000) concluded that stranger rape cases were significantly more likely to be founded by police, compared to acquaintance-related cases, which were significantly more likely to be unfounded. Nugent-Borakove and colleagues (2006) found that cases were significantly less likely to result in an arrest when the victim knew the offender. In particular, cases involving strangers were almost four times as likely to result in an arrest compared to cases where the victims knew their

assailant. Frazier and Haney (1996) found that suspects in acquaintance rapes were more likely to be referred to prosecutors. However, when they limited their analysis to cases with an identified suspect, cases were significantly more likely to be referred in stranger rape cases compared to acquaintance rape cases.

Research exploring the full range of relationship status (as opposed to acquaintance versus stranger) also supports the influence of victim-suspect relationship on case outcomes. L'Armand and Pepitone (1982) found that as intimacy increased between the victim and suspect (strangers, dating, dating with prior consensual intercourse), there was a decrease in blame for the suspect but an increase in blame for the victim. Willis and Wrightsman (1995) also reported differential attributions of responsibility depending on the degree of intimacy among parties. In particular, defendants were considered less culpable if they were friends with the victim in comparison to co-workers or strangers. More recently, Tellis and Spohn (2008) confirmed the importance of distinguishing between the type of relationship between the victim and suspect. There were no significant differences in the odds of the police unfounding decisions involving relatives or dating partners (compared to strangers). Furthermore, the police unfounding decision was less likely in acquaintance-related cases compared to stranger-related cases.

A few studies call into question the negative impact of prior relationship on case processing. It is plausible that cases are more likely to progress throughout the police investigative processes because easily identifiable suspects requires fewer resources to arrest (less time spent trying to identify and locate suspect) and leads to more favorable official statistics (Kerstetter, 1990; Tellis & Spohn, 2008). LaFree (1981) found that a

prior relationship between the victim and suspect increased the probability of a case resulting in an arrest. DuMont and Myhr (2000) found that women assaulted by either a current or former intimate partner were over 15-times more likely than women assaulted by strangers to have police forward their cases for prosecution. Additionally, women who were assaulted by acquaintances were five times more likely than women assaulted by strangers to have their cases forwarded for prosecution. Bouffard (2000) found that among founded cases, a prior relationship increased the probability of an arrest. However, the author noted that the probability that prosecutors would decline cases increased if there was a prior victim-suspect relationship. Similarly, Tjaden & Thoennes (2006) found that although police were equally as likely to make an arrest if the perpetrator was an intimate and non-intimate, they were significantly more likely to refer intimate rape cases for prosecution. Once the cases were referred for prosecution, however, intimate perpetrators were significantly less likely than non-intimate perpetrators to be convicted.

There are also several studies that find no relationship between victim-suspect relationship and case outcomes (Bachman, 2008; Myers & LaFree, 1982; Spears & Spohn, 1997; Walsh, 1987). However, even if stranger and non-stranger cases are equally likely to progress through the criminal justice system, it does not follow that decisions are based on the same information for both types of cases. Kingsnorth et al. (1999) addressed this possibility by conducting two separate analyses – one for stranger cases, and one for non-stranger cases. In stranger cases only three variables predicted the prosecutors' decision to prosecute: the defendant's prior felony record, the victim's cooperation, and the availability of witnesses to support the victim's testimony. In contrast, the decision to

prosecute non-stranger cases was influenced by a number of legal (victim injury, defendant incriminating remarks, number of arrest charges, victim cooperation, and witness support) and extralegal variables (prompt reporting, victim age).

Unlike Kingsnorth et al (1999), Spohn and Holleran (2001) differentiated between sexual assaults involving strangers, acquaintances/relatives, and intimate partners in their analysis of prosecutorial charging decisions. Their hypothesis that the effect of victim characteristics is conditioned by the relationship between the victim and suspect was supported. In cases involving strangers, victim characteristics played a minimal role in charging decisions. Instead, prosecutors were significantly more likely to file charges if there was physical evidence or if the suspect used a weapon during the assault. In contrast, victim characteristics were prominent predictors for non-stranger cases. In cases involving acquaintances or relatives, victims with a questionable moral character or engaged in risk-taking behaviors at the time of the assault were significantly less likely to have charges filed in their case. For cases involving intimate partners, prosecutors were significantly less likely to file charges if victims engaged in risk-taking behavior or if they resisted their perpetrator.

Victim Reputation and Behavior

One of the most common defense strategies in consent-related sexual assault cases is to undermine the victim's character by portraying her in a negative light (Taslitz, 1999). There is a significant amount of empirical evidence to suggest this is a successful strategy. For example, scholars have identified victims' clothing and dress style as important predictors of case outcomes. Based on a meta-analysis, Whatley (1996) found support for the hypothesis that victims dressed in revealing clothing at the time of the

assault would be held more responsible than a victim dressed more conservatively. More recently, Sheperd (2002) surveyed jurors and found that they believed that victims provoke their sexual assault by dressing provocatively.

Several research studies focus on the influence of alcohol and drug use on legal outcomes. With few exceptions (e.g. DuMont & Parnis, 2000; Scott & Beaman, 2004), the bulk of the research suggests that victim alcohol intoxication negatively impacts her credibility. For example, Schuller and Stewart (2000) used vignettes to explore how juror decisions in sexual assault cases are affected by victim alcohol consumption. They found that the more intoxicated jurors perceived the victim to be, the more responsible she was for the assault. Moreover, jurors attributed less blame to the alleged perpetrator when the complainant was perceived to be intoxicated. The first author replicated these findings in a follow-up study examining how victim intoxication influences police responses (Schuller & Stewart, 2000). Based on her review of case files and interviews with law enforcement officials, Jordan (2004) reached similar conclusions.

Prosecutors are also influenced by victims' consumption of alcohol. Kerstetter (1990) found that prosecutors were less likely to file felony charges in cases that involved victims who drank around the time of the assault. Tellis and Spohn (2008) echo these earlier findings. In fact, they found that victim intoxication was one of the top three predictors in charging decisions. Cases involving a victim under the influence of alcohol/drugs near the time of the sexual assault were half as likely to result in charges filed compared to victims who were not under the influence (see also Campbell et al., 2008).

Research also shows that police and prosecutors are influenced by the victim's character. LaFree (1981) found that suspects were less likely to be arrested if the victim engaged in risk-taking behavior. Based on their analysis of sexual assault cases bound over for trial, Spohn and Spears (1996) found that cases in which the victim engaged in risk-taking behaviors were significantly more likely to be dismissed and significantly less likely to result in a conviction. The risk-taking behaviors included walking alone at night, hitchhiking, agreeing to accompany the offender to his residence, or being in a bar alone (Spohn & Spears, 1996).

Spohn and Holleran (2001) provided a more nuanced empirical test regarding the influence of victim risk taking behaviors and prosecutorial charging decisions by examining three types of sexual assault cases: stranger rapes, acquaintance/relative rapes, and intimate partner rapes. The authors found support for their hypothesis that the effect of victim character on charging decisions are restricted to cases involving acquaintances and intimate partners whereas charging decisions in stranger cases were determined by legally relevant variables. For cases involving acquaintances, the presence of risk-taking behavior or a questionable reputation reduced the likelihood of charging by 50 percent. For cases involving intimate partners, prosecutors were significantly less likely to file charges. In these cases, prosecutors were about two and a half times more likely to file charges if the victim did not engage in risky behaviors compared to victims who displayed risky behaviors (Spohn & Holleran, 2001).

The relationship between case outcomes and the length of time between the sexual assault and report has also been shown to impact victim credibility. Based on a qualitative study of police perceptions of the legitimacy of rape victims, Rose and

Randall (1982) observed that victims who delayed filing a police report were considered less credible compared to victims who promptly reported the attack. Frohmann's (1991) ethnographic field study found similar results. In her sample, prosecutors expected victims to promptly report the incident to police; otherwise their credibility is questioned. As noted by one prosecutor, "she [the victim] didn't call the police until four hours later. That isn't consistent with someone who has been raped" (Frohmann, 1991, p. 219). The only instance in which delayed reporting did not hurt the victims' credibility is if they reported the crime within 24-hours and had visible injuries that supported their accounts of the assault.

These findings from qualitative studies are supported by quantitative research. LaFree (1980) reported that as the time taken by the victim to report the assault increased, the chances of a guilty verdict decreased. LaFree (1989) found that an arrest was less likely to occur if the victim delayed reporting the assault to the police. He also found that incidents that were not promptly reported resulted in less serious charges. These findings are supported by Kingsnorth et al (1999), who found that prosecutors were more than three-times as likely to prosecute if victims filed a report within three-hours and twice as likely if victims report the crime within 4- and 24-hours compared to victims who waited more than a day. Beichner and Spohn (2005) confirm the importance of prompt reporting. In one of the two jurisdictions in their sample, prosecutors were more likely to file charges if the assault was reported within one-hour. However, it is unclear whether the relationship between case outcome and time lapse in reporting is a result of victim credibility or loss of evidence (Hazelwood & Burgess, 2008; LaFree, 1989).

However, time lapse from incident to report is not always related to case outcomes. Horney and Spohn (1997) found the interval time between incident and reporting was unrelated to multiple case outcomes including whether or not cases were closed by the police, declined by the prosecutor, accepted by the prosecutor but later dismissed, prosecuted but resulted in a not-guilty verdict, or prosecuted and resulted in a guilty verdict. In another study exploring prosecutorial justifications for sexual assault case rejections, Spohn, Beichner, and Davis-Frenzel (2001) found that whether victims reported the assault within one-hour of its completion did not influence prosecutorial charging decisions.

Summary of Prior Research Findings

Despite a dedicated focus on sexual violence research, there is little consensus regarding the causes of sexual assault case attrition and studies of police and prosecutorial decision-making reach different conclusions. Legal factors, especially those that reflect case seriousness such as suspect use of force and victim injuries, are influential in processing decisions. Extralegal factors such as victim-suspect racial dyad and victim alcohol and drug use also influence sexual assault case outcomes, but these effects may be conditioned by the nature of the case. In particular, these extralegal factors may be more influential in sexual assaults perpetrated by non-strangers and without force. And yet, other studies conclude that the effect of stereotypes concerning real rapes and genuine victims are not as pronounced as other research has suggested. Collectively, prior work suggests there are important limitations in research on sexual assault that need to be addressed.

Limitations of Prior Research

There has been a wealth of scholarship on the nature of discretion in the criminal justice system, how it is shaped and constrained in practice, and how it influences case outcomes for a variety of different types of crime. While much has been learned about criminal case processing outcomes in sexual assault cases, this research suffers from three key limitations: limited scope, weaknesses in analytical and methodological rigor, and restricted focus on African American and Caucasian comparisons. Moreover, much of the research is now quite dated and is based on data drawn from time periods that do not reflect contemporary attitudes and legal decision-making practices. There is also significant variability and key limitations across studies in the operationalization of key concepts, including victim credibility and evidentiary strength. In particular, forensic evidence has become increasingly important in the prosecution of sexual assault crimes, though few empirical studies examine its effects in detail. These limitations are discussed in more detail below.

Limitations of Criminal Case Processing Research

Although the criminal justice system is decentralized, it is organized such that case outcomes are the culmination of a long series of prior decisions. Decisions made at one point in the system will close off, restrict, or open up the available choices for later decision-makers. Yet few studies examine factors that influence case progression across more than one stage of the legal process (DuMont & Myhr, 2000; Frazier & Haney, 1996; Tasca, Rodriquez, Spohn, & Koss, 2013). Analyses of decisions made at single stages without consideration of the decisions made at other stages diminish our ability to understand the extent of differential treatment of cases in the criminal justice *system*.

Legal and extralegal factors may have different impacts on decisions made at different stages. It is also possible that one or more factors have small (and sometimes non-significant) effects on decision-making at individual stages but, as cases progress through the system, add up to larger and statistically significant effects (Demuth, 2000; Zatz, 1987). Thus, there is a need to consider more complex models of direct, indirect, interactive and cumulative factors that influence case outcomes (Albonetti & Hepurn, 1996; Baumer, 2013; Bushway & Forst, 2013; Franklin, 2010; Free, 2002).

Bushway and Forst (2013) note "most cases are resolved at the stages of arrest screening and by plea bargains…yet research on these critical stages is limited in the criminology literature (p. 217)." Instead, much of the research focuses on the latter stages of case processing thereby neglecting the decisions made during the earlier stages of the criminal justice system. In particular, decisions made by police and prosecutors in the early stages constitute a "black box" in the criminal justice case processing research literature. Many decisions concerning arrest, dismissal, filing of charges, charge reductions or enhancements, and plea agreements are hidden from public view but represent major attrition points in the processing of criminal cases. Further research is needed regarding these decisions because they involve a great deal of unchecked discretion and represent major filtering points in the criminal justice process (Albonetti, 1991).

Moreover, since the population of cases selected to continue to the latter stages of case processing differ considerably from the original population of all arrests, the estimates based on the selected population are likely to be biased (Zatz & Hagan, 1985). Systematic attenuation of cases as they progress through the criminal justice system

prevents generalizability to populations excluded from the analysis because the findings may be confounded by systematic differences based on one or more covariates (Berk, 1983; Bushway et al. 2007; Klepper et al. 1983).

The influence of racial/ethnic membership on criminal justice processing outcomes is a major focus of sociological, criminological, and legal research but the focus has primarily been on African American, Caucasian, and to a lesser extent, Hispanic populations. There has been less attention given to other racial/ethnic groups, including American Indians and Alaska Natives (AI/AN). According to the U.S. Department of the Interior (2005), AI/ANs are the poorest of all minority groups, with unemployment rates hovering around 50 percent. AI/AN communities are characterized by high rates of alcoholism and substance abuse, substandard education, high suicide rates, and high crime rates (Bachman et al., 2008).

Unique to AI/AN populations, legal jurisdiction varies by the location of the offense (on or off the reservation), what parties are involved (the race/ethnicity of the victim and offender), the nature of the crime (major crime or misdemeanor), and if the tribe resides in a PL-280 state[4]. Thus, the responsibility for investigating and prosecuting crimes might fall with the Federal Bureau of Investigation, Bureau of Indian Affairs, tribal governments, and/or state police officers. The jurisdictional complexity presents significant challenges in the investigation and prosecution of crimes (Bachman et al., 2008; Fortson, 2015). Notably, all of these general issues also apply to sexual assault

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[4] Passed in 1953, Public Law 280 gave state governments jurisdiction over offenses committed in Indian Country or involving American Indian and Alaska Natives in PL-280 states. Six states (CA, MN, NE, OR, and WI) were specifically mentioned in the statute and therefore required to adopt PL-280. Other states also assumed PL-280 jurisdiction, including NV, ID, AZ, SD, and IA. As a result, many Indian Nations in PL-280 states do not have functioning criminal justice systems and rely on state enforcement.

cases, but the unique nature of sexual assault means that additional limitations are also associated with this crime type.

Limitations Sexual Assault Case Processing Research

A significant portion of the data used in the sexual assault empirical literature is now quite dated. A number of scholars used data collected from the 1980s (e.g. LaFree 1989; Reskin & Visher, 1986; Spohn, 1994; Spohn & Spears 1996; Walsh, 1987). Tjaden & Thoennes (2000) and Kingsnorth and colleagues (1998; 1999) examined data collected between 1992 and 1994. Even scholarly work published more recently (e.g. Beichner & Spohn, 2005; Holleran, Beichner, & Spohn, 2010; Scott & Beaman, 2004) relied on data from the 1990s. These studies represent an important contribution to the field but data drawn from these earlier time periods may not be relevant to contemporary legal decision-making due to changes in policies, professionalism, technology, and other advancements.

First, the structure of legal decision-making has evolved. Some of the changes, including the adoption of federal and state sentencing guidelines, where designed to reflect a shift toward more rational and less discretionary sentencing practices across all criminal offenses (Tonry, 1996). Other changes were specifically geared for sexual assault crimes, including the expansion of sexual assault statutes to reflect varying degrees of offense severity. This change increased the charging options for prosecutors in sexual assault cases (Ryan, 1995).

Second, organizational changes such as specialized detective and prosecutorial units may have altered have altered the balance of factors influencing the investigative and prosecutorial processes (Beichner & Spohn, 2005; Loh, 1980). Additionally, the

proliferation of Sexual Assault Nurse Examiners (SANE) and Sexual Assault Response Teams (SARTS) has been instrumental in the enhancement of evidence collection and preservation in sexual assault cases (Campbell, Bybee, Ford, Patterson, 2008; Girardin, 2005). There is some preliminary research to suggest SANE/SART programs impacts sexual assault case outcomes (Campbell, Bybee, Ford, Patterson, 2008; Girardin, 2005; Wilson & Klein, 2005).

Third, technical advancements in forensic science, along with the increased utilization of sexual assault kits (SAK), allow for DNA and other trace evidence collection that provide unique information and allow for new analysis not previously possible. This is particularly important in sexual assault cases because the only evidence might be forensic in nature and empirical research consistently demonstrates the importance of finding corroborative evidence (Campbell, Bybee, Ford, & Patterson, 2008; Campbell, Patterson, Bybee, & Dworkin, 2009; McEwen, 2011).

The other key limitation of the sexual assault scholarship concerns the operationalization of key concepts. In particular, there is variability across studies in how victim-suspect relationship and evidence-related factors have been operationalized. As a result, while there is agreement that victim-suspect relationship and evidentiary factors matter, a consensus regarding measurement and inclusion of conceptually relevant indicators has not been reached.

The relationship between the victim and suspect is one of the most studied factors in the sexual assault case processing literature. By and large, researchers have classified this relationship in only two categories: strangers and non-strangers (e.g., Kingsnotth et al., 1999; Tasca et al., 2013). The rational for this dichotomy is that consent is the most

likely defense for any non-stranger sexual assault, whereas it cannot be a defense strategy in stranger cases. But this operationalization ignores the diversity in the non-stranger category, which might include victims and suspects who are intimate partners, relatives, good friends, and casual acquaintances. As demonstrated by Spohn and Holleran (2001), cases involving intimate partners were qualitatively different from those that involved friends, relatives, and acquaintances. Thus, they recommended that future research abandon the stranger/non-stranger dichotomy and use more refined measures of the victim-suspect relationship.

Nagel and Hagan (1983; p. 122) remarked that evidence "probably accounts for most of the variance between why some cases are prosecuted…and others are deferred, discharged, or otherwise diverted." And although other scholars (e.g. Albonetti, 1987; Jacoby, Mellon, Ratledge & Turner, 1982) have echoed similar sentiments, previous research on sexual assaults and legal dispositions fail to adequately consider evidentiary factors. Several studies (Felson & Pare, 2007; Phillips & Varano, 2008; Scott & Beaman, 2004; Tellis & Spohn, 2008) only include one direct measure of evidence: victim injury. Other scholars include indirect measures of evidence. For example, Bouffard (2000) considered the influence of a completed sexual assault exam on several types of felony sexual assault case closures, but he did not consider the nature of evidence collected (if any) from the exams. Research including other measures of evidence such as physical or forensic evidence (Beichner & Spohn, 2005; Campbell, Patterson, Bybee, & Dworkin, 2009; DuMont & Myhr, 2000; Horney & Spohn, 1996; Spears & Spohn, 1997) and witnesses (Beichner & Spohn, 2005; DuMont & Myhr, 2000; Kingsnorth, Lopez, Wentworth, & Cummings, 1998; Spears & Spohn, 1997) are also limited because the

measures do not reflect the quality, quantity, and other contextual aspects of evidence in sexual assault case processing decisions.

Summary

Over the past several decades, practitioner and academic interest regarding sexual assault has grown considerably. Despite the aforementioned limitations, the existing research has been instrumental in illustrating the influence of a variety of victim, suspect, and incident characteristics on case outcomes. Many of the studies give credence to concerns that criminal justice practitioners rely on elements that are consistent with stereotypes of what constitutes real rapes and genuine victims.

The research also supports the influential role of legally relevant factors, particularly those that provide evidence that the crime was serious (e.g., use of force and victim injury) or that corroborate victim statements, when making sexual assault processing decisions. There is also an emerging literature that suggests forensic evidence is an important predictor of sexual assault case outcomes (Campbell et al., 2008; Littel, 2001). Several theoretical perspectives shed light on the influence of legal and extralegal factors in criminal justice decision-making, including feminist conflict theory, uncertainty avoidance theory, and the liberation hypothesis. In the next chapter, these perspectives are elaborated to provide a theoretical framework for understanding the key predictors of police and prosecutor decision making in sexual assault cases.

CHAPTER 3: THEORETICAL PERSPECTIVE

"Theory is not some kind of flight from reality…Theoretical work seeks to change the way we think about an issue and ultimately change the practical ways we deal with it."

David Garland (1990, p. 227)

Theories provide a foothold for sifting through and organizing phenomena; thus, attention to theoretical development is an important component underlying all academic disciplines (Kraska, 2004; Wallace, 1971). Of particular utility for sexual violence empirical scholarship is the concept of intersectionality, or the mutually constitutive relations among social identities (Zinn & Dill, 1996). First introduced by Crenshaw (1991), intersectionality theory is rooted in Black feminism (e.g., Collins, 1990) and critical race theory (e.g., McIntosh, 1990). It emerged as a critique of the feminist movement and its tendency to ignore the way which race came with additional oppressions that interacted with gendered ones, it is now considered more broadly as a roadmap to highlight the idea that social identities (e.g., race, gender, class, sexual orientation) interact to form qualitatively different meanings and lived experiences (Warner, 2008). In other words, identities to various social groups to which a person belongs interact with each other to create specific manifestations that cannot be explained by each individual social group alone (Carbado, Crenshaw, Mays, & Tomlinson, 2013).

Also central to intersectionality theory is that identities are couched within status and power relations that are informed by institutional, political, and societal structures (Stewart & McDermott, 2004). Social identities are not static – they are constantly changing and being negotiated through a person's social life experiences (Diamond & Butterworth, 2008). And, as noted by Warner (2008), the orientation of identities within

the social structure requires consideration of the historical, cultural, and developmental contexts (see also Cole, 2008; Crenshaw, 1994; Diamond & Butterworth, 2008). These contexts are particularly salient to understanding how colonialism continues to impact American Indian and Alaska Native communities. In the context of sexual violence (or gendered-based violence more generally), intersectionality theory draws attention to the way that various identities shape victimization experiences, the victim's response, and the response to sexual violence from other societal groups and institutions.

With the theoretical framework of intersectionality as a backdrop, this dissertation draws upon three additional and more specific theoretical perspectives to examine decision-making across two domains of the criminal justice system: Feminist-conflict and uncertainty avoidance theories as well as the liberation hypothesis. Each is discussed, in turn, below, before turning to the specific hypothesis driving this research.

Feminist-Conflict Theory

Feminist-conflict theory is situated within the critical paradigm – a perspective that focuses on analyzing state behavior, including how the government defines crime and the administration of criminal justice (Duffee, 1980). Conflict theorists emphasize the role of legal institutions in maintaining and perpetuating a social stratification system by promoting the interests of the privileged (Chambliss & Seidman, 1971; Turk, 1969). Feminists (e.g. Brownmiller, 1975; Burt, 1980) adopted the basic premise of conflict theory to direct attention to the effects gender roles within a patriarchal society have on (1) how the state defines crime, and (2) how women are treated by the criminal justice system as victims and offenders (Brownmiller, 1975; Burt, 1980; Caulfield & Wonders,

1994). Specific to sexual assaults, the feminist-conflict theory emphasizes the influence rape myths have on case processing decisions.

Rape Myths

In a seminal study where the first rape myth inventory was created, Burt (1980) defined rape myths as "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists" that create an environment hostile to rape victims (Burt, 1980 p. 217). Lonsway and Fitzgerald (1994) expanded this definition to "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" (p. 134). In a more recent definition incorporating both the content and function of rape myths, Gerger, Kley, Bohner, and Siebler (2007, p. 425) define rape myths as "descriptive or prescriptive beliefs about sexual aggression (i.e. about its scope, causes, context, and consequences) that serve to deny, downplay, or justify sexually aggressive behavior that men commit against women."

The origin of rape myths stems from the historical subjugation of women and the conventional sex-role socialization in a gender-stratified and patriarchal society (Bevacqua, 2000; Orcutt & Figaro, 1988). The socio-cultural construct of rape myths first appeared in the late 1970s from the work of feminist scholars who described a "complex set of cultural beliefs thought to support and perpetuate male sexual violence toward women" (Payne, Lonsway, & Fitzgerald, 1999, p. 27). Table 3-1 summarizes some common rape myths (Bevacqua, 2000; Costin, 1985; LaFree, 1981; Stewart, Dobbin, & Gatowski, 1996). These myths involve beliefs surrounding the circumstances, situations, and characteristics of the victims and perpetrators of sexual assaults.

[Insert Table 3-1 About Here]

Rape myths demean victims of rape, "only bad girls get raped"; blame victims for their own assault, "if she did not want sex she should not have gone to his room"; absolve perpetrators of guilt, "if a man is sexually excited he can get carried away"; and question whether the victim truly did not want to engage in sex with the perpetrator, "any healthy woman can resist a rapist." The acceptance of rape myths influences how a person defines rape and, unfortunately, these scripts support a very narrow definition of rape, "a woman cannot be raped without a weapon" and "rapists are almost always strangers to their victims." Although these myths are inconsistent with the realities of sexual assault, rape myths remain widely accepted across many segments of the population including adolescents (Marciniak, 1998); college students (Best, Dansky & Kilpatrick, 1992; Giacopassi & Dull, 1986; Johnson, Kuck & Schander, 1997); and professionals (Costin, 1985; Sheldon & Parent, 2002), including criminal justice practitioners (LaFree, 1981; Patterson, 2010; Rose & Randall, 1982; Schuller & Stewart, 2000; Stewart, Dobbin & Gatowski, 1996).

The major premise of the feminist-conflict theory is that criminal justice practitioners (e.g. police, prosecutors, and judges) and participants (e.g. juries) respond to rape complaints in accordance to gender schemes and cultural conceptions of rape (Bryden & Lengnick, 1997; Kelly, Lovett, & Regan, 2005). Gender schemes set the boundaries of what is considered to be appropriate and inappropriate behavior for women and, consequently, genuine victims. Criminal justice officials and participants systematically overlook victims who engage in what is considered inappropriate or risk-taking behaviors and lack of promptness of filing a report. Therefore, the law is an

institutional arrangement that reinforces gender roles by denying justice to victims who do not conform to traditional behaviors. This reliance on legally irrelevant characteristics shifts the focus from the behavior of the offender to the behavior of the victim and results in victim blaming. It also introduces an important theoretical question regarding the role of stereotypes in criminal justice decision-making, which can be better understood through broader theoretical perspectives about schematic information processing and the role of uncertainty, including uncertainty avoidance theory and the liberation hypothesis.

Uncertainty Avoidance Theory

Uncertainty avoidance, first outlined by Albonetti (1984), highlights the influential roles of uncertainty and discretion in the decision-making process of criminal justice officials. It is grounded in the scholarly works of organizational (Simon, 1957; Thompson, 1976) and causal attribution (Hawkins, 1981; Shaver, 1975) theories. According to Albonetti (1991, pg. 248), "the salience of these two theoretical perspectives…lies in each perspective's sensitivity to discretionary use of information in decision making." Simon (1957), for example, contends that criminal justice practitioners rarely have all the information needed to make fully rational decisions. They must make time-sensitive decisions based on information that is incomplete, open to interpretation, or contested. Moreover, practitioners are unable to unilaterally control the decisions made by the other actors involved in the criminal justice system (Thompson, 1976).

Since criminal justice practitioners cannot identify all the possible alternative courses of action and outcomes, they use a decision-making process characterized by *bounded rationality* in an attempt to avoid or reduce uncertainty. As Simon (1979, pg. 3) observed, "faced with complexity and uncertainty, lacking the wits to optimize, they

[human beings] must be content to satisfice – to find 'good enough' solutions to their problems and good enough courses of action." These satisfactory solutions are based on organizational arrangements, including standard operating procedures, formal channels of communication, professional training and indoctrination (Albonetti, 1984; Simon, 1979). Emerging from this process is a decision-making strategy grounded in routine choice (Albonetti, 1984; Simon, 1979).

Albonetti (1991, 1997) suggests that the decision-making schemas developed by criminal justice actors to help reduce uncertainty emerge through an attribution process influenced by social and cultural stereotypes (Albonetti 1984, 1986; Hawkins, 1981). In sexual assault cases, these stereotypes reflect myths about what constitutes real rape, credible or genuine victims, and culpable suspects (Bryden & Lengnick, 1997; Kelly, Lovett, & Regan, 2005). Overtime, these myths become routinized in decision-making schema predicated on the assumption that past successful practices will be successful again (Albonetti, 1984).

Broadening this approach, scholars (e.g. Beichner & Spohn, 2012; Franklin, 2010; Steffensmeier, Ulmer, & Cramer, 1998) contend that decision makers use specific attributions to manage uncertainty. As originally applied to judicial sentencing decisions, these focal concerns include: (1) defendant blameworthiness, viewed as the degree of the defendant's culpability and the degree of victim harm; (2) community protection, which involves the prediction of future dangerousness of the defendant, and; (3) social costs of the decisions, which includes organizational concerns and practical constraints (Steffensmeier et al., 1998; Ulmer & Johnson, 2004).

While these focal concerns were originally used to explain decisions made by judges, scholars have applied focal concerns to prosecutorial decision-making as well. Spohn and colleagues (2001) have suggested that the focal concerns of prosecutors are similar to the focal concerns of judges regarding offense severity, the offender's criminal history, and suspect culpability. They also posited that prosecutors consider practical constraints and consequences, however, the concerns for prosecutors are different. While judges have been more likely to focus on the strain on correctional facilities, incarceration costs, offender needs, and local political repercussions when making decisions (Steffensmeier et al., 1998), prosecutors have had little concern with the impact of sentences on offenders and society. Instead, prosecutors are concerned with convictability (Albonetti, 1987; Beichner & Spohn, 2005; Spohn et al., 2001). According to Frohmann (1997), this concern "creates a 'downstream orientation' in prosecutorial decision-making – that is, an anticipation and consideration of how others (i.e. jury and defense) will interpret and respond to a case" (p. 535).

Even though the empirical work has focused primarily on judicial and prosecutorial decisions, focal concerns can also be applied to police decision-making (Campbell et al., 2015; Crow & Adrion, 2011; Spohn et al., 2014). Police, similar to judges and prosecutors, are concerned with blameworthiness and community protection. Police are also concerned with the legitimacy of the complaint and the ability to identify, arrest, and successfully charge suspects. However, police are selective in forwarding cases for prosecution because of what Bernard, Paoline, and Pare (2005) refer to as "backward pressure." There is a progressive narrowing of the criminal justice capacity to process cases. This generates backward pressure across the system to discharge cases as

opposed to referring cases to the next stage for further processing. Since the police can make more arrests than the prosecutor can prosecute, prosecutors communicate their preferences for police to be selective in the cases forwarded for prosecution. This awareness restricts police decisions to forward cases that are unlikely to be prosecuted because it disrupts the working relationship between police and prosecutors. It also limits the number of arrests – even cases with identified suspects – because it requires additional resources that would be wasted on cases unlikely to be prosecuted. Illustrating this argument, Spohn and colleagues (2014) have suggested that police "view the decision to arrest as the first step in the process of securing a conviction in the case; as a result, they are reluctant to make arrests that are unlikely to lead to the filing of charges against the suspect" (p. 167). In addition, the decision-making outcomes of both police and prosecutors may depend on particular case characteristics. For instance, the liberation hypothesis suggests that the impact of victim and suspect characteristics may be conditioned by the nature of the assault.

Liberation Hypothesis

As noted by Albonetti (1987, p. 311), "uncertainty is significantly reduced with the introduction of certain legally relevant evidence." Kalven and Zeisel (1966) made a similar observation based on their research on jury behavior. They found that juries felt more "liberated" to follow their own opinions in deciding guilt or innocence under two conditions. First, the influence of extralegal factors will be most pronounced in cases with insufficient or inconclusive evidence. According to Kalven & Zeisel, 1966, p. 433) "…evidentiary ambiguity legitimates the importation of values, where the importation of values implies freedom to follow sentiment over evidence" (see also Reskin & Visher,

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1986). Thus, the liberation hypothesis suggests that the influence of rape myths and biases on case processing decisions will be conditional on evidentiary strength. More specifically, it is expected that the reliance on heuristics become less important for decision-making when there is strong evidence that a sexual assault occurred. Criminal justice practitioners and actors then suffer less from information constraints and are therefore less forced to fall back on stereotypes and perceptual shorthands.

Second, the influence of extralegal factors on case outcomes should be stronger when crimes are considered less seriousness in nature. For sexual assault cases, crime seriousness is differentiated according to whether the alleged assault conforms to the stereotypes of real rapes and genuine victims (Bryden & Lengnick, 1997; Estrich, 1987; Frohmann, 1991; Kalven & Zeisel, 1966; Kerstetter, 1990). Sexual assaults are considered serious when the victim, suspect, and case characteristics align with the traditional image of sexual assault; in other words, those assaults that involve an unprovoked attack by a stranger with a weapon and results in injuries to the victim. Estrich (1987) labeled these types of cases as "real rape." Because these cases meet the essential features of the stereotypes of real rapes and genuine victims, there is no reason for criminal justice officials to question the seriousness of the allegation (Estrich, 1987; Kersteter, 1990; LaFree, 1989).

In contrast, "simple rapes" are sexual assaults in which there is a prior relationship between the victim and offender, no weapon, and no victim injury (Beichner & Spohn, 2012; Bryden & Lengnick, 1997; Estrich, 1987; Kerstetter, 1990; Kingsnorth et al. 1999). Because these cases do not have any of the aggravating features present in real rape cases, criminal justice officials do not consider these cases as serious (Estrich, 1987;

Kalven & Zeigel, 1966). In simple rape cases, criminal justice officials are faced with

uncertainty because the allegations conflict with their "repertoire of knowledge" about

the nature of sexual assault incidents (Estrich, 1987; Frohmann, 1991; Spohn & Holleran,

2001). Thus, although there is no legal distinction between stranger and acquaintance

sexual assaults, there are substantive differences that translate to different responses from

criminal justice officials and participants.

Drawing from the feminist-conflict theory, uncertainty avoidance theory, and

liberation hypothesis, I outline a number of hypotheses regarding the influence of legally

relevant and extralegal factors on sexual assault case processing outcomes. Table 3-2

summarizes these theoretical predictors that are elaborated in greater detail below.

[Insert Table 3-2 About Here]

Hypotheses

Consistent with the uncertainty avoidance theory, the research on police and

prosecutorial decision-making reveals that decisions are strongly influenced by legally

relevant factors including the seriousness of the offense and evidentiary strength, for

example whether the offender used a weapon or physical force during the assault, the

number of victim injuries, and the collection of forensic evidence (Campbell et al., 2008;

Frazier & Haney, 1996; Kingsnorth, MacIntosh, & Wentworth, 1999; Spohn & Holleran,

2001; Spohn & Tellis, 2014). Therefore:

H_a1: Offenders who use physical force or have a weapon during the commission

of the sexual assault will be more likely than similarly situated suspects that

did not use a weapon or physical force to have their cases referred and

accepted for prosecution.

H_a2:   As the number of victim injuries increases, the likelihood of case referral

and acceptance will also increase compared to similarly situated cases with

fewer victim injuries.

H_a3:   The collection of forensic evidence during the SANE exam will increase the

likelihood of case referral and prosecutorial acceptance.

Organizational characteristics and cognitive processing limitations result in a

significant amount of uncertainty in criminal justice actors' domain of responsibilities. To

manage this uncertainty, they rely on what has been successful in the past, resulting in

patterned responses to crime typifications, or "normal crimes" (Sudnow, 1965). These

stereotypes include "…knowledge of the typical manner in which offenses of given

classes are committed, the social characteristics of the persons who regularly commit

them, the features of the settings in which they occur, the types of victims often involved

and the like" (Sudnow, 1965, pg. 259). As outlined by the feminist-conflict theory, sexual

assault stereotypes are grounded in cultural conceptions of rape (Bryden & Lengnick,

1997; Kelly, Lovett, & Regan, 2005), including the race of the victim and suspect

(Kerstetter, 1990; Tellis & Spohn, 2001). The adherence to these myths affects the way

individuals, including criminal justice officials, evaluate and respond to sexual assault

allegations. For this research, of particular interest is the impact of stereotypes tied to the

AI/AN population. As previously noted, this population is characterized by high rates of

sexual violence, alcoholism, and poverty. Coupled with the assertion by conflict theorists

that more powerless groups will be devalued in the criminal justice system, I predict the

following:

H$_a$4: White victims will be more likely than similarly situated Alaska Native

victims to have their cases referred for prosecution and accepted.

Moreover, LaFree (1980b, p. 852) claimed "American society is characterized by

a…system which imposes more serious sanctions on men from less powerful groups who

are accused of assaulting women from more powerful social groups." To the extent that

relationships are still defined by race-specific rules of sexual access, there is an implicit

ordering of official reactions to sexual assault by race. Cases involving White women and

minority men will stay in the criminal justice system longest, followed by the assault of

White women by White men, minority women by minority men, and, finally, minority

women by White men (Kerstetter, 1990; Kingsnorth, Lopez, Wentworth, & Cummings,

1998; LaFree, 1989; Tellis & Spohn, 2008). Therefore I expect the following:

H$_a$5: Sexual assault cases involving White victims and Alaska Native perpetrators

will be most likely to be referred and accepted for prosecution.

The majority of the sexual assault stereotypes shift the focus from the actions of

the perpetrator to the behaviors of the victim. Both risk-taking behaviors, conduct by the

victim prior to or during the victimization that "contribute to her sexual violation"

(Jordan, 2004; p. 38) and negative moral character, "perceived immorality of the

complainant" (Jordan, 2004; p. 40) are correlated with victim credibility and the attrition

of sexual assault cases. For example, victim intoxication prior to an assault has been

found to reduce the likelihood of arrest (Jordan, 2004; Schuller & Stewart, 2000),

prosecution (Beichner & Spohn, 2012; Kerstetter, 1990; Taslitz, 1999), and diminish

suspect culpability (Schuller & Stewart, 2000). Victims who invited their perpetrator into

their residence, or willingly accompanied the perpetrator to his residence prior to the

assault have been viewed as risk-takers or less credible (Jordan, 2004). Victim-suspect relationship has also been found to be an important predictor of sexual assault case outcomes (e.g. Beichner & Spohn, 2012; Estrich, 1987; Horney & Spohn, 1996), as well as crimes more generally (e.g., Black, 1976; Gottfredson &Gottfredson, 1988). The post coital interval PCI – or the time between the assault and reporting – has also been linked to case attrition (Jordan, 2004; Kerstetter, 1990; Spohn & Tellis, 2013). Therefore, I predict the following:

H_a6: Victims who are intoxicated near the time of the assault will be less likely than similarly situated non-intoxicated victims to have their cases referred and accepted for prosecution.

H_a7: Sexual assaults that occur in either the victim's or perpetrator's residence will be less likely[5] than sexual assault cases that occur elsewhere to result in case referral and acceptance.

H_a8: Victims who are assaulted by strangers will be more likely to have their case referred and accepted for prosecution than similarly situated victims assaulted by non-strangers.

H_a9: Cases with a longer post coital interval will be less likely to be referred and accepted for prosecution than similarly situated cases with a shorter post coital interval.

Conditional Effects

The liberation hypothesis suggests that the reliance on heuristics for case processing decisions is not consistent across all cases of sexual assaults. Their effects are

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[5] A two-tailed relationship is also plausible; sexual assaults might be more likely to result in case referral and acceptance because of the invasion of privacy and the disruption of the sanctity of the home.

conditioned by the nature of the case; more specifically, heuristics should be less influential in more serious cases. One measure of case seriousness is whether the offender used physical force or a weapon during the offense (Beichner & Spohn, 2005; Bouffard, 2000). Another important consideration, particularly in sexual assault cases, is the victim-offender relationship. Estrich (1987, p. 28-29) maintains that criminal justice officials differentiate between the "aggravated, jump-from-the-bushes stranger rapes and the simple cases of unarmed rape by friends, neighbors, and acquaintances" (see also, Beichner & Spohn, 2012; Bryden & Lengnick, 1997; Estrich, 1987; Kerstetter, 1990; Kingsnorth et al., 1999). Thus, the influence of rape myths, biases, and other extralegal characteristics on sexual assault case outcomes may be limited to sexual assaults where there is a prior victim-offender relationship or no weapon or physical force was used during the offense. The final two hypotheses therefore suggest the following:

H_a10: The influence of extralegal characteristics on the referral and acceptance decisions will be confined to non-stranger cases.

H_a11: The effects of extralegal characteristics will be confined to cases without physical force or weapon use.

Summary

The feminist conflict theory, uncertainty avoidance theory, and the liberation hypothesis are useful theoretical perspectives for understanding case processing outcomes in sexual assault cases. Central to the feminist conflict theory is the proposition that myths about sexual violence affect the judgments of those involved at each stage of the criminal justice process. These myths are not only descriptive, specifying the

characteristics of a typical rape, but prescriptive in that they define the criteria a case must meet in order to be qualified as a sexual assault.

The uncertainty avoidance theory provides insight into the role of stereotypes in criminal justice decision-making by emphasizing the reliance on heuristics, or 'perceptual shorthand' based on what has been successful in the past, to reduce uncertainty. This perceptual shorthand can be a combination of legally relevant and extralegal factors that reflect stereotypes and myths about what constitutes real rape, credible victims, and culpable suspects. But as suggested by the liberation hypothesis, the impact of extralegal factors may be conditioned by the relative severity of the assault. The current study integrates these perspectives to study the influence of legally relevant and extralegal factors on the police referral decision and the prosecutorial decision to accept referred cases. These relationships are examined empirically, but first the data, method and analytical approach are further elaborated in Chapter Four.

CHAPTER 4: DATA AND METHODS

Overall, this dissertation seeks to better understand the factors that affect police and prosecutor decision-making in sexual assault cases. As outlined in Chapter Three, hypotheses rooted in feminist-conflict, uncertainty avoidance, and liberation perspectives suggest both legally relevant and extralegal factors are influential in predicting sexual assault case outcomes. This chapter describes the data and methods that are used to empirically test these hypotheses. The chapter begins with an overview of the research context followed by a description of the data sources the sample, and a discussion of the specific measures used for the dependent and independent variables in the analyses. The chapter concludes with a description of the analytical procedures.

The Research Context

The data used in this study are drawn from sexual assaults that occurred in Alaska, and consequently, a large majority of the sample is Alaska Native. Alaska is the largest state in the United States by area (and larger than most countries), but it is also the least densely populated state, and one of the most sparsely populated areas in the world – with only 1.2 inhabitants per square mile[6] (Census Bureau, 2000). It's capital, Juneau, as well as many other towns and villages, are not accessible by car. Transportation in and out of these towns requires access to a boat, plane, or most often, a seaplane. The extreme winter weather, coupled with the duration of the winter season makes travel into and out of these areas precarious, at best, and sometimes not possible.

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[6] By comparison, Wyoming – the second least densely populated state – has 5.8 inhabitants per square mile. New Jersey is the most densely populated state – with 1,210.1 inhabitants per square mile.

Alaska's population is primarily Caucasian (68%), followed by 15% American Indian and Alaska Native, 5% Asian, 3% African American, and 7% two or more races (Census Bureau, 2000). Although English is the dominant spoken language, there are at least 20 documented Alaska Native languages spoken throughout the state, but primarily in smaller villages and towns. According to the Department of the Interior (2005), American Indian and Alaska Natives are the poorest of all minority groups – it is not uncommon for Alaska villages to have unemployment rates as high as 80%. AI/AN communities are also characterized by high rates of alcoholism and substance abuse, substandard education, and high suicide rates (Bachman et al., 2008). These social ills are particularly acute in rural villages and towns. (Department of the Interior, 2005, Wood, 2001).

Alaska does not have counties, and by extension, does not have county police or sheriffs. The Alaska State Troopers (AST) is the state police agency and they are responsible for traffic and criminal law enforcement as well as game/wildlife enforcement, handle civil papers and mental health custody orders. Alaska troopers are the most geographically extended peace officers aside from federal officers in the USA. They have little, if any local backup; within the entire State of Alaska, only about 1,300 full-time sworn law enforcement officers patrol a state 1/5th the size of the entire lower-48 (Wood, 2001). The large geographical area, coupled with dangerous terrain and the uncertainties of weather and transportation, the response time for Alaska State Troopers to respond to calls for service can range from minutes to weeks. Thus, many rural Alaskan communities[7] rely heavily on Village Public Safety Officers (VPSOs) for public

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[7] At least 75 Alaska Villages do not have a law enforcement presence.

safety services (Wakeling, Jorgensen, Michaelson, & Begay, 2001). VPSOs receive 15 hours of police training, but they are not sworn officers, and until recently[8], did not carry firearms. As first responders, VPSOs are responsible for deescalating volatile situations and preserving crime scenes until State Troopers arrive (Wood, 2001).

The geographical and personnel challenges faced by Alaska State Troopers are even more acute in light of the crime and justice issues facing many Alaska Native communities. Alaska has one of the highest violent crime rates in the U.S., at 603 violent crimes per 100,000 compared to a national average of 389 (FBI, 2012). This includes nearly 80 rapes per 100,000 residents compared to a national average of 27. Although American Indians and Alaska Natives comprise 15% of the Alaska population, they make up 61% of sexual assault victims (Rosáy, 2008).

Scholars have suggested that historical trauma may play a role in the high crime rates in AI/AN communities. Over successive generations, American Indian and Alaska Native people have endured chronic historical trauma, defined as "a collective complex trauma inflicted on a group of people who share a specific group identity or affiliation" (Evans-Campbell, 2008, p. 320). In AI/AN communities, historical traumatic events include the forcible removal of AI/AN youth from their families to attend boarding school, the prohibition of spiritual and cultural practices, radioactive dumping on Native grounds, the introduction of disease into their communities, community massacres and forced relocation (Evans-Campbell, 2008; Watkins, 2013). As argued by Evans-Campbell (2008), contemporary traumas such as ongoing racism and discrimination perpetuate colonialism, and these stresses build and exacerbate previously existing trauma. For these

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[8] In 2014, the Alaska legislature authorized arming VPSOs in response to several violent assaults, shootings and two deaths of VPSOs.

reasons, it is important to study violence in AI/AN communities with the recognition that there are unique dynamics underlying the violence among this population that does not exist with other minority groups. With this backdrop in mind, I now turn to the data sources used for this study.

Data Sources

This study used secondary, archival data obtained from two sources.[9] The medical data were collected on-site at the Department of Health and Human Services (hereafter referred to as DHHS data). The independent variables for the current research were derived from the DHHS data. All legal outcome data were collected on-site at the Alaska Department of Law (hereafter referred to as DOL). Each data source, and how they were linked, is described in greater detail below.

DHHS Data

These data describe all sexual assault nurse examinations conducted in Alaska from 1996 – 2006. During this time period, SANEs were located in the following jurisdictions: Anchorage, Bethel, Dillingham, Fairbanks, Homer, Kodiak, Kotzebue, Nome, and Soldotna. With the exception of Dillingham, all sites participated in the study, albeit different years. Anchorage participated from 1996 to 2004; Bethel and Fairbanks participated during the years 2005 and 2006; and Homer, Kodiak, Kotzebue, Nome, and Soldotna participated in 2005. A total of 1,699 examinations were collected with the majority (81%) from Anchorage (see Table 4-1).

[Insert Table 4-1 About Here]

An extensive array of information was collected to capture sexual assault characteristics, as observed and documented by sexual assault nurse examiners, and reported by the victims. This includes victim and suspect demographic characteristics; pre-assault, assault, and post-assault characteristics; and detailed results of the forensic examination. The wealth of medical and forensic information is not available from police or court archival records. Thus, these data are a fruitful source to draw from in order to provide a thorough analysis of sexual assaults reported to law enforcement.

DOL Data

The second data source – the Alaska Department of Law (DOL) – provided information on legal resolutions for the cases identified in the DHHS data. In Alaska victims must file a police report prior to receiving a medical exam thereby making it possible to link the DHHS data to the DOL data through a unique law enforcement case number. These case numbers were used to determine if cases were referred for prosecution and if the Alaska Department of Law accepted the cases for prosecution.

There were a number of data restrictions that precluded the ability to collect legal outcomes for all 1,699 medical exams included in the DHHS dataset. Exams prior to 1999 were excluded because legal outcome data were not available in electronic form. Medical exams conducted in 2006 were also excluded because outcome data were not yet available at the time of the DOL data collection. Cases were also excluded if they were referred from the military or had unknown law enforcement case numbers. With these restrictions, 470 cases (28%) were excluded from the DOL data collection efforts. The remaining 1,229 (72%) DHHS cases were linked to the DOL data. These data will be

used in the multivariate analyses exploring case referral and the initial decision to prosecution outcomes.

For this dissertation, I linked additional detailed information for a subset of available cases. Information for each individual charge, including details of the statute of the charge, charge modifier, description of the charge, class of the charge, disposition code, and reason code was collected. Thus, these data provided a rare opportunity for supplementary descriptive analyses regarding prosecutorial formal decision-making processes and the formal reasons for charge dispositions. The detailed legal resolution data were only collected for a subset of the 1,229 cases. In particular, detailed resolution data were collected from Anchorage cases from 1999 to 2004. There were 689 cases that were included in the sample for the detailed resolution outcome data collection. However, I was only able to link 638 (93%) of the cases. The remaining 51 cases (7%) were missing the detailed resolution data. These detailed resolution data were used for descriptive analyses of police and prosecutorial charging decisions and to provide additional insight into the formal reasons given by prosecutors for case dispositions.

Analytic Sample

Of the 1,299 cases with legal outcomes, only 1,019 (78%) cases were included in the sample for the multivariate analyses (see Figure 4-1). Charging decisions for cases involving male victims may differ from cases involving female victims. Because only 28 cases involved male victims, an analysis exploring this issue was not possible; therefore, cases with male victims were excluded from all analyses. Additionally, cases involving more than one suspect (n = 121) or missing suspect information (n = 61) were also

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excluded to avoid instances involving suspects of different races or different relationships to the victim.[10] These exclusions result in a final analytical sample size of 1,019[11] cases.

[Insert Figure 4-1 About Here]

Measures

Dependent Variables

Just as police are considered the "gatekeepers of the criminal justice system," prosecutors "control the doors to the courthouses" (Neubauer, 1988). Although case attrition is at its highest at the police stage, prosecutors regularly use their discretion to discontinue cases as well. Thus, the two outcomes of interest for the multivariate analyses are: (1) the police referral decision and (2) the decision to accept a case for prosecution.

Referred is a dichotomous variable with 1 indicating the police referred the case and 0 if they did not. At this stage, the investigator files preliminary charges and refers the case to the DOL for prosecution.[12] This is the first stage at which prosecutors officially become aware of the case.

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[10] There were some differences in variables of interest between the analytical sample and the excluded cases. Although the two groups did not differ significantly in whether victims had injuries, victims in the excluded cases had less severe injuries (t = -3.96 p = .000) and were less likely to have forensic evidence collected during the medical exam (z = -2.77 p = .003). Victims in the excluded cases were also less likely to have been intoxicated around the time of the assault (z = -2.57 p = .005) and less likely to be assaulted in their residence or the residence of the suspect (z = .4.70 p = .000). Perhaps this partially explains why victims in the excluded cases were also less likely to have been assaulted by a spouse (z = -3.21 p = .001) as well as a relative (z = -4.72 p = .000). Overall, the victims in the excluded cases were younger (z = -2.71 p = .007), but upon further testing of each age category, the only significant difference in proportion was for the victims' age 45 and older. There were significantly fewer victims representing this age bracket in the excluded cases.

[11] The sample of 1,019 cases reported to the police is reduced to an analytic sample of n=943 for the main effects and n=937 for the joint effects due to missing data on necessary covariates.

[12] In the current jurisdictions, the decision to make an arrest and the decision to refer a case for prosecution are one and the same. If a suspect is arrested, then the case is necessarily referred for prosecution. Conversely, if there was no referral, then there was no arrest made in the case. When police decide to make an arrest they are committing to forward the case for prosecution. Clearly, there are extraneous factors other than police discretion that affect whether or not a case results in an arrest, which is discussed in more detail in subsequent chapters.

Accepted is a dichotomous variable with 1 indicating the prosecutor accepted the referred case and 0 if the prosecutor declined to prosecute the referred case. At this stage, prosecutors formally agree to pursue criminal prosecution.[13]

Independent Variables

The independent variables for the multivariate analyses were drawn from the victims' medical examinations. They were selected for inclusion in this study based on their empirical and theoretical relevance. The legally relevant variables include suspect use of physical force or weapon during the assault, the number of victim injuries, and forensic evidence. The extralegal variables include victim race, victim-suspect racial dyad, victim intoxication, assault location, and victim-suspect relationship.

Suspect use of *Force* during the assault is captured with a dichotomous variable. It is coded as "1" if the suspect had a weapon during the assault or used physical tactics[14] including physical blows by the suspect's hands/feet, grabbing, grasping, holding, manual strangulation, or physical restraints (e.g. sitting on victim). If force was not used it was coded as "0."

Victim *Injury* is measured with a continuous variable reflecting the summation of victim anogenital[15] and non-genital injuries sustained during the assault and documented by the sexual assault nurse examiner. There were six types of anogenital injuries

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[13] This variable captures only the initial charging decision. It is possible for prosecutors to later dismiss or otherwise dispose of a case without it resulting in a conviction. Preliminary analyses investigated conviction as an additional, distinct outcome, but limited variation and small sample sizes precluded its inclusion in the final models reported.

[14] Physical Force and Weapon were initially considered separately, but ultimately combined because of the low number of reported cases that involved a weapon (n = 59, or 6% of the sample). Accounting for attrition at each outcome of interest, 23 cases that involved a weapon resulted in an arrest and only 21 were prosecuted. Bivariate analyses also revealed that both variables were positively correlated with the outcomes and each other.

[15] Anogenital is defined as "of, relating to, or involving the genital organs and anus."

(bruising, redness, abrasion, laceration, swelling and tenderness) to 15 locations (mons

pubis, labia majora, labia minora, labia majora/minora unction, clitoral hood, clitoris,

periurethra, hymen, fossa naviculari, posterior fourchette, perineum, vaginal walks,

cervix, anus, and rectum) for a total of 90 possible anogenital injuries. There were nine

types of nongenital injuries (bruising, redness, abrasion, laceration, swelling, fracture,

bite mark, pain, and other) to 12 locations (head/face, mouth, neck, shoulders, arms,

hands, chest, abdomen, back, buttocks/hips, legs, and feet) for a total of 108 possible

nongenital injuries. In total, Injury captures 198 different possible victim injuries

sustained during the sexual assault. Because the injury variable was positively skewed, it

was initially log-transformed.[16] Supplemental comparisons of the logged and unlogged

measure produced no meaningful differences in substantive findings, so the unlogged

measure is reported in all analyses.

Forensic Evidence is coded as a dichotomous variable where "1" indicates the

presence of bodily fluids, such as sweat, saliva, urine, and semen was collected during the

medical exam and "0" if it was not detected. In addition to looking for traces of bodily

fluids around the anogential area, SANEs also look on the victim's abdomen, arms/hands,

legs/feet, hips, chest, neck, back, and face.

Victim and suspect race variables are coded into three dichotomous variables –

White (reference category), Alaska *Native*, and *Other* (including African American,

Pacific Islander, and Asian).[17] Victim and suspect race is also combined to create the

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[16] The logged injury variable was examined using three different log transformations: logged sum plus .1; logged sum plus .5; logged sum plus 1.

[17] These races were collapsed into the "other" category for two reasons. First, the hypotheses outlined in Chapter 3 focuses on the influence of Alaska Native and White races/ethnicities. Second, a small percentage of victims (9%) and suspects (27%) identified as African American, Pacific Island, or Asian.

following dichotomous victim-suspect race dyad variables: *White/White* (reference category), *White/Native*, *Native/White*, and *Native/Native*. Each race and racial dyad variable is coded in standard binary fashion; for example, the victim *White* variable is coded as "1" for victims who are white and "0" for victims who are non-white.

Victim *Intoxication* is measured with a dichotomous variable coded as "1" if the victim self-reported consuming alcohol or drugs around the time of the sexual assault and "0" if she did not consume alcohol or drugs around the time of the assault. The victim-suspect relationship is measured with several dichotomous variables, all coded as "1" in the affirmative and "0" otherwise: *Stranger* (reference category); *Relative*; *Friend*, which includes acquaintances; and intimate *Partner*, which includes current or former dating partners or spouses.

Post coital interval (PCI) – the time between the sexual assault and the victim's medical exam – is captured with the ordinal variable, *PCI*, with the following categories: "less than 2 hours," "2 to < 4 hours," "4 to < 12 hours," "1 < 3 days," "3 days or more." Lastly, *Residence* refers to the location of the assault. It is a dichotomous variable coded as "1" if the assault occurred in either the victim's or suspect's residence and "0" otherwise.

Control Variables

For the multivariate analyses, I control for victim age and jurisdiction. *Age* is the victim's age at the time of the medical exam. Since the medical exam occurred within a few days, at most, from the assault, this variable is a reasonable proxy of victim age at the time of the sexual assault. It is ordinal with the following age brackets: "17 or younger," "18 to 24," "25 to 34," "35 to 44," and "45 and older." Also, because the data were

collected from several jurisdictions throughout Alaska, I controlled for unmeasured

jurisdictional differences. The majority of the cases originated in *Anchorage*, coded as

"1;" cases examined elsewhere (Fairbanks, Bethel, Kotzebue, Nome, Soldotna, Homer, or

Kodiak) were coded as "0." Anchorage is compared to all other jurisdictions because the

majority of cases (57%) came from this location.

Analytical Strategy

The analytical strategies undertaken to address the hypotheses presented in

Chapter Three include both descriptive and multivariate analyses. First, I present

summary descriptive information on the analytic sample, followed by a discussion about

the multivariate analyses for the two case processing outcomes considered in this study:

referral and prosecution. Lastly, I preliminarily explore descriptive information about the

additional detailed charging data. These strategies are discussed in turn below.

Descriptive Analyses for Full Analytic Sample

The descriptive analyses included the examination of case attrition and case

characteristics. One of the realities of sexual assault reports is that very few cases result

in an arrest, and even fewer cases are prosecuted. In some cases, the suspect is not

identified. In cases with an identified suspect, the police do not always make an arrest.

Even when an arrest is made, the prosecutor will not necessarily file charges, or can

dismiss charges or the case at a later time. These patterns are common in all types of

criminal cases, but scholars and advocates have argued attrition is particularly

pronounced in sexual assault cases – especially in cases in which the victim and the

suspect are acquaintances or intimate partners (Estrich, 1987; Kelly, Lovett, & Regan,

2005; Pattavina, Morabito, & Williams, 2016). By mapping case trajectories, I document

where in the process attrition was most likely to occur. I also provide a more complete picture of case outcomes by describing key features of the victims, suspects, and case characteristics. These analyses, which include frequency distributions, t-and z-tests, and chi-square analyses, afford valuable insight into the compositional changes of the sample across stages of case referral and prosecution. They also provide valuable information related to the nature of different types of sexual assaults, such as differences between assaults that involve force and those that do not. These descriptive findings are presented and discussed in Chapter Five.

Multivariate Analyses for Case Processing Decisions

The multivariate model estimation technique that is used to investigate the relationship between victim, suspect, and cases characteristics and sexual assault case outcomes is binary logistic regression. Binary logistic regression is the appropriate statistical technique to utilize because the dependent variables in these analyses, arrest and prosecution, are dichotomous – cases either resulted in a referral and prosecution or they did not. Applying the linear probability model (i.e. ordinary least squares) to a dichotomous outcome inherently violates several assumptions of linear regression modeling. There would be problems with heteroskedasticity, non-normal error terms, and functional form (Long, 1997). Additionally, the linear probability model would predict outcomes that are negative or greater than one; such values are nonsensical with binary dependent variables. Logistic regression linearizes the relationship between dichotomous dependent variables and predictor variables via estimating the log odds of a discrete event occurring.

Tables presenting the results of the regression models estimated for this dissertation are discussed in terms of odds ratios, which represent the change in the log odds of case referral or case acceptance for each unit increase in the independent variable of interest. Separate analyses are conducted examining whether or not a case results in a referral (reported in Chapter Six), and whether or not a case, once referred, is accepted for prosecution (reported in Chapter Seven). The prosecution outcome is estimated for both unconditional and conditional samples. The unconditional sample includes all cases (n=1,019) and can be helpful for investigating potential selection biases that may arise when only selected subsets of information are analyzed (Berk, 1983). The conditional sample is restricted to only those cases referred for prosecution (n=315), and is useful for better isolating the role that prosecutorial discretion plays in charging outcomes. These findings are also detailed in Chapter Seven. For the regression analyses, I report and interpret marginally significant effects ($p<.10$) because the small sample sizes in the conditional models results in limited statistical power to detect significant relationships.

Exploratory Descriptive Analyses of Charging Decisions

One unique aspect of the current data is the detailed documentation regarding prosecutorial decision-making for a subset of the cases included in the regression analyses. For each charge, information was collected at two stages: police referral and the initial decision to prosecute. At each of these stages, the statutory charge, the charge modifiers, disposition code, and reason codes were collected. The disposition and reason codes indicate what happened to a charge at a particular decision point and why that disposition was deemed appropriate at the time (see Appendix B for a full list of disposition and reason codes). Since the prosecutors attach disposition and reason codes

to the charges, they offer insight into the decision-making processes of prosecutors and indicate the formal reasons for charge dispositions. Also, because police make the initial charging decisions at the time of the case referral, the data provided an opportunity to assess the extent of agreement between police and prosecutors' charging decisions.

Importantly, unlike the case-level descriptive and multivariate analyses presented in Chapters Five, Six, and Seven, the supplemental descriptive analyses of charging decisions – presented in Chapter Eight – are at the charge-level and are more exploratory in nature. From arrest to prosecution, there is often movement of both the number and types of charges within a case. Law enforcement may attach many charges to the arrest affidavit, but upon review of the case, prosecutors agree to move forward on a subset of the arrest charges (i.e., the number of prosecuted charges is less than the number of charges at arrest). Similarly, it is possible that prosecutors believe additional charges are warranted (i.e., they add charges that were not present at arrest). These types of changes are explored in greater detail in the final analytic chapter.

Summary

This chapter provided a detailed outline of the data and methods used to examine the relationship between sexual assault case processing decisions and victim, suspect, and case characteristics. By examining case progression across two stages of the legal process, the current study explicates if, and how, legally relevant factors (i.e. suspect use of physical force or weapon during the assault, number of victim injuries, and the presence of forensic evidence) and extralegal factors (victim race, victim-suspect race dyad, victim intoxication, victim-suspect relationship and assault location) influence police referral and prosecutorial acceptance decisions. These analyses include detailed

forensic evidence and explore how Alaska Native victims and suspects are treated by

criminal justice personnel; factors that have not received much empirical attention despite

strong theoretical expectations about their importance.

CHAPTER 5: DESCRIPTIVE ANALYSES

Case attrition is common across all crimes reported to law enforcement, but advocates have argued attrition is particularly pronounced in sexual assault cases – especially when the victim does not conform to gendered stereotypes or when the circumstances of the sexual assault does not match rape myths (Estrich, 1987; Kelly, Lovett, & Regan, 2005; LaFree, 1989; Spohn & Holleran, 2001). This chapter addresses this observation by examining case attrition among 1,019 sexual assault cases reported to law enforcement in Alaska over a 10-year period. The analyses are primarily descriptive in nature. Frequency distributions illuminate the victim, suspect, and case characteristics of the sexual assault cases in this sample. Bivariate two-tailed t-and z-tests depict how the characteristics of reported cases contrast with cases that resulted in a referral and those cases that were accepted for prosecution.

Because an extensive literature on sexual assault (e.g., Estrich, 1987; Spohn & Tellis, 2014) suggests there may be important differences in the treatment of sexual assaults that do not conform to stereotypes of "real rapes," the sample is also partitioned by the nature of the assault. In particular, cases that involve suspect use of physical force or a weapon are compared to cases where no force was used. Sexual assaults perpetrated by strangers are also compared to assaults perpetrated by non-strangers. This provides additional insight into the ways that sexual assault cases are filtered through the criminal justice system. The descriptive analyses reported in this chapter provide a useful background that will inform the multivariate analyses that follow in the subsequent two chapters.

Sample Characteristics

Consistent with extant research (e.g., Lonsway & Archambault, 2012; Pattavina et al., 2016; Temkin & Krahé, 2008), the current data suggest that there is a significant amount of attrition of sexual assault cases as they progress through the criminal justice system (see Table 5-1). The sample included 1,019 sexual assault cases that were reported to law enforcement. Approximately 31% of these cases resulted in an arrest. This stage represents the largest point of attrition, as 69% of reported sexual assault cases did not move forward.[18] Nearly 70% of the cases that resulted in an arrest were accepted for prosecution. Overall, though, only 22% of all cases reported to law enforcement were accepted for prosecution.

[Insert Table 5-1 About Here]

Characteristics of Sexual Assaults Reported to Law Enforcement

Table 5-2 summarizes the sample characteristics for all sexual assault cases that were reported to law enforcement and partitioned by the nature of sexual assault. Among those cases that were reported to law enforcement, perpetrators used physical force or had a weapon in approximately half (48%) of the reported sexual assault cases. More than half (64%) of the victims sustained at least one injury during the sexual assault. The average number of injuries was 7 (sd = 8.55; median = 5). This finding is higher than what is typically reported in sexual assault cases, and is likely because all victims in this sample had a medical exam, thereby increasing the overall likelihood of finding injuries (Campbell et al., 2008; Nugent-Borakove et al., 2006; Peterson et al., 2012). Sexual

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[18] Data limitations prevent discrimination between cases that did not move forward for reasons other than police discretion. For example, among stranger cases, I cannot differentiate between cases with an identified suspect and cases with an unidentified suspect. Out of the 160 cases perpetrated by strangers, 136 (85%) did not result in a referral. This limitation is discussed in more detail in Chapter 9.

assault nurse examiners documented the presence of forensic evidence in one-quarter of the cases. For this study, forensic evidence refers to saliva, semen, and other body fluids.

[Insert Table 5-2 About Here]

More than half (56%) of the victims and 38% of the suspects in this sample were Alaska Native. Alaska Native victim and Alaska Native suspect comprise the largest victim-suspect race dyad category, accounting for 32% of the sample. The high percentage of intra-racial sexual assaults is also consistent with sexual assault research on the general population (e.g., Bryden & Lengnick, 1997; Tjaden & Theonnes, 2006) but contrary to research on violence against American Indian and Alaska Native women suggesting violence is more likely to be interracial (Bachman et al., 2008). The majority of victims were intoxicated around the time of the assault, with 80% of the victims reporting alcohol and/or drug use near the time of the assault. Again, this finding is inconsistent with other research on sexual assault victimization that finds substance use around the time of the offense less frequent than reported here. In light of the higher substance use among American Indian and Alaska Native populations (e.g., Center for Behavioral Health Statistics and Quality, 2012), this finding is not unexpected. The majority of the victims also knew their attacker (84%); of these victims, 11% were assaulted by their current or former intimate partner. More than half (56%) of the assaults took place somewhere other than the victim or suspects residence.[19]

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[19] These places include: other private residence, for example, a friend's house (18%); outdoor location, such as a park or in a vehicle (21%); other indoor location, such as the workplace or hotel (14%).

At the time of the report, slightly more than half (52%) of the victims were between the ages 18 and 34, and another 19% were between the ages 35 and 44.[20] Almost two-thirds of the victims reported the assault within 24 hours of when it occurred. Only 3%[21] of the sample waited three days or more post-assault to report their victimization. A majority of the cases were from the Anchorage jurisdiction (57%).

Differences Across Cases with and without Physical Force or Weapon Use

Suspects used physical force or had a weapon during the assault in 48% of the reported cases. As indicated by asterisks in Table 5-2, there were significant differences across cases with and without force. Cases that involved physical force or weapons had a higher average number of victim injuries (t = -.9.43, p = .00), which would be expected. Perhaps somewhat surprising was the number of victim injuries in the no force cases. The average number of injuries was almost 5, with injuries ranging from 0 to 33 (not shown in table). This highlights one of the benefits of SANE exams. These injuries, to some extent, are small lacerations or redness sustained from penetration. These type of injuries are not always visible, and while the presence of them do not prove a sexual assault occurred, it does substantiate claims that sexual activity did occur (which would be important in stranger cases). Forensic evidence was also more likely to be found on the victim in cases involving the use of force (z = -3.83, p = .00).

Among extralegal factors, cases with Alaska Native suspects were more common in sexual assaults without force (z = 3.81, p = .00), as were victim-suspect race dyads

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[20] For descriptive purposes, information about each age category is provided; however age is treated as a continuous variable in the regression models presented in Chapters 6 and 7. Supplemental analysis using dummy variables for each age category produced substantively equivalent results.

[21] This low percentage is probably an artifact of the data collection activities. The DHHS data were collected first, and the information in the exam file was use to search for the case in the DOL database. Thus, if the victim did not have a SANE – her case would not be in this dataset, even if she reported it to law enforcement.

involving Alaska Native victims and Alaska Native suspects ($z = 3.53$, $p = .00$). Victim intoxication was more common in assault without force, which seems consistent with fewer injuries in these cases because victims who are intoxicated or passed out are less likely to fight back with the perpetrator (Scott & Beaman, 2004). Assaults that occurred in either the victim or suspect's residence were more likely to involve force ($z = -2.92$, $p = .01$). It is unclear how many of these sexual assaults occurred in the context of intimate partner violence, but this is one explanation for why use of force would be higher among these cases. The finding that sexual assaults perpetrated by current or former intimate partners were also more frequent in the force cases ($z = -4.39$, $p = .00$) further supports this conjecture. Stranger-related cases were more common among cases involving force ($z = -4.91$, $p = .00$) whereas assaults perpetrated by relatives and friends were less likely to involve perpetrator use of force ($z = 4.94$, p .00; $z = 3.85$, $p = .00$, respectively).

 With one exception (ages 25 through 34), all age brackets were significantly different across the cases with and without force. Cases that involved the use of force were more likely to have victims over the age of 45 ($z = -2.73$, $p = .01$) and between the ages of 35 and 44 ($z = -5.86$, $p = .00$). Cases that did not have force were more likely to have victims in the under 17 category ($z = 5.17$, $p = .00$) and 18 through 24 category ($z = 2.55$, $p = .01$). The post coital interval was more likely to fall within the two-hour ($z = -2.27$, $p = .01$) and four-hour time frame ($z = -3.85$, $p = .00$) compared to cases without force. This suggests that cases involving use of force are more likely to be reported in a shorter time frame.

Differences Across Stranger and Non-Stranger Cases

Table 5-2 also presents descriptive statistics for stranger and non-stranger sexual assaults. Consistent with prior research on sexual violence (e.g., Basile et al., 2007; Tjaden & Theonnes, 2006), the majority of the cases in this sample were non-stranger (83%). As noted in the table, a number of legal and extralegal variables differed across the two types of sexual assaults. Among legally relevant variables, stranger cases were significantly more likely to involve the use of physical force or a weapon, and perhaps as a result, victims assaulted by strangers had more injuries, on average.

Among extralegal factors, cases with suspects in the "other" racial category – African American, Asian, or Pacific Islander – were more common in stranger sexual assaults. This finding might be an artifact of data collection[22] procedures. With the exception of the white victim – Alaska Native suspect race dyad, all others were more common in stranger cases as well. Stranger cases were significantly more likely to occur outside the victim or suspects residence, which would be expected given the nature of the victim-suspect relationship. Victims assaulted by perpetrators were significantly more likely to report the assault within 4 hours of its occurrence whereas victims assaulted by non-strangers were more likely to have longer post coital interval.

The characteristics of stranger sexual assaults are more consistent with rape myths. Victims of stranger assaults in this sample were more likely to report being victimized by someone of a different race, they were more likely to report their perpetrator used force, more likely to sustain injuries during the assault, and more likely to have a post coital interval of less than four-hours. But in the overall sample, only 6%

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[22] Suspect information was collected at the time of the medical exam and based on the victim's recollection. In stranger cases, victims might have difficulty discerning the perpetrators race.

(n = 63) of the reported sexual assault cases conformed to the "real rape" stereotype – a sexual assault perpetrated by a stranger in an outdoor location, involving the use of force by the assailant and active physical resistance by the victim, as demonstrated by the presence of physical injuries (Fisher, Cullen, & Daigle, 2005; O'Neil & Morgan, 2010).

Case Selection Across Stages

Estrich (1987) and others (e.g., Bryden & Lengick; Kelly et al., 2005) contend criminal justice personnel, including law enforcement and prosecutors, systematically discriminate against sexual assault victims by responding to sexual assault allegations in accordance to gender schemes and cultural conceptions of rape. To the extent victims who do not conform to traditional behaviors are denied justice; I would expect to see extralegal factors driving the attrition across stages.

To test for significant differences across case outcomes, a series of t-tests were conducted comparing cases that resulted in arrest and prosecution to those that did not (see Table 5-4). Asterisks in the table denote significant differences. The arrested cases differed from the full sample of reported cases across a number of domains. In particular, the mean number of victim injuries was significantly higher among the arrested cases compared to all reported cases (t = 3.21, p = .00) and among the prosecuted cases (t = 3.59, p = .00). Likewise, forensic evidence was found on a greater proportion of victims in cases with an arrest (z = 2.75, p = .01) and prosecution (z = 2.31, p = .02), compared to cases reported to law enforcement. Thus, preliminary evidence suggests that cases that progress to later stages are done so in part because of legally relevant factors – they tend to involve more injuries and are more likely to have forensic evidence.

[Insert Table 5-4 About Here]

There is also evidence to suggest that certain extralegal characteristics matter. Cases involving Alaska Native suspects represented a higher proportion of cases that resulted in an referral (z = 1.92, p = .05) and acceptance (z = 2.21, p = .03) compared to all reported cases. There were also significant differences across arrested (z = 4.05, p = .00) and prosecuted (z = 3.68, p = .00) sexual assault cases that occurred in either the victim or suspect's residence as well as all victim-suspect relationship categories except for friends. These findings were not anticipated, as it was hypothesized that stranger-related assaults would be more likely to result in an arrest and prosecution, though as elaborated in later chapters, this may reflect increased difficulty of making an arrest in stranger-involved assaults.

Prior research has suggested that that post coital interval influences how far cases progress in the criminal justice system. Whether this is a result of the ability to collect forensic evidence[23] or victim credibility issues is unclear, but there is support that post coital interval matters; cases were more likely to be accepted for prosecution if the post coital interval was within two-hours.

Summary

These descriptive analyses provide important insights about the associations between legally relevant, extralegal factors, and case outcomes. Importantly, there are some important contextual differences between force and no force cases as well as stranger and non-stranger assaults. Forensic evidence was more likely to be found on the victim in cases that involved the use of force or a weapon compared to cases without the

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[23] PCI is negatively correlated with victim injury severity (r_s = -.12 p = .00) and the detection of fluorescence (i.e. bodily fluids) on the victim (r_s = -.21 p = .00).

use of force. And although victim injuries were higher in force cases, the average number of victim injuries in the no-force cases was also fairly high. Stranger assault cases were more likely to involve force, the average number of victim injuries was higher, and victims had a shorter post-coital interval compared to non-stranger cases.

Consistent with theoretical predictions, cases that progress to later stages are done so in part because of legally relevant factors; in particular, they tend to involve more injuries and are more likely to have forensic evidence. But preliminary evidence also suggest extralegal factors, including suspect race and the location of the assault, are also important. Finally, the post-coital interval also appears to matter in case outcomes. It is not clear from these analyses if this relationship is because of credibility concerns (victims who wait to report their victimization are less likely to be viewed as credible) or if it is an evidentiary issue (the longer the interval, the less likely forensic evidence and injuries will be documented).

Because the difference tests were computed independently, and not simultaneously, the significant differences found may not represent true significant differences when introduced into a simultaneous model. Thus, these findings are explored further through a series of logistic regression models examining predictors of whether a case is referred and whether prosecutors accept it. These outcomes are discussed in Chapters Six and Seven, respectively.

CHAPTER 6: CASE REFERRAL

As discussed in the previous chapter, the point of highest attrition was prior to prosecutorial involvement. Of the 1,019 sexual assault cases reported to law enforcement, only 315 (31%) of the cases were referred for prosecution. To better understand the mechanisms driving this finding, a series of multivariate binary logistic regressions were estimated in this chapter. More specifically, the main effects of legally relevant and extralegal variables were explored first, followed by models examining the joint effects of victim-suspect race. In doing so, these analyses shed light on the impact of legally relevant and extralegal factors on the case referral outcome.

Drawing from uncertainty avoidance theory and the liberation hypothesis, I hypothesized extralegal variables would be confined to sexual assaults cases that involved physical force or a weapon as well as sexual assaults perpetrated by strangers. Thus, a final set of models investigated the impact of victim, suspect, and case characteristics across these types of sexual assault cases.

Main Effects

The model for the referral outcome was estimated twice[24] (see Table 6-1). The first model, Model 1, estimated the direct effects of victim and suspect race. As predicted by uncertainty avoidance theory, legally relevant factors predicted case referral in the expected direction. The odds of an arrest increased by a factor of 1.28 times (p = .00) for each additional victim injury documented during the SANE exam. The presence of forensic evidence on the victim also increased the likelihood of a referral by a factor of

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[24] There is no evidence to suggest that the covariates included in the regression models presented in this chapter and Chapter Seven are collinear. See Appendix C for the correlation matrix.

1.46 (p = .03). However, the hypothesis that suspect use of force or the presence of a weapon would increase the likelihood of case referral was not supported.[25]

[Insert Table 6-1 About Here]

Extralegal factors also influenced case referral. Alaska Native suspects were two times more likely than white suspects (reference category) to have their case referred for prosecution. This is consistent with theoretical expectations and empirical research that finds minority suspects are treated more harshly (e.g, Campbell et al., 2008; Jordan, 2004; Tellis & Spohn, 2008). The odds of case referral were reduced by 32% if the victim was intoxicated near the time of the assault (OR = .68, p = .06). Greater post coital interval also reduced the odds that a case would be referred by 21% (OR = .79, p = .00). Scholars (e.g., Forhmann, 1991; Spohn & Tellis, 2014) suggest that these two factors – victim intoxication and waiting to report the assault – speak to the credibility of the victim. Victims who are intoxicated and wait to report their assault are viewed as less credible. Therefore, these findings are largely consistent with prior work.

Prior research has suggested that victims are less likely to be taken seriously when they are assaulted (1) in their residence or their perpetrator's residence (e.g., Beichner & Spohn, 2012; LaFree, 1989; Spohn & Spears, 1996) and (2) by someone known to them (e.g., Beichner & Spohn, 2005; Spohn & Holleran, 2001). These findings did not hold for this sample, and, in fact, were in the opposite predicted direction. Sexual assault cases

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[25] In light of this finding, another model was estimated to see if the presence of a weapon and suspect use of force had individual effects that are diminished when combined into one variable. There is some evidence of this. The effect of physical force (OR = 1.03, p = .85) on the referral outcome in this model was similar to what was found in Model 1 (OR = 1.10, p = .74). However, the odds of case referral were nearly 2 times greater in cases with a weapon (OR = 1.75, p = .084). Including weapon use and physical force as separate dichotomous variables did not change the influence of any of the other variables. Moreover, following Rafttery's guidelines (1996), there was moderate support that Model 1 has the better fit (difference of 3.91 in BIC).

that occurred in the victim or suspect's residence[26] had higher odds of referral (OR = 1.55, p = .01) compared to assaults that occurred elsewhere.[27] And, compared to assaults perpetrated by strangers, all other victim-suspect relationships – i.e. relative, friend, and partner – had significantly higher odds of resulting in referral compared to assaults perpetrated by strangers. For example, victims assaulted by a current or former intimate partner were more likely to have their case referred by a factor of more than 3 (OR = 3.14, p = .00). The odds of referral were similar for cases perpetrated by a family relative (OR = 2.95, p = .00) and slightly lower for assaults perpetrated by a friend or acquaintance (OR = 2.40, p = .00).

The finding that stranger cases were less likely than non-stranger cases to be referred is contrary to both theoretical perspectives (e.g., Albonetti, 1986; Black, 1976; Gottfredson & Gottfredson, 1987) and empirical scholarship (e.g., Bevaqua, 2000; Bouffard, 2000; Spohn & Tellis, 2014). This finding was probably driven by the difficulty in identifying and locating suspects in stranger cases. Among stranger cases, I was not able to differentiate between cases with and without an identified suspect. The implication of this data limitation, discussed in more detail in Chapter Nine, represents an important line of inquiry of future research.

Joint Effects

The empirical evidence on the influence of victim race and suspect on case processing decisions in sexual assault cases suggests that the victim-suspect racial dyad is

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[26] Another model was estimated with more specific assault locations – victim residence, suspect residence, other residence, and outdoors. None of the assault locations were significant in this model.

[27] One possibility for this finding is that assaults in the victim's residence occurred during the commission of other crimes, for example, burglary. Due to data limitations, I could not determine if, and how many, cases were applicable to this scenario. However, only 20 cases in the sample were perpetrated by a stranger and occurred in the victim's residence.

important (LaFree, 1989; O'Neil, Beckman, & Spohn, 2016), and perhaps more important than the main effects of the victim and suspect race (Walker, Spohn, & DeLone, 2007). Thus, Model 2 (Table 6-1) estimated the referral outcome using the same predictors in Model 1, but included victim-suspect racial dyads in lieu of individual victim and suspect race variables. The addition of the race dyads did not substantially alter the impact of the other effects in Model 1, but two race dyads differed significantly from cases involving white victims and white suspects (reference category). The odds of case referral was nearly three times higher in cases with a white victim and Alaska Native suspect (OR = 2.72, p = .00) and two times greater for cases when both the victim and suspect were Alaska Native (OR = 2.18, p = .00).

Although both types of cases involving Native suspects were more likely to eventuate in referral, the effect size was larger for cases involving white victims. The predicted probabilities for each racial dyad are presented in Figure 6-1. The predicted probability[28] of having a case referred for prosecution was .46 when the victim was assaulted by an AI/AN suspect compared to .43 if both the victim and suspect were AI/AN. These findings are consistent with theoretical expectations and prior research on the importance of the racial composition of the victim and suspect in understanding sexual assault case outcomes (LaFree, 1989; O'Neil et al., 2016).

[Insert Figure 6-1 About Here]

Differential Effects

The liberation hypothesis suggests that the influence of extralegal characteristics on case processing outcomes may be conditioned by severity of the assault (e.g., Estrich,

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[28] All other covariates were held at the mean.

1987; Kalven & Zeisel, 1966). Sexual assault cases are considered serious when they meet the essential features of the stereotypes of real rapes and genuine victims, including assaults perpetrated by strangers and assaults that involve physical force or weapon use (Bryden & Lengnick, 1997; Estrich, 1987; Frohmann, 1991; Kalven & Zeisel, 1966; Kerstetter, 1990). Because these cases meet the essential features of the stereotypes of "real rapes," there is no reason for criminal justice officials to question the seriousness of the allegation (Estrich, 1987; Kersteter, 1990; Spohn & Tellis, 2012).

To test the hypotheses that the influence of extralegal characteristics on the case referral decision are conditioned by the relative severity of the sexual assault, the sample was partitioned in two ways: First, it was separated according to whether the suspect used physical force or had a weapon during the assault. Out of the 1,019 reported cases, 48% (n = 491) involved the use of force or a weapon. Second, the sample was divided into stranger and non-stranger cases. Strangers perpetrated 16% (n = 160) of the sexual assaults reported to law enforcement.

Sexual Assaults with and without Physical Force or Weapon Use

Table 6-2 displays the results from the logistic regression analyses on the sample partitioned by physical force or weapon use. Models 3 and 5 estimated the main effects of legal and extralegal factors on the referral outcome among cases with and without force, respectively. The two legal variables of interest, number of victim injuries and forensic evidence, were only significant for cases involving physical force or weapon (OR = 1.74, p = .00; OR = 159, p = .05, respectively). The insignificant (although in the direction predicted) findings of these factors in the no force model (model 5) likely reflect the reduced power and variability in these two variables. Among the cases without force,

50% of the cases did not have any injuries and nearly 70% of the cases did not have forensic evidence.

[Insert Table 6-2 About Here]

Turning attention to the influence of extralegal factors on case referral, the victim-suspect relationship mattered more for cases with force. Across all relationship categories – i.e., relative, friend, and partner[29] – case referral was at least 3 times more likely compared to stranger assaults. This finding is not consistent with what was hypothesized. Based on the liberation hypothesis, I posited victim-suspect relationship would be influential in the referral outcome for cases without the use of force or a weapon.

I also hypothesized that the location of the assault would be influential in no force cases, but again, this was not supported here. Sexual assaults that occurred in the victim or suspect's residence had higher odds of referral than assaults that occurred elsewhere (OR = 1.78, p = .01). The finding that Alaska Native suspects were significantly more likely to have their case referred compared to white suspects in the no force model is consistent with my predictions, but this variable was also significant in the force model. The same observation was true for the influence of the post coital interval. Thus, overall, the findings in the main effects model did not support my hypotheses.

Models 4 and 6 estimated the joint effects of victim-offender race dyad on the referral outcome among cases with and without force, respectively. In both types of cases, victim-suspect race dyad influenced case referral. Cases with Alaska Native victims and Alaska Native suspects had higher odds of case referral compared to cases

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[29] The case referral decision for some of the sexual assaults perpetrated by intimate partners might be driven by Alaska's mandatory arrest statute requiring officers to arrest the principal physical aggressor in crimes involving domestic violence, violation of protective orders, and violation of conditions of release.

with white victims and white suspects; but in the force model, cases that involved white victim and Native American suspects were nearly 5 times more likely to be referred compared to cases with white victims and white suspects (OR = 4.95, p = .00). One explanation for this unexpected finding is that implicit racial biases may be more pronounced in relatively more serious sexual assaults. The combination of a white victim and a minority suspect is consistent with rape myths (e.g., Bevacqua, 2000; Brownmiller, 1975; LaFree, 1989; Stewart et al., 1996), and suspect use of force or a weapon during the sexual assault further reinforces the narrative resulting in more punitive decision-making outcomes.

Stranger and Non-Stranger Sexual Assaults

The final two models in this chapter, presented in Table 6-3, estimated the main[30] effects of legal and extralegal factors on the referral outcome among stranger (model 7) and non-stranger (model 8) cases. Based on prior theoretical (e.g., Estrich, 1987; Kalven & Zeisel, 1966) and empirical scholarship (e.g., Horney & Spohn, 1996; Pattavina, Morabito, & Williams, 2016), I anticipated that the influence of extralegal factors on case referral would be confined to non-stranger cases. The findings provide tentative support for these predictions.

[Insert Table 6-3 About Here]

Legal factors, specifically number of victim injuries and forensic evidence were significant predictors of referral in non-stranger cases only. Each additional injury increased the odds of case referral by a factor of 1.29 (p = .00). Similarly, the presence of forensic evidence on the victim also increased the likelihood of a case referral by a factor

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[30] The joint models examining racial dyads were not estimated separately due to small cell sizes.

of 1.40 (p = .10) during the forensic exam. These findings are consistent with prior research on the importance of legal factors (e.g., Campbell et al., 2015; Spohn & Tellis, 2014; Tasca et al., 2013). Although these variables were not significant in the stranger model, they were in the expected direction. And, as previously noted, the inability to detect significance in the stranger model was likely due to the small sample size coupled with the relative infrequency[31] that stranger cases were referred.

Two extralegal factors predicted case referral in both models: victim intoxication and suspect race. In stranger cases, victim intoxication decreased the odds of case referral by a factor of .30 (p = .04). In non-stranger cases, the odds were reduced by a factor of .70 (p = .10). As suggested by others (Jordan, 2004; Schuller & Stewart, 2000), victims who were intoxicated at the time of the assault were viewed as non-credible. Alaska Native suspects were 3.76 (p = .09) times more likely than cases with white suspects to have been referred. In non-stranger cases, the odds were 1.97 (p = .00). Cases with suspects who were African American, Asian, or Pacific Islander also had lower odds of referral (OR = .67, p = .10) compared with white suspects in non-stranger cases. These findings are consistent with feminist conflict theory.

Prior research has found that victims who invited their perpetrator into their residence, or willingly accompanied the perpetrator to his residence prior to the sexual assault, were viewed as risk-takers (Beichner & Spohn, 2012; Jordan, 2004; Spears & Spohn, 1996). These findings were not supported in the current models. For example, non-stranger sexual assaults that occurred in either the victim or suspect's residence were more likely to be referred compared with sexual assaults that occurred elsewhere (OR =

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[31] Out of the 160 stranger cases in this sample, only 24 (15%) were referred for prosecution.

1.68, p = .00). The location of the assault was not significant in the stranger model – but not in the direction predicted, either. These findings need to be replicated with larger samples in future work.

Summary

The objective of this chapter was to explicate the mechanisms driving the high attrition rate at the police referral stage of criminal case processing. Based on uncertainty avoidance theory, I predicted legally relevant variables would be important predictors of case referral. This was the case for number of victim injuries and forensic evidence, but it was not supported for the use of force or a weapon. I also expected that the pervasive nature of rape myths, as outlined by the feminist-conflict theory, would factor into the calculus of police decision-making. Victims who did not align with gendered behavioral norms and cases that did not fit the mold of a "real" rape would be less likely to be referred for prosecution. There was partial support for these hypotheses. Suspect race, specifically Alaska Native, was a strong predictor of case referral, in both the main and joint model. Victim intoxication was also significant in the predicted direction, suggesting that victims that drink or use drugs around the time of their assault are less likely to have their cases considered for prosecution. Contrary to what was hypothesized, stranger cases were less likely to be referred for prosecution. Assaults that occurred in the victim or suspects residence also had higher odds of case referral.

To test whether the influence of extralegal variables were confined to sexual assaults cases that involved physical force or a weapon as well as sexual assaults perpetrated by strangers, the models were partitioned and estimated accordingly. Overall, the findings in the force models were not supportive. However, in the joint effects model,

cases that involved white victims and Alaska Native suspects were nearly five times more likely to be referred for prosecution in the force cases. There was tentative support for the hypothesis that extralegal variables would be confined to non-stranger cases, but replication is needed due to the small sample size in the stranger subsample.

One additional finding also notes merit. The influence of post coital interval on the case referral outcome emerged as a significant predictor across all models estimated in this chapter. Additional research is needed to better understand this relationship. It is clear that waiting longer to report an assault affects the likelihood of case referral, but the current data cannot explain whether this reflects victim-credibility concerns, evidentiary issues or other related factors. Chapter Seven investigates the extent to which these findings hold for prosecutorial charging decisions.

CHAPTER 7: CASE ACCEPTANCE

Prior studies of charging decisions demonstrate that prosecutors exercise their discretion and decline to prosecute a large percentage of cases (e.g., Frazier & Haney, 1996; Frederick & Stemen, 2012) – a finding that was replicated in the current study. Thirty percent of the sexual assault cases referred for prosecution were declined. The decision to decline prosecution is based on legally relevant factors such as the seriousness of the offense (e.g., Spohn & Spears, 1996;) and evidentiary strength (e.g., Kerstetter, 1990; Holleran et al., 2010; Spohn & Tellis, 2014). But research also suggests that charging decisions are influenced by extralegal characteristics (e.g., Tellis & Spohn, 2008). In sexual assault cases, these extralegal characteristics reflect distrust of victims of sexual violence leading to conclusions that the response of the criminal justice system in these cases is predicated on bias and stereotypes about what is a "real" rape and "genuine" victims (e.g., Estrich, 1987; Spohn & Tellis, 2012).

In this chapter, the influence of legally relevant and extralegal factors on the decision to accept a case for prosecution was examined. First, a series of unconditional multivariate binary logistic models were estimated to provide information about the overall likelihood of prosecution for all sexual assaults reported to law enforcement. More specifically, the main effects of legally relevant and extralegal variables were explored, followed by models examining the joint effects of victim-suspect race. Drawing from the liberation hypothesis and prior empirical literature, I hypothesized that the influence of extralegal variables would be confined to sexual assaults perpetrated by strangers as well as cases that involved a weapon or physical force. These hypotheses were tested by partitioning the sample across these types of sexual assault cases.

Second, to better understand the legal and extralegal characteristics that influence case acceptance once cases were referred, conditional multivariate logistic regression models were also estimated using only the subsample of cases that were referred for prosecution. Estimating the conditional models is important for two reasons. First, the results in the unconditional models, while informative, are partly driven by the case referral decision. Second, the findings from the conditional models better isolate the influence of prosecutorial discretion on the case acceptance decision. However, the findings from the conditional model need to be interpreted cautiously given the modest sample sizes when samples are disaggregated.

Unconditional Models

Main Effects

Two models of the initial decision to prosecute with the full sample of cases were estimated, as shown in Table 7-1. The first model (Model 9) estimated the direct effects of victim and suspect race on the case acceptance outcome. The findings were largely consistent with theoretical expectations. Two of the three legally relevant variables were significant and in the expected direction. Each additional injury increased the odds of case acceptance by a factor of 1.32 (p = .00). The presence of forensic evidence also increased the odds of case acceptance by a factor of 1.39 (.09). However, the hypothesis that suspect use of force or the presence of a weapon would increase the likelihood of case acceptance was not supported.[32]

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[32] Another model (not shown) was estimated to see if the suspect use of force and weapon had individual effects that are diminished when combined into one variable. There is some evidence of this. The effect of physical force (OR = .99, p = .85) on the acceptance outcome in this model was similar to what was found in Model 9 (OR = 1.00, p = .79). However, the odds of case acceptance were more than 2 times greater in cases with a weapon (OR = 2.35, p = .02).

[Insert Table 7-1 About Here]

Consistent with feminist-conflict theory, cases with Alaska Native suspects had greater odds of being accepted for prosecution as compared to cases with white suspects (reference category) (OR = 2.11, *p* = .00). Also, victim intoxication reduced the odds of case acceptance by nearly half (OR = .53, p = .01). The former finding fits the rape myth narrative that minority men perpetrate sexual assaults (e.g., LaFree, 1989; Talslitz, 1999). The latter finding is consistent with victim blaming, since that behavior is contrary to gendered norm expectations (e.g., Costin, 1995; Frohmann, 1991; Bryden & Lengnick, 1997; Lonsway & Fitzgerald, 1994). Intoxicated victims may also be viewed as less credible witnesses (e.g., Campbell et al., 2008; Kertsetter, 1990; Tellis & Spohn, 2008) thereby introducing uncertainty in the likelihood of obtaining a conviction (e.g., Albonetti, 1986; Beichner & Spohn, 2012).

There were three inconsistent findings with the predictions outlined in Chapter Three. First, the odds of a sexual assault case being accepted for prosecution was 38% higher (p = .09) if the assault took place in the victim or suspects residence than if it occurred elsewhere. Second, compared to assaults perpetrated by strangers (reference category), victims assaulted by their current or former intimate partner or by a relative were more likely to have their case accepted for prosecution by a factor of 2.98 (p = .00) and 3.53 (p = .00), respectively. And finally, longer post coital intervals decreased the odds of a sexual assault case being accepted for prosecution (OR = .77, p = .00).

[Insert Table 7-1 About Here]

Joint Effects

In Model 10, the joint effects of victim-suspect race on the case acceptance outcome were estimated. The odds of being accepted for prosecution were more than 2.69 times higher in cases involving white victims and Alaska Native suspects compared to cases involving white victims and white suspects (reference category). Cases that involved Alaska Native victims and suspects also had higher odds of being accepted for prosecution (OR = 2.26, p = .00), but this effect was smaller than for cases that involved a white victim. Overall, these findings were highly consistent with the case referral models, which was not surprising given that the unconditional sample includes all cases known to the police, and only referred cases can ultimately be accepted for prosecution.

Sexual Assaults with and without Physical Force or a Weapon

Models 11 through 14 estimated the acceptance outcome in sexual assault cases with physical force or weapon (Models 11 and 12) and without force (Models 13 and 14). Based on theory and empirical research, I hypothesized extralegal factors, including victim-suspect relationship, race, victim intoxication, and location of the assault, would be confined to sexual assaults perpetrated without the use of physical force or a weapon. From the liberation hypothesis and uncertainty avoidance framework, this was expected because cases without the use of force are not considered as serious as sexual assault cases that involve the use of physical force or a weapon (Spohn & Cederbloom, 1991). Thus, criminal justice officials are liberated to rely on heuristics and stereotypes when deciding case outcomes (Estrich, 1987; Kingsnorth et al., 1999; Spohn & Holleran, 2001). This was not supported by these data (see Table 7-2).

[Insert Table 7-2 About Here]

First, none of the legally relevant variables were significant predictors of case acceptance in less serious cases. The number of victim injuries had a strong positive effect on case acceptance when there was use of force (OR = 1.82, p = .00), but its effects were substantively small and not statistically significant in cases without force. Forensic evidence was not significant in either set of models.

In addition, many of the extralegal variables that were significant in previous regression models were not significant in cases without use of force, including victim intoxication, location of the assault, and cases involving white victims and Alaska Native perpetrators. However, the main effects of race remained significant for both types of assaults. Alaska Native suspects had higher odds of their case being accepted for prosecution whether or not there was use of force or a weapon involved. Cases involving Alaska Native victims and suspects also had increased odds of prosecution regardless of use of force.

The most pronounced difference for type of assault was for the effect of white victims and Alaska Native suspects, which was much stronger when force was involved. Although I had expected this to be important in no force cases, this finding is consistent with prior literature suggesting minorities are treated more harshly because they lack resources to resist negative labels and legal coercion (e.g. Albonetti, 1998) and because their behavior is perceived as dangerous or unpredictable (Crawford et al., 1998). Coupled with the rape myth that minority men perpetrate sexual violence against white women (Spohn, 2000), this finding suggests that Alaska Native men who sexually assault white women are considered more culpable and dangerous to society, particularly when

they use force or a weapon to commit the assault (e.g., LaFree, 1989; Spohn & Spears, 1996; Walsh, 1987).

Stranger and Non-Stranger Sexual Assaults

The effects of legal and extralegal characteristics on case acceptance, partitioned by stranger and non-stranger assaults, are presented in Table 7-3. First, as with the case referral outcome, it is important to caveat that these findings – particularly in the stranger models – are based on a small[33] sample (n = 138) and should be interpreted with caution.

[Insert Table 7-3 About Here]

First examining the main effects models (models 15 and 17), there is some support for my hypotheses that extralegal variables matter more in non-stranger cases. From an uncertainty avoidance perspective, sexual assaults that are perpetrated by non-strangers presents uncertainty in outcomes, thereby allowing perceptual shorthand to influence case acceptance. Victims who were intoxicated had lower odds of case acceptance (OR = .48, p = .00) as did victims who waited to report their victimization (OR = .78, p = .00). Both of these findings have been found in prior to research to reflect victim credibility issues[34] (e.g., Pattavina et al., 2016; Spohn & Tellis, 2014). Notably, these factors were not significant in the stranger model (although intoxication was approaching significance). The number of victim injuries was also only significant in the non-stranger model (OR = 1.32, p = .00).

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[33] Out of the 160 stranger assault cases, data were missing for two covariates: suspect race and PCI. Seven percent of the cases (n = 11) had missing data for suspect race. Six percent of the cases (n = 9) had missing data for PCI. And approximately 1% of the cases (n = 2) had missing data for both covariates.

[34] However, as noted elsewhere, it is also possible that longer post coital intervals reduce the likelihood of the collection of forensic evidence and injuries. There is some evidence of this. PCI is negatively correlated with both forensic evidence and number of victim injuries (p = .00).

In the joint models (models 16 and 18), the white victim and Alaska Native suspect dyad was significant (OR = 2.48, p = .03) for non-stranger cases, which is consistent with rape myths and the sexual stratification theory (e.g., LaFree, 1989; Walker, Spohn, & DeLone, 2007). However, it was not significant for stranger cases. This was somewhat surprising given its strong effects in previous models. It is unclear if the finding is a result of the limited statistical power to detect significant interaction effects in this model due to the small sample size.

Taken together, the results of the unconditional models estimating the effects of extralegal characteristics on the case acceptance outcome suggest they are more influential in less serious cases – whether or not defined by use of force or a weapon or stranger perpetrated assaults – than they were for the case referral outcome. The final sets of analyses examine a series of conditional models, which are limited to the subset of referred cases, to further investigate the case acceptance decision.

Conditional Models

The models in this section estimate the case acceptance outcome, conditional on case referral. In other words, only those cases that were forwarded for prosecution are included in these models (n = 315). Given the modest sample size, these findings should be interpreted with caution, but they are reported here because they provide unique leverage for isolating the role that prosecutorial discretion plays in case acceptance outcomes.

Main Effects

The model of the case acceptance outcome was estimated twice. The results are shown in Table 7-4. The first model, Model 19, estimated the direct effects of victim and

suspect race, as well as the main effects of the other legal and extralegal variables of interest in this study. None of the legally relevant factors were significant, and therefore these results did not support my predictions. Similar to the other models, cases with Alaska Native suspects were also more likely to be accepted by prosecutors compared to cases with white suspects, suggesting that Alaska Native suspects might be perceived as more culpable or dangerous than white suspects (Hartney & Vuong, 2009).

In contrast, the influence of victim-suspect relationship on case acceptance was diminished in the conditional models. There was a 64% reduction in the odds of a case being accepted by prosecutors if the victim and suspect were friends compared to stranger assaults (reference category). This is consistent with prior research (e.g., Albonetti, 1986; Frohman, 1991; Taslitz, 1991; Spohn & Holleran, 2001) and theoretical expectations. Perhaps the increased odds of declination in these cases is a tactic used by prosecutors to avoid uncertainty in obtaining a conviction. Also consistent with this speculation is the finding that increased length of post coital interval reduced the odds of acceptance by 15%. As noted by others (Beichner & Spohn, 2012; LaFree, 1989; Spohn et al., 2002), this could be an indication of prosecutorial concerns over victim credibility and the likelihood of obtaining a conviction if the case were to go to trial.

[Insert Table 7-4 About Here]

Joint Effects

In the joint model, both dyads with Alaska Native suspects were significant. The odds of a case being accepted with the white victim and Alaska Native suspect dyad was 2.16 times greater than cases with a white victim and white suspect (reference category). Cases with Alaska Native victims and Alaska Native suspects also had higher odds of

case acceptance (OR = 1.79, p = .08) compared to the reference category. These findings are expressed in probabilities in Figure 7-1. More specifically, the probability of a referred case accepted for prosecution is .76 when it involved a white victim and AI/AN suspect, compared to .73 if both the victim and suspect were AI/AN and .67 if the victim was AI/AN and the suspect was white. As with the main effects models, the results for the joint victim/offender dyad models suggest that there are cumulative disadvantages for Native American defendants, which is especially pronounced in cases that involve a white victim.

[Insert Figure 7-1 About Here]

Differential Effects

The liberation hypothesis suggests that the influence of extralegal characteristics on case processing outcomes may be conditioned by severity of the assault (e.g., Estrich 1987; Kalven & Zeisel, 1966; Tellis & Spohn, 2008). There was some support for this in the case referral outcome. To test whether these findings hold for case acceptance outcome, the sample was partitioned according to whether the suspect used physical force or a weapon during an assault. Out of the 315 cases that were referred, 52% of the cases (n = 165) involved the use of force; no force was used in the remaining 48% (n = 150) cases.

The sample was also divided into stranger and non-stranger cases. Out of the referred cases, 8% (n = 24) were stranger cases and the remaining 92% (n = 284) were non-stranger cases. The sample size was not sufficient to support separate analysis of stranger and non-stranger cases so these models are not reported. Nonetheless, the finding that the vast majority of cases that progressed to this stage were non-stranger cases

warrants mention, particularly since the stranger cases in this sample were more likely to involve force, victim injuries, and shorter post coital interval compared to non-stranger cases.

<u>Sexual Assaults with and without Physical Force or Weapon Use</u>

Table 7-5 displays the results from the logistic regression analyses[35] on the conditional sample partitioned by physical force or weapon use. Models 21 and 23 estimated the main effects of legal and extralegal factors on case acceptance outcome among case with and without force, respectively. The only legal variable that was significant was victim injuries, but this effect was only significant for cases involving use of force. Each additional injury increased the odds of case acceptance by a factor of 1.45 (.05) for these cases. Also among the cases that involved force, sexual assaults involving strangers were nearly 4.5 times more likely to be accepted for prosecution (OR = 4.50 p = .09) than non-strangers. This finding runs counter to the findings of the case referral outcome. One possible explanation for this discrepancy is that among stranger cases, I could not differentiate between cases with and without an identified suspect for the referral outcome. In the current model, however, only stranger cases with an identified suspect are included (because the sample is conditioned on referral). Victim intoxication was also significant in the force and no force models. In each, the odds of case acceptance were reduced by more than 60% (OR = .39, p = .05; OR = .33, p = .07 respectively).

[Insert Table 7-5 About Here]

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[35] Due to the small sample size, the victim-suspect relationship was collapsed into a dummy variable (stranger=1, non-stranger=0).

Finally, in the joint effects models (Model 22 and Model 24), the white victim and Alaska Native suspect race dyad remains substantively large and statistically significant, but as with earlier models, only for cases that involve force (OR = 4.61, p = .09).

Summary

In this chapter, the influence of legally relevant and extralegal factors on the decision to accept a case for prosecution was examined. Drawing from the liberation hypothesis and prior empirical literature, I hypothesized that the influence of extralegal variables would be confined to sexual assaults perpetrated by strangers as well as cases that involved a weapon or physical force. Among the unconditional models, this hypothesis was supported. Moreover, it appears that the influence of extralegal variables were more influential in less serious cases than they were for case referral.

To isolate the influence of the covariates on the decision to accept a case for prosecution, conditional models were also estimated. These findings should be interpreted cautiously given the modest sample sizes. Notably, there was a 64% reduction in the odds of case acceptance if the victim and suspect were friends compared to stranger assaults. Consistent with previous findings, post coital interval also reduced the odds of case acceptance and there was an increased odds of case acceptance if the assault was perpetrated by an Alaska Native. When these cases were partitioned to test the differential effects of factors on the decision to accept a case for prosecution, two interesting findings emerged. First, stranger cases were nearly 5 times more likely to be accepted for prosecution in the force model. Second, the white victim and Alaska Native suspect race dyad remained significant, but again, only in the force model. The lack of significant findings in the no force model, however, could reflect limited statistical power

associated with relatively small sample sizes. Future research is therefore needed that

replicates and extends these analyses in larger and more diverse samples.

CHAPTER 8: DETAILED CHARGING ANALYSES

In Chapters Six and Seven, the multivariate analyses shed light on the factors that correlated with the police decision to refer cases for prosecution and whether prosecutors accepted cases, respectively. As with most other research in this area, the findings were based on a case-level analysis; consequently I was only concerned with the most serious outcome at each stage. In other words, a case was considered "referred" if at least one charge was forwarded to prosecutors. A case was considered "accepted" if prosecutors agreed to move forward with at least one charge within a case.

The final analytical chapter explores these charging decisions in additional detail. For each stage, information on the statute of the charge, the disposition code, and reason code were collected (see Appendix B for a full list of disposition and reason codes) for a subset of cases. Importantly, these descriptive analyses are at the charge level, not the case level. Using this level of analysis, I explored all charges at each decision point as well as the movement of charges between decision points. These analyses addressed the following exploratory research questions:

1. How are *charges* filtered and changed across stages?

2. What are the formal reasons given by prosecutors for case dispositions?

3. Are there differences in charging behaviors or disposition reasons across victim and suspect demographic characteristics (e.g., race/ethnicity) or case characteristics (e.g., evidence strength and nature of sexual assault)?

4. What is the level of congruency between police and prosecutorial charging behaviors?

Charge Filtering

Of the cases included in the multivariate analyses, there were 542[36] cases with detailed charging, disposition, and reason information (see figure 8-1). Of these cases, 108 (20% of reported cases) were referred for prosecution and 71 (66% of referred cases, 13% of reported cases) were accepted for prosecution. There were 252 charges attached to the 108 cases referred for prosecution. The prosecution accepted 78% of the referred charges, and added 40 new charges, for a total of 237 charges.

[Insert Figure 8-1 About Here]

Referral Charging, Disposition, and Reasons

Table 8-1 shows the distribution of referred charges by charge type. Fifty-four percent (n = 135) of these charges were sexual assault in the first degree. Another 53 (21%) of the charges were sexual assault in the second or third degree. More than half of the charges (n=207, 82%) reflected some type of sex crime. Because the sample was derived from SANE forensic medical examinations, this finding was not unexpected.

[Insert Table 8-1 About Here]

Among referred charges, approximately 55% of the cases had one charge, 16% of the cases had two charges, and another 14% had three charges. The number of referred charges per case ranged from 1 to 18, with an average of 2.33 (sd = 2.63). The average number of referred charges did not differ significantly by victim or suspect race. The number of victim injuries was significant and positively correlated with total number of

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[36] Detailed charge information was only available for a subset (n=638) of the cases with outcome data (n=1,229), as detailed in the methods section. Out of the 638 cases, 96 (15%) cases with detailed charging data were excluded from the multivariate analyses and consequently not included in the analyses in this chapter. Out of the 96 excluded cases, 93% (n = 90) were not referred for prosecution, so charging information was not available for those cases anyway. The remaining 6 cases were referred, but only 3 cases were accepted for prosecution.

referred charges (r = .47, *p* = .00). The number of referred charges also differed by case severity. Cases that involved the use of force or a weapon had, on average, 2.72 charges compared to cases without force ($\bar{x}$ = 1.90) (p = .05). Among stranger cases, the average number of referred charges was 4.58, compared to 2.06 for assaults perpetrated by non-strangers (p = .08).

All charges that are referred for prosecution receive screening disposition codes that indicate how that charge was resolved. Table 8-2 summarizes the disposition codes that were attached to the 252 referred charges. Seventy-one percent of the charges were "Accepted as referred," meaning that prosecutors agreed to prosecute the charge as referred by law enforcement. Approximately 8% of the charges were accepted, but with modification. The most common modification made by prosecutors was an upcharge, or increasing the severity of the referred charge. Twenty-two percent of the referred charges were declined. There were no significant differences in number of declined charges across evidentiary strength, victim and suspect race (White and Alaska Native), or by case severity.

[Insert Table 8-2 About Here]

While all referred charges received screening disposition codes, only charges that were not accepted as referred receive reason codes. Since 72 charges were not accepted as referred, there were 72 reason codes. Reasons for not accepting charges as referred are shown in Table 8-3. At this stage, evidentiary reasons were the most typical reasons for not accepting a charge as referred (54%), followed by discretionary reasons and witness reasons (19% for each category).

[Insert Table 8-3 About Here]

Transition of Charges between Referral and Acceptance

Since the level of analysis is charges, it is possible to have cross-movement of charges within cases. Prosecutors can decline some charges within the same case, or add charges. Table 8-4 summarizes the declined charges. Sixty-seven percent (n=37) of the charges declined by prosecutor were sexual assault in the first degree and another 18% (n=10) were sexual assaults in the second degree. Fourteen percent (n=8) of declined charges were non-sexual in nature.

[Insert Table 8-4 About Here]

The charges added by prosecutors after police referral (n=40) are summarized in Table 8-5. Slightly more than half (56%) were sexual in nature, including sexual assault in the first (25%), second (20%), and third (5%) degree; sexual abuse of a minor in the third degree (3%); and unlawful exploitation of a minor (5%). The remaining added charges included serious charges (e.g., attempted murder, kidnapping) as well as less serious charges such as furnishing alcohol to a minor (2%) and misconduct involving a controlled substance (5%).

[Insert Table 8-5 About Here]

Charges at Acceptance

The number of accepted charges ranged from 0 to 18, with an average of 2.19 (sd = 2.96) per case. Prosecutors declined all referred charges in 34% of the cases. Among cases with at least one charge accepted, the number of charges ranged from 1 to 18, with an average of 3.34 (sd = 3.09) charges per case. Eighteen percent of the cases had one accepted charge, 14% of the cases had two accepted charges, and 15% of the cases had three accepted charges.

Among legal factors, only the total number of injuries was significantly correlated with the total number of accepted charges per case (r=.31, *p*=.00). While the average number of charges did not significantly differ across victim race among referred cases, significant differences were found for the average number of charges accepted by prosecutors. In particular, cases involving white victims had an average of 3.09 accepted charges per case (*t* = -2.20, *p* = .03) compared to 1.77 accepted charges per case involving victims of other races. Suspect race was not significant.

The 237 charges accepted by prosecution are outlined in Table 8-6. Similar to charge referral, the most typical accepted charge was a sexual assault in the first degree, which comprises 49% of the accepted charges (n=115). In total, approximately 76% of all accepted charges were sex crimes.

[Insert Table 8-6 About Here]

Table 8-7 illustrates how charges moved from the referral stage to the accepted stage for the 197 charges that were both referred and accepted. The vast majority of charges fall on the diagonal from the upper-left to the lower-right corners in the table. This suggests that there was considerable amount of congruency between the initial charges filed by law enforcement and the charges that were accepted by the prosecutors. The most frequently changed charge was sexual assault in the second degree. The prosecutors upgraded seven of these charges to sexual assault in the first degree. Only one charge was downgraded: from sexual abuse to a minor in the second degree to contributing to the delinquency of a minor.

[Insert Table 8-8 About Here]

Summary

In this chapter, supplemental descriptive analyses regarding charges, the movement of charges across stages of case processing, the rationales for charging decisions, and differences in charging decisions across demographic and case characteristics were considered (not shown in tabular form). While central to understanding case processing trajectories, this type of detailed information is rarely available to researchers. Thus, these data provided a rare opportunity to gain insight into prosecutorial formal decision-making processes and the formal reasons for charge dispositions.

As with case attrition, the findings here suggest that charges are also filtered out between the police referral and the prosecutorial acceptance stage. Among the 252 referred charges, 78% were accepted. The distribution of charges by type is also relatively constant from referral to acceptance, suggesting a fair amount of congruency between police and prosecutorial charging decisions. The average number of referred and accepted charges varied by both legal and extralegal factors, suggesting that these characteristics not only influence whether cases are referred and accepted for prosecution, but also the number of charges attached to each case. Taken together, the results presented in Chapters Five through Eight suggest that there both legal and extralegal factors are important in understanding sexual assault case processing decisions, but the relationships are complex and vary by the stage of case processing (police referral and prosecutorial acceptance of cases), by the nature of the sexual assault, and by charging decisions.

CHAPTER 9: DISCUSSION AND CONCLUSION

The role of discretion in the administration of justice has long been a keystone of empirical inquiry among criminologists and legal scholars. The utility of discretion is readily acknowledged, but discretionary authority also provides a conduit for injustice when practitioners substitute their own judgment, interests, or objectives to influence case outcomes. The role of discretion in the criminal justice systems response to sexual assault, in particular, has been heavily criticized.

Prior research has suggested that, in contrast to the normative model of legal decision-making, decisions about sexual assault cases are especially likely to be influenced by schematic processing, relying on stereotypic beliefs about sexual violence that contain a restrictive and inaccurate understanding of what a "real rape" is (Estrich, 1987; Frohmnan, 1991; Spears & Spohn, 1997; Alderden & Ullman, 2012) The reliance on these stereotypes contributes to the "justice gap," or the discrepancy between the number of sexual assault cases reported to law enforcement and the number of cases that result in conviction (Temkin & Krahé, 2008). But prior research also supports the influential role of legally relevant factors, particularly those that provide evidence that the crime was serious (e.g., use of force or victim injury) when making sexual assault processing decisions. Due to technological advancements, there is also an emerging literature that suggests forensic evidence is also an important predictor of sexual assault case outcomes (Campbell et al., 2008; Little, 2001; Peterson et al., 2012).

The goals of this research were threefold. First, to provide a thorough description of sexual violence using a sample primarily comprised of Alaska Native women. Prior victimization studies suggest that Alaska Native women are sexually victimized at much

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higher rates than the general population (e.g., Bachman et al., 2008; Federal Bureau of Investigation, 2015; Tjaden & Theonnes, 1998) but scholarship detailing how the criminal justice system responds to these cases is minimal. Overall, the characteristics of sexual assaults reported in this sample mirrored what prior research has found. For example, the overwhelming majority of victims were assaulted by someone known to them and the majority of cases that were reported to law enforcement were not prosecuted (Campbell et al., 2008; Pattavina et al., 2016; Spohn & Tellis, 2014; Tjaden & Theonnes, 1998). However, there were also some differences including the number of victim injuries reported, and the consumption of alcohol or drugs around the time of the assault. In this sample, more than 60% of the victims sustained at least one injury compared to approximately 40% of sexual assault victims reported in other sexual violence studies (e.g., Campbell et al., 2008; Rennison, 2002; Scott & Beamon, 2004). The frequency of victim substance use around the time of the sexual assault was also much higher than what is reported in other studies (Peterson et al., 2012; Tjaden & Theonnes, 1998).

Second, I apply an integrated framework on legal decision-making drawn from feminist-conflict and uncertainty avoidance theories to examine the influence of legal and extralegal factors on two decision points in criminal case processing: the police decision to refer cases for prosecution, and the prosecutor's initial screening decision to accept cases. Both legal and extralegal variables were found to be important; victim-suspect relationship, victim injuries, post coital interval, and suspect race were among the most salient findings, but as elaborated below, there were important differences depending on the nature of the sexual assault.

Finally, the current data were uniquely suited for an exploratory investigation into prosecutor's charging behaviors and the formal reason prosecutors give for their charging decisions. The preliminary findings suggest that select legal and extralegal factors are correlated with the number of charges that are referred, and accepted. These findings and their implications are the focus of the final, remaining chapter.

Summary of Major Findings

Consistent with extant research (e.g., Lonsway & Archambault, 2012; Pattavina et al., 2016; Temkin & Krahé, 2008), the current study found a significant amount of attrition of sexual assault cases as they progressed through the criminal justice system. The sample included 1,019 sexual assault cases that were reported to law enforcement. Approximately 31% of these cases resulted in a referral. Nearly 70% of the referred cases were accepted for prosecution. Overall, though, only 22% of all cases reported to law enforcement were accepted for prosecution. Substantively, this means that nearly 4 out of 5 sexual assaults known to police do not eventuate in the filing of official charges or result in a subsequent conviction.

Referral

Based on uncertainty avoidance theory, the expectation that legally relevant variables would be important predictors of case referral were supported for the number of victim injuries and forensic evidence, but not for the use of force or a weapon. There was also partial support for the hypotheses that victims who did not align with gendered behavioral norms and cases that did not fit the mold of a "real" rape would be less likely to be referred for prosecution. Specifically, victim intoxication was statistically significant and in the predicted direction, suggesting that victims who drink or use drugs

around the time of their assault are less likely to have their cases considered for prosecution (e.g., DuMont & Parnis, 2000; Jordan, 2004; Tellis & Spohn, 2008; Tasca et al., 2013). This conjecture is further supported with the finding in this study that evidentiary factors were present in a large number of assaults that involved victim intoxication. For example, more than 65% of victims had at least one injury, 45% of the cases involved the use of force, and nearly 30% of the cases involving intoxicated victims also had forensic evidence collected during the SANE medical exam. Thus, the reduced odds of victim intoxication on case referral and acceptance cannot be explained by an absence of legally relevant factors.

Suspect race, specifically being of Alaskan Native decent, was also a strong predictor of case referral. This is consistent with theoretical expectations and empirical research that finds minority suspects are treated more harshly (e.g., Campbell et al., 2008; Jordan, 2004; LaFree, 1989; Tellis & Spohn, 2008). Suspect race was particularly salient when the cases were partitioned by use of force. Cases that involved white victims and Alaska Native suspects were nearly five times more likely to be referred for prosecution in cases that involved the use of force. These findings support the need for more research at earlier stages of criminal case processing, as unchecked discretion at earlier stages of the process create the potential for factors such as suspect race (as well as other extralegal characteristics) to influence legal decision making outcomes.

Post coital interval was also a robust finding in the referral analyses. Cases with a longer waiting period between assault and report had lower odds of being referred compared to cases with a shorter interval. This finding held in the main model, and also when the sample was partitioned by use of force and stranger/non-strangers assaults.

While consistent with other research (e.g., Beichner & Spohn, 2005; Campbell et al., 2008; Giardino, 2003), the reason for this relationship is unclear. Length of time has been found to impact the type and quality of evidence recovery, particularly forensic evidence (Campbell et al., 2008; Giardino, 2003). But delayed reporting is also associated with victim credibility (Beichner & Spohn, 2005).

Contrary to what was hypothesized, non-stranger cases were more likely to be referred for prosecution than stranger cases. This finding clearly contradicts assertions that sexual assaults involving acquaintances are not regarded as "real rapes" and that women victimized by acquaintances are not regarded as "genuine victims" (Beichner & Spohn, 2012; Estrich, 1987; LaFree, 1989). As noted by others, (e.g., Scott & Beaman, 2004; Bouffard, 2000), non-stranger sexual assaults lead to easier apprehension by authorizes – victims are able to not only identify her attacker, but many times provide additional contact or daily routine information. For stranger perpetrated assaults, the identifying and locating suspects is much more difficult. In the current study, I could not differentiate between stranger cases with and without an identified subject. Therefore the higher odds of referral among non-stranger cases could be an artifact of this data limitation.

Acceptance

Among the cases that were referred for prosecution, 30% were declined. The findings from the models suggest that, as with police referral, a combination of legal and extralegal variables mattered. And, consistent with the liberation hypothesis, extralegal variables were more important in less serious cases. There was also strong evidence for the importance of suspect race in case acceptance. The fact that suspect race (and racial

dyads) were significant even after restricting the model to referred cases suggests evidence of cumulative disadvantage – that is, race not only makes it more likely for a case to be referred but among referred cases it also increased the likelihood of prosecution.

The race effects found in this current study, for both decision-points, are consistent with extant research examining the effect of race in criminal justice case processes and outcomes (e.g., Chiricos & Crawford, 1995; Demuth, 2000; Spohn, 2000; Zatz, 1987). Taken together, this body of research suggests that race and ethnicity do play a role in case outcomes, with African American and Hispanic offenders facing harsher treatment throughout the criminal justice process (Demuth, 2000). In the current study, American Indian and Alaska Native suspects also faced harsher treatment compared to Caucasian suspects. The effects, however, appear to greater in magnitude than what has been reported for other races and ethnicities (e.g., Chiricos & Crawford, 1995; Demuth, 2000; Spohn, 2000; Zatz, 1987). However, I was not able to control offender criminal history and socioeconomic class so the magnitude of the race effect might be overstated. Nonetheless, the findings here warrant further consideration.

Restricting the model to referred cases also highlighted divergent findings regarding the influence of victim-suspect relationship. In the main effects model, sexual assaults involving friends had much lower odds in case acceptance compared to stranger cases. When the sample was partitioned by use of force, the victim-suspect relationship was even stronger: assaults perpetrated by strangers were nearly 5 times more likely than non-stranger assaults to be accepted for prosecution. This finding is contrary to the models estimating the referral decision. In the referral decision, all stranger cases were

considered regardless of whether a suspect had been identified. But in the conditional

acceptance model, only those stranger cases with an identified suspect were included.

This suggests that prosecutors are more likely to accept stranger cases. Future research is

needed that specifically delineates between whether or not a suspect was identified in

stranger cases; otherwise, there is a risk of misinterpreting the relationship between

victim-suspect relationship and sexual assault case outcomes.

Supplementary Charging Analyses

While the multivariate analyses partially support the link between case outcomes

and extralegal factors, it does not necessarily mean that prosecutors personally believe in

the stereotypic beliefs and attitudes surrounding sexual assault. As Koss (2000) notes,

"although prosecutors may personally reject the appropriateness of these grounds, they

feel themselves positioned downstream of jurors, so they nevertheless incorporate these

factors into decision making" (p. 1334). The same type of downstream orientation likely

influences police officers, leading to the patterns reported in the police referral

multivariate analyses. To better understand the formal reasons associated with

prosecutorial decision-making, exploratory descriptive analyses of charging behaviors

were explored in Chapter Eight. And although the reasons are self-reported by

prosecutors themselves, and therefore should be interpreted with caution, there were

some interesting findings.

First, the average number of referred charges did not vary significantly by victim

or suspect race. Thus, while suspect race was robust for case referral and acceptance, it

was not influential in the total number of charges attached to the case – at neither the

police nor prosecutorial stage. Prosecutors declined all referred charges in 34% of the

cases, with evidentiary reasons cited as the most common reason for not accepting the referred charges. Within this category, "insufficient evidence – other essential element" was the most frequently cited reason for declination. The second most frequently cited reason in the evidentiary reasons category was "another charge more accurate." This suggests that although there is a fair amount of congruency between police and prosecutorial charging behaviors, there are times when prosecutors disagree. Additional research is needed to determine if disagreement more frequently occurs sexual assault cases that are counter to rape myths. Notably, the discretionary reasons category was the second most frequently cited for charge declinations. Within this category, the most common reason as "other discretionary reason" So while evidentiary reasons are the most frequently cited rationale for charge declination, discretion still plays a significant role in charge declinations.

Among accepted charges, victim race did matter. Cases involving white victims were significantly more likely than non-white victims to have a greater number of charges attached to their case. Number of victim injuries was the only legally relevant variable that was significantly related to the total number of accepted charges. Although these findings were based on a subset of the overall sample, the findings suggest that the legal and extralegal factors that influence case referral and acceptance decisions are not always the same as what influences the number and types of specific charges that are filed.

Research Contributions

This study contributes to the general literature on criminal case processing in three ways. First, it adds to the criminal justice theoretical scholarship by grounding the

analyses in a theoretical framework that incorporates feminist-conflict and uncertainty avoidance theories as well as the liberation hypothesis to examine two stages of criminal case processing: police decision to refer cases for prosecution and the decision by prosecutors to accept cases for prosecution. These three theories are complimentary to the intersectionality perspective that emphasizes how overlapping or intersecting social identities shape lived experiences.

This research also addresses a gap in the theoretical scholarship by examining the downstream nature of police decision-making. More specifically, I extend the uncertainty avoidance theory to police decision-making. Prior research on criminal case processing has paid significant attention to judicial (e.g. Albonetti, 1991; Steffensmeier, Ulmer, & Cramer, 1998; Ulmer & Johnson, 2004) and prosecutorial (e.g. Albonetti, 1991; Beichner & Spohn, 20012) decision-making within a downstream orientation framework. Far fewer studies (e.g. Spohn & Telli, 2013; Campbell, Menaker, & King, 2015) have examined policing decisions within this framework, even though police scholarship has demonstrated the impact of police decisions on case attrition and outcomes (Bouffard, 2000; Kerstetter, 1990).

This research also enhances our understanding of prosecutorial decision-making. As noted by Frederick and Stemen (2012), how prosecutors utilize their discretion, and what goes into prosecutorial decision-making, is not well understood. The dataset used for the current research contains information on prosecutorial decision-making. In particular, information was collected at two stages of prosecution – case referral and case acceptance. For each of these stages, information on the statute of the charge, the disposition code, and reason code were collected. Such information is central to

understanding case processing trajectories, but rarely available to researchers. Thus, these data provided a rare opportunity to gain insight into prosecutorial formal decision-making processes and the formal reasons for charge dispositions.

Lastly, this dissertation supplements the scholarship on criminal case processing by including criminal cases that involve Alaska Natives. The literature has overwhelmingly focused on comparisons among African Americans, Hispanics, and Caucasians (e.g. Horney & Spohn, 1996; Kingsnorth, Lopez, Wentworth, & Cummings, 1998; LaFree, 1980; LaFree, 1980; LaFree, 1989; Spears, & Spohn, 1997; Tellis & Spohn, 2008). However, research suggests that sexual violence, and violence more generally, is significantly higher in American Indian and Alaska Native (AI/AN) communities (Bachman, Zaykowski, Kallmyer, Poteyeva, & Lanier, 2008; Perry, 2004). Moreover, the intersection of multiple jurisdictions – tribal, local, state, and federal – presents challenges to the pursuit of justice that is unique to AI/AN populations. Although there have been calls (e.g. Crossland, Palmer, & Brooks, 2013) to oversample AI/AN populations in criminal justice work – very few studies have done so.

This study also contributes to the sexual assault literature. First, this study expands upon past research by examining case outcomes using more recent[37] data. The use of more recent data to examine sexual assault processing is important because of advancements in forensics and evidence collection procedures. Moreover, in recent years criminal justice practitioners have undergone efforts to improve how they respond to, and interact with crime victims. For instance, some organizations have implemented

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[37] Even though the data used in the current study are more recent than the bulk of empirical research on sexual assault case processing, the data were collected more than 10 years ago. As such, this study does not reflect advancements in forensic technology or legislative and organizational changes that have occurred since 2005.

specialized units, instituted sensitivity training, and collaborated with victim advocacy programs in an effort to improve outcomes for sexual assault victims.

The dataset for the current study is unique because it combines detailed information from police, medical, and prosecution archival records over a six-year period. The police and prosecutorial records are from the Alaska Department of Law, while the medical data are from the Alaska Department of Health and Human Services. This is advantageous for several reasons. Because the data were collected over multiple years, the sample size is larger than many studies of this nature. This allows for the consideration of important variables that are excluded from the extant research. Moreover, the detailed data from medical records allows for a thorough examination of the influence of evidentiary factors, and to see if it varies across types of sexual assaults or stages of case processing.

Finally, this study provides a more comprehensive assessment of sexual assault case processing by having multiple dependent measures that encompass decisions made the two stages of case processing that are characterized by high rates of attrition. This allows for a more complete account of where in the system and to what extent victim, and case characteristics influence sexual assault case trajectories.

Study Limitations

When interpreting these results, it is important to keep in mind the limitations of this study. Similar to other studies examining sexual assault case outcome decisions (e.g., Beichner & Spohn, 2005; Frazier & Haney, 1996; Kingsnorth et al., 2001; Spohn & Tellis, 2013), this study relied on secondary data sources. The data are based on self-

reported information by the patient and on observations, physical assessments and laboratory tests performed by the sexual assault nurse examiner.

The use of secondary data sources, while convenient, does not lend itself to capturing some of the nuances as to how criminal justice practitioners make decisions. A more careful consideration of the decision makers at various stages – i.e., their characteristics, attitudes, and perceptions – as well as organizational and environmental factors is needed. This limitation is particularly salient for the analyses regarding case referral. Other factors besides police discretion influence whether a case is referred for prosecution. In stranger cases, perhaps a suspect cannot be identified. In non-stranger cases, perhaps the victim is non-cooperative (although in the supplementary charging analysis, only one case was declined due to victim non-cooperation).

Because data were collected retrospectively and because medical examinations are necessarily individualized, there is variability in the documentation and availability of information that might be important to understanding case outcomes. Missing data across variables of interest is also a concern. This was the case for suspect race as well as victim-suspect relationship. Both of these variables had the highest percent of missing data (6% and 4%, respectfully) but were also consistently significant predictors of case referral and acceptance. Other important information was missing from the dataset altogether. Most notably, information about offender criminal histories was not available. Prior research has suggested this is an important determinant in case processing and from a theoretical perspective, this speaks directly to the dangerousness culpability of the offender. Additionally, I did not have any information about the characteristics of the decision-makers (e.g., police and prosecutors). Prior research on sexual assault case

processing has found the acceptance of rape myths varies significantly by the gender of

the prosecutor and judge (Martin et al., 2002) as well as the amount training investigators

have (Campbell & Johnson, 1997). With better controls for these factors, the effects of

extralegal factors might have been smaller. In other words, the effects of extralegal

characteristics in this study may be overestimated. Future research is needed that collects

large samples of sexual assault cases, particularly including Native American

populations, along with reliable information on criminal histories.

Although the sample size in the current study is larger than many others of this

nature, the small number of cases that were referred and accepted for prosecution is

another limitation of this research. Some of the non-significant findings might reflect a

lack of statistical power rather than the absence of a true effect in the population. Among

stranger cases, for instance, there were only a total of 24 cases accepted for prosecution,

precluding examination of this decision for these cases altogether.

Lastly, this sample is not representative of all sexual assault cases. Many sexual

assault cases are not reported to law enforcement. This study also excludes all sexual

assault cases reported to law enforcement that were not referred to a sexual assault nurse

examiner. Cases are referred to a sexual assault nurse examiner if medical or forensic

evidence can still be collected. If the time elapse from the assault to the report is greater

than 96 hours, the likelihood of requesting a medical examination diminishes

significantly. It is possible that criminal justice officials treat cases that are reported

immediately differently. Moreover, important forensic evidence is lost in cases not

reported within 96 hours. Thus, this research is only generalizable to sexual assault

victims who report their victimization to law enforcement and were examined by a sexual

assault nurse examiner. Because the analyses only included cases with a SANE exam, it is likely that the findings presented here underestimate the effects of extralegal factors on case outcomes while overestimating the influence of legal variables, particularly victim injury and forensic evidence.

Moreover, the data were only collected in Alaska and the extent to which the findings will be generalizable outside of Alaska in unknown. As noted in Chapters Three and Four, the state of Alaska has unique characteristics unlike any of the states in the lower 48. In particular, their personnel and geographical challenges in policing communities, coupled with the high rates of violence and historical trauma faced by American Indian and Alaska Native communities gives rise to a unique social context not mirrored elsewhere. These limitations notwithstanding, the results of this study have important implications for future research and practitioners in the field.

Implications

Research Implications

One of the most robust findings from this research was the relationship between the post coital interval and case processing outcomes. Longer post coital intervals were associated with decreased odds of case referral and case acceptance. These findings held in the full sample, as well as when the sample was partitioned by the severity of the sexual assault. Additional research is needed to detangle this relationship. Because of the transient nature of biological evidence and the information that can be derived from it, the immediate examination of the victim in the aftermath of sexual violence is critical. The overall assumption is that as the post coital interval increases, the likelihood of extracting forensic evidence decreases (Hall & Ballantyne, 2003). In this vein, the

decreased odds of case referral and acceptance would be expected with longer post coital intervals. Often times in sexual assault cases the only evidence is forensic in nature. Thus, a lack of forensic evidence becomes an evidentiary issue and burden of proof standard.

But there is also a more insidious mechanism that might be driving this relationship. Several studies that looked at the relationship between case dispositions and post coital interval generally found that delays in reporting diminished the chances of a successful prosecution, a finding contributed to victim credibility. One of the common rape myths – genuine victims of rape report their victimization immediately – might also influence this relationship (Frohmann, 1991). Kingsnorth and colleagues (1999) study that found timeliness of report was only relevant in nonstranger cases supports this conjecture (see also Spohn et al, 2002).

Researchers must also move beyond the usual African-American, white, and – to a lesser extent Hispanic – race/ethnicities and examine the influence other race/ethnicities in criminal case processing. This is evidenced by the robust finding regarding the influence of Alaska Native suspect race on the case referral and case acceptance outcomes considered in the current study. To date, very few studies have examined the experiences of American Indian and Alaska Native's in the criminal justice process even though these communities are marginalized by mainstream society and characterized by high rates of violence, alcohol and poverty. One fruitful area of research in this area would be a thorough examination of the mechanisms driving the harsh treatment of Alaska Native suspects. The stereotypes of American Indian and Alaska Native people are couched in a history that includes conquest, forced relocation, and organized efforts

to eradicate native cultures (Bachman et al., 2008). While other minority groups also have histories of discrimination and oppression, the historical trauma of AI/ANs is qualitatively different, and the extent to which these contextual differences reflect disparate treatment in the justice system is unknown.

Another consistent finding in this study was the influence of victim injury on case processing decisions. In the current study, this variable was a summation of total anogenital and non-genital injuries. Future research is needed to better understand what specific injuries matter, and for what types of sexual assaults. It might be the case that some injuries (e.g., redness or swelling around the genitalia) are not predictors of case decisions in non-stranger cases, but would be in stranger cases. Along the same lines, only a few studies to date have conducted rigorous studies of SANE programs and its impact on criminal case processing even though empirical research suggests that evidentiary considerations are paramount in case outcomes.

New or innovative data collection activities are needed to advance the empirical scholarship on sexual violence. As noted by others (e.g., Johnson, 2005; Spohn & Tellis, 2013; Ulmer & Johnson, 2004), environmental and contextual factors are important to understanding local court processes and case outcomes. There was some evidence of jurisdictional differences in the current study as well, as whether the assault occurred in Anchorage (or elsewhere) was significant in several of the analyses. Overlapping census data with law enforcement and court administrative data and other geocoding efforts would allow an examination of community characteristics alongside other factors more often considered in sexual assault case processing literature (e.g., victim, suspect, and case characteristics).

A broader consideration of qualitative approaches to data collection would also be of benefit to scholarly works. Field research, in particular participant observation could provide a wealth of rich contextual data that cannot be gleaned from administrative records. Field research has been used in other areas of criminal justice research (e.g., police and court observations) with great success (Bach, 2009). The observation of the interactions between the victim and detective, and how the interactions affect the quality of the investigation itself, has not been examined even though communication between these parties is paramount to the development of the case, and perhaps ultimately, its prosecutorial outcome (Martin, 2005). Additionally, interviews or focus groups with courtroom work groups to illuminate groupthink among different types of sexual assault scenarios would help shed light on how the courtroom context impacts outcomes.

Practitioner Implications

The focus of this dissertation is on the response of the criminal justice system to sexual assault crimes. And while there is evidence of room for improvement, it should also be acknowledged that the criminal justice system is limited in its ability to successfully prosecute all reported crimes, including sexual assaults. Thus, future evaluation research should incorporate the role of the community in coordinating services for victims of sexual violence as well as outreach efforts geared towards sexual violence awareness and prevention. At the same time, it is imperative that law enforcement and the courts have adequate resources, infrastructure and training on best-practices for investigating and prosecuting sexual assault crimes.

Criminal justice actors should also foster relationships with victim service allies outside the justice system. For example, the SANE/SART program has been found to

improve sexual assault victims' participation in the criminal justice process, improve the quantity and quality of evidence in sexual assault cases, and impact case outcomes (Campbell, Bybee, Ford, & Patterson, 2008; Girardin, 2005; Wilson & Klein, 2005).

As suggested by this study, extralegal variables are important considerations for police in determining whether to forward cases for prosecution as well as for prosecutors in deciding whether to accept cases. Training programs and other programmatic efforts focused on addressing underlying sources of racial bias and stereotypes about sexual violence are important to raise awareness among practitioners regarding how these factors influence decisions. SANE/SART collaborations might be a fruitful mechanism to provide such trainings.

There is also a need for the field to develop practical solutions that take into account the uniqueness of Alaska. For example, awareness outreach activities to educate sexual assault victims about the importance of timely reporting and SANE exams are important, but ignore the realities of Alaska Native victims living in villages that are remote or not accessible by car, do not have a police presence, or a SANE program. Advancements in technology, via video to record victim statements or crime scenes when state troopers are delayed and developing technics to detect forensic evidence after the 96-hour mark are two potential avenues for practitioners to consider to better meet the needs of sexual assault survivors in Alaska. Along these same lines, village public safety officers should also be leveraged to improve the criminal justice response to sexual assault victims. As the first responders, training on the dynamics and nature of sexual violence, as well as trauma-informed interviewing techniques might improve the

reliability and strength of victim and witness accounts, thereby improving the chances of prosecution (Campbell et al., 2008; Wood, Rosáy, Postle, & TePas, 2011).

Conclusion

The most notable finding from this study is the increased odds of case referral and acceptance for Alaska Native suspects. These findings are consistent with focal concerns (Steffensmeier et al. 1998) and with research on the treatment of minorities in the criminal justice system. Cases that involved a white victim and Alaska Native suspect had particularly high odds, a finding that is consistent with rape myths that sexual violence is inter-racial. More research in this area is needed, as this is one of the few studies to date that included Alaska Natives.

Future research is also needed to better explicate the interplay between legal and extralegal variables on criminal justice decision-making and outcomes. The findings in this study suggest that both legal and extralegal variables are important, but that their importance might be conditioned by the nature of the assault. A more nuanced understanding of these relationships requires additional data collection efforts from victims as well as criminal justice actors and additional theoretical attention.

Table 3-1: Rape Myths

Blaming the victim
Women provoke rape
There is a "right way" to respond to rape. The victim
• Will be hysterical
• Will resist the assault and have visible physical injuries
Women secretly want to be raped
A woman's reputation should be an in issue in rape allegations
Women can resist rape
Women who are drunk are willing to engage in any kind of sexual activity
Women "ask for it" by their dress or actions
Excusing the perpetrator
Men who are sexually excited can get carried away
Most men are capable of rape
Men who rape are sick or emotionally disturbed
Justifications for acquaintance sexual assaults
A man has the right to assume a woman wants to have sexual intercourse with him if
• She allows him to touch her in a sexual way
• She touches him in a sexual way
If a woman has previously had sex with a man, she cannot claim that she was raped if the same man has sex with her again
If a man pays for everything on a date, a woman is obligated to have sex with him
Rapists are almost always strangers to their victims
The nature of rape
Rape is unwanted sex, not a violent crime
Sexual assaults are rare
A woman cannot be raped without a weapon
Men cannot be raped
Gang rape is rare
Most rapes involve African American men and Caucasian women

Table 3-2: Summary of Hypotheses

Theory	Predictor	Expected Relationship
Uncertainty Avoidance Theory		
	Physical force or weapon	+
	Number of victim injuries	+
	Forensic evidence	+
Feminist-Conflict Theory		
	White victims	+
	White victim/Alaska Native suspects	+
	Victim intoxication	-
	Location of assault (victim/suspect residence)	-
	Stranger assault	+
	Post coital interval	-
Liberation Hypothesis		
Non-Stranger Cases		
	White victims	+
	White victim/Alaska Native suspects	+
	Victim intoxication	-
	Location of assault (victim or suspect residence)	-
No-Force Cases		
	White victims	+
	White victim/Alaska Native suspects	+
	Victim intoxication	-
	Location of assault (victim or suspect residence)	-

Note: + represents a positive relationship and – indicates a negative relationship is expected

Table 4-1: Number of Sexual Assault Nurse Examinations, by Location

Location	Years Participated	Examinations		Average per Year
		N	%	
Anchorage	9	1,383	81.4	154
Fairbanks	2	144	8.5	72.
Bethel	2	105	6.2	53
Kotzebue	1	21	1.2	21
Nome	1	19	1.1	19
Soldotna	1	14	0.8	14
Homer	1	9	0.5	9
Kodiak	1	4	0.2	4
Total		1699	100%	

Table 5-1: Case Attrition

Stage	N	% Reported	% Referred	% Accepted
Reported	1,019	100.0%	--	--
Referred	315	31.0%	100.0%	--
Accepted	220	22.0%	70.0%	100.0%

Table 5-2: Variable Frequencies - Partitioned by Nature of Sexual Assault

Variables	All Cases (N = 1,019)		Force Cases (N = 491)		No Force Cases (N = 528)		Stranger Cases (N = 160)		Non-Stranger Cases (N = 819)	
	N	%	N	%	N	%	N	%	N	%
Predictors										
Force										
Yes	491	48%	--	--	--	--	108	68%***	379	46%
No	528	52	--	--	--	--	52	33	440	54
Injury $\bar{x}$ (SD)	6.93 (8.55)		9.81 (9.74)***		4.79 (6.18)		8.83 (11.11)**		6.65 (7.98)	
Zero injuries	367	36%	397	81%	255	54%	60	38%	280	35%
One or more injuries	652	64	93	19	216	46	100	62	539	65
Forensic Evidence										
Yes	264	26	154	31***	110	21	45	28	211	26
No	755	74	337	69	418	79	115	72	608	74
Victim race										
White (reference)	358	35	180	37	178	34	56	35	285	35
Alaska Native	574	56	269	55	305	58	91	57	462	56
Other	87	9	42	9	45	9	13	8	72	9
Suspect race										
White (reference)	331	34	168	35	163	34	59	40	267	34
Alaska Native	367	38	155	32***	212	44	18	12	341	43
Other	263	27	158	33	105	22	70	48***	188	24
Victim/suspect race dyad										
White/White (reference)	185	19	85	17	100	20	20	13***	160	20
White/Native	49	5	26	5	23	5	6	4	42	5
Native/White	123	12	72	15	51	10	36	24***	87	11
Native/Native	313	32	128	26***	185	26	12	8***	294	36
Intoxication										
Yes	813	80	368	75***	445	84	118	74	662	81
No	206	20	123	25	83	16	42	26	157	19

*$p \leq .05$ **$p \leq .01$ *** $p \leq .00 + p \leq .10$, for differences between (1) cases with and without force and (2) stranger and non-stranger case

Variables	All Cases (N = 1,019)		Force Cases (N = 491)		No Force Cases (N = 528)		Stranger Cases (N = 160)		Non-Stranger Cases (N = 819)	
	N	%	N	%	N	%	N	%	N	%
Predictors										
Residence										
Yes	444	44	237	48**	207	39	27	17%***	409	50%
No	575	56	254	52	321	61	133	83	410	50
Victim/suspect relationship										
Stranger (reference)	160	16	108	22***	52	11	--	--	--	--
Relative	81	8	19	4***	62	13	--	--	--	--
Friend	627	64	283	58***	344	70	--	--	--	--
Partner	111	11	77	16***	34	7	--	--	--	--
PCI										
< 2 hours	121	12%	70	14%**	51	10%	31	19***	87	11
2 to < 4 hours	191	19	116	24***	75	14	48	30***	140	17
4 to < 12 hours	291	29	123	25	168	32	49	31	224	27
12 to < 24 hours	194	19	85	17	109	21	13	8***	176	21
1 to < 3 days	170	17	78	16	92	17	15	9***	146	18
3+ days	52	5	19	4	33	6	4	3***	46	6
Controls										
Victim age										
17 and under	189	19%	59	12%	130	25%	18	11%	160	20%
18 – 24	300	29	126	26***	174	33	44	28	250	31
25 – 34	233	23	113	23**	120	23	33	21	189	23
35 – 44	188	18	127	26***	61	12	40	25*	139	17
45+	109	11	66	13**	43	8	25	16*	81	10
Anchorage										
Yes	582	57	289	41	293	45	109	68	456	56
No	437	43	202	59	235	55	51	32	363	44

*p ≤ .05 **p ≤ .01 *** p ≤ .00 + p≤ .10, for differences between (1) cases with and without force and (2) stranger and non-stranger case

Table 5-3: Case Selection Across Stages

Variables	Reported Cases (N = 1,019)		Referred Cases (N = 315)		Accepted Cases (N = 220)	
	N	%	N	%	N	%
Predictors						
Force						
Yes	491	48%	165	52%[+]	119	54%[+]
No	528	52	150	48	101	46
Injury $\bar{x}$ (SD)	6.93 (8.55)		8.68 (9.65)[***]		9.47 (10.49)[***]	
Zero injuries	367	36%	87	28%	58	26%
One or more injuries	652	64	228	72	162	74
Forensic evidence						
Yes	264	26	103	33[**]	72	33[*]
No	755	74	212	67	148	67
Victim race						
White (reference)	358	35	97	31	69	31
Alaska Native	574	56	194	62[*]	136	62
Other	87	9	24	8	15	7
Suspect race						
White (reference)	331	34	90	29	60	28
Alaska Native	367	38	160	52[***]	120	56[***]
Other	263	27	57	19	33	15
Victim/suspect race dyad						
White/White (reference)	185	19	53	17	38	17
White/Native	49	5	23	7[*]	18	8[*]
Native/White	123	12	33	11	22	10
Native/Native	313	32	135	44[***]	100	47[***]
Intoxication						
Yes	813	80	243	77	165	75
No	206	20	72	23	55	25
Residence						
Yes	444	44	237	48[***]	207	39[***]
No	575	56	254	52	321	61
Victim/suspect relationship						
Stranger (reference)	160	16	24	8[***]	19	9[***]
Relative	81	8	37	12[*]	32	15[***]
Friend	627	64	201	65	127	59
Partner	111	11	46	15[*]	36	17[*]

$*p \leq .05$ $**p \leq .01$ $*** p \leq .00$ $+ p \leq .10$ differences between reported cases and cases that result in an arrest and prosecution.

Variables	Reported Cases (N = 1,019)		Referred Cases (N = 315)		Accepted Cases (N = 220)	
	N	%	N	%	N	%
Predictors						
PCI						
< 2 hours	121	12	57	18***	41	19***
2 to < 4 hours	191	19	66	21	46	21
4 to < 12 hours	291	29	83	26	63	29
12 to < 24 hours	194	19	53	17	35	16
1 to < 3 days	170	17	46	15	28	13
3+ days	52	5	10	3	7	3
Controls						
Victim age						
17 and under	189	19	63	20	50	23
18 – 24	300	29	92	29	57	26
25 – 34	233	23	66	21	42	19
35 – 44	188	18	56	18	38	17
45+	109	11	38	12	33	15
Anchorage						
Yes	582	57	149	47***	102	46***
No	437	43	166	53	118	54

$*p \leq .05$ $**p \leq .01$ $*** p \leq .00$ $+ p \leq .10$ differences between reported cases and cases that result in an arrest and prosecution.

Table 6-1: Logistic Regression Models for Case Referral: Main and Joint Effects

Variable	Model 1 (Race Dyads Omitted) β	SE	Exp(β)	Model 2 (Race Dyads Included) β	SE	Exp(β)
Force	.09	.17	1.10	.05	.17	1.06
Injury	.25	.07	1.28***	.24	.07	1.27***
Forensic evidence	.38	.17	1.46*	.38	.17	1.46*
Victim race						
White (reference)	--	--	--	--	--	--
Native	-.05	.19	.96	--	--	--
Other	-.12	.31	.89	--	--	--
Suspect race						
White (reference)	--	--	--	--	--	--
Native	.69	.20	2.00***	--	--	--
Other	-.21	.22	.81	--	--	--
Victim-suspect race dyad						
White/White (reference)	--	--	--	--	--	--
White/Native	--	--	--	1.00	.325	2.72***
Native/White	--	--	--	.22	.247	1.24
Native/Native	--	--	--	.78	.19	2.18***
Intoxication	-.39	.21	.68+	-.42	.21	.65*
Residence	.44	.16	1.55**	.43	.16	1.54**
Victim-suspect relationship						
Stranger (reference)	--	--	--	--	--	--
Relative	1.08	.37	2.95***	1.17	.37	3.21***
Friend	.88	.27	2.40***	.91	.27	2.50***
Partner	1.14	.33	3.14***	1.30	.34	3.67***
PCI	-.24	.06	.79***	-.23	.06	.79***
Age	-.07	.07	.93	-.08	.07	.92
Anchorage	-.51	.16	.60***	-.54	.16	.58***
Constant	-.83	.44	.44*	-.98	.4	.375**
N of cases		943			937	

*p< .05 **p<.01 ***p<.00 +.10

Table 6-2: Logistic Regression Models for Case Referral, Partitioned by Force

Variable		Force						No Force					
	Model 3 (Race Dyads Omitted)			Model 4 (Race Dyads Included)			Model 5 (Race Dyads Omitted)			Model 6 (Race Dyads Included)			
	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)		
Injury	.56	.11	1.74***	.57	.11	1.77***	-.01	.10	1.01	-.02	.10	.98		
Forensic evidence	.46	.24	1.59*	.48	.24	1.62*	.43	.26	1.54	.42	.26	1.52		
Victim race														
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--		
Native	-.11	.26	.89	--	--	--	-.03	.29	.97	--	--	--		
Other	.01	.48	1.01	--	--	--	-.32	.47	.72	--	--	--		
Suspect race														
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--		
Native	.76	.28	2.14**	--	--	--	.66	.30	1.94*	--	--	--		
Other	-.33	.29	.72	--	--	--	-.19	.34	.83	--	--	--		
Victim-suspect race dyad														
White/White (reference)	--	--	--	--	--	--	--	--	--	--	--	--		
White/Native	--	--	--	1.59	.46	4.95***	--	--	--	.53	.50	1.70		
Native/White	--	--	--	.47	.33	1.61	--	--	--	-.06	.41	.94		
Native/Native	--	--	--	.89	.28	2.46***	--	--	--	.70	.26	2.01**		
Intoxication	-.26	.29	.78	-.38	.29	.69	-.46	.32	.63	-.41	.31	.67		
Residence	.25	.24	1.28	.23	.24	1.26	.58	.23	1.78**	.57	.23	1.78**		
Victim-suspect relationship														
Stranger (reference)	--	--	--	--	--	--	--	--	--	--	--	--		
Relative	1.22	.62	3.40*	1.39	.64	4.01*	.53	.53	1.69	.65	.53	1.91		
Friend	1.25	.35	3.49***	1.36	.36	3.91***	.31	.41	1.36	.36	.45	1.42		
Partner	1.52	.42	4.55***	1.79	.44	5.97***	.35	.59	1.42	.56	.59	1.75		
PCI	-.24	.09	.79**	-.21	.08	.81**	-.22	.09	.80**	-.23	.09	.79**		
Age	-.101	.09	.90	-.09	.10	.91	-.11	.10	.90	-.13	.10	.88		
Anchorage	-.72	.23	.49***	-.81	.23	.44***	-.35	.22	.71	-.37	.22	.69+		
Constant	-1.10	.57	.33*	-1.54	.54	.21**	-.11	.64	.89	-.18	.61	.84		
N of cases		478			474			465			463			

*p< .05 **p<.01 ***p<.00 +p<.10

Table 6-3: Logistic Regression Models for Case Referral, Partitioned by Stranger Assaults

	Stranger Model 7 (Race Dyads Omitted)			Non-Stranger Model 8 (Race Dyads Omitted)		
Variable	β	SE	Exp(β)	β	SE	Exp(β)
Force	-.75	.58	.47	.19	.18	1.21
Injury	.29	.22	1.34	.25	.08	1.29***
Forensic evidence	.55	.54	1.73	.34	.18	1.40+
Victim race						
White (reference)	--	--	--	--	--	--
Native	.71	.64	2.03	-.11	.20	.90
Other	.75	.90	2.12	-.16	.33	.85
Suspect race						
White (reference)	--	--	--	--	--	--
Native	1.32	.78	3.76+	.68	.21	1.97***
Other	1.00	.61	2.71	-.39	.24	.67+
Intoxication	-1.22	.60	.30*	-.36	.22	.70+
Residence	-.42	.72	.66	.52	.17	1.68***
PCI	-.42	.23	.66+	-.23	.06	.80***
Age	.33	.21	1.39	-.12	.07	.89
Anchorage	-.62	.56	.54	-.51	.16	.60***
Constant	-1.54	1.41	.21	.12	.39	1.13
N of cases	147			796		

*p< .05 **p<.01 ***p<.00 +p<.10

Table 7-1: Logistic Regression Models for Acceptance Outcome, Unconditional Sample

Variable	Model 9 (Race Dyads Omitted)			Model 10 (Race Dyads Included)		
	β	SE	Exp(β)	β	SE	Exp(β)
Force	.05	.20	1.05	.02	.20	1.02
Injury	.28	.08	1.32***	.26	.08	1.30***
Forensic evidence	.33	.19	1.39+	.32	.19	1.38+
Victim race						
White (reference)	--	--	--	--	--	--
Native	-.19	.22	.83	--	--	--
Other	-.34	.37	.71	--	--	--
Suspect race						
White (reference)	--	--	--	--	--	--
Native	.75	.23	2.11***	--	--	--
Other	-.26	.26	.77	--	--	--
Victim-suspect race dyad						
White/White (reference)	--	--	--	--	--	--
White/Native	--	--	--	1.01	.37	2.69**
Native/White	--	--	--	.29	.29	1.33
Native/Native	--	--	--	.81	.22	2.26***
Intoxication	-.63	.23	.53**	-.65	.23	.52**
Residence	.32	.19	1.38+	.35	.19	1.41+
Victim-suspect relationship						
Stranger (reference)	--	--	--	--	--	--
Relative	1.26	.41	3.53***	1.31	.42	3.72***
Friend	.48	.31	1.62	.52	.31	1.69+
Partner	1.09	.37	2.98***	1.27	.37	3.57***
PCI	-.27	.07	.77***	-.25	.07	.78***
Age	-.02	.07	.98	-.04	.08	.96
Anchorage	-.39	.18	.67*	-.44	.18	.64**
Constant	-.98	.47	.37*	-1.27	.45	.28***
N of cases	894			890		

*p< .05 **p<.01 ***p<.00 +p<.10

Table 7-2: Logistic Regression Models for Acceptance Outcome, Unconditional Sample, Partitioned by Force

	Force						No Force					
	Model 11 (Race Dyads Omitted)			Model 12 (Race Dyads Included)			Model 13 (Race Dyads Omitted)			Model 14 (Race Dyads Included)		
Variable	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)
Injury	.60	.13	1.82***	.61	.13	1.84***	-.01	.02	.99	-.01	.02	.99
Forensic evidence	.39	.259	1.48	.39	.27	1.47	.39	.30	1.48	.36	.30	1.43
Victim race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	-.03	.289	.97	--	--	--	-.49	.36	.611	--	--	--
Other	-.40	.494	.67	--	--	--	-.31	.57	.74	--	--	--
Suspect race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	.82	.32	2.27**	--	--	--	.84	.37	2.31*	--	--	--
Other	-.07	.34	.93	--	--	--	-.56	.46	.57	--	--	--
Victim-suspect race dyad												
White/White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
White/Native	--	--	--	1.62	.49	5.07***	--	--	--	.39	.62	1.48
Native/White	--	--	--	.64	.37	1.89	--	--	--	-.33	.54	.72
Native/Native	--	--	--	.95	.31	2.60***	--	--	--	.65	.32	1.91*
Intoxication	-.58	.32	.56+	-.65	.32	.52*	-.67	.36	.51	-.61	.36	.54
Residence	.30	.27	1.35	.24	.28	1.27	.34	.28	1.40	.39	.28	1.49
Victim-suspect relationship												
Stranger (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Relative	.97	.68	2.65	1.19	.70	3.06	.99	.62	2.70	1.14	.62	3.13+
Friend	.72	.39	2.06+	.81	.40	2.24*	.00	.56	1.00	.17	.56	1.18
Partner	1.14	.46	3.12**	1.43	.46	4.16***	.79	.68	2.20	1.13	.68	3.10+
PCI	-.22	.09	.81*	-.19	.09	.82*	-.29	.10	.74***	-.30	.10	.74***
Age	-.02	.11	1.10	.02	.11	1.00	-.12	.11	.88	-.17	.11	.84
Anchorage	-.81	.26	.45***	-.94	.27	.39***	.03	.27	1.03	-.01	.26	.99
Constant	-1.55	.62	.21**	-1.91	.60	.15***	-.85	.78	.95	-.36	.73	.69
N of cases		457			454			437			436	

*p< .05 **p<.01 ***p<.000 +p<.10

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Table 7-3: Logistic Regression Models for Acceptance Outcome, Unconditional Sample, Partitioned by Stranger Assaults

	Stranger						Non-Stranger					
	Model 15			*Model 16*			*Model 17*			*Model 18*		
	(Race Dyads Omitted)			*(Race Dyads Included)*			*(Race Dyads Omitted)*			*(Race Dyads Included)*		
Variable	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)
Force	-.37	.66	.69	-.38	.66	.68	.07	.20	1.07	.03	20	1.04
Injury	.30	.25	1.35	.32	.25	1.37	.27	.09	1.32***	.26	.09	1.29***
Forensic evidence	.22	.61	1.24	.19	.61	1.20	.32	.20	1.38	.32	.20	1.37
Victim race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	.17	.68	1.19	--	--	--	-.17	.24	.84	--	--	--
Other	1.16	.97	3.18	--	--	--	-.48	.41	.62	--	--	--
Suspect race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	1.49	.81	4.42+	--	--	--	.77	.25	2.16***	--	--	--
Other	.75	.68	2.12	--	--	--	-.44	.29	.65	--	--	--
Victim-suspect race dyad												
White/White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
White/Native	--	--	--	.76	1.14	2.14	--	--	--	.91	.40	2.48*
Native/White	--	--	--	.17	.70	1.18	--	--	--	.21	.32	1.24
Native/Native	--	--	--	1.05	.84	2.84	--	--	--	.92	.22	2.52***
Intoxication	-1.09	.66	.33+	-1.28	.63	.28*	-.74	.25	.48***	-.77	.24	.46***
Residence	-.64	.85	.53	-.44	.77	.64	.49	.20	1.64**	.55	.20	1.73**
PCI	-.33	.24	.72	-.37	.24	.69	-.25	.07	.78***	-.22	.07	.80***
Age	.36	.24	1.43	.31	.23	1.36	-.06	.08	.94	-.07	.08	.93
Anchorage	-.57	.64	.56	-.61	.63	.54	-.38	.19	.68*	-.43	.19	.65*
Constant	-2.03	1.55	.13	-1.04	1.33	.35	-.32	.45	.73	-.63	.42	.53
N of cases	138			138			756			752		

*p< .05 **p<.01 ***p<.00 +p<.10

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Table 7-4: Logistic Regression Models for Acceptance Outcome: Conditional Sample, Main and Joint Effects

Variable	Model 19 (Race Dyads Omitted)			Model 20 (Race Dyads Included)		
	β	SE	Exp(β)	β	SE	Exp(β)
Force	-.04	.32	.96	-.08	.32	.93
Injury	.21	.13	1.23	.15	.13	1.16
Forensic evidence	-.03	.30	.97	-.08	.30	.92
Victim race						
White (reference)	--	--	--	--	--	--
Native	-.54	.36	.58	--	--	--
Other	-.63	.56	.53	--	--	--
Suspect race						
White (reference)	--	--	--	--	--	--
Native	.62	.36	1.86[+]	--	--	--
Other	-.40	.42	.67	--	--	--
Victim-suspect race dyad						
White/White (reference)	--	--	--	--	--	--
White/Native	--	--	--	.77	.94	2.16[+]
Native/White	--	--	--	.30	.46	1.36
Native/Native	--	--	--	.58	.33	1.79[+]
Intoxication	-.51	.39	.60	-.52	.38	.60
Residence	-.02	.30	.98	.13	.30	1.14
Victim-suspect relationship						
Stranger (reference)	--	--	--	--	--	--
Relative	.20	.79	1.22	.35	.78	1.42
Friend	-1.03	.60	.36[+]	-.83	.58	.44
Partner	-.43	.71	.65	-.16	.68	.85
PCI	-.16	.10	.85[+]	-.13	.10	.88
Age	.03	.12	1.03	-.01	.12	.98
Anchorage	.02	.29	1.02	-.00	.28	.99
Constant	2.17	.85	8.77**	1.55	.78	4.72*
N of cases		287			288	

*p< .05 **p<.01 ***p<.000 +p<.10

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Table 7-5: Logistic Regression Models for Acceptance Outcome, Conditional Sample, Partitioned by Force

	Force						No Force					
	Model 21 (Race Dyads Omitted)			Model 22 (Race Dyads Included)			Model 23 (Race Dyads Omitted)			Model 24 (Race Dyads Included)		
Variable	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)	β	SE	Exp(β)
Injury	.37	.20	1.45*	.05	.02	1.45*	.21	.20	1.29	.11	.19	1.18
Forensic evidence	.06	.41	1.06	-.11	.42	.90	-.05	.48	.95	.10	.47	1.11
Victim race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	.15	.48	.86	--	--	--	.85	.61	.43	--	--	--
Other	-.64	.75	.45	--	--	--	.72	.90	.87	--	--	--
Suspect race												
White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
Native	-.66	.48	1.93	--	--	--	-.95	.59	2.59	--	--	--
Other	.57	.60	1.13	--	--	--	-1.91	.67	.39	--	--	--
Victim-suspect race dyad												
White/White (reference)	--	--	--	--	--	--	--	--	--	--	--	--
White/Native	--	--	--	1.53	.89	4.61+	--	--	--	-.22	.89	.80
Native/White	--	--	--	.68	.62	1.97	--	--	--	-.56	.76	.57
Native/Native	--	--	--	.76	.47	2.13	--	--	--	.70	.44	2.02
Intoxication	-.95	.52	.39*	-.95	.51	.39	-1.10	.61	.33+	-1.00	.58	.37
Residence	.34	.41	1.40	.36	.41	1.44	-.17	.42	.84	.00	.41	1.01
Victim-suspect relationship												
Stranger (1= yes)	1.50	.90	4.50+	1.62	.90	5.07+	-.05	.94	.95	-.50	.87	.61
PCI	-.04	.15	.96	-.03	.14	.97	-.22	.15	.80	-.16	.15	.85
Age	.17	.16	1.18	.12	.16	1.13	.06	.18	1.06	-.09	.17	.92
Anchorage	-.59	.41	.56	-.63	.41	.54	.67	.42	1.96	.52	.40	1.68
Constant	.95	.96	1.56	.27	.88	1.31	1.91	1.00	6.09+	1.48	.98	4.38
N of cases	154			154			133			131		

*p< .05 **p<.01 ***p<.000 +p<.10

Table 8-1: Referred Charges

Charge	N	%
Sexual assault 1	135	54
Sexual assault 2	53	21
Sexual assault 3	5	2
Incest	2	1
Sexual abuse of a minor 1	3	1
Sexual abuse of a minor 2	7	3
Unlawful exploitation of a minor	1	.4
Possession of child pornography	1	.4
Furnishing alcohol to a minor	4	2
Contributing to the delinquency of a minor	2	1
Assault 1	1	1
Assault 2	3	1
Assault 3	7	3
Assault 4	5	2
Kidnapping	11	5
Robbery 2	1	.4
Burglary 1	5	2
Theft 4	1	.4
Violation of protection order	1	.4
Interfere with the report of a crime of domestic violence	2	1
Misconduct involving a controlled substance 4	1	.4
Tampering with physical evidence	1	.4
Total	**252**	

Table 8-2: Disposition of Referred Charges

Disposition	N	%
Accepted as referred	180	71
Accepted – same class	4	2
Accepted – higher level	12	5
Accepted – lesser misdemeanor	1	.4
Prosecution declined	55	22
Total	**252**	

Table 8-3: Detailed Reasons for Not Accepting Charges as Referred

Reason	N	%
Witness Reason		
Victim declined to prosecute	1	.4
Unable to locate essential witness	6	2
Essential witness not credible	4	2
Other witness problem	3	1
Total	*14*	*19*
Evidentiary Reason		
Insufficient evidence – knowledge	1	.4
Insufficient evidence – other essential element	15	6
Inadequate corroboration	4	2
Inadequate identification	1	.4
Affirmative defense available	1	.4
Exculpatory evidence discovered	1	.4
Another charge more accurate	13	5
Other evidentiary reason	3	1
Total	*39*	*54*
Discretionary Reason		
Requested investigation not completed	4	2
Charges consolidated	1	.4
Interests of justice	1	.4
Other discretionary reason	8	3
Total	*14*	*19*
Procedural/Other Reason		
Pre-charging delay problem	4	2
Other miscellaneous reasons	1	.4
Total	*5*	*7*
Total	**72**	

Table 8-4: Charges Referred but Not Accepted

Charge	N	%
Sexual assault 1	37	67
Sexual assault 2	10	18
Assault 2	1	2
Assault 3	1	2
Kidnapping	4	6
Robbery 2	1	2
Burglary 1	1	2
Total	**55**	

Table 8-5: Charges Added by Prosecutors

Charge	N	%
Sexual assault 1	9	23
Sexual assault 2	8	20
Sexual assault 3	2	5
Attempted murder	1	3
Sexual abuse of a minor 3	1	3
Unlawful exploitation of a minor	2	5
Furnishing alcohol to a minor	1	3
Assault 3	2	5
Assault 4	1	3
Kidnapping	1	5
Harassment	1	3
Violation of condition of release	2	5
Misdemeanor probation or SIS revocation	5	13
Misconduct involving a controlled substance 4	2	5
Tampering with physical evidence	1	3
Contributing to the Delinquency of a minor	1	3
Total	**40**	

Table 8-6: Accepted Charges

Charge	N	%
Attempted murder	1	.4
Sexual assault 1	115	49
Sexual assault 2	45	19
Sexual assault 3	5	2
Incest	2	1
Sexual abuse of a minor 1	3	1
Sexual abuse of a minor 2	6	3
Sexual abuse of a minor 3	1	.4
Unlawful exploitation of a minor	3	1
Possession of child pornography	1	.4
Furnishing alcohol to a minor	5	2
Contributing to the delinquency of a minor	4	2
Assault 1	2	1
Assault 2	3	1
Assault 3	8	3
Assault 4	5	2
Kidnapping	8	3
Burglary 1	4	2
Theft 4	1	.4
Violation of protection order	1	.4
Misdemeanor probation or SIS revocation	5	2
Interfere with the report of a crime of domestic violence	2	1
Misconduct involving a controlled substance 4	3	1
Tampering with physical evidence	2	1
Harassment	1	.4
Violation of condition of release	1	.4
Total	**237**	

Table 8-7: Charge Congruence

Referred Charge	N	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21
																						Accepted Charge
1. Sexual assault 1	98	97*																				
2. Sexual assault 2	43	7	36																			
3. Sexual assault 3	5	1	1	3																		
4. Incest	2				2																	
5. Sexual abuse minor 1	3					3																
6. Sexual abuse minor 2	7						6				1											
7. Exploitation minor	1						1															
8. Possession child porn	1								1													
9. Furnish alcohol minor	4									4												
10. Cntr. delinq minor	2										2											
11. Assault 1	1											1										
12. Assault 2	2												2									
13. Assault 3	6												1	5								
14. Assault 4	5													1	4							
15. Kidnapping	7															7						
16. Burglary 1	4																4					
17. Theft 4	1																	1				
18. Violation of PO	1																		1			
19. Interfere DV report	2																			2		
20. Mis w/controlled subs.	1																				1	
21. Tamp w/evidence	1																					1
N	197																					

*One referred charge was attempted sexual assault in the 1st degree. It was marked as an upcharge, as the prosecutor dropped the modifier at acceptance

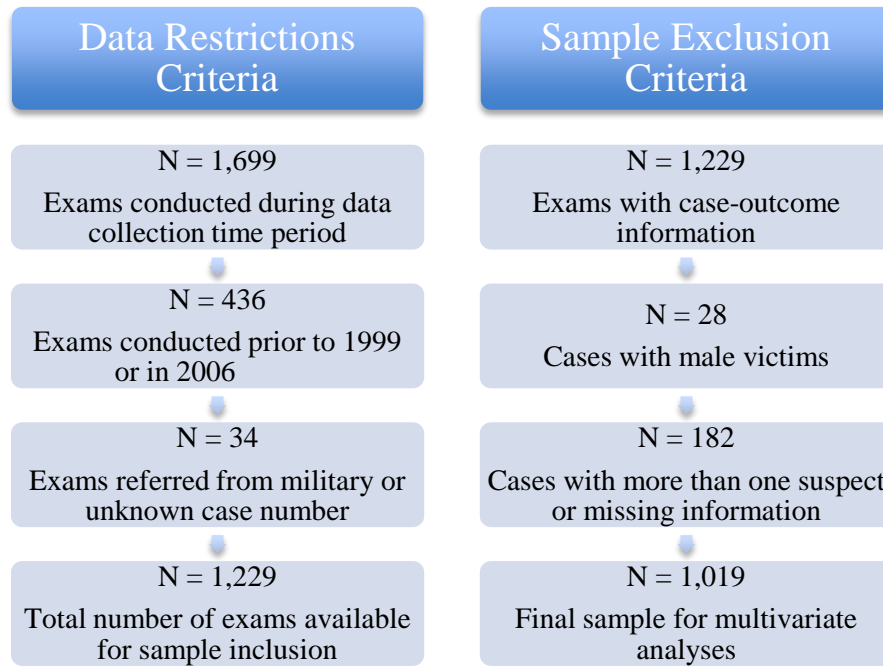**Figure 4-1: Data Restrictions and Sample Exclusion Criteria**

Data Restrictions Criteria	Sample Exclusion Criteria
N = 1,699 Exams conducted during data collection time period	N = 1,229 Exams with case-outcome information
N = 436 Exams conducted prior to 1999 or in 2006	N = 28 Cases with male victims
N = 34 Exams referred from military or unknown case number	N = 182 Cases with more than one suspect or missing information
N = 1,229 Total number of exams available for sample inclusion	N = 1,019 Final sample for multivariate analyses

Figure 6-1: Predicted Probabilities of Referral Outcome, by Victim-Suspect Racial Dyad
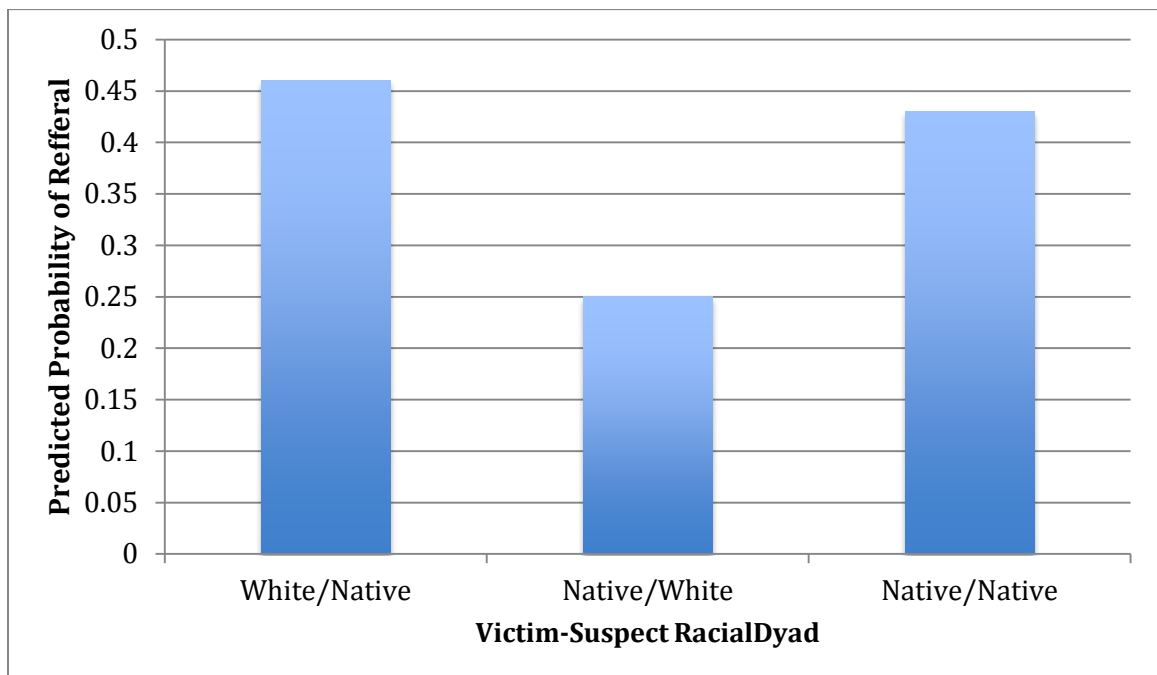

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Figure 7-1: Predicted Probabilities of Acceptance Outcome, by Victim-Suspect Racial Dyad, Conditional Sample
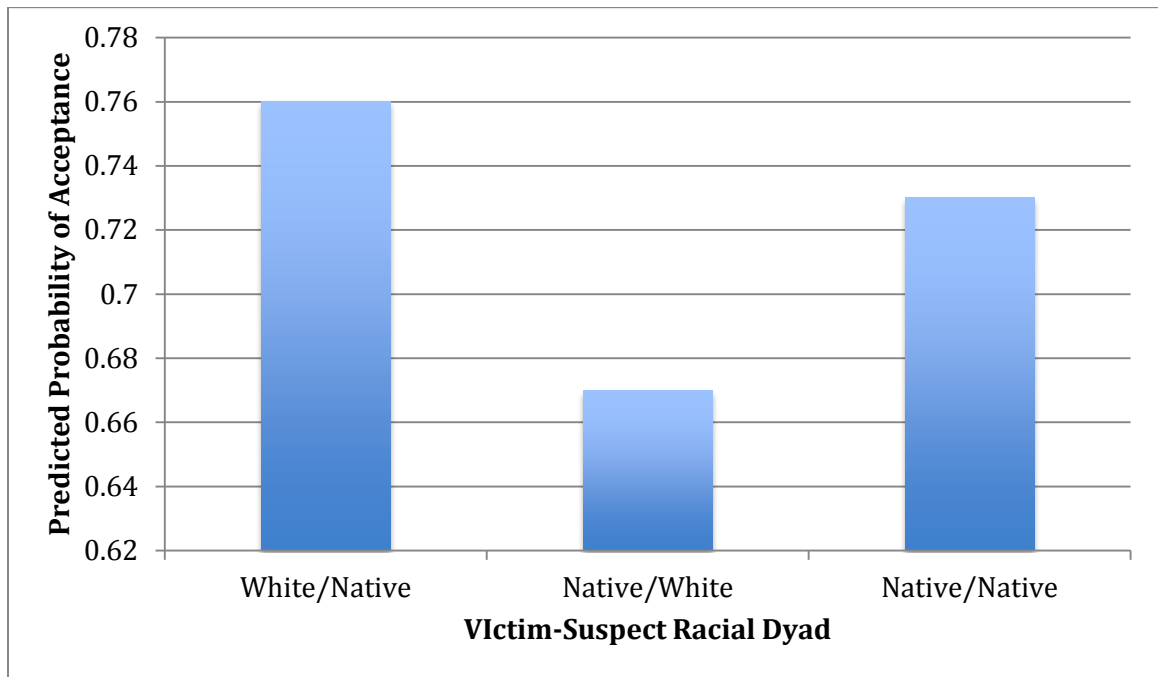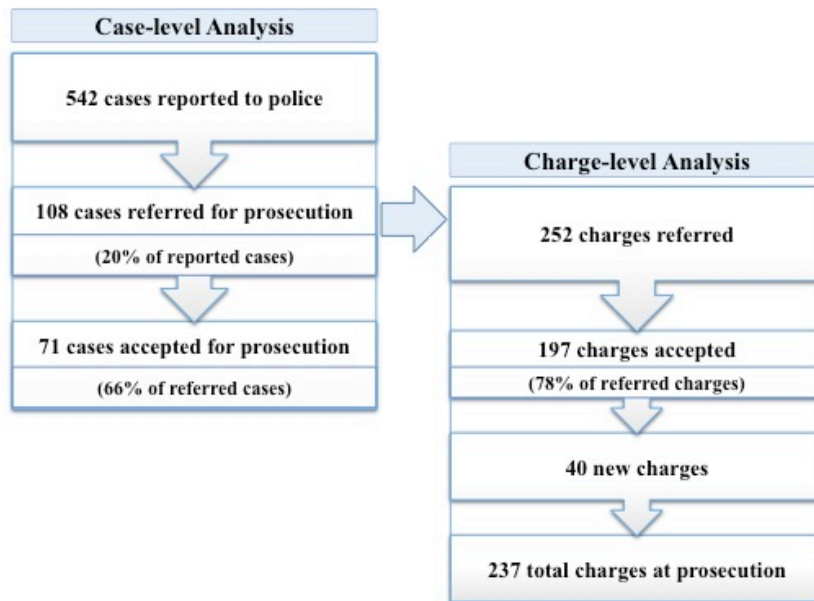

Figure 8-1: Case and Charge Attrition

APPENDIX A: SEXUAL ASSAULT STATUTE DEFINITIONS

During the years these cases apply, Alaska's definitions of sexual assaults were as

follows:

Table A-1: Alaska Sexual Assault Statutes

Degree	Classification	Requirements
1st	Unclassified Felony	1. The offender engages in sexual penetration with another person without consent of that person 2. The offender engages in sexual penetration with another person without consent of that person and causes serious physical injury to that person 3. The offender engages in sexual penetration with another person who is mentally incapable and in the offender's care by authority of law or in a facility or program that is required by law to be licensed by the state 4. The offender engages in sexual penetration with a person who the offender knows is unaware that a sexual act is being committed and the offender is a health care worker and the offense takes place during the course of professional treatment of the victim
2nd	Class B Felony	1. The offender engages in sexual contact with another person without consent of that person 2. The offender engages in sexual contact with a person who the offender knows is mentally incapable and is in the offender's care by the authority of law or in a facility or program that is required by law to be licensed by the state 3. The offender engages in sexual penetration with a person who the offender knows is mentally incapable, incapacitated, or unaware that a sexual act is being committed 4. The offender engages in sexual contact with a person who the offender knows is unaware that a sexual act is being committed and the offender is a health care worker and the offense takes place during the course of professional treatment of the victim

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Degree	Classification	Requirements
3rd	Class C Felony	1. The offender engages in sexual contact with a person who the offender knows is mentally incapable, incapacitated, or unaware that a sexual act is being committed 2. While employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, engages in sexual penetration with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment 3. Engages in sexual penetration with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person
3rd	Class A Misdemeanor	1. While employed in a state correctional facility or other placement designated by the commissioner of corrections for the custody and care of prisoners, the offender engages in sexual contact with a person who the offender knows is committed to the custody of the Department of Corrections to serve a term of imprisonment or period of temporary commitment 2. The offender engages in sexual contact with a person 18 or 19 years of age who the offender knows is committed to the custody of the Department of Health and Social Services under AS 47.10 or AS 47.12 and the offender is the legal guardian of the person

APPENDIX B: DISPOSITION AND REASON CODES

Table B-1: Screening Dispositions

Code	Disposition
390	Accepted – as referred
391	Accepted – same class
392	Accepted – higher level
393	Accepted – lesser felony
395	Accepted – lesser misdemeanor
399	Prosecution declined

Table B-2: Disposition Reasons

Victim/Witness Reasons		Evidentiary Reasons		Discretionary Reasons		Miscellaneous Reasons	
201	Victim declines prosecution	220	Insuff evid intent	260	Investigation incomplete	200	Disproport to resources
202	Cannot locate ess witness	221	Insuff evid knowledge	264	Declined to extradite	290	Referred/city attorney
203	Ess witness not credible	222	Insuff evid recklessness	265	Essentially a civil matter	291	Referred/US Attorney
204	Ess witness uncooperative	223	Insuff evid criminal negligence	266	Def civilly committed	292	Referred/juvenile authority
206	Ess witness unavail for trial	224	Insuff evid proof of age	267	Def extradited out of state	293	Referred/admin action
207	Ess witness unfit for trial	225	Insuff evid proof of value	268	Def deported	294	Pre-charging delay issue
208	Detective unavailable	226	Insuff evid other ess element	270	Immunity granted	295	4-month rule problem
209	Other witness problem	227	Inadequate identification	278	Charges consolidated	296	Lack of jurisdiction
		229	Inadequate corroboration	279	Def has other pending case	299	Other reason
		232	Physical evid unavailable	280	Def convicted in other case		
		234	Med/psych rept unvail/insuff	281	Pled to essence of offense		
		235	Def deceased	283	Probation/parole revoc		
		236	Analysis results insufficient	284	Restitution in progress		
		237	Def mentally incompetent	285	Pretrial diversion complete		
		240	Inadmissible search/seizure	286	Deferred prosecution		
		245	Search warrant defective	288	Interest of justice		
		246	Inadmiss identification	289	Other reason		
		247	Inadmiss statement of def.				
		249	Affirmative defense				
		250	Exculpatory evid				
		255	Good alibi available				
		257	Other charge more accurate				
		259	Other reason				

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APPENDIX C: CORRELATION MATRIX

Table C-1: Correlation[38] Matrix

	Referred	Accepted	Injury	For-ensic	Force	Victim White	Victim Native	Victim Other	Suspect White	Suspect Native	Suspect Other	White/ White	White/ Native
Referred	1.00												
Accepted	.79***	1.00											
Injury	.14***	.14***	1.00										
Forensic	.10***	.08**	.18***	1.00									
Force	.06	.06*	.37***	.12***	1.00								
Victim White	-.06*	-.04	-.07*	-.09**	.031	1.00							
Victim Native	.07*	.06	.09	.09**	-.03	-.08***	1.00						
Victim Other	-.02	-.03	-.03	.00	.00	-.22***	-.35***	1.00					
Suspect White	-.07*	-.07*	-.05	-.05	.01	.32***	-.29***	-.04	1.00				
Suspect Native	.20***	.20***	.05	.03	-.12***	-.35***	.45***	-.20***	-.57***	1.00			
Suspect Other	-.14***	-.14***	.00	.03	.12***	.04	-.19***	.26***	-.44***	-.49***	1.00		
White/ White	-.03	-.02	-.08**	-.01***	-.03	.67***	-.56***	-.15***	.67***	-.38***	-.30***	1.00	
White/ Native	.08**	.08**	.02	.00	.02	.32***	-.27***	-.07*	-.17***	.29***	-.14***	-.11***	1.00
Native/ White	-.04	-.05	-.04	.06	.07*	-.29***	.34***	-.11***	.53***	-.31***	-.24***	-.19***	-.09**

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[38] Since the majority of the variables are categorical, I also looked at categorical measures of association. No problems were found so only the correlation matrix is shown.

	Referred	Accepted	Injury	For-ensic	Force	Victim White	Victim Native	Victim Other	Suspect White	Suspect Native	Suspect Other	White/ White	White/ Native
Native/ Native	.17***	.17***	.05	.02	-.11***	-.51***	.61***	-.21***	-.51***	.89***	-.43***	-.34***	-.16***
Intoxication	-.04	-.06*	.10**	.05	-.12***	-.21***	.27***	-.11***	.12***	.17***	-.05	-.17***	-.03
Residence	.15***	.13***	.03	-.01	.09***	.09**	-.12***	.06*	.13***	-.03	-.10**	.17***	-.01
Stranger	-.17***	-.11***	.03	.02	.16***	.01	.01	-.01	.05	-.22***	.20***	.06*	-.023
Relative	.09**	.13***	-.08*	.01	-.16***	-.11***	.16***	-.08**	-.10**	.26***	-.18***	-.02	-.07**
Friend	.03	-.04	-.02	.02	-.08**	.01	-.01	.02	-.03	.05	-.02	-.04	.07**
Partner	.03	-.04	-.02	.02	-.08	.08**	-.12***	.06	.09**	-.05	-.04	.15***	-.02
Age	-.00	.01	.14***	.05	.23***	-.11***	.15***	-.08**	-.01	.08*	-.06*	-.10**	.01
PCI	-.14***	-.13***	-.13***	-.24***	-12***	.16***	-.15***	-.01	.10**	-.05	-.05	.18***	-.01
Anchorage	.13***	-.11***	.01	.08**	.03	.03	-.03	.01	.03	-.14***	.13***	.01	-.02

	Native/ White	Native/ Native	Intoxi-cation	Resid-ence	Stran-ger	Relat-ive	Friend	Partner	Age	PCI	Anch-orage		
Native/ White	1.00												
Native/ Native	-.26***	1.00											
Intoxication	.06*	.17***	1.00										
Residence	-.02	-.02	-.15***	1.00									
Stranger	.14***	-.22***	-.07*	-.25***	1.00								
Relative	-.08**	.31***	-.06	.08**	-.13***	1.00							
Friend	-.01	.02	.19***	.02	-.59***	-.40***	1.00						
Partner	-.06	-.03	-.19***	.22***	-.16***	-.11***	-.48***	1.00					
Age	.10**	.08**	.16***	.09**	.12***	-.03	-.13***	.11***	1.00				
PCI	-.09*	-.04	-.13***	-.11***	-.19***	.04	.04	-.11***	-.14***	1.00			
Anchorage	.04	-.12***	.01	-.18***	.09**	-.10**	-.00	.01	.02	-.06*	1.00		

*p< .05 ** p<.01 *** p<.00

REFERENCES

Albonetti, C.A. (1986). Criminality, prosecutorial screening, and uncertainty: Toward a theory of discretionary decision making in felony case processing. *Criminology* 24: 623-644.

Albonetti, C.A. (1987). Prosecutorial discretion: The effects of uncertainty. *Law and Society Review* 21: 291-313.

Albonetti, C.A. (1991). An integration of theories to explain judicial discretion. *Social Problems* 38:315-334.

Albonetti, C.A. (1997). Sentencing under the federal sentencing guidelines: Effects of defendant characteristics, guilty pleas, and departures on sentence outcomes for drug offenses, 1991-1992. *Law and Society Review* 31:789-822.

Albonetti, C.A. (1998). Direct and indirect effects of case complexity, guilty plea date, and offender characteristics on sentencing for offenders convicted of a white-collar offense prior to sentencing guidelines. *Journal of Quantitative Criminology* 14: 353–378.

Albonetti, C.A. & Hepurn, J.R. (1996) Prosecutorial discretion to defer criminalization: The effects of defendant's ascribed and achieved status characteristics. *Journal of Quantitative Criminology* 12: 63-81.

Alderden, M.A. & Ullman, S.E. (2011). Gender difference or indifference? Detective decision making in sexual assault cases. *Journal of Interpersonal Violence* 27: 3-22.

Alderden, M.A. & Ullman, S.E. (2012). Creating a more complete picture: Examining police and prosecutor decision making when processing sexual assault cases. *Violence Against Women* 18: 525-551.

Bachman, R. (1998). The factors related to rape reporting behavior and arrest: New evidence from the National Crime Victimization Survey. *Criminal Justice and Behavior* 25: 8-29.

Bachman, R. & Paternoster, R. (1993). A contemporary look at the effects of rape law reform: How far have we really come? *Journal of Criminal Law and Criminology* 84: 554-574.

Bachman, R., Zaykowski, H., Kallmyer, R., Poteyeva, M., & Lanier, C. (2008). *Violence against American Indian and Alaska Native Women and the criminal justice system: What is known.* Washington, DC: U.S. Department of Justice, National Institute of Justice.

Ball, J. (2006). It is a prosecutor's world?: Determinants of count bargaining decisions. *Journal of Contemporary Criminal Justice* 22: 214-260.

Barrett, E.C. & Hamilton-Giachritsis, C. (2013). The victim as a means to an end: Detective decision-making in a simulated investigation of attempted rape. *Journal of Investigative Psychology and Offender Profiling* 10: 200-218.

Basile, K.C., Chen, J., Black, M.C., & Saltzman, L.E. (2007). Prevalence and characteristics of sexual violence victimization among U.S. adults, 2001-2003. *Violence and Victims* 22: 437-448.

Baumer.E.P. (2013). Reassessing and redirecting research on race and sentencing. *Justice Quarterly* 30: 231-261.

Baumgartner, J.L. (1992). The myth of discretion. In *the uses of discretion* (Keith Hawkins ed). Oxford University Press.

Beichner, D. & Spohn, C. (2005). Prosecutorial charging decisions in sexual assault cases: Examining the impact of a specialized prosecution unit. *Criminal Justice Policy Review* 16: 461-498.

Beichner, D. & Spohn, C. (2012). Modeling the effects of victim behavior and moral character on prosecutors' charging decisions in sexual assault cases. *Violence and Victims* 27: 3-24.

Berk, R.A. (1983). An introduction to sample selection bias in sociological data. *American Sociological Review* 48: 386-398.

Bernard, T.J, & Engel, R.S. (2001). Conceptualizing criminal justice theory. *Justice Quarterly* 18: 1-25.

Bernard, T.J., Paoline III, E.A., & Pare, P.P. (2005). General systems theory and criminal justice. *Journal of Criminal Justice* 33: 203-211.

Best, C.L., Dansky B.S., & Kilpatrick, D.G. (1992). Medical students' attitudes about female rape victims. *Journal of Interpersonal Violence* 7: 175-188.

Bevacqua, M. (2000). *Rape on the public agenda: Feminism and the politics of sexual assault*. Boston: Northeastern University Press.

Black, D. (1976). *The behavior of law*. New York: Academic Press.

Bouffard, J.A. (2000). Predicting type of sexual assault case closure from victim, suspect, and case characteristics. *Journal of Criminal Justice* 28: 527-542.

Bourque, L.B. (1989). *Defining rape*. Durham, NC: Duke University Press.

Brown, M.P., & Bonnell, S.E. (2006). Negotiating justice: Prosecutorial perspectives on federal plea bargaining in the District of Columbia. *American Criminal Law Review* 43: 1063.

Brownmiller, S.B. (1975). *Against our will: Men, women, and rape*. New York: Fawcett Books.

Bryden, D.P. & Lengnick, S. (1997). Rape in the criminal justice system. *The Journal of Criminal Law & Criminology* 87: 1194-1384.

Burt, M.R. (1980). Cultural myths and support for rape. *Journal of Personality and Social Psychology* 38: 217-230.

Bushway S, Johnson B.D., Slocum L.A, (2007) Is the magic still there? The use of the Heckman two-step correction for selection bias in criminology. *Journal of Quantitative Criminology* 23:151–178.

Bushway, S.D. & Forst, B. (2013). Studying discretion in the processes that generate criminal justice sanctions. *Justice Quarterly* 30: 199-222.

Campbell, R., Bybee, D., Ford, K., & Patterson, D. (2008). *Systems change analysis of SANE programs: Identifying the mediating mechanisms of criminal justice system impact*. Washington, DC: U.S. Department of Justice, National Institute of Justice

Campbell, R., & Johnson, C. R. (1997). Police officers' perceptions of rape: Is there consistency between state law and individual beliefs? *Journal of Interpersonal Violence* 12: 255-21.

Campbell, B.A., Menaker, T.A., & King, W.A. (2015). The determination of victim credibility by adult and juvenile sexual assault investigators. *Journal of Criminal Justice* 43: 29-39.

Campbell, R., Patterson, D. Bybee, D. & Dworkin, E.R. (2009). Predicting sexual assault prosecution outcomes: The role of medical forensic evidence collected by sexual assault nurse examiners. *Criminal Justice and Behavior* 36: 712-727.

Campbell, R., Wasco, S.M., Ahrens, C.E., Sefl, T., & Barnes, H.E. (2001). Preventing the "second rape:" Rape survivors' experiences with community service providers. *Journal of Interpersonal Violence* 16: 1239-1259.

Carbado, D.W., Crenshaw, K.W., Mays, V.M., & Tomlinson, B. (2013). Intersectionality: Mapping the movements of a theory. *Du Bois Review* 10: 303-312.

Caulfield, S., & Wonders, N. (1994). Gender and justice: Feminist contributions to criminology. In G. Barak (Ed.), *Varities of criminology: Readings from a dynamic discipline*. Westport, CT: Praeger.

Center for Behavioral Health Statistics and Quality, (2012). *Results from the 2011 National Survey on Drug Use and Health: Summary of national findings* (HHS Publication No. SMA 12-4713, NSDUH Series H-44). Rockville, MD: Substance Abuse and Mental Health Services Administration.

Chambliss & Seidman (1971). *Law, order, and power*. Addison-Wesley Publishing Co.

Chandler, S.M. & Torney, M. (1981). The decisions and the processing of rape victims through the criminal justice system. *California Sociologist* 4: 155-169.

Chiricos, T.G., & Crawford, C. (1995) Race and imprisonment: A contextual assessment of the violence. In *Ethnicity, race, and crime*, edited by Darnell Hawkins. Albany: State University of New York Press.

Cole (2008). Coalitions as a model for intersectionality: From practice to theory. *Sex Roles* 59: 463-482.

Collins, P.H. (1990). *Black feminist thought: Knowledge, consciousness, and the politics of empowerment*. New York: Routledge.

Costin, F. (1985). Beliefs about rape and women's social roles. *Archives of Sexual Behavior* 4: 319-325.

Crawford, C., Chiricos, T., & Kleck, G. (1998). Race, racial threat, and sentencing of habitual offenders. *Criminology* 36:481-511.

Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review,* 1241-1299.

Crossland, C., Palmer, J., & Brooks, A. (2013). NIJ's program of research on violence against American Indian and Alaska Native women. *Violence Against Women* 19: 771-790.

Crow, M.S. & Adrion, B. (2011). Focal concerns and police use of force. Examining the factors associated with taser use. *Police Quarterly* 14: 366-387.

Davis, K.C. (1969). *Discretionary justice. A preliminary inquiry*. Baton Rouge: LA: Louisiana State University Press.

Demuth, S. (2000). *The processing of white, black, and Hispanic defendants in large urban courts: main and interactive effects of race and ethnicity on case-process decision making*. Doctorial Dissertation, The Pennsylvania State University.

Diamond, L. & Butterworth, M. (2008). Questioning gender and sexual identity: Dynamics links over time. *Sex Roles* 59 365-376.

Duffee, D. (1980). *Explaining criminal justice: Community theory and criminal justice reform*. Prospect Heights, IL: Waveland.

DuMont, J. & Myhr, T.L. (2000). The role of client-related characteristics in the legal processing of sexual assaults. *Violence Against Women* 6: 1109-1136

Estrich (1987). *Real Rape*. Cambridge, MA: Harvard University Press.

Evans-Campbell, T. (2008). Historical trauma in American Indian/Native Alaska communities: A multilevel framework for exploring impacts on individuals, families, and communities. *Journal of Interpersonal Violence* 23: 316-338.

Federal Bureau of Investigation (2015). *Crime in the United States, 2014*. Washington, D.C.: U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

Feild, H.S. (1978). Attitudes toward rape: A comparative analysis of police, rapists, crisis counselors, and citizens. *Journal of Personality and Social Psychology* 26: 156-179.

Feldman, M. (1992). Social limits to discretion: An organizational perspective. In *The Uses of Discretion* (Hawkins, ed.). Oxford: Clarendon Press.

Felson, R.B. & Pare, P.P. (2005). *The reporting of domestic and sexual assault by nonstrangers to the police*. Washington, DC: U.S. Department of Justice, The National Institute of Justice.

Felson, R.B. & Pare, P.P. (2007). Does the criminal justice system treat domestic violence and sexual assault offenders leniently? *Justice Quarterly* 24: 435-459.

Fisher, B.S., Cullen, F.T., & Daigle, L.E. (2005). The discovery of acquaintance rape: The salience of methodological innovation and rigor. *Journal of Interpersonal Violence* 20: 493-500.

Fortson, R. (2015). Advancing tribal court criminal jurisdiction in Alaska. *Alaska Law Review* 32: 93-152.

Franklin, T.W. (2010). The intersection of defendants' race, gender, and age in prosecutorial decision making. *Journal of Criminal Justice* 38: 185-192.

Frazier, P.A. & Haney, B. (1996). Sexual assault cases in the legal system: Police, prosecutor, and victim perspectives. *Law and Human Behavior* 20: 607-628.

Frederick, B. & Stemen, F. (2012). *The anatomy of discretion: An analysis of prosecutorial decision making*. Washington, DC: U.S. Department of Justice, National Institute of Justice.

Frohmann, L. (1991). Discrediting victims' allegations of sexual assault: Prosecutorial accounts of case rejections. *Social Problems* 38: 213-226.

Frohmann, L. (1997). Convictability and discordant locales: Reproducing race, class, and gender ideologies in prosecutorial decision-making. *Law and Society Review* 31: 531-556.

Galvin, J. & Polk, K. (1983). Attrition in case processing: Is rape unique? *Journal of Research in Crime and Delinquency* 20: 126-153.

Garland, D. (2001). *Mass imprisonment: Social causes and consequences*. Thousand Oaks, CA: Sage.

Gerger, H., Kley, H., Bohner G., & Siebler, F. (2007). The acceptance of modern myths about sexual aggression (AMMSA) scale: Development and validation in German and English. *Aggressive Behavior* 33: 422-440.

Giacopassi, D.J. & Dull, R.T. (1986). Gender and racial differences in the acceptance of rape myths within a college population. *Sex Roles* 15: 63-54.

Girardin, B. (2005). The sexual assault nurse examiner: A win-win solution. *Topics in Emergency Medicine* 27: 124-131.

Gottfredson, M.R. & Gottfredson, D.M. (1988). *Decision making in criminal justice: Toward the rational exercise of discretion, 2n ed*. New York: Plenum.

Hagan, J. (1989). Why is there so little criminal justice theory? Neglected macro- and micro-level links between organization and power. *Journal of Research in Crime and Delinquency* 26:116-135.

Hall, A.M. & Ballantyne, J. (2003). Novel Y-STR typing strategies reveal the genetic profile of the semen donor in extended interval post-coital cervicovaginal samples. *Forensic Science International* 136: 58-72.

Hartney, C. & Vuong, L. (2009). *Created equal: Racial and Ethnic disparities in the US criminal justice system*. National Council on Crime and Delinquency.

Hawkins, D.F. (1981). Causal attribution and punishment for crime. *Deviant Behavior* 1: 207-230.

Hawkins, K. (1992). *The uses of discretion*. Oxford: Clarendon Press

Hawkins, K (2003). Order, rationality, and silence: Some reflections on criminal justice decision-making, Pages 186 – 219. In *Exercising Discretion: Decision making in the criminal justice system and beyond* (L. Gelsthorpe & N. Padfield, eds). Willan Publishing.

Hirschel, J.D. & D.J. Dawson (2000). *Violence against women: Synthesis of research for law enforcement officials*. Washington, DC: U.S. Department of Justice, National Institute of Justice

Holleran, D., Beichner, D. & Spohn, C. (2010). Examining charging agreement between police and prosecutors in rape cases. *Crime & Delinquency* 56: 385-413.

Horney, J. & Spohn, C. (1991). Rape law reform and instrumental change in six urban jurisdictions. *Law and Society Review* 25: 117-153.

Horney, J. & Spohn, C. (1996). The influence of blame and believability factors on the processing of simple versus aggravated rape cases. *Criminology* 34: 135-162.

Jacoby, J. (1980). *The American prosecutor: A search for identity*. Lexington, MA: Lexington Books.

Jacoby, J., L. Mellon, E.C. Ratledge & S. Turner (1982). *Prosecutorial decision-making: A national study*. Washington, DC: U.S. Department of Justice, National Institute of Justice

Johnson, B.D., Kuck, D.L., & Schander, P.R. (1997). Rape myth acceptance and sociodemographic characteristics: A multidimensional analysis. *Sex Roles* 36: 693-707.

Jordan, J. (2004). Beyond belief? Police, rape and women's credibility. *Criminal Justice* 4: 29-59.

Kalven, H. & Zeisel, H. (1966). *The American Jury*. Chicago: University of Chicago Press.

Karjane, H.M., Fisher, B.S., & Cullen, F.T. (2002). *Campus sexual assault: How America's institutions of higher education respond*. Washington, DC: U.S. Department of Justice, National Institute of Justice.

Kelley, L., Lovett, J. & Regan, L. (2005). *A gap or chasm? Attrition in reported rape cases*. Home Office Research Study 293.

Kerstetter, W.A. (1990). Gateway to justice: Police and prosecutorial response to sexual assaults against women. *The Journal of Criminal Law and Criminology* 81: 267-313.

Kessler, D.P. & Piehl, A.M. (1998). The role of discretion in the criminal justice system. *Journal of Law, Economics, and Organization* 14: 256-276.

Kilpatrick, D.G., Resnick, H.S., Ruggiero, K.J., Conoscenti, L.M., & McCauley, J. (2007). *Drug-facilitated, Incapacitated, and forcible rape: A national study*. Washington, DC: US Department of Justice, National Institute of Justice.

Kingsnorth, R., Wentworth, J., & Cummings, D. (1998). Adult sexual assault: The role of racial/ethnic composition in prosecution and sentencing. *Journal of Criminal Justice* 26: 359-371.

Kingsnorth, R., MacIntosh, R.C., & Wentworth, J. (1999). Sexual assault: The role of prior relationship and victim characteristics in case processing. *Justice Quarterly* 16: 275-302.

Klepper, S., Nagin, D., & Tierney, L.J. (1983). Discrimination in the criminal justice system: A critical appraisal of the literature. Pages 55-128 in *Research on Sentencing: The search for reform* (Blumstein et al., eds). Washington, DC: National Academy Press.

Konradi, A. & Burger, T. (2000). Having the last word: An examination of rape survivors' participation in sentencing. *Violence Against Women* 6: 351-395.

Koss, M.P. (2000). Blame, shame, and community: Justice responses to violence against women. *American Psychologist* 20: 100-107.

Koss, M.P., Gidycz, C., & Wisniewski, N. (1987). The scope of rape: Incidence and prevalence of sexual aggression and victimization in a national sample of higher education students. *Journal of Consulting and Clinical Psychology* 55: 162–170.

Krahé, B., Bieneck, S., & Scheinberger-Olwig, R. (2007). The role of sexual scripts in sexual aggression and victimization. *Archives of Sexual Behavior* 36: 687-701.

Kraska, P.B. (2004). *Theorizing criminal justice: Eight essential orientations*. Long Grove, IL: Waveland Press, Inc.

Krasha, P.B. (2006). Criminal Justice Theory: Toward Legitimacy and an Infrastructure. *Justice Quarterly* 23: 167-185.

L'Armand, K. & Pepitone, A. (1982). Judgments of rape. A study of victim-rapist relationship and victim sexual history. *Personality and Social Psychology Bulletin* 8: 134-138.

LaFree, G.D. (1981). Official reactions to social problems: Police decisions in sexual assault cases. *Social Problems* 28: 582-594.

LaFree, G.D. (1980). Variables affecting guilty pleas and convictions in rape cases: toward a social theory of rape processing. *Social Forces* 58: 833-850.

LaFree, G.D. (1989). *Rape and the criminal justice system: The social construction of sexual assault*. Belmont, CA: Wadsworth Publishing Company.

Lea, S.J., Lanvers, U. & Shaw, S. (2003). Attrition in rape cases: Developing a profile and identifying relevant factors. *British Journal of Criminology* 43: 583-599.

Little, K. (2001). *Sexual assault nurse examiner programs: Improving the community response to sexual assault victims*. Washington, DC: Office on Victims of Crime.

Lizotte, A.J. (1985). The uniqueness of rape: Reporting assaultive violence to the police. *Crime & Delinquency* 31: 169-190.

Loh, W.D. (1980). Q. What has reform of rape legislation wrought? A. Truth in criminal labeling. *Journal of Social Issues* 37: 28-52.

Long, J.S. (1997). *Regression models for categorical and limited dependent variables. Advanced quantitative techniques in the social sciences*. Sage Publications: Thousand Oaks, CA

Lonsway, K.A. & Archambault, J. (2012). The "justice gap" for sexual assault cases. Future directions for research and reform. *Violence against Women* 18: 145-168.

Lonsway, K.A. & Fitzgerald, L.F. (1994). Rape myths in review. *Psychology of Women Quarterly* 18: 133-164.

Marciniak, L.M. (1998). Adolescent attitudes toward victim precipitation of rape. *Violence and Victims* 13: 287-300.

Martin, P.Y. & Powell, R.M. (1994). Accounting for the "second assault": Legal organizations' framing of rape victims. *Law & Social Inquiry* 19: 853-890.

Martin, P. Y., Reynolds, J. R., & Keith, S. (2002). Gender bias and feminist consciousness among judges and attorneys: A standpoint theory analysis. *Signs*, 27: 665-701.

McEwen, T. (2011). *The role and impact of forensic evidence in the criminal justice system*. Washington, DC: US Department of Justice, National Institute of Justice.

Myers, M.A. & LaFree, G.D. (1982). Sexual assault and its prosecution: A comparison with other crimes. *The Journal of Criminal Law and Criminology* 73: 1282-1305.

Nagel, H. & Hagan, J. (1983). Gender and crime: Offense patterns and criminal court sanctions. In M. Tonry & N. Morris (Eds), *Crime and justice: An annual review of research* (Vol. 4). Chicago: University of Chicago.

Neubauer, D. (1988). *America's Courts and the Criminal Justice System*. Pacific Grove, CA: Brooks/Cole Publishing Company.

Nugent-Borakove, M.E., Fanflik, P., Troutman, D., Johnson, N., Burgess, A., & O'Connor, A.L. (2006). *Testing the efficacy of SANE/SART Programs: Do they make a difference in sexual assault arrest and prosecution outcomes?* Washington, DC: Department of Justice, National Institute of Justice.

O'Neil, M. & Morgan, P. (2010). *American perceptions of sexual violence: A frameworks research report*. Washington, D.C.: FrameWorks Institute.

O'Neill-Shermer, L. & Johnson, B.D. (2010). Criminal Prosecutions: Examining prosecutorial discretion and charge reductions in U.S. Federal District Courts. *Justice Quarterly* 27: 394-430.

Ohlin, L.E., & Remington, F.J. (1993). *Discretion in criminal justice: The tension between individualization and uniformity*. New York: Suny Press.

Orcutt, J.D. & Faison, R. (1988). Sex-role attitude change and reporting of rape victimization, 1973-1985. *The Sociological Quarterly* 29: 589-604.

Page, A.D. (2008). Gateway to reform? Policy implications of police officers' attitudes toward rape. *American Journal of Criminal Justice* 33: 44-58.

Pastore, A.L. & Maguire, K. (2003). *Sourcebook of Criminal Justice Statistics: 2002*. Washington, DC: U.S. Government Printing Office.

Pattavina, A., Morabito, M., & Williams, L. (2016). Examining connections between the police and prosecution in sexual assault case processing: Does the use of exceptional clearance facilitate a downstream orientation? *Victims and Offenders: An International Journal of Evidence-based Research, Policy, and Practice*: 11: 315-334.

Patterson, D. (2010). The linkage between secondary victimization by law enforcement and rape case outcomes. *Journal of Interpersonal Violence* 26: 328-347.

Payne, D., Lonsway, K.A., & Fitzgerald, L.F. (1999). Rape myth acceptance: Exploration of its structure and its measurement using the Illinois Rape Myth Acceptance Scale. *Journal of Research in Personality* 33: 27-68.

Perry, S.W. (2004). *American Indians and crime. A BJS statistical profile, 1992-2002*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

Phillips, S.W. & Varano, S.P. (2008). Police criminal charging decisions: An examination of post-arrest decision-making. *Journal of Criminal Justice* 36: 307-315.

Polk, K. (1985). A comparative analysis of attrition of rape cases. *The British Journal of Criminology* 25: 280-284.

Randall, M. & Haskell, L. (1995). Sexual violence in women's lives. Findings from the women's safety project, a community-based survey. *Violence Against Women* 1: 6-31.

Rennison, C.M. (2002). *Rape and sexual assault: Reporting to police and medical attention, 1992-2000*. Washington, DC: US Department of Justice, Bureau of Justice Statistics.

Reskin, B.F. & Visher, C.A. (1986). The impacts of evidence and extralegal factors in jurors' decisions. *Law & Society Review* 20: 423-438.

Rose, V.M. & Randall, S.C. (1982). The impact of investigator perceptions of victim legitimacy on the processing of rape/sexual assault cases. *Symbolic Interaction* 5: 23-36.

Rose, V. & Randall, S. (1984). The impact of investigator perceptions of victim legitimacy on the processing of rape/sexual assault cases. *Symbolic Interaction* 5: 23-36.

Russell, D.E.H. (1983). The prevalence and incidence of forcible rape and attempted rape of females. *Victimology: An International Journal* 7, 1-4.

Russell, D.E.H. (1975). *The politics of rape: The victim's perspective*. New York: Stein & Day.

Ryan, R.M. (1995). The sex right: A legal history of marital rape exemption. *Law & Social Inquiry* 20: 941-1001.

Scott, H.S. & Beaman, R. (2004). Demographic and situational factors affecting injury, resistance, completion, and charges brought in sexual assault cases: What is best for arrest? *Violence and Victimization* 19: 479-494.

Schneider, (1992). Discretion and Rules: A lawyers view. In The Uses of Discretion (Keith Hawkins ed). Oxford University Press

Schuller, R.A. & Stewart, A. (2000). Police responses to sexual assault complaints: The role of perpetrator/complainant intoxication. *Law and Human Behavior* 24: 535-551.

Shaver, K.G. (1975). *An introduction to attribution processes.* Hillsdale, NJ: Lawrence Erlbaum Associates.

Sheldon, J.P. & Parent, S.L. (2002). Clergy's attitudes and attributions of blame toward female rape victims. *Violence Against Women* 8: 233-256.

Sheperd, J. (2002). Reflections on a rape trial: The role of rape myths and jury selection in the outcome of a trial. *AFFILIA* 17: 69-92.

Simon, H.A. (1957). *Administrative behavior: A study of decision making processes in administrative organizations*. New York: Macmillan

Snodgrass (2006). Sexual assault case processing: A descriptive model of attrition and decision-making. *Alaska Justice Forum* 23: 4-8.

Spears, J. & Spohn, C. (1997). The effect of evidence factors and victim characteristics on prosecutors' charging decisions in sexual assault cases. *Justice Quarterly*, 14: 501-524.

Spohn, C., Beichner, D. & Davis-Frenzel, E. (2001). Prosecutorial justifications for sexual assault case rejection: Guarding the "gateway to justice." *Social Problems* 48: 206-235.

Spohn, C., Gruhl, J. & Welch, S. (1987). The impact of the ethnicity and gender of defendants on the decision to reject or dismiss felony charges. *Criminology* 25: 175-191.

Spohn, C. & Holleran, D. (2001). Prosecuting sexual assault: A comparison of charging decisions in sexual assault cases involving strangers, acquaintances, and intimate partners. *Justice Quarterly* 18: 651-688.

Spohn, C. & Spears, J. (1996). The effect of offender and victim characteristics on sexual assault case processing decisions. *Justice Quarterly* 13: 649-679.

Spohn, C. & Tellis, K. (2012). *Policing and prosecuting sexual assault in Los Angeles City and County: A collaborative study in partnership with the Los Angeles Police Department, the Los Angeles County Sheriff's Department, and the Los Angeles County District Attorney's Office.* Washington, D.C.; U.S. Department of Justice, National Institute of Justice.

Steffensmeier, D.J., Ulmer, J., & Kramer, J. (1998). The interaction of race, gender, and age in criminal sentencing: The punishment cost of being young, black, and male. *Criminology* 36: 763-798.

Steward, M.W., Dobbin, S.A., & Gatowski, S.I. (1996). "Real rapes" and "real victims": The shared reliance on common cultural definitions of rape. *Feminist Legal Studies* 4: 159-177.

Sudnow, D. (1965). Normal crimes: Sociological features of the penal code in a public defender office. Social Problems 12: 255-275.

Tasca, M., Rodriguez, N., Spohn, C., & Koss, M.P. (2013). Police decision making in sexual assault cases: Predictors of suspect identification and arrest. *Journal of Interpersonal Violence* 28: 1157-1177.

Taslitz, A. (1999). *Rape and the culture of the courtroom.* New York: New York University Press

Taylor, Caroline, S. & Gassner, L. (2010). Stemming the flow: Challenges for policing adult sexual assault with regard to attrition rates and under-reporting of sexual offences. *Police Practice and Research* 11: 240-255.

Tellis, K.M. & Spohn, C.C. (2008). The sexual stratification hypothesis revisited: Testing the assumptions about simple versus aggravated rape. *Journal of Criminal Justice* 36: 252-261.

Temkin, J. & Krahé, B. (2008). *Sexual assault and the justice gap: A question of attitude*. Oxford: Hart Publishing.

Tjaden, P. & Thoennes, N. (1998). *Prevalence, incidence, and consequences of violence against women: Findings from the National Violence Against Women Survey*. Washington DC: U.S. Department of Justice, National Institute of Justice.

----- (2006). *Extent, nature and consequences of rape victimization: Findings from the National Violence Against Women Survey*. Washington DC: U.S. Department of Justice, National Institute of Justice

Tonry, M. (1996). *Sentencing matters*. New York: Oxford University Press.

Turk, A. (1969). *Criminality and the legal order*. Chicago: Rand McNally.

Ullman, S.E. & Filipas, H.H. (2005). Gender differences in social reactions to abuse disclosures, post-abuse coping, and PTSD of child sexual abuse survivors. *Child Abuse & Neglect* 29: 767-782.

Ulmer, J.T. & Johnson, B.D. (2004). Sentencing in context: A multilevel analysis. *Criminology* 42: 137-178.

University of Alaska Anchorage Justice Center (2016). Alaska victimization survey 2015: Research on Violence Against Women in Alaska.

Uviller, H.R. (1984). The unworthy victim: Police discretion in the credibility call. *Law and Contemporary Problems* 47: 15-33

Wakeling, S., Jorgensen, M., Michaelson, S., & Begay, M. (2001). *Policing on American Indian reservations. A research report*. Washingtong, DC: U.S. Department of Justice: National Institute of Justice.

Walker Spohn, & DeLone (2007). *The color of justice: Race, ethnicity, and crime in America*. Belmont, CA: Wadsworth.

Walker, S. (1993*). Taming the system: The control of discretion in criminal justice, 1950 – 1990*. Oxford University Press.

Wallace, W.L. (1971). *The logic of science in sociology*. Aldine de Gruyter: New York

Walsh, A. (1987). Differential sentencing patterns among felony sex offenders and non-sex offenders. *Journal of Criminal Law and Criminology* 75: 443-458.

Warner, L.R. (2008). A best practices guide to intersectionality approaches in psychological research. *Sex Roles* 59: 454-463.

Watkins, E.J. (2013). *History of injustice: The factors affecting rates of sexual assault against American Indian and Alaska Native Women*. Doctorial Dissertation: University of Colorado Denver.

Whatley, M.A. (1996). Victim characteristics influencing attributions of responsibility to rape victims: A meta-analysis. *Aggression and Violent Behavior* 1: 81-95.

Willis, C.E. & Wrightsman, L.S. (1995). Effects of victim gaze behavior and prior relationship on rape culpability attributions. *Journal of Interpersonal Violence* 10: 367-377.

Wilmot & Spohn (2004). Prosecutorial discretion and real-offense sentencing: An analysis of relevant conduct under the federal sentencing guidelines. *Criminal Justice Policy Review* 15(3): 324-343.

Wilson, D. & Klein, A. (2005). An Evaluation of the Rhode Island Sexual Assault Response Team (SART). National Criminal Justice Research Service, US Department of Justice.

Wood, D.S. (2001). Police turnover in isolated communities: The Alaska experience. *National Institute of Justice Journal* 246: 16-23.

Wright (1984). A Note on the attrition of rape cases. *British Journal of Criminology* 24: 399.

Zatz, M.S. (1987). The changing forms of racial/ethnic biases in sentencing. *Journal of Research in Crime and Delinquency* 24: 69-92.

Zatz, M.S. & Hagan, J. (1985). Crime, time, and punishment: An exploration of selection bias in sentencing research. *Journal of Quantitative Criminology* 1: 103-126.

Zinn, M.B. & Dill, B.T. (1996). Theorizing difference from multiracial feminism. *Feminist Studies* 22: 321-331.