



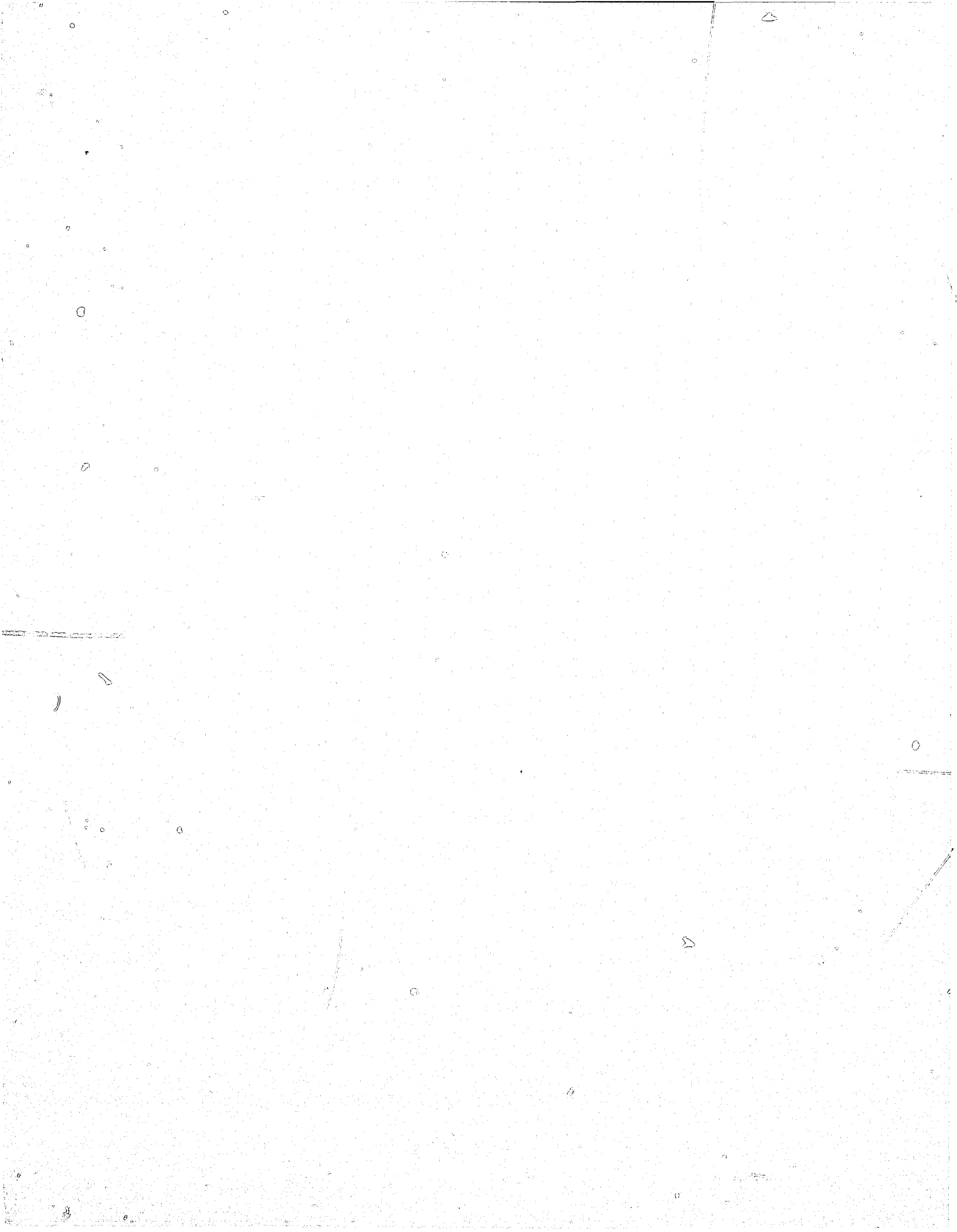
EXECUTIVE TRAINING PROGRAM
IN ADVANCED CRIMINAL JUSTICE PRACTICES

RAPE AND ITS VICTIMS

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Office of Technology Transfer
National Institute of Law Enforcement
and Criminal Justice
Law Enforcement Assistance Administration
United States Department of Justice

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ACQUISITIONS

RAPE AND ITS VICTIMS

MANUAL

by

Mary L. Keefe
Jayne T. Rich
Emilio Viano
Ann W. Burgess

Prepared by:

UNIVERSITY RESEARCH CORPORATION

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EXECUTIVE TRAINING PROGRAM
IN ADVANCED CRIMINAL JUSTICE PRACTICES

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PREFACE

THE EXECUTIVE TRAINING PROGRAM IN ADVANCED CRIMINAL JUSTICE PRACTICES

Introduction

The Executive Training Program in Advanced Criminal Justice Practices is a nationwide training effort that offers states and local jurisdictions the opportunity to learn about improved criminal justice procedures and put them into operation. The Executive Training Program is sponsored by the National Institute of Law Enforcement and Criminal Justice (NILECJ), the research center of the Law Enforcement Assistance Administration, United States Department of Justice.

The National Institute supports wide-ranging research in the many legal, sociological, psychological, and technological areas related to law enforcement and criminal justice. It also follows through with the essential steps of evaluating research and action projects and disseminating information on them to encourage early and widespread adoption.

The Executive Training Program is one of the Institute's priority efforts at transferring research results to actual application in police departments, courts, and correctional institutions across the country. In this program, top criminal justice administrators and other decisionmaking officials of courts, corrections, and police agencies in each state are selected to participate in workshops and other training activities held across the country. The aim of the Executive Training Program is to help states and local jurisdictions develop the capacity to use new procedures derived from research findings or designed and developed by the Institute's Office of Technology Transfer through its Exemplary Projects Program and Prescriptive Package publication series.

Goals

The primary goal of the Executive Training Program is to enable criminal justice executives and policyshapers to bring about adoption of improved court, corrections, and police practices identified or developed by the National Institute.

As LEAA's research, evaluation, and technology transfer arm, the Institute works to devise improved methods to control crime and strengthen the criminal justice system and to train law enforcement and criminal justice personnel to use these more promising approaches.

To introduce the new practices throughout the nation, the Institute's Executive Training Program:

- Informs influential policymakers about new practices and their potential for improving the criminal justice system, and
- Gives them the knowledge and skills needed to apply these methods in their jurisdictions.

Approach

Techniques that have been shown to work or that promise improved effectiveness or efficiency are presented to key criminal justice executives and decisionmaking officials in Training Workshops, Field Test Training, Follow-On Training, and Research and Development Seminars. Eight topics have been identified by the National Institute for training sessions that began in late 1976 for selected senior staff and officials of state and local agencies.

The Executive Training Program was designed, and is conducted and managed, by University Research Corporation (URC), a national training organization based in Washington, D.C.

URC curriculum designers, trainers, and logistics staff are working with the National Institute, selected criminal justice experts, and local projects that have successfully carried out advanced practices. Some portions of the training are conducted under URC's supervision by consulting firms experienced in criminal justice training.

Program Activities

Three types of activities are being carried out during the two-year program to facilitate the transfer of advanced practices to local jurisdictions.

1. Training Workshops

Eight Workshop series are being presented across the country. Each Workshop runs for about three days. It is devoted to one topic, and is open to 60 top criminal justice policymakers from throughout the geographical area of the Workshop presentation. At the first four Workshop series, participants learned new techniques for programs on:

- Managing Criminal Investigations
- Juror Usage and Management
- Prison Grievance Mechanisms
- Rape and Its Victims

Beginning in September 1977, Workshops are being presented around the country on:

- Managing Patrol Operations
- Developing Sentencing Guidelines
- Health Care in Correctional Institutions
- Victim/Witness Services

Nationally known experts assist in developing training and present portions of the Training Workshops. Training designers work with the Institute, the national experts, and researchers from Exemplary Projects or Prescriptive Packages to ensure clear presentation of concepts and appropriate guidelines for implementation. Participants receive individual program planning guides, self-instructional materials, handbooks, and manuals. Certificates acknowledging the competence of participants to implement the new procedures are awarded at the conclusion of training. In cases of special need, local training support may be provided after the participants begin the implementation process in their jurisdictions.

The training topics were selected from among the most promising models developed under NILECJ auspices, including models derived from:

- Research Results - Improved criminal justice practices derived from research findings.
- Exemplary Projects - Projects that show documented success in controlling specific crimes or that have demonstrated measurable improvement in criminal justice service.
- Prescriptive Packages - Syntheses of the most advanced techniques, including operational guidelines, that can be followed in locales throughout the country.

Following each Training Workshop, up to six days of follow-on training are available, on a regional basis, to assist local agencies in direct application of skills learned in these executive training events.

2. Field Test Training

Each year, Workshop topics may be selected for field testing in up to 10 jurisdictions. During 1976, "field test" sites were selected to implement projects in Managing Criminal Investigations and Juror Usage and Management.

The field tests focus national attention on the new procedures and evaluate their effectiveness and transferability to other jurisdictions throughout the country. The communities selected are those considered most likely to be able to carry out model projects.

Representatives from the test sites, selected by specialists most familiar with the new procedures to be implemented, receive Field Test Training designed to:

- Prepare test site staff to operate or implement their projects,
- Identify needs for follow-on training, and
- Determine the most effective format for Training Workshops in the procedures.

Participants have clearly defined and specifically outlined implementation plans when they return to their jurisdictions. Each site receives 30 days of follow-on training over an 18-month period--designed to provide ideas and recommendations for tailoring the program to local needs. The training helps local groups develop the capacity to solve their own problems and to share ideas and experiences with other field test projects.

3. Research and Development Seminars

National Research and Development Seminars are part of the Executive Training Program. They are held for criminal justice policymakers on significant topics selected by the National Institute. The first Seminars focused on:

- Argersinger v. Hamlin - The 1972 Argersinger v. Hamlin decision, mandating that counsel be provided for all defendants who faced the possibility of incarceration, had major impact on the court system. The Seminar focused on this decision and the problems associated with the delivery of legal counsel to indigent defendants.
- Update '77 - This Seminar brought mayors and county chairpersons from across the nation to Washington, D.C., to discuss the role of the local elected executives in planning and developing programs and approaches in law enforcement and criminal justice. LEAA/NILECJ Demonstration Projects, research findings, Exemplary Projects, and other resources were discussed as potential solutions to problems faced by these chief executives.
- Determinate Sentencing - A great deal of attention has recently been focused on the determinate or "fixed" sentence concept. This Seminar provided an in-depth analysis of this trend and its effect on both the judicial and correctional systems at the national and state levels. Current legislation and laws in California, Indiana, and Maine were discussed in depth together with related issues impacting on police, prosecution, courts, and corrections.

Recommendations for problem-solving are provided by criminal justice experts and others who have already dealt with these problems or whose theoretical and analytical contributions can be helpful in the implementation effort.

Results

The Office of Technology Transfer of the National Institute anticipates that the Executive Training Program will equip criminal justice executives to return to their communities with the knowledge and skills to improve delivery of criminal justice services and thus help to shape a safer environment. It also offers participants a personal benefit--the chance to enhance their own skills and career potential.

About OTT

The Office of Technology Transfer (OTT) is responsible for distilling research, transforming the theoretical into the practical, and identifying programs with measurable records of success that deserve widespread application. In selected instances, OTT may also provide financial and technical assistance to adapt and test these practices in several communities. The result is that criminal justice professionals are given ready access to some of the best field-test programs, or those experimental approaches that exhibit good potential.

OTT has developed a structured, organized system to bridge (1) the operational gap between theory and practice; and (2) the communication gap between researchers and criminal justice personnel scattered across the country. OTT's comprehensive program provides:

- Practical guidelines for model criminal justice programs
- Training workshops for criminal justice executives in selected model programs
- Field tests of important new approaches in different environments
- International criminal justice clearinghouse and reference services for the entire criminal justice community.

To perform these tasks, OTT operates through three interdependent divisions--Model Program Development, Training and Testing, and Reference and Dissemination--whose functions serve as a systematic "thoroughfare" for identifying, documenting, and publicizing progress in the criminal justice field.

About URC

For more than a decade, URC has managed federally sponsored national training programs to encourage local development and implementation of human service delivery techniques that have been developed nationally or in outstanding local programs.

URC training programs are process-oriented, designed by nationally recognized experts who have already used new approaches to service. University Research Corporation has provided national training programs for LEAA as well as other federal agencies, including the U.S. Department of Health, Education, and Welfare; Housing and Urban Development; and Labor. All of these efforts have resulted in application of new concepts at the local and regional level.

For further information, write or call:

Executive Training Program
University Research Corporation
5530 Wisconsin Avenue, Suite 1600
Washington, D.C. 20015
(301) 654-8338

Background and Orientation of the Rape and Its Victims Topic

In late 1975, the National Institute published the Prescriptive Package, Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies, upon which the workshops and manual are based. Already, by that time, a variety of programs had sprouted up around the country to respond to the rising incidence of rape or sexual assault.

According to the FBI's Uniform Crime Reports, rape had increased as much as 150 percent during the preceding decade when measured by the number of incidents that made their way into police records. Although attempts have been made to measure what is believed to be the number of rapes and attempted rapes that are never reported to the authorities, one can at best speculate that the range of unreported crimes is 1 out of 6 to 1 out of 20 reported crimes.

The Prescriptive Package takes a comprehensive look at some of the programs that are attempting to assist the growing number of victims of this violent crime. It does not attempt to evaluate these programs, for the authors recognized that what may work in one community may be out of the question in another. The workshop addressed the problem of rape as it affected female adults because of the Prescriptive Package's focus. However, many of the programs and responses that address the female adult rape victim can be tailored to the needs of other victims of sexual assault: children, males.

The Prescriptive Package also notes that many of the current agency programs are developed and implemented independently of one another. The authors postulate that the more the agencies in a community can coordinate their services to a rape victim, the more likely she is to gain the mental and physical care she needs. As a result she may be more likely to enter the criminal justice process and remain in it until the final adjudication in court. Designated Exemplary Projects, such as the one in Polk County, Iowa, illustrate how the different agencies involved with a rape victim can design a systematic way to ensure the delivery of effective services to rape victims and, at the same time, promote efficient processing of cases by law enforcement agencies. (And the latter may be the most effective rape prevention tool available at present since competent investigations can lead to the convictions of more rapists thus making the community streets safer.)

The Polk County Rape/Sexual Assault Care Center has had the full support of the greater Des Moines community. Members of all disciplines concerned, police hospitals, prosecutors and community-based organizations, are on the Board of Directors. Working together, the agency representatives were able to identify problems and look at and adopt solutions.

As shown with Polk County, before the broad institutional changes required to effect cooperation can be attempted, interagency and community problems must first be defined and specific procedures developed to meet specific needs. The goals of the training Workshops--and of this manual--are to introduce possible approaches to the problems of dealing with the crime of rape and its victims; to provide a process for defining local needs and problems; and to motivate agency and community leaders to initiate a cooperative and integrated approach to problem-solving on the subject.

This manual can serve several purposes. Primarily, it is designed to assist training workshop participants--top administrators in criminal justice agencies, health facilities, direct service agencies, and community groups--in developing strategies for coordinating their approaches to the problem of rape and its effects upon victims.

In addition, the manual can be a valuable aid to those who did not participate in the Workshop but want to improve their area's response to the crime of rape and to rape victims. The manual can also be used as a reference source by Workshop participants who attempt to implement strategies outlined during the course of their training.

The manual seeks to help both participants and other readers acquire:

- An awareness of the definition of rape as a crime of aggression and violation of the person rather than only a crime of sexual assault.
- An awareness of the crime's impact on the victim.
- An understanding of the actual and potential roles, responsibilities, and interactions of the significant actors--including the victim--and agencies concerned with delivering rape-related services.
- An understanding of the application of a problem-solving approach to the delivery of rape-related services in the community.
- An understanding of the potential benefits to agencies and the community of improved coordination and communication procedures in providing rape-related services.
- An understanding of the issues associated with change leading to an increased awareness of how realistic strategies for change can be developed to coordinate the delivery of services to rape victims.

To reach some of these goals, this manual recognizes the responsibilities and constraints inherent in each individual's or agency's role as well as the types of policy decisions that affect victims' experiences and the outcome of rape cases. Increased attention to the needs and problems of the rape victim can benefit the criminal justice process by sending a more informed and cooperative complainant into our complex system of justice.

For simplicity, throughout this text rapists are characterized as male and rape victims as female. Despite changing definitions in the law, victims of the crime of rape are still predominantly female and offenders are almost exclusively male. Nonetheless, many of the prescriptions or suggestions as to the handling of female rape victims and the processing of their cases may be relevant to male victims of rape, sexual abuse of children, and to victims of other crimes involving assault, including elderly victims. The New York City Police Department has recently created a Senior Citizens Robbery Unit whose members are aware of the impact that robbery has on a victim. They, too, use crisis intervention techniques and also offer these victims agency services to help them deal with other problems that develop as a result of the crime--including emergency financial assistance. These services are identical to those offered rape victims.

A two and one-half day Workshop on Rape and Its Victims was delivered in the ten federal LEAA regions. In conjunction with the Workshop, six person days of follow-on training were offered to each area. These additional days were to be used developing and delivering workshops relevant to the original which was designed to motivate agencies and persons to develop a coordinated approach to the crime of rape and the treatment of its victims as advised by the Prescriptive Package.

In order to attain this goal, the persons invited to the Workshop were representatives of the four disciplines involved in a rape case--police, prosecutors, hospital personnel, and those from community-based organizations. It was intended by the program designers that each community would send a representative from each discipline in order that these persons could meet and discuss the problems they faced at home. A problem-solving outline was developed and refined during the period of the workshop to aid participants in the identification of problems. As a result of this approach, one participant said, when asked to indicate what he found of most value, "Sitting down and looking at a problem using an organized approach. Meeting with other communities and our own agency persons. Problem-solving outline is excellent."

In order to get the participants to the stage where they were able to discuss their own back-home problems, the program organizers provided them with the opportunity to meet in non-threatening situations. First the groups met by occupational specialties where they could discuss problems encountered by their agencies. Later the participants met as communities where they discussed problems in the case study, but the problems chosen for discussion had to be based on reality.

Our Workshop goals, objectives, and agenda follow so that the reader can trace our method of problem solving through to the development of community-based action strategies..

WORKSHOP SCHEDULE

Wednesday - Day I

10:00 a.m. - 1:00 p.m.	Registration
1:00 p.m. - 1:15 p.m.	Session 1: Introductions and Development of Program
1:15 p.m. - 2:15 p.m.	Session 2: Program Goals, Workshop Procedures, and Systematic Approach to Understanding Problem of Rape
2:15 p.m. - 3:30 p.m.	Session 3: Context of Rape, Legal Definitions, Issues, Concerns, and Research Findings
3:45 p.m. - 5:15 p.m.	Session 4: Participant Concerns by Occupational Specialties
5:15 p.m. - 5:30 p.m.	Session 5: Distribution of Case Study-Evaluation of Day I

Thursday - Day II

9:00 a.m. - 10:00 a.m.

Session 6: Introduction to Day II Program--Exploration of Rape Trauma Syndrome, Explanation of Problem Solving Outline and Its Use, and Introduction to Case Study.

10:00 a.m. - 12:00 p.m.

Session 7: Case Study: Problems and Causes

1:30 p.m. - 3:30 p.m.

Session 8: Feedback and Group Panel Response

3:30 p.m. - 3:45 p.m.

Coffee Break

3:45 p.m. - 5:30 p.m.

Session 9: Small Group Problem Solving: Solutions, Consequences, and Benefits - Evaluation of Day II

Friday - Day III

9:00 a.m. - 11:00 a.m.

Session 10: Change Strategies

11:00 a.m. - 12:30 p.m.

Session 11: Developing Community-Based Action Strategies

1:30 p.m. - 3:30 p.m.

Session 12: Feedback, Wrap-up, Evaluation of Day III and Workshop, and Adjournment

WORKSHOP GOAL: To explore systematically with policymakers the problems in achieving coordination among agencies and identify potential solutions which can result in more effective and efficient delivery of rape-related services within their own communities, leading to benefits for agencies, communities, and victims.

Each day's Workshop was followed by an evaluation so that the trainers could determine what needs were being met and if any modifications should be made in the following day's program. Lectures were kept to a minimum so that participants could spend more time in problem solving and determining what changes had to be made at home.

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Ora Spaid, Training Specialist
Sheldon S. Steinberg, Project Director

The Rape and Its Victims Team

Mary L. Keefe, Team Leader
Ann W. Burgess
Sandra K. Hartley
Jayne T. Rich
Emilio Viano
Fred B. Becker, OTT Liaison

CHAPTER 1: RAPE AND ITS VICTIMS--THE PROBLEM-SOLVING APPROACH

A. An Introduction to Problem Solving

Two basic assumptions underlie the approach to improving services for rape victims that is presented here:

- The community-wide coordination of activities among agencies and programs that deal with the problems of rape will result in more effective and efficient delivery of services.
- It is the responsibility of management to ensure that such coordination occurs.

To achieve coordination, those in management positions must be able to identify clearly the problems that interfere with their goals and the types of solutions that will promote and ensure cooperation. They must also be sensitive to the various needs of the agencies involved as well as the needs of the rape victim.

By gaining some understanding of the rape victim's dilemma and by tracing what happens to her during interactions with several agencies, policymakers should be able to recognize the benefits a coordinated approach will provide in their own communities. Communities that have developed a coordinated approach indicate that victims are more likely to enter the Criminal Justice System and remain in it until the final adjudication in court. This leads to a higher conviction rate of rapists.

The Prescriptive Package also notes that a coordinated approach leads to improved rape-related services. Lack of coordination is hard to detect unless all agencies cooperate to look at their own actions in relationship to other agencies. Trying to identify the conflicts at points of interaction or the conflicts that develop because of lack of interaction is sometimes difficult. Some agencies have a tendency to blame others for poor investigation, treatment, or prosecution. For instance, if a case is lost because insufficient evidence was presented to the court, the prosecutor is likely to blame the police for failure to collect evidence; the hospital is likely to blame the police and prosecutor for failure to inform; and the police are likely to blame the prosecutor for being inept in handling the case. If asked, all might reply that they need more training to improve their work. This might be a solution if a specific problem had been identified. Such issues tend to become clouded with hastily devised solutions which ultimately will not work. It is possible that the problem here is a lack of skill or knowledge about what type and amount of evidence to gather. It could also be that since rape cases are difficult to investigate and prosecute, the police or prosecutor's attitude is one of defeatism. The type of training necessary would

depend on whether the problem was identified as skill, knowledge or an attitudinal one. In order to clarify and determine points of conflict, we used a problem-solving outline.

The problem-solving outline (included at the end of this chapter) is one tested approach that can assist executives first in defining the points of interaction where conflict may exist and then in developing plans to successfully combine services and programs.

The outline is a tool that encourages systematic examination of all components of a problem. The process of analysis can begin either by first identifying the actors, agencies, and their points of interaction or by identifying the problems first and then examining who the significant actors and agencies are. Keeping in mind the victim's journey through the criminal justice system will help keep in focus the many points where several agencies are involved with her simultaneously.

We will trace one common problem partially through without the outline and then with the outline to see how it might work. (Also refer to the outline which begins on page 8 .) And let us assume that the benefits of solving the problem will be to get the rape victim into the criminal justice process, to keep her in it, and to obtain a conviction when appropriate.

The problem--evidence is poor.

Who are the people who do or should interact in the gathering of evidence in a rape case:

- Victim
- Police
- Nurse or Doctor
- Prosecutor

What are the traditional agencies or organizations which interact?

- Police department
- Prosecutor's office
- Hospital

What are the interactions?

Police/victim/hospital. Police take some evidence from the victim, for example, torn clothing. Police take the victim to the hospital for collection of other evidence.

Police/victim/prosecutor. Victim goes to court. Police, hospital representative, and victim all testify in response to prosecutor's questions about the evidence. (The interactions cited here are those that commonly occurred prior to the 1970s. Since that time "grass roots" centers have developed throughout the country. We now often have a community-based advocate or counselor involved at each of these points of interaction.)

What conflicts or problems might arise from these interactions?

Before we can list problems, we must be able to state them correctly. Problems must be stated without solutions. In this case, for example, perhaps the jury failed to convict because the evidence was faulty. But the actual problem might be traced back to the fact that evidence was not collected correctly.

What could be some of the causes of such a problem? The chain of evidence may have been broken. Perhaps no checks for spermatozoa in the mouth and rectum were done at the hospital although the victim stated to police that fellatio and sodomy accompanied the rape. The victim's clothing may not have been examined or perhaps fingernail scrappings were not taken although she claimed she scratched her attacker. Such problems arise either from a lack of skill or a lack of knowledge.

Solutions considered must be responsive to the nature of the particular problem, whether it involves skill and knowledge, or in some cases attitudes, or even environmental factors. The first, as in our example, implies a need for education and training. Attitudinal problems, however, require solutions that will alter attitudes, and environmental problems often require solutions that demand changes in institutional structure or resources. (Sometimes, however, a change is needed in attitudes before training can be effective, for problems are not necessarily mutually exclusive.)

In our example, if the problems occurred because the doctor made certain value judgments which caused him to overlook evidence, the problem would be attitudinal. But if the doctor lacked equipment or facilities to collect evidence, the problem would be environmental.

In a number of jurisdictions, police, prosecutors, and hospital staff have already cooperated to develop an effective and quite simple solution to the problem of evidence collection. The "rape kit" illustrates one possible solution.

Usually the kit is merely a plastic envelope that contains the equipment needed to collect, label, and store evidence obtained during the hospital examination of a rape victim. The kit usually contains instructions on the type and amount of evidence necessary as well as information on how to keep the evidence from being contaminated and how not to break the chain of custody of the evidence.

Such a solution is realistic, not difficult to implement, and addresses the problem directly. Not too many problems will fit into such a tidy format. There are pitfalls to be considered, however.

The solution here will largely benefit prosecutors who need complete and competent collection of evidence and an unbroken chain of custody of it to make a case. But the solution's consequences may fall on either the police department or hospital which are most likely to have to supply the rape kit. That, of course, could be expensive if bought commercially and could mean that the other agency would have to cut back in services or even personnel somewhere else to meet the added demand. But by working together, agencies can pool some resources and an acceptable way to produce a rape kit might be found, whose consequences, both intended and unintended, have the fewest undesirable effects. Providence, Rhode Island, developed a rape kit which cost ninety cents. As a result of the

Rape and Its Victims Workshop, the state people were able to identify poor evidence collection as their problem and readily adopted the rape kit for use throughout the state.

We will return to problem solving in more detail later in this text. The outline that follows here, however, should begin to provide a focus for the topic. The problem-solving process will also become simpler to apply once the crime, its victims, and the agencies they encounter are viewed from various perspectives.

More than one solution to problems is likely to surface once agency administrators recognize the advantages in working cooperatively. They can then select or compromise, as the case may be, on a solution with the most benefits and fewest negative consequences for all. As just noted, since consequences may be unintended or unforeseen as well as intended, input from all affected by a solution is essential.

B. The Problem-Solving Outline

- I. ACTORS Who are the people who may interact with and around the rape victim?
(Examples: offender, nurse, doctor, patrol officer, investigator, prosecutor, advocate/counselor, employer, husband, witness.)
- II. AGENCIES What agencies/organizations may interact around the rape victim?
(Examples: police department, prosecutor's office, mayor's office, hospital, direct service agencies, community groups.)
- III. ROLES/RESPONSIBILITIES What are the roles/responsibilities/goals of actors/agencies/organizations which interact around the rape victim?
(Examples: police--investigate the offense, apprehend the offender. Prosecutor--prosecute the offender, obtain a conviction.)
- IV. INTERACTIONS When do interactions--or the lack of interactions--of these actors and/or agencies produce conflicts or problems?
(Examples: lack of closure guidelines in case investigations; inadequate counseling programs for victims; poor medical examination protocols in collecting evidence.)
- V. PROBLEMS What problems arise from conflicts, faulty perceptions, misunderstandings, or other failures occurring at these points of interaction?
(Examples: Perhaps an officer, being very judgmental, asked the victim, "Why did you let someone you hardly know drive you home?" The hospital may have failed to take fingernail scrapings because the officer did not

alert anyone to the need. PROBLEM STATEMENTS DO NOT CONTAIN SOLUTIONS. For example, to say, "The officer needed sensitivity training," identifies a solution. Sensitivity training is not a correct statement of the problem. To find problem statements, first identify "what went wrong." Next, identify the points of interaction and the actors or agencies involved. Finally translate "what went wrong" into problem statements.

SAY	DO NOT SAY
a. The victim had a long wait at the hospital.	a. The hospital should give priority to rape victims.
b. The victim was asked to repeat her story to the police, the hospital, the counselor, and several prosecutors.	b. Questioning of the victim should be limited to what is relevant to each agency to avoid numerous repetitions of the whole story.
c. There was no continuity for the victim in the prosecutor's office.	c. One prosecutor should have retained responsibility for the case until final disposition.
d. The victim was not treated with dignity during the interview at the hospital.	d. The hospital should provide privacy for the police to interview the rape victim.
e. The victim did not know what to expect in dealing with the counselor, the police, the hospital, or the prosecutor.	e. The whole system stinks. (These statements contain solutions or are so globular as to be unsolvable)

VI. CAUSES

What are the causes of the problems? Are they essentially: (1) attitudinal, (2) environmental (i.e., having to do with institutional structures, procedures, or material resources), or (3) skill/knowledge?
(Examples: The officer's insensitivity in joking about the victim's accent, to the extent it reflects a value judgment, is an attitudinal problem. It indicates also that he probably lacks interviewing skills, so it may be considered as a skill/knowledge problem as well.

VII. SOLUTIONS

What can we do about these problems? How can we eliminate the causes? What solutions are possible? The identification of problems as (1) attitudinal = A, (2) environmental = E, or (3) skill/knowledge = S/K, points to the kind of solution we must select, i.e., an A solution for an A problem, an E solution for an E problem, and an S/K solution for an S/K problem. (Example: The officer's insensitivity, identified as A and S/K, would require perhaps sensitivity training for

the A problem before training in interviewing techniques for the S/K problem would be effective.)

VIII. BENEFITS

What benefits will accrue from each proposed solution? (Example: Sensitivity training will make the officer more responsive to the victim's feelings. The victim will have a better perception of the police and will be more cooperative. The police officer will get more information which will result in more job satisfaction. The prosecutor will have a better case, etc.)

IX. CONSEQUENCES

Solutions may create new problems by their unintended consequences (negative) or additional benefits also by unintended consequences (positive). These must be examined before final selection and implementation of a solution.

(Example: (1) While officers are being given sensitivity training, their regular duties may have to be performed by someone else. This is a negative, unintended consequence. (2) Crisis center counselors conduct sensitivity training for police, resulting in better police-counselor relations. This is a positive, unintended consequence.) See also the guideline or consequences that follows.

X. ACTION
STRATEGY

To be determined by the community people depending on the personnel and material available to solve it.

C. Notes From Workshop

As a result of using the problem-solving outline during the Rape and Its Victims Workshops, communities were able to identify some of their problems and begin to effect solutions that would alleviate the problem (while also noting the consequences both positive and negative.)

One community in the Southwest indicated that their antiquated laws were a major problem. They identified the persons and agencies involved and recognized that legislators and community people would also play a vital role in initiating changes. They were added to the "actor" category of the outline they were designing. Some of the tasks they outlined in the solution category included:

- Lectures to community groups advocating changes in law (to be conducted by police, prosecutor, and community-based agencies.)
- Television time to be solicited by community-based agencies and to be used to inform the public and enlist volunteers to lobby legislators.

The consequences (negative) were seen to be the amount of time that would have to be devoted to the project by various agency personnel. However, they felt that the changes were necessary.

Another community in the Northeast identified the lack of communication and information sharing as a major problem. The agencies involved determined that the topography of the area hindered the development of a communication and information sharing system. Looking over the actors and agencies involved, it was seen that

the police department could be the collector of information and that a number of teams with members from the various disciplines could travel around the state disseminating the newly gathered information.

Another community in the Southeast identified as their problem the lack of standardized training for all the police departments in the same county (there were 26 police departments.) As a result of the Workshop, the actors and agencies involved were identified--police, prosecutors, hospitals and community-based organizations. And the same agencies were identified in the solution of the problem! All agencies would have input to maximize the training effort.

The problem-solving outline worked and worked well in clarifying issues and in helping to develop action strategies to solve community problems, for these participants.

THE PROBLEM-SOLVING OUTLINE

I. ACTORS

II. AGENCIES

III, ROLES/ RESPONSIBILITIES

IV. INTERACTIONS

V. PROBLEMS

VI. CAUSES

VII. SOLUTIONS

VIII. BENEFITS

IX. CONSEQUENCES

X. ACTION
STRATEGY

CHAPTER 2: THE NEED FOR INTERAGENCY COOPERATION

Citizen's groups, concerned with improving the treatment of victims, have helped focus public attention on the rising incidence of rape reports nationally, as the charts on the following two pages illustrate. And women's organizations, in particular, have raised the public's consciousness about the crime by demonstrating the inequities often inflicted upon victims of rape in our society.

As a consequence, there are growing efforts throughout the country to reform rape laws, to improve medical treatment of rape victims, and to revise criminal justice procedures to provide rape victims with the level of understanding and emotional support they need during the investigation and prosecution of rape cases. Such improvements may also encourage more women to report incidents as well.

The Prescriptive Package indicates that a variety of agencies are coordinating their activities and programs better in order to assure prompt and effective services for the victims of this ugly crime.

Social psychologist Morton Bard has pointed out that "unless there is inter-agency coordination, procedures developed in one agency can be obviated by the operations of another."¹ The damaging effect upon the victim of being shuffled between agencies with sometimes conflicting approaches and demands has been described by many women as being "re-raped." Bard has summarized the problem:

The traumatic effect of the act of rape upon the victim that has been established by recent research studies requires that relevant helping systems change both attitudes and operational procedures if the victim's suffering and psychological damage is not to be compounded. The multiple needs of the victim point to the necessity for an integrated and collaborative approach by all segments of the helping system. Access points to the system must be clear for the victim...The victim must be assured that at whatever point she opts to enter the system--emergency room, police, private physician, mental health agency, or women's group--she will receive sympathetic support and needed services.

¹Bard, Morton, "The Rape Victim: Challenge to the Helping Systems" Victimology: An International Journal. Summer, 1976, p. 269.

Fragmentation of the helping network can only impede optimum service delivery. Integration and humanization can serve the cause of the victim, criminal justice, and society as a whole.²

Only recently has the crime of rape been seen as an issue that should concern a number of human service agencies so that its victims are not exiled solely to law enforcement and criminal justice offices. Again as Bard points out, women's groups especially, "by establishing relationships with police, hospitals, and prosecuting officers, [can] be the linkage mechanism for women fearful of negotiating the system without such support."³

The capability of such community-based organizations to act as coordinating arms is slowly gaining recognition. In Washington, D.C., the metropolitan area's Council of Governments noted in a study on rape: "Rape victim service centers are often in a unique position to informally coordinate the institutions which in one capacity or another deal with victims of rape. Indirectly, they are able to act as liaison between these agencies...to improve the overall treatment of the victim."⁴

In order to motivate public and private agencies to make the kind of policy decisions that can benefit rape victims, the agencies must see how they will gain from new approaches. For example, some police departments have reported an increased clearance rate for reported rapes once they applied crisis intervention theories and implemented training originated by other agencies. When interviewing the victim, investigators said they could be more sensitive to her psychological needs and at the same time get more useful information.

In hospitals also, sensitivity of personnel to the victim and effective protocols for handling her case can minimize confusion as well as aid investigators in obtaining reliable evidence. In the past, the failure of the police and the hospital to collect necessary evidence, either at the scene of the crime or during a medical examination, has often proved to be a major roadblock to apprehension of the assailant and later to prosecution. (Compare the clearance rates of major crimes as shown in the chart on the following page.)

Even once initiated, prosecution of rape (and many other crimes) can be severely hampered by the failure of agencies to cooperate with each other or just to coordinate information about how a victim is being handled.

In late 1975 a survey conducted by the Cincinnati Police Department among crime victims who failed to continue prosecution illustrates the point. Police found that 22 percent of the victims surveyed either claimed they were not notified to appear in court, were late, or could not find the correct courtroom. None of these victims was aware that she could refile her complaint and get another

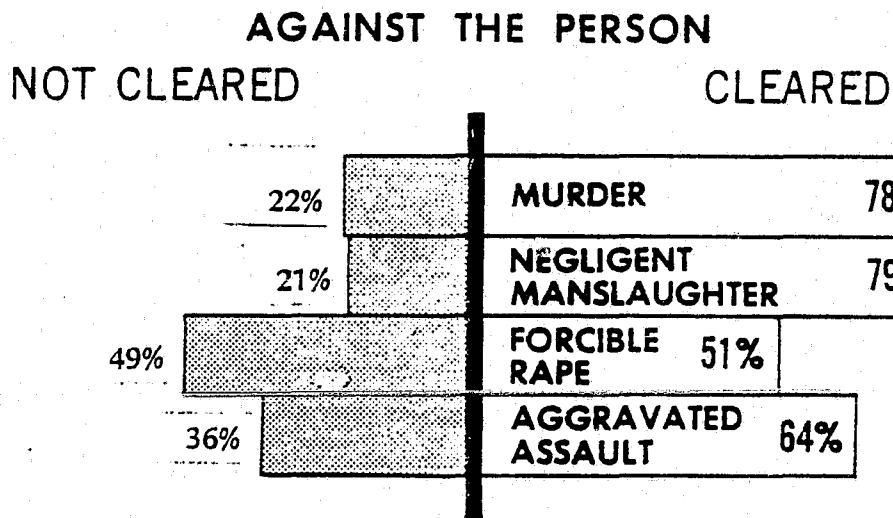
²Ibid., p. 270.

³Ibid., p. 268.

⁴The Treatment of Rape Victims in the Washington Metropolitan Area. Prepared by the Departments of Public Safety, Health and Environmental Protection, and Human Resources. September, 1976.

Figure 1

CRIMES CLEARED BY ARREST 1975



NOTES:

- 58% of arrests for forcible rape were persons under 25.
- 52% of those arrested were white; 42% were black.
- Of all adults arrested, 58% were prosecuted; of those prosecuted, 46% were acquitted; 42% were convicted of rape; 12% of a lesser offense.
- Juvenile referrals: 21% of those charged.

Source: UCR, 1975, p. 40.

hearing. Many of the victims, however, indicated that they would have continued prosecution if some central information point had been available to them to offer assistance sometimes in such simple matters as locating a courtroom.

The prosecutors office in Portland, Oregon has instituted a victim/witness program to ensure the victim is informed about procedures and to maintain contact so that she is aware of the status of her case. When she goes to court, she is escorted by a victim advocate to a reception area where she can sit quietly, away from the prying eyes of people in the courtroom.

The Prescriptive Package and Exemplary Project report points to Polk County, Iowa, as another example of a community that has created a model for collecting central information. The Polk County Rape/Sexual Assault Care Center provides some services to victims, such as counseling, and it also acts as a clearinghouse of information for both the victim and other agencies involved with her. Such coordination of available community resources not only provides for the victim's needs but has the added benefits of eliminating costly duplication of services and a significant increase in convictions of rapists.

Pressure is steadily mounting on many agencies to provide better services to victims of rape and victims of other crimes as well. But before a community can respond in a meaningful way, it should assess what services are available and what may be needed if existing services cannot be arranged to fill the needs.

In San Francisco, The Queen's Bench Foundation undertook such a project and it is one that might serve as a model for other communities. The foundation first studied four major areas:

- The psychological and social impact of rape and victim needs.
- Health and criminal justice procedures in handling rape cases.
- Community services available to victims.
- Why women do not report rape to the police.⁵

As a result of the study, the foundation, like other groups, recognized the need for coordination in both public and private agencies to establish effective procedures in handling rape. Some of the recommended areas of cooperation include:

- Interdepartmental and intra-agency coordination of personnel training and public education.
- Collaboration of agencies in standardizing the response to rape cases throughout the Bay area.
- Coordination of citizen input into planning and operating programs through neighborhood citizen safety councils.⁶

Many of the programs implemented to improve the lot of rape victims and alter

⁵ Copeland, Lorraine. "The Queen's Bench Foundation's Project Rape Response" Victimology: An International Journal, 1976, p. 331.

⁶ Ibid., pp. 333-336.

the frequency of the crime are too new to evaluate. But as such activities increase the level of interaction of public and private agencies, community-based groups, and the criminal justice system, they will have the added benefit of increasing mutual trust and understanding among the groups concerned with effecting change. Such interaction is also likely to provoke more innovative thinking and planning that can benefit rape victims. And models developed by a variety of agencies in the handling of rape will also provide models for upgrading services provided to the victims of many other crimes such as wife abuse, child abuse, and other types of assault.

But before you can identify your specific problems, you should have a broad understanding of the crime of rape. The next chapter gives some background on the context of the crime.



CHAPTER 3: THE CONTEXT OF RAPE

A. The Focus on Rape

Rape has received increasing attention both from a research and an operational point of view in part because women have become more aware of their own victimization. Representatives of children, teenagers, students, workers, and wives have demanded that steps be taken to prevent their victimization. And to a large extent, the feminist (or women's liberation) movement has played a key role in effectively raising women's consciousness in this area.

In response, rape crisis centers were founded in the early 1970's in several major cities as practical "self-help" answers to society's seeming indifference to the plight of women who become sexual assault victims. Today, some rape crisis centers such as the ones in Pueblo, Colorado, Saginaw, Michigan, and Broome County, New York are officially endorsed and funded by government agencies, although continued survival is a matter of constant struggle for many of them.

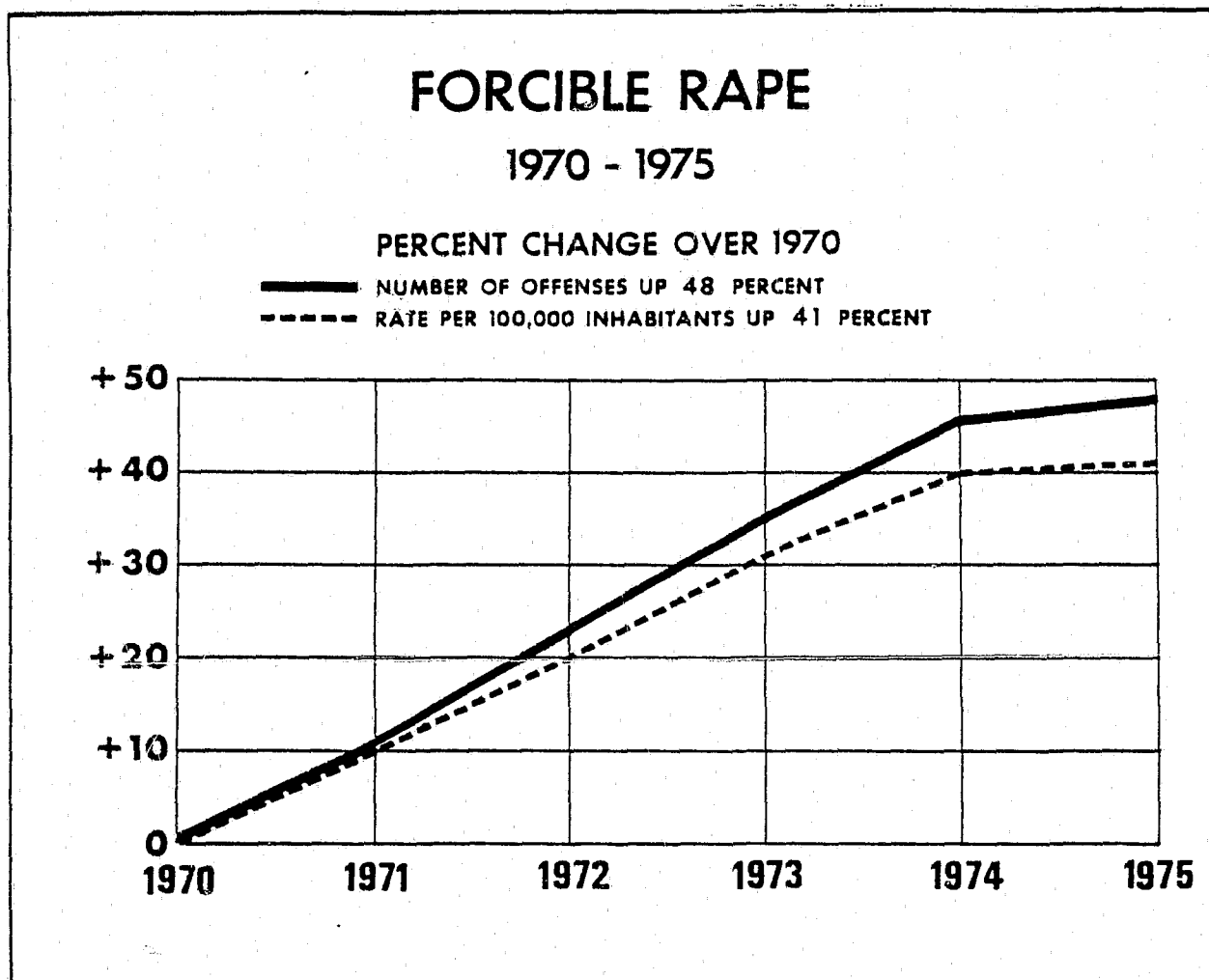
Still, important facets of the victim's situation have come under scrutiny and have spurred a diverse group of people into action. Many have become increasingly aware that a victim of a criminal becomes, more often than not, the victim of the criminal justice system as well. As a consequence, many innovative proposals have been advanced and occasionally instituted.

Among the proposals tried out have been central citizen's complaint and service bureaus; witness coordinators at police stations, courthouses, prosecutors' offices, and even offices of defense attorneys; the participation of the victim in plea bargaining by prosecutors; reports by police to victims on progress in the investigation of their cases; and the provision of the services of an ombudsman.

Innovations in research have also gotten underway. The Law Enforcement Assistance Administration, in conjunction with the U.S. Census Bureau, has given some major impetus to research in the area of victimization by sponsoring National Crime Panel studies in several U.S. cities. And recently, the National Institute of Mental Health has put into operation a research center to look into ways to prevent and control rape. It has also established a Central Clearinghouse to contain information related to rape.

The victims of rape and those who deal with and try to help them will benefit as a more accurate picture of the crime emerges. For despite the fact that of major crimes only homicide takes place less often than rape, rape appears to be one of the fastest growing crimes against the person while maintaining one of the lowest records of both arrest and conviction of offenders (see charts, pages 18 and 19).

Figure 2
PATTERNS OF RAPE



FORCIBLE RAPE: NUMBER AND RATE PER 100,000 BY REGION, 1976

<u>REGION</u>	<u>NUMBER</u>	<u>RATE PER 100,000</u>
Northeast	10,084	20.4
North Central	13,519	23.4
South	18,133	26.3
West	14,994	38.9

Source: UCR, 1975, p. 23.

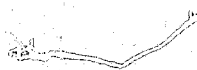
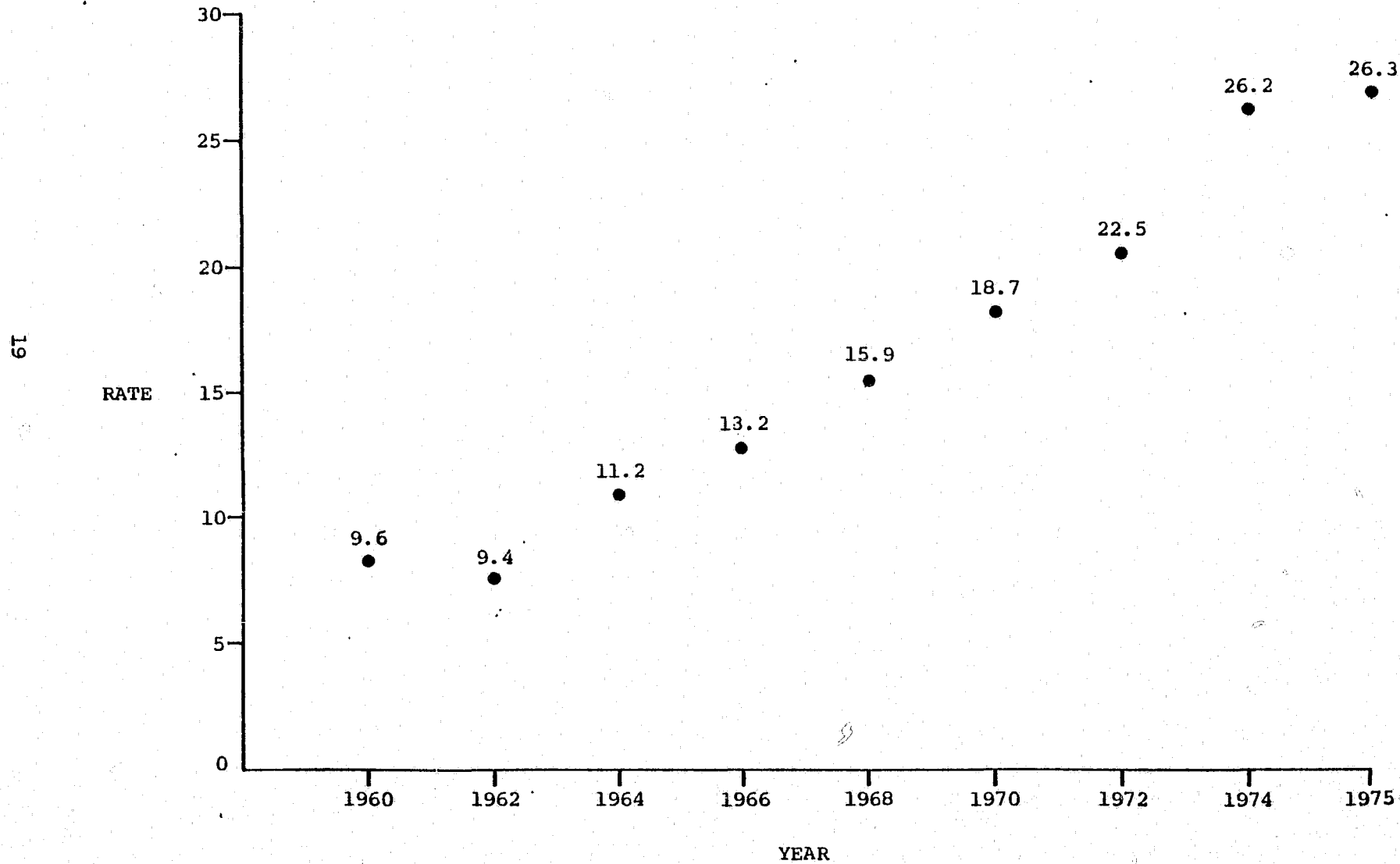


Figure 3

RAPE: RATE PER 100,00 INHABITANTS
(Index of Crime, United States, 1960-1975)
Overall Increase 1960-1975: +174.0



Source: UCR, 1975, p. 49.

B. Summary of Research Findings

A body of knowledge is developing that has begun to place the crime of rape in a clearer perspective.

1. The Victim and the Offender

Factors such as time, location, relationship between victim and offender, and the victim's activities prior to an assault have proven to have relatively little to do with the outcome of the crime. Evidence points to the fact that most rapes are not the result of impulse. The majority of rapists plan the crime to varying degrees. Rape, then, appears to harbor similarities to other major crimes of violence, and like them, can be divided into two main categories: stranger-to-stranger attacks and attacks by assailants known to the victims.

In both cases, the assailant usually engages in a victim selection process, eliminating some women until a suitable target is found. (Here, suitability means a victim whom the rapist perceives to be available or vulnerable.)

2. Physical and Psychological Impact on the Victim

Since the victim is typically taken by surprise in an attack, fear of injury or death is usually her first and predominant reaction. Most victims focus on staying alive and many submit seemingly readily to the attacker while some resist in varying degrees. If the victim resists this can provoke a wide range of responses from an assailant, from deterring the rape to provoking anger and, at worst, violence.

In general, however, most victims of rape or attempted rape are not seriously injured bodily. Extreme cases of violence appear to be related to the victim's lack of cooperation or resistance just prior to or during intercourse. Still, no actual correlation has been discovered between the victim's reactions and the type of injuries. For neither assertive resistance nor submissive behavior seems to guarantee personal safety.

Following a rape, regardless of how physically violent the assault, many women remain psychologically tormented by feelings of worthlessness and guilt. Depression and nightmares are also common, immediate problems.

The clinical studies that have been made indicate that most victims go through a series of psychological stages in reaction to a rape. The early stages may include a mental breakdown, a deterioration in social relationships, sexual dysfunction, gynecological problems, and a variety of anxiety reactions. Some victims openly express their feelings, but others appear outwardly calm, controlled, or even subdued. Many victims, at this point, find it impossible to talk about the attack even to those who intend to help, and certainly, to officials.

Sometime later, weeks or months, depending on the individual, the rape victim usually begins the long-term process of reorganizing her life. The assault, however, almost always alters a victim's sense of personal safety permanently.

3. Preventing Rape--There Are Still No Antidotes

Some common factors identified with most attackers deserve note in considering prevention. Since most attackers seem to follow a personal but often stereotyped image of who is a likely victim, all women are essentially vulnerable to attack. Some of the factors that appear to influence victim selection are her attractiveness (as defined by the attacker), availability, defenselessness, perceived or imagined promiscuity or looseness (revealed by clothing or demeanor), apparent naivete, and ambivalent behavior. Factors that may discourage an attacker include a strong physical appearance, assertive behavior or body language, the presence of other males (including mere knowledge of a husband or steady companion), and the presence of large dogs.

But, in general, researchers have found that a woman's ability to resist appears to be largely independent of her age, ethnic background, education, or lifestyle. The victim must make a very quick decision about whether and how to resist at the onset of this usually very sudden attack. If she does choose the path of resistance, she may be able to escape, but she may also increase her chances of being injured.

Accordingly, a great deal of confusion exists about what is the best way to avoid or fend off an attacker. Some women have screamed and run. Others have been able to talk their way out. Still others have used a quick and effective blow to their assailant's eyes or groin and then run. But others, fearing death, have saved themselves by submitting. When viewing the choice the woman must make in that instant, remember that she is the one who had to make it and will have to live with it. And the proof that she made the right decision is the fact that she is still alive.

Clearly, the nature of the crime makes it extremely difficult to isolate realistic preventive remedies for the woman. She can hire a bodyguard, buy an attack dog, or earn a black belt in karate. But these, like many of the other suggestions offered to date, such as remain calm, act quickly and decisively, and learn to be more alert and suspicious are largely inadequate or impractical responses.

For all of those who deal in any way with the crime of rape and its victims, it is important to keep in mind that it is the rapist who must be prevented from committing the crime. The victim's awareness of her vulnerability, her assertiveness, and her skill in self-defense may be crucial factors in prevention. But preparing women to defend themselves should never be the sole focus of crime prevention programs.

C. The Importance of Research and Its Application

Significant gaps in information about the incidence of rape and a poor record of successful prosecution of rape cases indicate that the crime is still misunderstood and mishandled. Yet useful research in many problem areas remains scanty. Perhaps this is partly true because many professionals, whether police officials, prosecutors, or hospital administrators, often tend to rely on precedent or their own common sense and intuition when formulating policy in this area, rather than demand evidence. They may even ignore existing research findings, especially when they are not immediately applicable to their own department or programs. But

especially in the handling of rape cases, studies indicate that the functions of all involved agencies are highly interdependent and they should be exchanging information.

When well designed and conducted, research can provide a wide range of tools to guide and coordinate plans of action for various agencies. The data generated by researchers can be used to build and test hypotheses as well as to monitor and evaluate innovative programs.

By reducing the uncertainty with which every human service agency must deal, research can assist administrators in several basic ways by:

- providing a sharper picture or definition of the problems an agency is expected to handle;
- testing the accuracy of assumptions about the agency's clients;
- describing in detail the nature of services or treatment needed and thereby revealing the extent to which an agency's programs are, in fact, being carried out.

An administrator, armed with detailed, systematic and quantitative information will undoubtedly be more effective in guiding his personnel to meet the agency's objectives. In addition, the points where cooperation with other agencies is essential to providing services is likely to come into focus.

In the human services field, research and development techniques have not yet gained the status they have in science and industry. Yet they constitute at least one key to delivering services more responsibly and responsively.

D. Legal Issues

1. Developing a Legal Definition

By the end of 1976, some three fourths of our states had passed new laws affecting rape and still other states were contemplating changes or revisions in their laws. Some states completely revamped their criminal codes, as did Michigan, whose revised statute had served as a model in this area. Other states concentrated on modifying the rules of evidence and the Lord Hale type of charge to juries. Most of the legislation has focused on finding a new legal definition for the crime of rape--a definition that can protect the constitutional rights of anyone accused of the crime as well as those of its victims.

Historically in this country, the statutes governing rape emerged from common law tradition, developing out of hundreds of cases and decisions. The definition created by this tradition often made it impossible to establish that a crime had even been committed.

In common law, rape is defined as "carnal knowledge of a female by force and against her will." At one time, this common law definition was the law of every state. Interpretations of the statutes which codified the common law emphasize the "against her will" element of the crime and thus revolve on whether or not the victim consented to the intercourse. "Force" is perceived not as an independent element of the crime, but as a means of showing that the act was without the victim's consent. Thus the perpetrator's use of force becomes criminal only if the victim's state of mind meets the statutory requirement. The perpetrator can use all the force imaginable and no crime will have been committed if the state cannot prove additionally that the victim did not consent.¹

The law did not look at how the victim of rape viewed the matter of consent. It looked rather for proof of her lack of consent. For there to be a crime, she must have resisted to her utmost. "A live rape victim is rarely a rape victim under traditional carnal knowledge statutes."²

Until this decade, there has been only one wide-ranging effort to change the definition of rape. As part of an American Bar Association project to standardize criminal law, a model penal code was drawn up in the early 1950s. In dealing with rape, the code placed less emphasis on victim resistance and more on the actions of the rapist, but resistance remained part of the definition.³ These ideas received little attention from legislators at the time, but women's groups have changed that and lawmakers are now quite interested in shaping a new definition of rape. According to an analysis of Battelle Memorial Institute's Law and Justice Center:

Recent trends in rape re-definition have focused on the need to turn attention from the victim's behavior (resistance) or state of mind (lack of consent) to the rapist's conduct (force). To this end, several states have recently defined rape in terms of criminal circumstances which emphasize perpetrator conduct... [some] states have eliminated the word "rape" and created a vocabulary, such as criminal sexual assault, which connotes a crime defined by what the offender did. In order to broaden further the concept of rape, many states have made the crime sex-neutral. These states have prescribed several types of sexual attacks which do not presume male perpetrators and female

¹Forcible Rape: An Analysis of Legal Issues. Battelle Memorial Institute Law and Justice Center, 1976, pp. 13-14.

²Ibid., p. 14

³Ibid., p. 16

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victims. In addition, several states have classified "rape" into various degrees which are differentiated by the seriousness of the offender's conduct.⁴

Undoubtedly, growing public awareness of the alarming increase in rapes, reported and estimated, coupled with a low incidence of prosecution, has spurred the quite extraordinary legislative upheaval now underway. Already some of the new definitions and statutes are being criticized by some who think they go too far and some who want more protection. It will be years before the effects of current changes can be analyzed. But just the airing of the highly charged issues surrounding the crime of rape in arenas such as state legislatures may prove to have unanticipated value. As the Battelle Memorial Institute Law and Justice Study Center pointed out in its analysis of rape laws:

Even effective criminal law may not substantially deter those crimes in which there are economic motivations or deter the crimes of passion--the typical assault and homicide. But rape is unlike most crimes in that it has neither an economic motivation nor is it usually a result of uncontrolled passion. Instead, it appears to arise most frequently out of an attitude that women are less than human, that they exist to be used sexually, that rape is simply a variety of sexual expression which the woman was asking for and enjoyed. To the extent that this is true, the crime may be uniquely subject to deterrence through effective criminal justice, at least to the extent that sound law results in higher reporting and conviction rates, which in turn educate the public to the seriousness of the crime.⁵

2. Definitions

SEXUAL ASSAULT: An act of violence in which force is used, threatened or implied, committed by one person against another without that person's consent, violating that person's sexual privacy.⁶

RAPE: The carnal knowledge of a female through the use of force or the threat of force.⁷

⁴Forcible Rape: An Analysis of Legal Issues. Battelle Memorial Institute Law and Justice Center, 1976, p. 21. Also, see the end of this section for some specific definitions and a summary of how three states have altered rape legislation.

⁵Ibid., pp. 7-8.

⁶Rape and Its Victims: Participants Handbook. University Research Corp., Washington, D.C., 1977.

⁷Uniform Crime Reports for the United States Federal Bureau of Investigation, Washington, D.C., 1975, p. 22.

3. State Laws

According to the Battelle Memorial Institute Law and Justice Study Center, changes in rape statutes in five states have come to serve as the basis for changes in other states.

More states which have considered reform of their rape laws have looked to models in the form of legislation passed in other states. The laws of Michigan, Wisconsin, Florida and Colorado have provided the major models for redefinition of statutes. California law has served as the major model for limitation on prior sexual history evidence. Where proponents of a bill have attempted to introduce one of these models intact, the bill is usually defeated. Successful legislative attempts have occurred where models have been used as a starting place, but where substantial independent drafting has taken place.⁸

A summary of the laws of the four states mentioned above, and prepared by the Battelle Center, follows. After these are California's revised rape evidence statutes and statutes affecting charges to juries in rape trials.

⁸Uniform Crime Reports for the United States Federal Bureau of Investigation, Washington, D.C., 1975, pp. 13-14 to p. 120.

COLORADO

A. Definition

Colorado replaced its rape statute in 1975 with a sexual assault bill. There are four degrees of assault including sexual penetration, intrusion and contact. Sexual penetration means vaginal, oral or anal intercourse. Sexual intrusion is any intrusion by any object or any part of a person's body except the mouth, tongue or parts into genital or anal opening of another person's body.

B. Proof

Corroboration is not required.

The Lord Hale cautionary instruction was abolished by the 1975 changes. Evidence of past or subsequent sexual history of the victim is presumed to be irrelevant in two instances: (1) if the victim's conduct was with the defendant; and (2) if the evidence shows the source or origin of semen, pregnancy or disease. If the accused wishes to offer other evidence of the victim's past sexual history, the defense must submit a written motion and offer of proof 30 days before trial. If the offer of proof is sufficient, an in-camera hearing is held at which the judge may order the evidence admitted if found to be relevant to a material issue.

C. Special Victim Issues

A bill is presently pending in Colorado which would provide compensation to victims of all crimes.

FLORIDA

A. Definition

Florida became one of the first states to pass a redefinition bill in 1974. Involuntary sexual battery includes oral, anal, or vaginal penetration by the sexual organ of another or by any other object.

B. Proof

The statute specifies that the testimony of the victim need not be corroborated but the jury may be instructed with respect to the weight and quality of the evidence.

Specific instances of the victim's past sexual conduct are not admissible except when consent is an issue and the defense, outside the presence of the jury, establishes that such activity "shows such a relation to the conduct involved in the case that it tends to establish a pattern of conduct or behavior on the part of the victim which is relevant to the issue of consent."

C. Special Victim Issues

The 1974 change also made it a misdemeanor for any person to print, publish, broadcast or cause or allow to be printed, published or broadcast in an instrument of mass communication the name, address or other identifying information of a victim of sexual offense.

The carrying of a tear gas gun or chemical weapon is prohibited unless the chemical device is designed to be carried in a woman's purse or a man's pocket and contains no more than one half ounce of chemical.

If the victim is 14 years old or younger, the court may order a psychiatric examination of the victim at the defendant's request.

MICHIGAN

A. Definition

In 1974, Michigan discarded the entire concept of rape, replacing it with criminal sexual conduct, which includes both sexual contact and sexual penetration. Sexual penetration means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion of an object into the genital or anal openings of another's body. Four separate degrees of criminal sexual conduct were created with each requiring certain circumstances to complete the offense.

B. Proof

Corroboration of the victim's testimony is not required.

The only evidence of the victim's past sexual history which may be admitted is evidence of the victim's conduct with the defendant or evidence of specific instances of sexual activity showing the source or origin of semen, pregnancy, or disease.

If the defendant wishes to offer such evidence, he must file a written motion and offer of proof within 10 days after the arraignment. If the court determines, in an in-camera hearing, that the evidence is material to a fact at issue and its inflammatory or prejudicial nature does not outweigh its probative value, the evidence may be admitted.

C. Special Victim Issues

The names of the victim and the accused and details of the offense may be suppressed by the magistrate until arraignment, dismissal of charges or until the case is otherwise concluded if either victim, defendant or counsel so request.

WISCONSIN

A. Definition

In 1976, Wisconsin repealed its rape law, replacing it with a comprehensive redefinition section covering all nonconsensual sexual acts entitled sexual assault. Both sexual intercourse (includes fellatio, cunnilingus, anal intercourse or any other intrusion of any object into the genital or anal opening of another) and sexual contact are included in the definition of sexual assault which is divided into degrees according to amount of force used and harm to the victim.

B. Proof

Corroboration of victim's testimony is not required.

Any hearing involving the admissibility of evidence of prior sexual conduct or reputation of a complaining witness must be conducted out of the hearing of the jury.

Evidence of prior sexual conduct of the victim may not be admitted into evidence except evidence of the victim's past sexual conduct with the defendant, evidence showing the source or origin of semen, pregnancy or disease or evidence of prior untruthful allegations of sexual assault made by the victim. Sexual conduct is defined by the statute to mean any conduct or behavior relating to sexual activities of the complaining witness including but not limited to use of contraceptives, prior sexual intercourse or contact, living arrangement and lifestyle.

C. Special Victim Issues

The 1976 sexual assault bill requires the judge at the request of the complaining witness to exclude all people from evidence hearing who are not officers of the court, members of the witness' or defendant's families or "others deemed by the court to be supportive of them" or otherwise are required to attend the hearing. The judge may also exclude all persons from the hearing if he wishes.

Carrying and use of mace or teargas is prohibited by state statute.

CALIFORNIA

Senate Bill No. 1678

CHAPTER 569

An act to amend Section 1103 of, and to add Section 782 to, the Evidence Code, relating to evidence.

(Approved by Governor August 30, 1974. Filed with Secretary of State August 30, 1974.)

LEGISLATIVE COUNSEL'S DIGEST

SB 1678, Robbins. Evidence.

Makes opinion and reputation evidence and evidence of specific acts relating to complaining witness' previous sexual conduct inadmissible by the defendant in rape cases to prove consent. Makes prohibition against admissibility inapplicable to complaining witness' sexual conduct with defendant.

Provides procedure by which a court may determine relevancy of evidence of prior sexual conduct proposed to be admitted to attack the credibility of complaining witness before such evidence is introduced.

Defines "complaining witness."

Makes related changes.

The people of the State of California do enact as follows:

SECTION 1. Section 782 is added to the Evidence Code, to read:

782. (a) In any prosecution under Section 261, or 264.1 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit any crime defined in any such section, if evidence of sexual conduct of the complaining witness is offered to attack the credibility of the complaining witness under Section 780, the following procedure shall be followed:

(1) A written motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the sexual conduct of the complaining witness proposed to be presented and its relevancy in attacking the credibility of the complaining witness.

(2) The written motion shall be accompanied by an affidavit in which the offer of proof shall be stated.

(3) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any,

and at such hearing allow the questioning of the complaining witness regarding the offer of proof made by the defendant.

(4) At the conclusion of the hearing, if the court finds that evidence proposed to be offered by the defendant regarding the sexual conduct of the complaining witness is relevant pursuant to Section 780, and is not inadmissible pursuant to Section 352 of this code, the court may make an order stating what evidence may be introduced by the defendant, and the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(b) As used in this section, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this section.

SEC. 2. Section 1103 of the Evidence Code is amended to read:

1103. (1) In a criminal action, evidence of the character or a trait of character (in the form of an opinion, evidence of reputation, or evidence of specific instances of conduct) of the victim of the crime for which the defendant is being prosecuted is not made inadmissible by Section 1101 if such evidence is:

(a) Offered by the defendant to prove conduct of the victim in conformity with such character or trait of character.

(b) Offered by the prosecution to rebut evidence adduced by the defendant under subdivision (a).

(2) (a) Notwithstanding any other provision of this code to the contrary, and except as provided in this subdivision, in any prosecution under Section 261, or 264.1 of the Penal Code, or for assault with intent to commit, attempt to commit, or conspiracy to commit a crime defined in any such section, opinion evidence, reputation evidence, and evidence of specific instances of the complaining witness' sexual conduct, or any of such evidence, is not admissible by the defendant in order to prove consent by the complaining witness.

(b) Paragraph (a) of this subdivision shall not be applicable to evidence of the complaining witness' sexual conduct with the defendant.

(c) If the prosecutor introduces evidence, including testimony of a witness, or the complaining witness as a witness gives testimony, and such evidence or testimony relates to the complaining witness' sexual conduct, the defendant may cross-examine the witness who gives such testimony and offer relevant evidence limited specifically to the rebuttal of such evidence introduced by the prosecutor or given by the complaining witness.

(d) Nothing in this subdivision shall be construed to make inadmissible any evidence offered to attack the credibility of the complaining witness as provided in Section 782.

(e) As used in this section, "complaining witness" means the alleged victim of the crime charged, the prosecution of which is subject to this subdivision.

SEC. 3. This act may be known as the Robbins Rape Evidence Law.

Assembly Bill No. 3658

CHAPTER 1092

An act to add Section 1127e to the Penal Code, relating to character evidence.

(Approved by Governor September 23, 1974. Filed with Secretary of State September 23, 1974.)

LEGISLATIVE COUNSEL'S DIGEST

AB 3658, Sieroty. Evidence.

Prohibits use of term "unchaste character" by any court in any criminal case in which defendant is charged with rape or unlawful sexual intercourse, or attempt to commit or assault with intent to commit such specified crimes, in any instructions to the jury.

The people of the State of California do enact as follows:

SECTION 1. Section 1127e is added to the Penal Code, to read:
1127e. The term "unchaste character" shall not be used by any court in any criminal case in which the defendant is charged with a violation of Section 261 or 261.5 of the Penal Code, or attempt to commit or assault with intent to commit any crime defined in any such section, in any instruction to the jury.

Assembly Bill No. 3660

CHAPTER 1093

An act to add Section 1127d to the Penal Code, relating to evidence.

(Approved by Governor September 23, 1974. Filed with Secretary of State September 23, 1974.)

LEGISLATIVE COUNSEL'S DIGEST

AB 3660, Sieroty. Evidence.

Prohibits instruction to jury that, in any criminal prosecution for rape or unlawful sexual intercourse, or an attempt or assault with intent to commit such an offense, it may be inferred that a female who has previously consented to sexual intercourse with

persons other than the defendant would be therefore more likely to consent to sexual intercourse again.

Prohibits instructions to jury that the sexual conduct in and of itself of the complaining witness may be considered in judging the credibility of such witness.

The people of the State of California do enact as follows:

SECTION 1. Section 1127d is added to the Penal Code, to read:
1127d. (a) In any criminal prosecution for the crime of rape, or for violation of Section 261.5, or for an attempt to commit, or assault with intent to commit, any such crime, the jury shall not be instructed that it may be inferred that a female who has previously consented to sexual intercourse with persons other than the defendant would be therefore more likely to consent to sexual intercourse again.

(b) A jury shall not be instructed that the prior sexual conduct in and of itself of the complaining witness may be considered in determining the credibility of the witness pursuant to Chapter 6 (commencing with Section 780) of Division 6 of the Evidence Code.

E. Rape--The Mythology

Despite some enlightenment in defining the crime of rape and assessing its victims, many of society's views on the subject are still riddled with long-standing myths.

Some of the most insidious myths are undoubtedly the outgrowth of sexual stereotyping. They are especially dangerous to the rape victim who attempts to prosecute her attacker because the views are held as widely by some women as by men, by the very people who will sit on our juries.

One of the first myths the victim of rape may encounter is that of the female as a fabricator. Our law has reinforced this one substantially. In a 1973 report, the Washington, D.C. Task Force on Rape described the implications of this problem:

The image of woman as liar and dissembler is probably the source of the myth that women often make false charges of rape against men, even men they do know. While every person who works in law enforcement knows that false charges of crime are not infrequent, particularly among people who bear grudges against one another, it is only in rape that it is assumed that the usual safeguards in the system cannot protect the accused from lying witnesses.⁹

Then there is the "nice girls don't get raped and bad girls shouldn't complain" myth that is the excuse many people consistently use to assume that only promiscuous women can get raped.

A myth that is particularly harmful to the rape victim is the one that says every woman secretly wants to be raped. If the victim internalizes and blames herself excessively, she is especially unlikely to be able to prosecute the case.

Rape does indeed occur within such a societal context and the myths surrounding it cannot be ignored, especially when they are likely to play a significant role in both the process of investigating and prosecuting charges of rape.

Once some of the prejudicial attitudes that underlie the myth are reflected in the thinking and decisions of jurors in rape trials, it can make it very difficult for prosecutors to obtain convictions. For the credibility of the only witness is usually at stake. And as the respondents in a recent survey of prosecutors indicated, witness credibility is essential.

Nearly every respondent (92%) indicated that the credibility of the victim was either the most important or second most important problem in getting juries to convict for forcible rape.

The credibility of the victim is particularly important in rape cases, since eyewitnesses or corroborating witnesses to the crime are rare. Because of the necessity to prove force or threat

⁹Le Cross, Chairperson, Report of the Public Safety Committee Task Force on Rape. Washington, D.C., July, 1973, pp. 4-5.

of force and lack of consent, and since the victim is usually the prosecution's only witness, her credibility becomes extremely salient in influencing the decision of jury members.¹⁰

Not only is it the law that has granted little protection to rape victims or from society's prejudices, but even the very institutions that should protect or help them. For, as Dr. Elaine Hilberman has pointed out:

...Medical institutions, law enforcement and the prosecutory system reflect the same mythology which society at large perpetuates about rape. Myths about rape are myriad and include the following:

1. The rapist is a sexually unfulfilled man carried away by a sudden uncontrollable urge.
2. Rapists are sick.
3. Rapists are strangers.
4. Rape occurs on the street, so as long as a woman stays home she's safe.
5. Most rapes involve black men raping white women.
6. Women are raped because they ask for it by dressing seductively, walking provocatively, etc.
7. Only women with "bad" reputations are raped.
8. Most victims have been in trouble with the law in the past.
9. Only women in the lower social classes get raped.
10. Women can't be raped unless they want to be. A corollary of this might be that women enjoy rape.

Underlying much of this mythology is the notion that the victim is indeed "some floozy" whose testimony is likely to be malicious and deceitful. The victim, then, is considered a responsible and not an innocent party to the crime.¹¹

¹⁰Forcible Rape: A National Survey of the Response by Prosecutors. Battelle Memorial Institute Law and Justice Study Center. March, 1977, p. 29.

¹¹Hilberman, E., The Rape Victim. American Psychiatric Association. Washington, D.C., 1976, p. 3.

F. Rape--Facts and Fiction

Below is a summary list of some of the more commonly held opinions about rape that have been put to rest by researchers. In each case, a statement follows that summarizes factual findings as reported in recent literature on the subject. (See the bibliography at the end for references.)

1. Most rapes are the outcome of sudden impulse.
Literature Review: Most rapists plan their attack, just as most other criminals plan their crimes.
2. Most rapists attack their victim suddenly, unexpectedly.
Literature Review: The attack is generally preceded by some conversation or contact.
3. Rapes occur because of lack of sexual outlets for some men.
Literature Review: Many rapists have access to sex; what they want to express by raping a woman is power, dominance, control.
4. Rape is a sex crime.
Literature Review: Rape is a crime of violence; sex is generally not its primary goal. A combination of hostility and gratification are its primary motivations.
5. Submissive behavior guarantees personal safety.
Literature Review: Some women are brutalized even though they submitted.
6. Assertive resistance guarantees personal safety.
Literature Review: Some rapists are excited by the woman's resistance and attack her even more.
7. Rapes involve almost exclusively young, attractive, fashion-conscious women.
Literature Review: All women are vulnerable to attack, regardless of age, physical appearance, marital status, etc.
8. By now, we have developed hard-and-fast rules on rape prevention.
Literature Review: There are no such rules.
9. Women must take primary responsibility in rape prevention.
Literature Review: Men must be made to stop raping.
10. Most rapes occur in open spaces.
Literature Review: Only a small percentage of rapes occur in open spaces.

11. There are dramatic personality characteristics which distinguish the sexual offender from the nonoffender.
Literature Review: Research to date has failed to reveal any such characteristics.
12. Rape is caused mostly by the victim's behavior.
Literature Review: There is no evidence to demonstrate that women who were raped behave differently from women who are not.
13. Good profiles of the rapist and of the rape victim have been developed as a result of research.
Literature Review: No such profiles exist.
14. There is no way women can resist rape. They are better off submitting.
Literature Review: Women have options and should be trained or learn to evaluate any given situation before deciding what course of action to take.
15. Many women do not report rape because they know they provoked it.
Literature Review: The decision to report or not depends on several factors, including the anticipated reaction of family and friends.
16. A woman can spot a rapist, should one approach her.
Literature Review: As in the case of other crimes, there is no way of recognizing a rapist beforehand.
17. Rape is mostly an interracial crime.
Literature Review: Most rape is not interracial.
18. The best way to stop rape is to increase police patrols and police visibility.
Literature Review: Since many rapes occur indoors, increased police presence would not necessarily have much effect.
19. Hitchhiking should be declared illegal. Then rapes would drastically diminish.
Literature Review: The number of rapes taking place in a hitchhiking situation is relatively low and does not seem to warrant such a measure.
20. Most victims who suffer more than minimal emotional trauma were already unstable prior to the rape.
Literature Review: Rape is a severe emotional trauma for all victims.

Major literature reviewed in preparing this summary includes the following: (Also see the more complete bibliography at the end of this chapter.)

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G. The Reporting of Rape

1. The Emergence of Victim Surveys

Rape is the most under-reported Part I offense but it is not the only crime whose incidence is under-estimated. This phenomenon first came to wide public attention more than a decade ago and gradually some information is accumulating that may provide accurate statistics.

In 1965, the President's Commission on Law Enforcement and the Administration of Justice began to recognize that a wide discrepancy existed between the number of crimes reported to the FBI and published in the Uniform Crime Reports and the number of crimes actually occurring. In its report, The Challenge of Crime in a Free Society, the commission noted several factors that account for this discrepancy:

- Crimes reported directly to prosecutors usually do not show up in police statistics;
- Citizens decide not to report some crimes to police; and
- Some crimes, even though reported, are not added to statistics by some police.

Since it is widely believed that the prevention and control of crime needs to be based on programs developed from its frequency, the characteristics of its particular victims and other circumstances unique to the crime, the commission wanted a more accurate picture of crime. To develop this picture, they authorized the nation's first crime victimization survey.

The National Opinion Research Center of the University of Chicago conducted the pilot survey. People in 10,000 households were asked whether they or anyone residing with them had been the victim of a crime. Their survey indicated that almost twice the number of crimes had taken place than were reported in the FBI figures.

Subsequently, the National Criminal Justice Information Statistics Service (NCJISS) in conjunction with the U.S. Census Bureau, began victim surveys in selected cities to supplement information in police reports. By 1972, the National Crime Panel was established. Each month the panel takes detailed information on crime from representative households and businesses across the nation. In addition, it conducts high-impact surveys in selected cities.

2. Why Rape is Under-reported

Victimization studies indicate that for every rape that is reported, anywhere from two to 20 rapes are not. Why?

Part of the answer lies in the way the crime has been viewed. The conception of rape as a sexual crime and long-standing taboos about discussing it have made many of the crime's victims especially reluctant to face the consequences of revealing an attack to the authorities. Perhaps equally as important is the negative view many women harbor of how rape cases have traditionally been handled in the criminal justice system. As the Prescriptive Package notes, when a victim does report the crime, she may indeed suffer a "re-raping:"

She may be exposed to police skepticism, tactlessness, or outright prurience; inadequate, delayed, or nonexistent medical care; and the need to repeatedly describe details of the attack to a seemingly endless assortment of police, doctors, prosecutors, judges, most if not all of whom are men. If she should continue her cooperation to the point of trial, court rules can open her chastity, character, and choice of companions to scrutiny and, often, disparagement. And after all the victim's anguish, defendants in rape cases are seldom convicted as charged.¹²

Those who deal with the crime must become attuned to the reactions of guilt, fear, embarrassment, and even hesitation about facing unknown processes that the victims suffer. For these are the factors that contribute significantly to the under-reporting of the crime.

For instance, a substantial number of victims fail to report rapes because a prior relationship, either social or familial, exists with the rapist. In such cases, the victim may fear that she will not be believed and may be judged as the one who precipitated the attack. Also, in cases with a prior relationship, some women decide not to try to prosecute the rapist for a variety of emotional reasons, including fear of reprisal.

Some victims fail to report a rape because they are apprehensive about the reactions of significant other persons in their lives. And if they do tell friends or family, these people may encourage a rape victim not to report the crime in order to protect their own reputations as much as hers.

Still other victims primarily fear publicity, public censure, ostracism, loss of status as desirable females, or even loss of employment. They are largely unable to articulate these fears to those who seek to obtain a report. And unless these victims are questioned with sensitivity, usually by a person trained in crisis intervention, they can be deterred from reporting the crime or following through in its prosecution.

Often it is police officers who usually serve as a victim's introductory contact in the criminal justice process, who thwart attempts to report rape. Police can do this by subjecting the victim to their own value judgments. Some officers may feel that the apparent calm or other unanticipated behavior exhibited by a rape victim indicates a false report. The victim, however, may actually feel guilt for allowing herself to be assaulted, or may be in a state of shock, or terrified that the rapist will return to wreak additional violence on her or her family if she reports.

¹² Brodyaga, L., et al., Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies. LEAA/NILECJ, Washington, D.C., Nov., 1975, p. xi.

Minority women in particular, who make up a significant percentage of rape victims, have indicated that their distrust of police attitudes has kept them from reporting crimes. Some minority women report that they have encountered highly prejudiced views among police and other officials to the extent that they are seen as oversexed and worthless women who are "unrapeable."

In other cases it is the age or lifestyle of the victim that colors the investigator's judgment about a case and hinders reporting. For instance, female hitchhikers have often been viewed as having "asked for it," and teenagers are reportedly "routinely disbelieved" by many officers.

Officers may also unintentionally thwart victims by routine insensitivity. As one Washington, D.C., rape victim put it to researchers: "When you report to the police, you're a piece of evidence only--not a human being in trouble and needing help."

Since police personnel have most of the initial contact with rape victims, it is easy to cast them as the main villains. But other agencies can do as much to discourage the victim from fully reporting the crime. For example, in some jurisdictions, the examining physician at the hospital is expected to "diagnose" whether a rape has occurred. If the doctor decides there has been no rape, even when he is ignorant of what would constitute a legal case, it is very unlikely that the police would investigate the report further.

Another problem may be the mere distance to the hospital. Particularly in the rural areas, a lengthy trip to the hospital may cause the victim not only to forego medical care, but also to skip reporting the crime.

In cities, hospitals may have other means to confound and discourage victims. Some may not treat them at all, while others will treat only those who have already made a police report. Some charge the victims for an examination and some don't, and some charge only those who fail to call in the police.

Once at the hospital, the woman may find no personnel trained to be responsive to her emotional condition. She may be further traumatized by a lack of privacy during examination and questioning if she stays that long. For many hospitals offer no priority treatment to a victim of rape and she may have to sit around in a crowded emergency room for hours. Clearly, such treatment affects the victim's decision to report, or having reported, to stay in the system at this point.

There are numerous other circumstances that will impact on the victim's decision to report or uphold her report. But initial questioning of the rape victim, whether by police, doctors, or prosecutors, has been recognized as the major factor in how the woman will respond to the criminal justice process.

Evaluation of new approaches to handling rape victims, such as training officers, especially females, in the use of crisis intervention techniques, tends to support the hypothesis that sensitive, understanding, and humane treatment of the victim will both encourage her to report the crime and remain in the system until completion of a trial.

But no matter how effective one agency's practices may be in supporting and encouraging a victim to report, they may prove futile without interaction with other agencies which will also deal with the victim.

As rape victims gain some measure of confidence in the criminal justice process, a more accurate picture of the crime and the criminal should emerge through a higher incidence of accurate reports. Only then can agencies plan on how to allocate their resources.

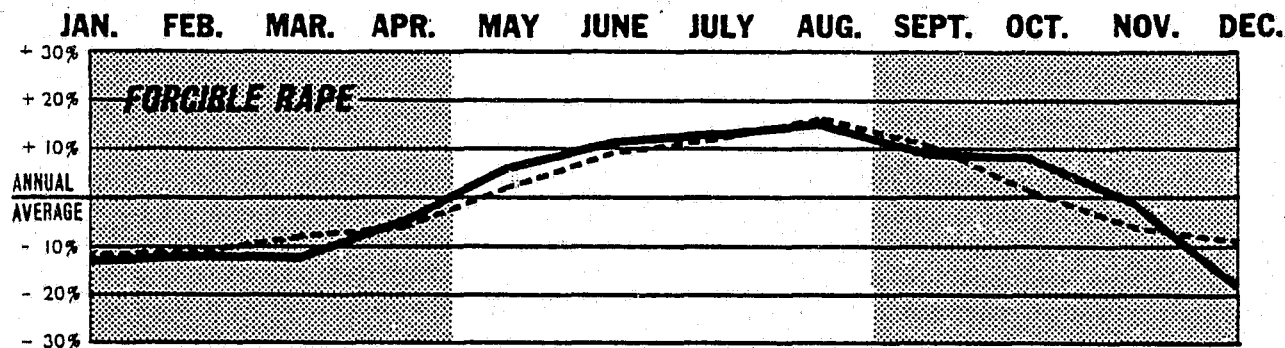
But they should not really rely on other people's figures. For just as a program that works in one city may fail if merely transplanted to another, so the pattern of the crime may also vary from place to place. National patterns may or may not reflect local incidence. For example, compare the chart of crimes by month on the next page to a particular city or jurisdiction. To begin planning, agencies must first begin counting.

Figure 4

CRIMES BY MONTH

KEY:-----1970-1974 MOVING AVERAGE

—— VARIATION FROM 1975 ANNUAL AVERAGE



Source: UCR, 1976, p. 16.

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CHAPTER 4: REACTIONS TO RAPE

A. Community Reaction

Community attitudes toward the victims of rape often combine a misunderstanding of the nature of the crime with an unrealistically punitive approach toward the victim.

As a result of such negative attitudes toward the victim, rape is the only crime in which the victim can be doubly violated, first by the attacker and then by society. It is the only crime in which social, religious, and cultural core attitudes of society turn upon the victim. This negative reaction toward the victim is properly explained if one keeps in mind the patriarchal philosophy of sexual private property that shaped and determined historic male (and female) attitudes toward rape. In such society, rape is first and foremost a property crime of man against man, theft of virginity, or a trespass on a male's exclusive sexual rights. A woman victimized by rape thus appears to be not only irrevocably defiled, damaged, and spoiled, but also a poor guardian of her own flesh, possibly negligent, disloyal, culpable, and guilty. That these attitudes still exist is amply documented by the accounts given by women of their men's--husbands, fathers, lovers, boyfriends--reactions to their victimization and by the instances of divorce, rejection, and blame occurring as an aftermath of rape.

B. A Case of Rape

An individual case study provides a clear and simple way to illustrate the difficulties that can arise for a victim of rape. The problems and lack of cooperation of various agencies are amply documented in the case that follows. The place and people are fictional, but the stories will undoubtedly be recognizable.

This case study lends itself to use as a practice model for the problem-solving outline. Therefore, following the case, a couple of obvious problems that emerged will be traced, to some degree, through the main points of the outline. An abundance of others remain for your efforts.

The outline has not been completed, for as noted earlier, jurisdictions are too dissimilar to accept any one type of prescription.

1. The Setting

Thomastown is a comfortable city in the Northwest with a population in the metropolitan area of about 1.4 million. It also has the distinction of being situated in an area where a national survey recently indicated that there is a seriously underestimated rape problem.

There is no community-based organization that offers services to rape victims but there is a women's counseling center at the local branch of the state university.

As a result of the recent victim survey, which indicated that as many as 20 rapes went unreported for every one that was reported, a local television station planned a series of programs entitled "Speak-out on Rape."

A young rape victim, Rosa Velasquez, participated in the first program. Her complaints about her journey through the local criminal justice system had already received wide coverage in the local press. The television station, therefore, decided to invite the detective, the prosecutor, the doctor, and the young woman from the women's counseling center to participate in programs as well. However, the doctor had transferred to a distant hospital to complete his residency and was unable to appear. The head nurse in the emergency room appeared in his place. And the prosecutor said he was too busy to participate in person. He sent an assistant to read a prepared statement for him.

Exerpts from their stories follow.

2. The Victim's Story

Rosa Velasquez, 20, a student at Thomastown State University.

"Some of the kids at school were having a party to celebrate the end of exams. My boyfriend had to work, so I went alone. There was a big crowd, lots of food, and I was really having a good time even though I'm not a heavy drinker. I did have a beer. (I can hold a can of beer in my hand all night and everybody thinks I'm drinking steady.) I stayed pretty late, and was scared to walk to the bus stop by myself because I had heard about that crime panel's report saying we had a lot of rape here. This nice-looking guy I'd been talking to said he'd give me a ride to the bus, so naturally I went with him.

"He was driving and talking real nice, but he passed the bus stop. When I said so, he told me he might as well take me home since it had really gotten cold, so I told him where I live. It was only about 10 blocks away, but he turned off when we got out of sight of the bus stop. He said he was taking a shortcut, so I didn't say anything. In a little while, he had made so many turns, I asked him if he had gotten lost. Just then, he pulled up at a vacant house and said for me to get out.

"I asked him why and he said, 'Don't play innocent. You've been coming on to me for the last hour.' He said something about 'hotblooded spics.' I didn't hear it all because he was making a mistake. He grabbed my hair and pulled me up to him. I scratched his neck trying to make him let me go. That's when he slapped me and said he had a knife and would use it on me like he had on some other girls. He said women needed to be knocked around and he didn't mind

doing it. I was so scared I couldn't move. I started to cry. He just slapped me again and dragged me out of the car.

"He knew how to get in the house easy. I couldn't see much because it was dark, but it looked like a place somebody was doing over--wood and metal stuff stacked around. He twisted my arm all the way in the house and when we got in, he hurt it so bad I just fell on my knees. He was on me before I could do anything, pulling off my pants and raping me. He talked dirty the whole time. . .called me a spic bitch. . .told me to say I liked it. . .lots of stuff like that. I just tried not to get hurt or killed. I thought about screaming, but he said he'd knifed those others, so I just lay there and cried.

"After what seemed at least an hour, he told me to stay on the floor with my eyes closed and count to 100 before I got up. I did what he said. I waited to hear the door close, but just heard a car driving away, so I stayed still, trying to decide what to do. I was scared he'd come back and kill me. I felt so dirty. . .so used. . .I just wanted to stay there and die, but after awhile I decided I'd better get away from there.

"I ran about three blocks and then I found a main street and I ran down it until I found an all-night gas station. I think the manager thought I was crazy. I just kept telling him to 'Call the police, Call the police.' I couldn't tell him I'd been raped. I just couldn't. I was too ashamed.

"I wanted the police because I wanted them to get me home fast. I just wanted to wash and wash and wash. I didn't intend to tell them what happened. I didn't plan to tell anybody. I finally just blurted it out; they asked so many questions. Then they wanted me to go with them back to that house. I didn't want to. I didn't even know if I could find it. I think that because I said that and because I didn't tell them at first that I had been raped they didn't want to believe it had happened. They kept asking me why I had gone there with that guy. They couldn't seem to understand I didn't just go there--he made me go there--no matter how often I said it. Then they got upset because I couldn't remember what kind of jacket he had on. I really wasn't sure what kind of clothes he was wearing. He dressed like all the guys at school--jeans and jacket. They didn't like that either.

"Those two cops just really didn't want to be there. One of them said something to the other about their nice uneventful evening being ruined, and how one of them was going to work overtime to take me to the hospital.

"They told me later that they got some fingerprints from the door but that there wasn't enough 'evidence' of a fight or struggle to really prove I was raped. I don't even know why they looked for that kind of evidence--I had already told them that I was too scared of being killed to fight. I did tell them about scratching him when he grabbed my hair. That guy was so mean! He would have killed me; how could I fight with him?

"Then we went to the hospital. It was so late; I was so tired. I didn't know where we were going or why. At least, I didn't have to face my boyfriend for awhile longer, but I did want to bathe. I felt so dirty.

"At the hospital, they asked me questions, but they didn't tell me anything. The police asked me questions--the same ones. They just made me wait

and answer questions. Every time I asked the nurse a question, she told me to just sit and wait. I think if you haven't been cut to shreds, they don't believe you, and they make you wait. Nobody seemed interested in how I felt. They just wanted to get their jobs done--asking questions. I felt like I was at the hospital for the police. A detective came, and the other cops left, and he interviewed me all over again--the same questions. 'When was the last time I slept with my boyfriend? Did I often go home with guys I met at parties?' Things like that. He made some jokes about my accent and when he saw I didn't like it, he said he was just trying to make me relax. Maybe he wanted to put me down. I don't know.

"We talked in a corner of the waiting room, but people could hear, I'm sure. They kept staring at me.

"When something bad is happening to you, the last thing you think about is remembering details. Now I find out that is what you are expected to do! I didn't know what kind of car he had, not even what color. It was a big car, and there was some kind of toy hanging from the rearview mirror. That's all I knew. They even asked me about the license plate! I didn't know where he was from, what he did. I did tell them the names of some of the people who were at the party who might know the guy, but I didn't know where they lived. They were just kids I go to school with. I don't visit them.

"And he kept asking me why I didn't say at first that I had been raped. He wanted to know why I didn't want to tell the cops about it and why I didn't want to go back to the 'scene?'

"I started to tell them to forget it, but they made me so mad I felt like that guy ought to get some hassle too for putting me in this bag, so I said I'd go to court. I didn't know what I was getting into. Nobody believed me. Nobody cared how I felt. Nobody would tell me anything. All they talked about was evidence, evidence, evidence. I began to think I was just evidence--nobody treated me like a person.

"Then at the hospital, the doctor was really a trip. He gave me this lecture about the value of evidence again, especially with what he called, 'A girl in my position--living with a man she wasn't married to.' He said he didn't know why the police ever brought me in because his exam didn't indicate I'd been raped and he asked me why I didn't fight the guy. I had already told him a hundred times that after I scratched the guy and he got so mean, I was just trying to stay alive. He said most women would try to save their honor. He really made me mad then, so I was going to leave, but then I found out the nurse had given my clothes to the police. All I had was a sheet. She gave them to him before she even told me. Suppose I didn't have a way to get clothes, I asked her. She said she was just following procedures. She did give me a blanket to wrap up in until my boyfriend brought me some clothes. He was as mad as I thought he'd be, and having to come to the hospital at that hour didn't help.

"Later they arrested the guy for raping another girl and I had to go down and pick him out. I got scared all over again.

"They said his story was that it wasn't rape. He said I wanted it. He said I got scared afterwards and made up the whole story because I knew my boyfriend would find out I left the party with this guy and would figure out why it

took me so long to get home. He said we had an argument and that's why he left me at the house! He did have a knife on him, though.

"They tried to get me to say that I had just changed my mind and run away. But I wouldn't drop it. I couldn't have people believe I lied. I would never lie. I wasn't going to drop it.

"Since then, things have been very hard on me. My boyfriend and I have split up. He said he believed me, but things just weren't the same after the rape. I couldn't let him touch me, so we decided to call it off. My parents didn't even know I was living with him. Now, of course, they heard it all in court. They call me a lot, and try to help, but they keep saying they are so hurt. They are very disappointed in me. My mother said girls who go to parties alone get raped. She says I'm ruined. My father says this just proved all the things people say about girls who live with guys and go to parties alone. They are very upset with me. I don't know where to turn. Now everybody knows. The police were asking questions all over the university. I've been out of classes a week.

"I did go to the Women's Counseling Center at the university. They assigned me a 'support person' who is supposed to work with me until all this is over. She's nice, but all she can do is talk with me. She doesn't really know what is going on. She goes with me to the police or to the court but they don't take her seriously and won't let her sit in when they talk with me. There doesn't seem to be anybody who can just tell me what's going on. She says I should never have reported it to the police. "She's probably right. Every time I go to court, they put the case off or I can't find the courtroom. I feel like every time I call the prosecutor's office, someone new is working on the case and I have to explain who I am all over again. They had something called a preliminary hearing where I thought I was on trial. I felt like the questions the prosecutor asked me were as bad as any the defense attorney could ask at the trial. Like he wanted to beat the defense attorney to the punch. He said I was hostile. I thought he was hostile.

"As far as I can tell, when rape cases go to court, the defendant is innocent until proven guilty--and the girl is guilty until proven innocent."

3. The Detective's Story

Joseph Washington, 49, detective, Thomastown Police Department,
Homicide/Sex Division

"I've been on the force for 17 years--seven as a detective--and I've come to dread rape cases. In any other case, the victim wants to tell you all about it. Rape victims--you have to ask a million questions to find out what happened. The last rape case I worked on, the defense pressured the girl so much she dropped charges after we all spent a lot of time waiting around the court as usual. If rape cases don't go down the drain one way, they go down another.

"This Velasquez case is a problem. The prosecutor keeps asking me why I can't give him a rape victim that a jury will believe. He wants me to find someone who can say that the girl was only drinking a little beer at the party or someone who heard the defendant ask to take her home. But nobody who was at the party knows what the girl and the guy talked about--just that they were friendly and left together. There must have been 60 kids at that party. I've talked to all of them. Nobody knows anybody except as a fellow student. Kids are so casual about everything today.

"So the only thing we really have on the guy in this case is that she identified him in a lineup. But he had been arrested for raping another girl he met at a university party two nights later. She gave us his tag number and a good description. When I saw the scratch on his neck, I asked Velasquez to take a look at him too. She hesitated...really seemed frightened...kept wanting to be reassured that he couldn't see her. When she finally told us which one, she was anxious to leave. Maybe we do have a better case than I thought, but what kind of witness will she be? The guy was carrying a knife, but Velasquez couldn't identify it. She says she never saw it--was just told he had it. If Velasquez were half as cooperative as this other girl, we'd do better. She is so moody...just stares or cries when I talk to her. I tried teasing her at the hospital, by joking about her accent--she really has some accent--but she just got angry.

"Anyway, the trouble in rape cases is that the evidence can get all fouled up. The hospital people should know the procedures, but something always goes wrong--they foul procedures with the evidence or don't order all the right tests. Always something. This time, they didn't take fingernail scrapings from Velasquez. Every time I go in there and there's a rape victim who isn't bleeding to death, they act as if I'm just causing them a lot of trouble. They complain about my sitting with the victim in the waiting room, afraid I'll upset the other patients--but they won't give us someplace else to sit. God help us if I try to get them to see the girl quickly! They tell me about hospital priorities in the emergency room--what a madhouse!

"Then, as if I hadn't had enough trouble, the prosecutor had me go back and interview all those kids at the party again to see if anybody remembered a guy with a scratch because the defendant said he got it working on his car before he went to the party. But the kids knew even less than before. They just wanted to ask me questions about these alleged rapes.

"If the prosecution handles this right, though--and if the doctor comes through--I think we might be able to make this case stick. If we can get Rosa Velasquez to hang in there. But that prosecutor is notorious for making things easy for himself. He's plea-bargained for easier rape cases than this one.

"Then the woman counselor who involved herself in all this began to get in the way by demanding privacy at every turn. What kind of privacy does she think is available to a woman charging rape? She's got to be ready to spill her whole life history or give up the case. We don't have the time, the money, or the space around here to give special attention to everybody.

"I have only so much time in a day. Most of my cases involve aggravated assault--rape just isn't our top priority. We only get about 15 reports a month, and wash out as many as we can if the evidence is weak.

"In this case they really put that girl through the wringer at the trial, even though that guy has been up to his ears in trouble since he was a kid. Nobody can talk about his record--just hers. But that's due process."

4. The Nurse's Story

Alice Charles, 43, head nurse; emergency room.

"When I first heard that the patient had been raped, I was very sympathetic, and when I met her it was obvious that she was terribly upset. But it turned out that she was angry at everyone! I guess I expected some other emotion--I thought she'd been crying or frightened. She even seemed to be angry with the detective who was trying to interview her and was very sullen when I tried to take a history. She did have to wait quite awhile, but it was just as well, because the detective wanted to get her story.

"When the doctor came in, she told him that she hadn't wanted to come to the hospital. He tried to impress upon her how important it is to gather evidence--that rape charges are very serious and, therefore, evidence of rape has to be documented. He gave her an internal exam, took the appropriate slides, and stressed to the patient the importance of going to her own doctor for follow-up treatment.

"The girl was lucky to have been on birth-control pills--pregnancy is one of the things rape victims are most frightened about.

"This girl really became outraged when we took her clothes for evidence. I finally reached the limits of my patience and pointed out to her that she was well-covered by the blanket and would be going home as soon as her boyfriend arrived with some clothes.

"We've had other rape victims in here who were a lot worse off than this girl. You would think that she would be thankful that she wasn't really hurt."

5. The Prosecutor's Story (A prepared statement)

The State's Attorney has recently announced a new policy on rape. According to this Office's previous policies, in the case of the State vs. Paul Walsh, defendant in the Velasquez case, we would lean toward accepting a plea to a lesser offense rather than taking this case into court. Let us consider the facts from our point of view:

"This case was originally charged by this office as one count of rape. Its preliminary hearing was originally scheduled for October 29, 1976. When the docket was called, the victim was not in court, and this office was forced to request a postponement until November 10. (The victim, Ms. Velasquez, claims to have been misdirected by her subpoena, unable to find the courtroom, and unable to find our prosecutor when she arrived at the correct courtroom. No one from this office remembered talking with her on that day.)

On November 10, the prosecution was ready to proceed; all witnesses were present. At that time, the defense requested and received a postponement. The preliminary hearing was set for November 23.

On November 23, we were ready to proceed, but the doctor who examined the victim did not appear. He later stated he had received no summons.

About this time, Trial Deputy Susan Brown was assigned to the case. Brown, having heard that the defense was planning to move for dismissal due to failure to prosecute, presented this case to the Grand Jury on November 25. She received an indictment.

A District Court trial date was set for March 1. The case was reassigned to Bob Jones in our Trial Division. Jones, however, developed a scheduling conflict with other trials, and the Walsh case was reassigned to Pete Smith of our Trial Division on January 10.

Smith, one of our most experienced deputies, reviewed the case and concluded that it was not prosecutable. The victim was felt by Smith to be one whom a jury would reject. Among other things, she left the party with the defendant of her own volition, and there is no corroboration of the offense.

In addition, we continue to have problems with getting doctors from County Hospital to testify. They are almost as transient in this community as the student population. The examining physician in this case completed his residency at County Hospital and left town three weeks before the trial. Since his medical report could be interpreted as skeptical about the victim's story, we had to contact him to set the record straight. We could not get him back to town for a trial.

Moreover, Pete Smith felt that the case was poorly charged by our office to begin with--that we should have gone with assault and battery. He felt that the prejudices that this set of facts would raise would compel the jury not to convict on the rape charge. You know jurors are supposed to be objective, but they bring their value judgments right into that box with them.

Therefore, we had several options. We could have gone ahead with the rape charge and entered into plea bargaining, offering to reduce the charge

against the defendant in return for some time to serve and some suspended. Or, we could have dismissed the case--which the Defense Attorney insinuated was our only choice. Since we had a pretty airtight case with the other complainant, the Defense Attorney finally agreed to a guilty plea on an assault charge. From everybody's point of view but Velasquez', it seems a satisfactory solution. Women just don't understand the court process."

6. The Victim Advocate's Story

Laura Vanderpool, 21, a fellow student of the victim and a member of the Women's Counseling Center Collective

"Rosa Velasquez came to the University Women's Counseling Service because her emotional problems stemming from being raped were causing her a lot of problems in school. I was assigned as counselor/support person. The Dean felt that she needed someone to counsel her and to go with her to the police station and the court. The Dean didn't know enough about the new Rape Crisis Center to take a chance on the public's finding out about the rape. Besides, they are not professionals. We'd have indignant parents up to our ears. It soon became clear to me that trying to cooperate with the police and prosecution was just keeping the rape alive for her and was certainly adding to her adjustment problems. We talked about her withdrawing from the case so that she could start putting her life back together, but Rosa said that she wanted to see it through.

"I had hoped to be able to serve as some kind of buffer between Rosa and the police and the prosecutor's office. But that just doesn't seem to be possible. Nobody will give me the time of day when I try to educate myself about what is supposed to happen in this case. And when I've gone down with Rosa to a meeting, they make me wait outside.

"It's unbelievable that Rosa just has no rights in this case. She went through that whole evidence exam because the police wanted her to--and the hospital billed her \$85.00! She is getting such a runaround from the prosecutor's office; I thought they were supposed to be representing her interests. When I said as much to one of the Assistant Deputies, he informed me that he doesn't represent Rosa--he represents the State. One of his big problems is getting that across to complaining witnesses, he says. So the Defense Attorney represents that rapist, the Prosecutor represents the 'state' and I run a poor third in trying to help Rosa.

"They won't even let me know when she has to appear somewhere. It's surprising to me, but I think the detective expresses some concern about Rosa as a person, but not the prosecutor handling her case.

"Rosa doesn't really take too well to counseling either. When I have insisted that she talk about the rape, she just gets angry--at me, at the rapist, at the police, prosecutors--everybody. Sometimes she cries, but most of the time she just keeps her real feelings bottled up and expresses them as anger. I'm sure there's a lot of hurt and fear there, but she just won't open up and express it. I've told her to see a feminist therapist or to join one of our groups, but she's not interested. She is even angry because I called her mother. She cries a lot too.

"If this case drags on for months, her grades are really going to suffer. She misses a lot of classes. Every time she goes to court, she's so upset when she has to talk to someone there about the case. She says her professors were understanding at first, but since the story is out on campus now, one of them has suggested that she withdraw from the university until she gets herself together. I don't know how to advise her on that. If she quits school, all she has to think about is seeing through this rape case. If she loses the case, I don't think she'll be able to cope. Someone should be in touch."

7. Applying the Problem-Solving Outline

During her interview, Ms. Velasquez said, "Every time I go to court, they put the case off or I can't find the courtroom." The prosecutor said he had to seek a postponement of the preliminary hearing in the case because she did not appear on the date it was first scheduled. She "claims" he added, "to have been misdirected by her subpoena, unable to find the courtroom, and unable to find our prosecutor when she arrived at the courtroom."

Without pointing fingers of blame at anyone, we will assume that the problem, quite simply, was that the victim, Ms. Velasquez, did not have enough information to get to the right courtroom at the right time for the hearing.

Once the problem is identified, the next step is to look at the actors and the agencies involved in the problem. Court procedures aside, in this case the victim will be interacting with the detective, the prosecutor, the victim advocate, and the agencies they represent. Their principal roles at the courtroom stage might be summarized this way: the victim appears as a witness for the prosecution as does the police officer; the prosecutor must make the case; and the victim advocate wants to supply support and information to the victim.

What about interactions? Apparently, the root of this problem is that there was a lack of them. If the actors realize that they cannot rely on a court subpoena to supply appropriate information to the victim, then they can begin to work on solving the problem by finding a way to enhance interaction.

In the next example, an outline will be completed up to the point of action strategy which individual managers must work out according to their resources and philosophies.

PROBLEM-SOLVING OUTLINE

RAPE AND ITS VICTIMS

Thomastown
Community

GOAL: To ensure complete and accurate collection of evidence. In this instance, fingernail scrapings were not collected from the victim.

I. ACTORS

Victim, police officers, detective, nurse, doctor, prosecutor.

II. AGENCIES

Hospital, police department, prosecutor's office.

III. ROLES AND RESPONSIBILITIES

1. Victim carries the evidence
2. Hospital collects the evidence
3. Police investigate for and analyze evidence
4. Prosecutor uses evidence to make his case.

IV. INTERACTIONS

1. Victim describes circumstances of crime
2. Police investigate the story and tell hospital and prosecutor about possible evidence
3. Hospital uses its facilities to support evidence collection
4. Prosecutor has guidelines that he needs hospital and police to follow in evidence collection.

V. PROBLEMS

Part of the evidence, fingernail scrapings, were not taken from the victim.

VI. CAUSES

1. Breakdown in communications between agencies and actors
2. No one in a leadership role and a lack of accountability
3. Skill or knowledge lacking on the part of some actors
4. Apparent attitudinal problems about responsibility to the victim and to other agencies.

VII. SOLUTIONS

Interagency meetings and training on proper procedures and guidelines for collection of evidence.

VIII. BENEFITS

1. More complete and accurate collection of evidence
2. More convictions
3. All the actors will gain knowledge and understanding about the roles, responsibilities, limitations, and capabilities of other actors and agencies.

IX. CONSEQUENCES

1. Positive -- More victims will stay in the system and there will be greater job satisfaction for the actors.
2. Negative -- Time and resources spent in meetings and training may strain some agencies.

X. ACTION STRATEGY

1. What resources does Thomastown have available to solve the problem? The following chapter looks at some of the problems faced by agencies in attempting to solve problems of interaction in rape-related services.

CHAPTER 5: RESPONDING TO RAPE

A. Professional Isolation

The indignities heaped upon the rape victim in the last chapter may seem exaggerated. But according to numerous press accounts by outraged women, it actually could have been worse.

And the factor common to most of these stories is a feeling of helplessness aggravated by apparently insensitive treatment. More often than not, it may be a lack of communication and no insensitivity that makes the victim suffer more. She is often kept in the dark about procedures, perhaps because one agency does not know what another is doing.

Police, doctors, lawyers, and other community groups all work with rape victims. Yet each one performs a specialized service and often fails to inform the others of their needs and actions except superficially. Frequently, there is little sharing of specialized knowledge even though such sharing is particularly important in the case of rape.

For instance, many physicians and emergency room personnel receive little direct training in police needs for evidence. The training is usually informal--passed among residents. They are also often uninformed about legal procedures--how prosecutions and courts of law work--yet they must collect the evidence which will be tied to legal definitions and used to judge the guilt or innocence of an accused rapist. Few receive training in this area from representatives of that judicial system.

(In addition to rape victims, the victims of such crimes as attempted murder, child abuse, and assault are all examined in the emergency room. Again, doctors may be ignorant of all of the legal definitions of these crimes although they often find themselves in court being asked to support or refute allegations that the crimes occurred.)

Lawyers and judges, for their part, may not know the meanings of various medical terms on which they need to base legal judgments. This is especially a problem when medical records appear in court but no physician is present to explain them. Police also need a clear understanding of medical procedures, particularly if they have the prerogative of judging a case "unfounded" based on statements by medical professionals.

Finally, representatives of community organizations involved with rape victims--counselors, therapists, social workers, rape crisis center workers--need to understand and be able to explain to rape victims the physical risks and treatments for venereal disease or possible pregnancy. Knowledge of medical and legal

procedures for gathering evidence will also improve the support they can offer the victim in a time of crisis as well as help the victim herself make informed decisions.

At this point, it may be helpful to examine some general problems unique to each of the major agencies handling rape victims as well as programs implemented by some agencies to improve procedures. It should also help put in perspective some points where the lack of interagency interaction (communication and cooperation) is failing the victim.

B. The Police Response

1. Background Notes

Theoretically, the burden is on law enforcement agencies to catch criminal suspects and develop evidence of their guilt or innocence. To an unusually high degree, the crime of rape belies that theory: the police department is often dependent on others -- the hospital, the prosecutor, the legislature -- to make its cases. Its work is also often dependent on the attitudes of the victim and her family and friends, and it is frequently influenced by the activities of citizen action groups.¹

Despite the serious and violent nature of the crime of rape, police departments have historically failed to give it priority treatment. It is not difficult to understand why. The police make comparatively few arrests in rape cases and convictions are rare indeed. The lament of the fictional detective in Thomastown is common: "I've come to dread rape cases." Since the crime has been so poorly reported, police have been handicapped in developing meaningful programs to upgrade investigation techniques.

Women's groups throughout the country have been demanding that society in general and police in particular try to see rape for the violent crime it is and accordingly reevaluate their response to it. The only personal violent crime that happens with less frequency is homicide. Yet murder investigations take very high priority and usually involve a department's most competent investigators. The Prescriptive Package suggests that police agencies could benefit by using their homicide squads as models for developing rape units since the skills and resources needed in both types of investigation are similar to some degree.

But investigators must also learn to maintain an enlightened perspective on the nature of the crime of rape and put away personal prejudices.

¹Brodyaga, L., et al., Rape and Its Victims: A Report for Citizens, Health Facilities, Criminal Justice Agencies. LEAA/NILECJ, Washington, D.C., Nov., 1975, p. 95.

Otherwise, they will probably not be motivated to develop effective and sensitive ways of dealing with the victim whose cooperation is essential to them. Developing these ways should not be difficult since, as two experienced New York City officers have pointed out:

...All police officers have had to cope with persons in states of anxiety in their personal and professional lives. They have instinctively used intuitive techniques of "calming down" persons who are upset. It was shown that the same language, manner and attitudes which officers utilized in reducing anxiety in injured persons at the scene of an automobile accident, or while conducting interviews of robbery and assault victims, may be utilized in dealing with victims of sex crimes.²

Although it is part of a police officer's job to deal with crises -- automobile accidents, serious injuries, and death -- he is sometimes guilty of not perceiving rape as a crisis situation. Without training, an officer may even judge some of the victim's behavior as indicating that she is lying. The case probably goes down the drain at this point. If it does not, the police have to rely on others to make their cases stick, but they are usually a victim's first contact with the criminal justice system. Morton Bard has pointed out that officers investigating rape will benefit by seeing their first role as one of intervening in a crisis situation.³ He argues that a psychologically intact victim will be better able to assist in the investigation. (The first officers who interviewed the Thomastown coed may have done as much to damage her psychologically and to damage the case as all the rest of the interviewers she subsequently endured.)

The conclusion of a recent study of rape victims in Philadelphia illustrates the need for police and other agencies to evaluate their response to rape.

It is the feeling of the authors...that the extent of the trauma suffered by the victim in her contact with the legal system is, in large measure, due to the attitudes and treatments of the victim by the police and court personnel with whom she deals. We hold this opinion despite knowledge of the impact of the adversarial system of justice under the United States Constitution. The right to cross-examine one's accusers, the right to public trial, the presumption of innocence, the standard of proof beyond a reasonable doubt, may have upsetting repercussions for the victim. We recognize their overriding importance which may at times make the victim's

²Keefe, M., and O'Reilly, H. T., "Changing Perspectives in Sex Crimes Investigations," in Sexual Assault: The Victim and the Rapist. Lexington Books, Lexington, Mass., 1976.

³Bard, M., and Ellison, K., "Crisis Intervention and the Investigation of Forcible Rape," Police Chief, May, 1974.

feelings a secondary consideration. We feel, however, that the rape victim faces more than the unavoidable trauma of the implementation of constitutional guarantees.⁴

Accepting rape as an act of violence and being aware of the crime rate in the community, both reported and estimated, will help motivate agency personnel to develop more effective and sensitive ways of dealing with the crime's victims.

Many jurisdictions, in order to alter society's concept of the crime, have changed the terminology in their laws to more truthfully reflect the violent nature of the crime. Terms such as sexual battery and sexual assault are often used. Some departments have actively sought interagency and community-based approaches to promote a greater understanding of the roles and interactions of all involved in rape reform.

2. Improving Rape Investigations

Many victims have confirmed their lack of confidence in the police and the criminal justice system by not reporting sexual offenses. Some police departments, recognizing that they need more accurate information on the actual incidence of rape in order to design appropriate investigative models, are attempting to find ways to encourage more women to report.

A recent study of the police response to rape indicated that in the majority of police departments, uniformed officers have been the first to see the victim.⁵ Accordingly, some departments have now assigned trained officers, often female, to special units to interview victims, or even to handle an entire investigation. Naturally, many departments do not have sufficient numbers of female officers to assign them to such work. However, some departments have taken a closer look at the assignment of their personnel and have realigned priorities. For example, in a pilot program in Chicago, female police officers from the youth division conduct the preliminary interview of the victim and are also available to assist a victim throughout the police process. When not engaged in interview or supportive assistance they continue with their regular assignment in the youth division.

The investigation of sex crimes in St. Louis is the work of teams of male and female officers working as partners. They work in uniform on patrol and respond immediately to the scene when a sex crime is reported. The female officer conducts the interview and is available for support. When these teams are not involved in sex crimes work they do regular patrol in uniform and respond to other calls. The District of Columbia Metropolitan Police Department also has both

⁴Blumberg, A., and Bohmer, C., "The Rape Victim and Due Process," Case and Comment, Nov. - Dec., 1975.

⁵Forcible Rape: A National Survey of the Response by Police. Battelle Memorial Institute Law and Justice Study Center. LEAA/NILECJ. March, 1977.

sexes involved in sex crimes investigation.

New York City has an all female squad where the women cover the entire city. Their primary duties are to conduct the preliminary interview, and they are not assigned to the complete investigation. The unit is victim oriented in that it provides special supportive services to victims such as providing escorts to hospitals or courts. In addition to this central unit, the New York City Police Department has sex crimes investigation units, staffed by both male and female officers, in each borough of the city. The personnel assigned to these units conduct the complete investigation of the crime. Females assigned to these units carry a similar caseload as their male partners and for the first time the women are in positions to make arrests.

There is widespread controversy about whether only female police officers should be assigned to rape cases. Many feel that only a female can empathize with the victim while a male, who has little fear of being raped, cannot. Research indicates that it is the sensitivity of the officer and not the sex that is most important. But, the Battelle study noted that in departments with a high percentage of female officers, victims were less likely to drop out during the period of investigation.⁶

A former chief of detectives in the New York City Police Department, Louis C. Cottell, found that the selection of appropriate personnel is a key factor in the effectiveness of the operation. With specialization, male officers become more sensitive to the special factors of rape and other sex crime investigations, as well as to signs that some victims would communicate facts of the crime better to female officers. He also found that trained male officers not only recognize better the need for assistance, but also place more emphasis on doing a thorough investigation because they more readily understand the problems inherent in bringing a case to a successful conclusion.⁷

Telephone hot lines are another way victims have been encouraged to report. Most are staffed by community organizations, but police departments have attempted such 24-hour service when other groups could not. Even when a victim has initially remained anonymous, the police lines have been effective both in offering advice and swaying the victim to report the crime.

Police departments throughout the nation have slowly begun to realize that the investigations of sex crimes is another area that must, in many ways, be handled differently from other crimes. Cottell summarized the problem:

The national trend of low apprehension rates is also evident in New York City. This trend is puzzling to police administrators because rape is a crime in which the perpetrator is seen by the

⁶ Ibid.

⁷ Cottell, L. C., "Rape, The Ultimate Invasion of Privacy," FBI Law Enforcement Bulletin. May, 1974.

victim. Visual contact with the attacker, in some instances for as long as many hours, should result in a higher percentage of arrests, but does not. In addition, the conviction rates are also significantly lower for the crime of rape than for other crimes.⁸

The law itself makes the police job more difficult as there are often special obstacles to overcome in rape cases such as the amount and type of evidence needed for a conviction. Police are finding that interagency cooperation is the most effective means of improving evidence collection. For cooperation alerts not only the police, but prosecutors, hospital personnel, and community representatives to the type of evidence needed and appropriate ways of securing it.

Many police agencies have begun working more closely with hospitals and have developed special protocols for handling rape victims. For example, some hospitals have been able to set aside private rooms where a victim may be interviewed by police and examined by a resident physician or a specialist. Other departments have established close working relationships with public health nurses or victim advocates. Such liaisons help to insure an effective investigation and victim cooperation.

Some city governments have taken the initiative and established or encouraged programs in which all involved agencies cooperate to establish protocols, special rape kits, and general guidelines for investigating the case and preserving the evidence. Such efforts can be successful when they are carefully coordinated as demonstrated by the Polk County Rape/Sexual Assault Care Center in Des Moines. This center has two full-time staff members who can counsel a victim on a one-to-one basis. This victim advocate will see the victim through the whole process, but if she needs assistance that the center cannot provide, she is referred to another local agency.⁹

Sex crimes investigations are certainly not perfect anywhere, nor is the treatment of the victim all it should be, but it must be remembered that efforts to change ineffective practices are not much more than five years old.

If a prosecutor is to win a conviction in a criminal case, he must be backed by a competent investigation which demands cooperation among all parties concerned. The goals of rape investigations are similar to those of any other probe -- victim satisfaction, a lawful arrest, a felony rape conviction and community safety. If police help meet these goals, they need not fear civil negligence suits and they will undoubtedly gain public confidence. This, in turn, can lead to more reports of crime, better investigations, more arrests, and even higher conviction rates.

⁸ Ibid.

⁹ A Community Response to Rape. (Polk County Rape/Sexual Assault Care Center) An LEAA/NILECJ Exemplary Project.

3. Prevention

Most police departments realize that making arrests is not the end of their job. They are necessarily involved in crime prevention. It is important that the police inform the public about failures as well as successes in order to win public support and possibly avoid future failures. A major role the police can assume is as a disseminator of information. Informing the public about the nature of cases within a jurisdiction may give them insight into ways of avoiding their own victimization.¹⁰

The police are in a good position to help change a community's attitude about rape. If the officer believes that rape is a crime of violence he can help dispel many of the myths that surround the crime. As Duncan Chappel has pointed out, "Changing ingrained community beliefs in this or any other field is no easy endeavor although the women's movement, in particular, has achieved remarkable success in overturning massively entrenched beliefs and practices in a very short time."¹¹

Still, even more effort is needed. Too many victims still believe, "It can't happen to me," and juries are still chosen from that public who feel, "good girls don't get raped."

But now that so many of the agencies and persons concerned have begun to work together, the future looks good for more reports, more arrests, more convictions and ultimately more community safety.

C. Meeting Victim Needs in the Hospital

In reviewing the case study in the last chapter several problems can be identified that relate specifically to the needs of the victim while she is at the hospital. These problems are as follows:

1. Priority of Rape Cases

Victims who arrive at the hospital may have a long wait if there are more life-endangering cases there ahead of them. Also some hospital staff have prejudices regarding rape and are often not enthusiastic about dealing with the rape victim. Hospital staff, along with the general public, blur rape and sex. They are not clear on the precise distinction between the two behaviors.

In this case, Rosa Velasquez waits. ("They just made me wait and answer questions.") The victim is forced to submit to the protocol (behavior) of others and has no say in the matter herself.

Solutions might include inquiring about the victim's crisis request, eliciting the request and entering into a negotiation with the victim. That is,

¹⁰ Keefe, M., "Developing a Pertinent Rape Prevention Lecture Program," Law and Order, March 1976.

¹¹ Chappell, D., "Forcible Rape and the Criminal Justice System," keynote address at the 6th University of Alabama Symposium on Justice and the Behavioral Sciences, Jan., 1975.

what does she want from the system and what is the system able to offer her? Such an approach, however, requires sensitivity training for the staff and an update of hospital protocol regarding rape cases.

2. Victim Ignored

The victim is often ignored during the process of waiting and is often not told anything. Staff go about their routine, but fail to inform the victim of what and why they are doing what they are doing. In other words, there is no professional accountability to the victim.

Reporting a rape activates a complicated process. Hospital staff, police, crisis workers, and court officials immediately become involved. These professionals generally work within a prescribed course of procedures that is, to them, routine and well-structured. To the victims, however, the process is foreign, not completely understood, and, at time, bewildering. Many procedures may not happen to them completely against their will but, nevertheless, their rights may well be ignored.

Traditionally, professional groups have tended to be isolated and closed systems. They have resisted pressures to be accountable to outside groups such as clients. However, in cases involving rape, accountability becomes even more essential in this professional-client relationship because of the personal crisis and legal components that complicate the rape incident. Rape victims, when asked their feelings about how they are treated by professionals, make it clear that they want the professionals to be honest and inform them about what is happening to them and what is being done for them.¹²

Accountability by the professional is especially important in a crisis situation. Rape is experienced by victims as a life-threatening situation. It triggers an acute stress reaction which requires them to go through a long-term reorganization process. As a crisis situation, it makes victims hypersensitive to the attitudes of those people to whom they turn for help and assistance.

Essentially, accountability involves the following tasks of the professional:

- Defining one's role or functions to the victim.
- Explaining the services or procedures to be provided to the victim.
- Being competent in one's technical skills.
- Negotiating the victim's request for services.
- Assuming responsibility for one's practice.
- Accurately recording data for record keeping.
- Evaluating the results of practice.
- Being answerable for the results of one's functions.¹³

¹³ Burgess, A. W., and Holmstrom, L. L., "Accountability: A Right of the Rape Victim," Journal of Psychiatric Nursing and Mental Health Services, 13, 3 (May-June 1975) p. 11.

¹³ Ibid., p. 15

There are a variety of consequences of being accountable. In general, it adds time to the contact with a victim as the professional explains his or her role, the services being provided, etc. It equalizes the authority relationship between staff and client. Usually, in health-care practice, patients' needs have been determined by the professional's clinical judgment rather than by verbal interaction with the patient. In the traditional model, the professional-client relationship is asymmetrical with the professional deciding for the client what he or she needs. As sociologist Everett Hughes has observed, professionals "profess to know...better than clients what ails them."¹⁴ T. H. Marshall, writing on the relationship of trust that exists between professionals and clients, stated that one reason for this relationship is the client's ignorance. Marshall stated that the client hardly knows what to ask for, let alone how it can be provided. The client surrenders all initiative and puts herself or himself in the lawyer's hands or under the doctor's care.¹⁵

Traditionally, a distinction has been made between the professional-client relationship which is based on trust and the buyer-seller relationship of caveat emptor or "buyer beware." However, various disciplines are attempting to alter this model so that the client can play a more active role, for example, by becoming a customer of health services. Accountability favors this new approach.

3. Crisis Reaction to the Rape

The immediate reaction of a victim to a stressful situation is generally shock and disbelief. The confusion and impulsive action shown by Ms. Velasquez is typical of people in crisis situations. In fact, she states that it was at the hospital that she first became aware of her emotional reactions: "It was at the hospital that I got angry first, at the police and then at the hospital and then the guy." This response shows the difficulty a person has in tuning in to the surge of affective response which follows a life-threatening experience.

The problem is that professional staff are dealing with people in crisis. However, it is in the nature of their work to deal with this type of crisis, and so it is routine for them, to some extent, so long as they do not allow themselves to think what it is like for the person. Staff working with emergencies develop "professional armor" to work in such settings.

Coordinated programs will especially help provide support to all involved with such cases.

4. Victim Health Care

a. Medical needs: Because of the multiplicity of injuries frequently experienced by rape victims, a thorough physical examination is recommended for each victim to insure that proper medical and psychological treatment can be

¹⁴Hughes, E. C., "Professions," Daedalus, 92 (Fall 1963), pp. 655-668.

¹⁵Marshall, T. H., "The Recent History of Professionalism in Relation to Social Structure and Social Policy," Canadian Journal of Economic Political Science, (August 1939), pp. 325-340.

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prescribed. Complete and carefully documented hospital records are necessary, not only for medical purposes, but also for subsequent legal proceedings, criminal as well as civil. In writing the record, four areas of signs and symptoms of physical and emotional trauma should be covered. Signs of physical trauma should include detailed descriptions of any and all signs of injuries or bruises received during the assault. Symptoms of physical trauma should include the victim's statement of what the assailant did to the victim physically, even if visual signs are not present. Signs of emotional trauma include the behavior demonstrated by the victim during the interview. Symptoms of emotional trauma should include statements from the victim about threats made and the method of force used such as weapons or hands or multiple assailants. A brief but inclusive account of the incident should include as many of the victim's own words as possible describing the incident and listing all identifying data that can be provided.¹⁶

b. Acute symptoms: Note changes in victim's eating and sleeping pattern; also note somatic complaints. Be sure to differentiate symptoms from the rape and symptoms from antipregnancy or antivenereal disease medication.

c. Long-term symptoms: Symptoms such as chronic genitourinary infection may develop or persistent somatic difficulty with onset at time of assault.

d. Psychological needs: The etiology of the victim's trauma is the offender's pathology. That is, to understand the psychological aftereffects experienced by the victim means to understand what she has been a victim of.

Research on offender's motivational intent reveals that the offender is acting out three life issues in the commission of the offense: power, anger, and sexuality. Studying separate victim and offender accounts of a rape revealed that all three issues of motivational intent operated, but only two were dominant issues: power and anger.

In the power rape, the offender uses a weapon or other means of force to intimidate and render the victim helpless, and his intent is to have power and control over the victim. This act is usually premeditated and built on the fantasy that the victim will "really want it" and readily submit to him. In reality, this does not occur, and the offender believes he had the wrong victim and that the next time "she will be the right one." The acts are obsessive, and aggression can increase over time.

In anger rape, the offender takes his rage and anger out on his victim. The act is impulsive and usually episodic. It often follows a situation in which the offender perceives he has been wronged by someone -- usually an important woman or man in his life. He takes out his frustration on the first person who crosses his path.¹⁷

¹⁶ Burgess, A. W., and Holmstrom, L. L., "Signs and Symptoms of Sexual Assault," Journal of Emergency Nursing, 1-2 (March/April 1975) p. 15.

¹⁷ Groth, A. N., Burgess, A. W., and Holmstrom, L. L., "Rape: Power, Anger, and Sexuality," American Journal of Psychiatry (forthcoming).

There can be incidence of sexual dysfunction in the offender. Impotence and premature ejaculation can be documented in the power rapist and retarded ejaculation in the anger rapist. Thus, the need to find "clinical evidence of intercourse" for the record may be in vain. Also, the power rapist often uses a weapon to render his victim helpless or ties her up. The victim does not struggle or fight. Intercourse is achieved, and the medical exam will reveal lack of bruises and lacerations. The anger rapist, who beats and seriously injures his victim, will leave evidence. Thus, in a convicted offender population, the latter type of rapist was over-represented in the sample when compared to victim reports of assailants never convicted.¹⁸

Clearly, from a psychological standpoint, the victim of such offenders will need counseling. The victim of a power rapist needs to talk of her fears of being rendered helpless to another's power and control. The victim of the anger rapist needs to talk of her reaction to being the target of another person's rage and brutality.

The major long-term symptom following a rape is the development of fears and phobias. The development of such a symptom is commonly avoidance. However, the main areas the victim tries to avoid--men and sex--may seriously affect her lifestyle. Counseling at the time of the crisis can help avoid long-term trauma.

What are some of the consequences of meeting or failing to meet the victim's needs? It is costly to provide victim counseling services. Mental health professionals are really not prepared to provide crisis care. Staff in psychoanalytically oriented services often fail to understand the action-oriented approach needed, and use a technique that alienates the victim by assuming she could have prevented the rape if she really wanted to. The cost of counseling sessions is high--about \$40/hour--and few victims can afford this even for short-term work.

Staff will need to be trained in crisis work, and monies are needed for providing services.

Mental health professionals may be fearful of the lack of confidentiality for their files if the case is in the legal system. Also, the defense can subpoena or attempt to cross-examine the counselor regarding the "psychiatric history" of the victim.

In the case of the victim, serious, disruptive social factors can evolve as a result of the rape. For example, Rosa Velasquez' relationship with her boyfriend as well as her relationship with her parents suffered ruptures. Both disruptions appear to be caused by a "blame-the-victim" attitude which, to some degree, Ms. Velasquez assumes herself. Her identification with blame is also an issue the victim advocate comments on. Counseling issues would have to address her self-identity as a woman and as a victim. Her reaction to being rendered powerless, first by the assailant, and second, by the staff

¹⁸ Groth, A. N., and Burgess, A. W., "Rape: A Sexual Deviation," paper presented at the American Psychological Association, Washington, D.C., Sept. 1976.

from institutions which exist to provide services will have to be explored and then put into perspective before she can be expected to be able to reorganize her life and get back to the business of living. Without follow-up counseling, she will undoubtedly suppress this trauma. Also, undoubtedly, it will surface when another incident which places her in a powerless situation occurs. If other life stresses compound this trauma, she will need psychiatric intervention. The question at this point is: In five years, if Rosa develops a psychiatric diagnosis such as depression, would she have a civil case against professionals for failing to diagnose and treat the primary sexual trauma?

Who is going to pay the bill for the health care expenses and other expenses incurred by the victim, such as the hospital bill, her private physician's bill, transportation and meals on days when she must go to court and missed work days? Legislation for victim compensation--either county, state, or federal--may be the only solution.

5. Hospital Needs Versus Victim Needs

Hospital staff who deal with victims of crime and who are employed by an institution have a dual responsibility. They must be accountable to the organization that employs them and, increasingly, they are being asked to be accountable to the victim. This expectation of a dual loyalty creates a role of conflict for them. The needs of the system and the needs of the victim are not necessarily compatible. The professional faces the dilemma of having to decide which needs are to be given higher priority.¹⁹

In Ms. Velasquez's case, she states that the medical examination was more for the police than for her, and that everyone was concerned about "getting the evidence."

To alter this, the hospital protocol should be explained to the victim. She should also be provided with crisis counseling to help deal with the emergency state she is in. The counselor could also serve to orient the victim to the system as she moves on to another facet of the process.

Such procedures will require more staff training and the addition of a staff person to coordinate the program. Hospitals that have created this position judge it as essential (Boston City Hospital; Boston's Beth Israel Hospital; Cambridge Mt. Auburn Hospital, for example).

6. Respect of the Victim and Victim Credibility

Although all professionals read in textbooks that patients are to be treated with dignity and respect, the practical component of this principle often

¹⁹ Holmstrom, L. L., and Burgess, A. W., "Victimization by Government: Failure to Help the Victims of Violent Crime," paper presented at the American Society of Criminology annual meeting, Chicago No. 1-4, 1974. Also to appear in Rape: The Victim Goes to Court, New York: Wiley Interscience (forthcoming).

is lost to the patient's perspective. Staff have their own feelings, attitudes, and biases that come through their "professionally neutral" positions. Also, staff are hesitant to "become involved" because it is time-consuming (in minutes and hours as well as in psychological energy).

Periodic interdisciplinary staff conferences could be held by the emergency ward team for all invited staff to address feelings and attitudes about rape victims as well as current research findings on rape. Review of the latest findings on treatment and medications for those problems faced most often by victims would also be important.

Among the consequences of initiating such procedures would be that the subject of rape would be more visible to hospital staff and other medical priorities might have to be reshuffled. Vested interests would have to be addressed. The issue of rape as an ethical, social, and moral issue would also have to be addressed by hospital staff who, until recently, had been successful in avoiding the topic.

7. Privacy

Rape victims often have little privacy. (As Ms. Velasquez said, "We talked in a corner of the waiting room, but people could hear, I'm sure.") Victims often are embarrassed when news of the rape reaches their social network. ("This just proves all the things my parents felt about girls who live with guys and go to parties alone," she added.)

Police make the news public by the manner of their arrival on a scene. Hospital staff face a dilemma over whether to tell a victim's family the test results. The court--the least private process of all--requires victims to give testimony in a public setting.

Still, there are some antidotes. The Prescriptive Package gives guidelines on how to obtain victim consent prior to releasing any information. Providing support services to the victim's social network to help them with their feelings is also important. But training and budget issues will have to be addressed before staff would be able to provide such back-up services.

8. Information Loss

Although great emphasis is placed on "getting the facts of the case," the irony is that little is done in the system to preserve the facts. For example, intimidating or suggestive styles of interviewing rarely get at the precise facts. Review what Ms. Velasquez said about the types of questions asked by the police. Did those questions yield facts? Or did those questions serve to anger her because of the leading and suggestive nature of the language?

Also, the method of recording information shows a selective focus. Review the hospital record and circle all words that are interpretative rather than observable facts. Then review the victim's statement and circle facts not included on the hospital record. Memory loss is inevitable over time and is also present under stress. Ms. Velasquez states her difficulty in "remembering details." There is a style to retrieving details of a situation, and it involves asking questions in a quiet, private setting when the victim is not under stress.

and tension and can slowly walk through the details of the assault with a supportive person. Training in interviewing, recording, and retrieving details for all involved with the victim is essential to achieving accurate facts.

D. The Response of Prosecutors

1. Background Notes

Historically, this country's criminal justice system has been victim-blind. Recently, victims of rape, in particular, have been demanding a reassessment of that attitude because of the way their cases have been processed.

The jarring increase in reported rapes in conjunction with prosecutors' generally poor track record in winning convictions in forcible rape cases (see chart, page 77) has lent special credibility to the complaints of rape victims.

Prosecutors, however, have been particularly reluctant to respond to the new demands that are being placed on them by citizens. Many argue that they cannot afford to give the crime of rape a high priority when it accounts for only about 25 percent of their felony caseloads.²⁰ Although they are being asked to give rape victims special status and attention, in effect, many prosecutors will have to examine thoroughly their philosophies, if any, of responsibility to all crime victims. "...This concern, of course, must be exercised within constitutional due process consideration for the rights of the defendant,"²¹ as the Prescriptive Package cautions.

Reforms, whether in the law or in procedure, must not deny to alleged rapists any opportunity now accorded persons charged with any other crime. Such defendants must still have available to them all the traditional safeguards against false charges on which our law relies--police investigation, prosecutorial discretion, the reasonable doubt burden of proof, and the ability of the jury to evaluate the issue of credibility.

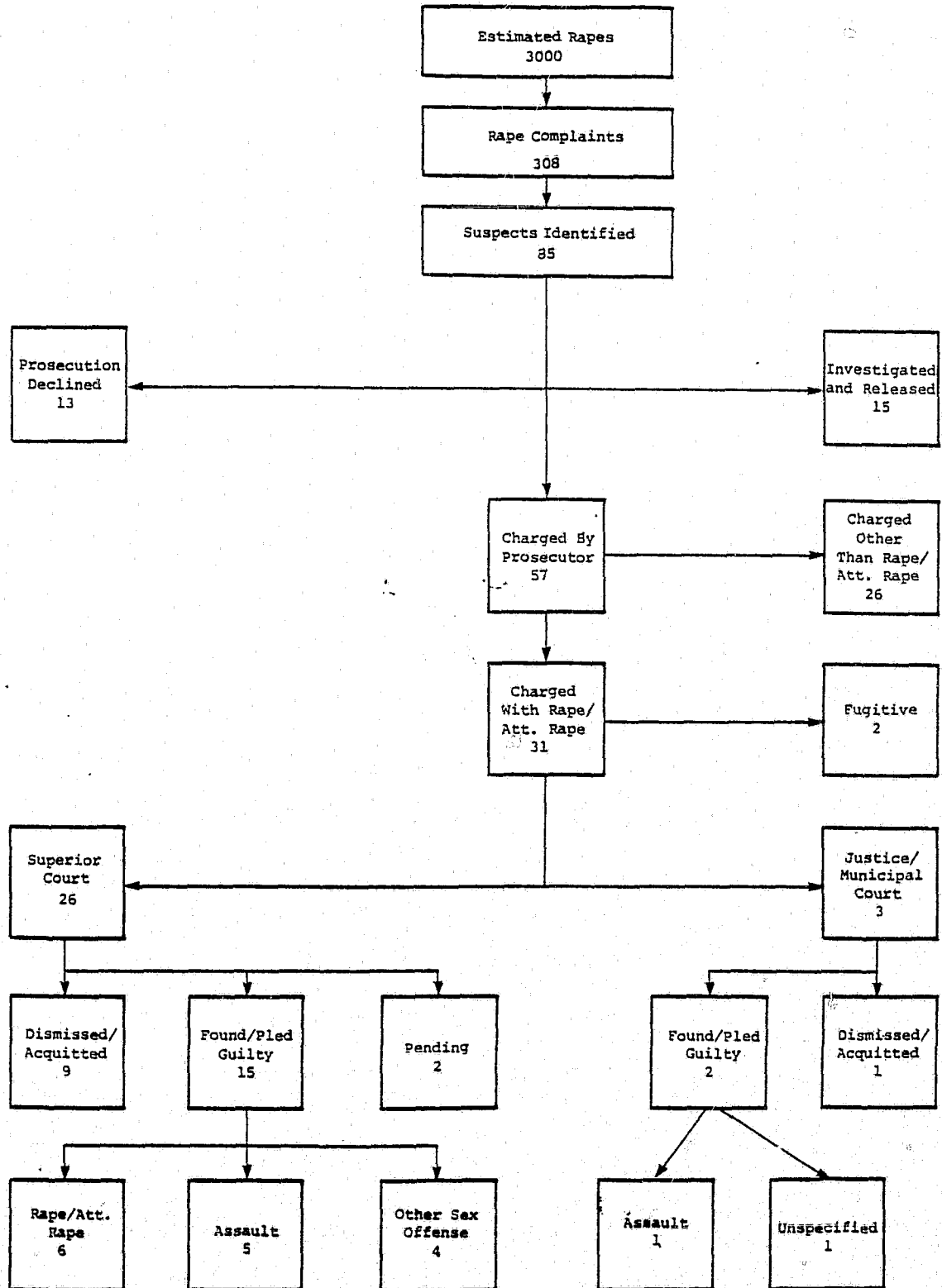
The restraints under which prosecutors must operate do not make their offices very receptive to innovation. Not surprisingly, in a 1975 Battelle survey of 150 offices, when prosecutors were asked to choose the three most important improvements (of seven listed alternatives) they saw as needed in sexual assault prosecutions, the three most frequently chosen were: (1) more public information; (2) improved police investigative techniques; and (3) better police training.²² Only 10 percent of the respondents felt that changes in

²⁰ The approximately 100 prosecutors who attended the Training Workshops on Rape and Its Victims generally agreed that only a quarter of the felonies they handled involved rape.

²¹ Brodyaga, L. et al. Rape and Its Victims: A Report for Citizens, Health Facilities and Criminal Justice Agencies. LEAA/NILECJ. Nov., 1975, p. 95.

²² Forcible Rape: A National Survey of the Response by Prosecutors, Battelle Memorial Institute Law and Justice Center, March 1977, p. 31.

Figure 5
FLOW OF RAPE SUSPECTS
THROUGH THE CRIMINAL JUSTICE SYSTEM
IN A CITY OF 500,000
 (1974 Statistics Compiled by Battelle Memorial
 Institute Law and Justice Study Center)



prosecution policies were important improvements.²³ The incongruity of the prosecutor's ranking of needed changes was not lost on the survey authors:

Prosecutors have been slower to respond than law enforcement officials to community and victim concerns for the development of improved methods for handling forcible rape cases. At this point prosecutors view the responsibility for significant change as resting with others, particularly with the police and the public.²⁴

2. Response to the Victim

An extremely narrow vision of the prosecutor's responsibility to victim interests is not confined to the perceptions of practitioners only or limited to the victims of certain offenses (e.g., sexual assaults). In practice it probably emanates from three features of criminal prosecution in the United States.

First, American jurisprudence is historically blind to the needs and conveniences of participants in litigation who are not parties to the action. In criminal prosecutions, the parties-in-interest are the state and the defendant. Non-party participants, victims and witnesses, are invested with no "rights" or recognized interests.

Statutes and court rules are rarely enlightening on how witness court appearances are handled in the courts. Appellate court decisions offer little guidance. The witness has virtually no legally protected rights as a participant in the criminal proceeding. Thus, the abusive treatment he may receive is unlikely to be redressed through the appellate process.²⁵

Jurisprudential blindness is particularly important because the most frequent prosecution witness other than the police officer is the crime victim.

²³Ibid. (In a similar Battelle survey of police agencies, police respondents, when asked how the police-prosecution relationship might best be improved in sexual assault cases, most frequently chose alternatives that suggested improvements in prosecution: initiate a special prosecutor rape unit, 46 percent of the responses; increase prosecutor understanding of rape, 45 percent. Increasing police understanding of rape and creating special police rape units were much less frequently seen as needed improvements: 19 percent and 16 percent of the responses, respectively.)

²⁴Ibid., p. 30.

²⁵Lacy, J., National Standards Concerning the Prosecution Witness, Contributor's paper, National Advisory Commission on Criminal Justice Standards and Goals, 1972.

Second, victim and witness interests are in daily practice subordinated to a host of other interests and objectives in the criminal process. For the trial deputy, the victim is functionally the equivalent of a fingerprint, an item of evidence to be summoned at the court's convenience to assist in pursuit of its various objectives.

Third, with the limited and fragile exception of female sexual assault victims, crime victims have not been an organized or vocal constituency for prosecutorial services. The research and reform literature has largely been busy elsewhere.

The crime victim...has been accorded an ignoble place in the literature on criminal justice. When attention has focused on (victims), they have most often been viewed as: (a) items of evidence, to be manipulated to serve the ends of the criminal process; or (b) items of data, massaged for statistical descriptions of crime events and crime patterns. The major part of the existing victim literature is largely descriptive of victim-offender interactions rather than of victim needs.²⁶

3. Coordination with other Agencies

The actual roles played by police, prosecutors and medical personnel in sexual assault cases are fashioned by different visions of what successful and responsible service are. And the incentive systems at work in each agency are different in important respects from those in the others.

Still a substantial proportion of both police and prosecutor respondents in the Battelle surveys voiced a need for improved "relations" and coordination between the two agencies.

Problems in understanding conflicting incentives emerge at the very inception of a potential case. For example, in a police investigation of a sexual assault, the evidence that is seen as either of critical or of marginal value, and the police-recognized benchmarks of success, are different than those at work in the prosecution of the same assault. Police investigations may not produce for prosecution the types of cases and case preparation viewed as "good" for prosecutorial purposes.

For the prosecution of sexual assaults often tends to be helped or hindered by precisely the reverse of what helps or hinders the police investigation. For instance, whereas the victim's preassault familiarity with the offender greatly assists the police in identifying and locating him, it often weakens the prosecution by raising questions about the credibility of the victim's contention of her lack of consent. Another example is physical evidence in a case. Only infrequently does such evidence provide leads to the identity of the suspect during the police investigation. Yet, it becomes critical in the prosecution. Also,

²⁶Lacy, J., Police Servicing of the Crime Victim, p. 3 (Memorandum to Board of Directors, Police Foundation, Aug. 31, 1973).

circumstantial evidence, such as the details preceding and subsequent to a victim's encounter with an assailant, may not prove informative or relevant to revealing his identity or whereabouts to police. Consequently, police investigators may display little interest in such information. But later, this circumstantial evidence can enhance or detract from the general credibility of the victim's account.

Clearly, the police performance is measured in terms of the rate of clearances by arrest. Prosecutor performance, however, is measured in terms of the rate of conviction of cases presented. Ironically, the case most easily cleared by arrest may often be the case most difficult to prosecute, and vice versa.

4. Limitations of the Office

Far moreso than police, medical facilities and community groups, prosecutors' offices differ substantially from one part of the country to another in the nature of their jurisdiction, power and responsibilities.

Prosecutors' offices are distinguishable -- in terms of their capabilities, organization and methods, and limitations in responding to sexual assaults -- by the size of agency and by the character of their geographical and political jurisdiction (e.g., urban-rural, city-county). Prosecutors are especially dependent on the court structure and the politics of their area as well.

In many parts of the country felony prosecution is still a part-time position only, for both the chief prosecutor and his deputies, if any. Subject matter jurisdiction and points in the criminal process at which prosecutors first take cognizance of felonies also differ. In New Orleans, for example, all state law offenses (felony and misdemeanor) are the exclusive responsibility of the District Attorney's Office from the initial bail setting proceeding onward. In most of Ohio, the prosecuting attorney does not take cognizance of a felony (sexual assault) until after it has been bound over from a lower court in which preliminary processing (involving victim appearances and testimony) has been handled by a city attorney. In most parts of Massachusetts, pre-bindover prosecution is the responsibility of the arresting police agency and not the prosecutor. The authors of the Prescriptive Package recognized these considerable and, in light of them, were forced to hedge their recommendations for improvements substantially. For few specific recommendations can be applied to all or even most prosecutors offices.

5. Major Problems in Managing the Prosecution of Sexual Assault Cases

Three general problem areas can be identified that reduce the sensitivity and effectiveness of prosecutorial treatment of sexual assault cases: (1) the characteristics of the offense often do not seem to be adequately known or their implications adequately understood; (2) the response to the sexual assault victim by many prosecutor's offices is below a desirable level of sensitivity, service delivery, and accountability; (3) there are inefficiencies in apprehension and conviction rates that suggest that the competence of the law enforcement response to sexual assaults is not satisfactory.

a. Problem 1: The characteristics of the offense may not be known or their policy implications adequately understood by persons in policymaking positions.

Indications that the nature of the offense is commonly misunderstood abound. In some law enforcement circles, old myths (e.g., a female cannot be raped if she does not want to be raped) seem to remain current. In other places, new myths (e.g., all sexual assault victims are severely traumatized by the assault and thus require special support services) have gained uncritical respectability.

Alas, many of the views and opinions of practitioners seem to be founded more on folklore and immediate experiences than on empirical information.

Why is this a problem?

First, there is no coherent perception of sexual assaults in the types of "rape prevention" information sporadically foisted on the public and, in fact, some is at variance with available research. The public, then, receives conflicting and in some instances self-defeating counsel.

Second, distinctions among cases in terms of resource allocation and energy expended may be arbitrary and only temporarily expedient instead of being factually based.

Finally, the impact of many law enforcement actions on rape prevention and deterrence has seldom been beneficial because of inadequate perceptions of the problem.

Despite a growing body of research findings in this area,²⁷ there appears to be a strong need on the part of many persons and organizations, including prosecutors, to resist research data that do not conform to their preconceptions or ideological persuasions. (This is likely to be one of the hardest nuts to crack in attempting to upgrade the response to rape victims. And the problem applies as much to police, medical personnel, and community groups as to prosecutors.)

b. Problem 2: The response to the sexual assault victim by many prosecutors' offices is below a desirable level of sensitivity, service delivery and accountability.

Women's groups especially perceive the response to rape victims as insufficiently sensitive. And the drop-out rate of rape victims during prosecution suggests that in some percentage of the cases the victim perceives her treatment as inadequate enough to prompt her to withdraw from the process.

Whether victims (and citizens generally) perceive an insensitive response, on the basis of either direct experience or anticipations formed by the media and

²⁷ See Amir, Battelle, NYCPD-SCAU data, etc.

other external influences, the problem confronting prosecutors is that some victims fail to cooperate in achieving legitimate criminal process objectives. Prosecutors cannot ignore the fact that they have an obligation (founded on sound but not always articulated notions of governmental accountability to the public) to render good and decent and helpful services. A failure to do so adequately is a failure in governmental responsibility and accountability.

A couple of distinct, and on occasion related, factors clearly underlie the problem.

As mentioned earlier in this section, American jurisprudence invests the crime victim with virtually no rights as a participant in the criminal process. Correspondingly, it imposes no duty on criminal agencies to take account of or respond to victim needs, concerns, and conveniences. The victim has no structured redress against abuse and inconsideration, and abusive and insensitive practices are not subject to checks.

The victim of rape especially is a transient in the law enforcement and criminal justice process--a client of police services for awhile, a client of medical services for awhile, and a client of prosecution services for awhile. Problems of interagency interface and coordination of policy and practice fall with heavy impact on this victim.

Some are likely to fail to cooperate in prosecution in reaction to perceived poor services. But others drop out simply because of inadequate or mislead expectations and information about the criminal process.

c. Problem 3: There are inefficiencies in apprehension and conviction rates that suggest that the competence of the law enforcement response to rape is below a desirable level.

While there is to date little useful and reliable data on actual conviction rates, what is available suggests a low rate.

Poor management of evidence as well as its collection and presentation undoubtedly affect clearance rates in many jurisdictions. In some instances, failure to charge or to pursue prosecution vigorously may be the result of a history of problems with evidence resulting in a fatalism on the part of deputy prosecutors. Inexperience and the necessity of largely unsupervised on-the-job training in most offices are naturally contributing factors.

In some jurisdictions, the very size and complexity of the criminal process impacts adversely on the prosecutor's ability to convict on original charges.

In addition, rape and sexual assault cases in general have been burdened by evidentiary requirements and latitudes in examination of testimony that are unique among felonious offenses against the person (corroboration, pre-assault victim sexual history, jury admonitions, etc.).

Indeed, the legitimate objectives at work in the criminal process are inherently conflicting so it is no wonder that victims become confused and submerged. For prosecutors must serve these conflicting objectives: to convict the guilty; to ensure due process; to provide redress to the victim but also to preserve the state's interests in peace and order; to influence future police

behavior by suppressing evidence; to dispose of criminal matters in a prompt and expeditious manner; to seek relevant facts which may be at variance with perceived notions of privacy and confidentiality; to tailor punishment to the individual but in so doing so to deter others; etc.

6. Innovations

Prosecutors' offices are sufficiently different in jurisdictions, power, and entry points in the criminal process across the country to prohibit the packaging of any single set of reforms or innovations for most or all of them.

Some prosecutors have recognized the need for change and have been trying out a number of techniques: special sexual assault units, often with female personnel; team prosecution; witness coordinators; the use of non-lawyer personnel and special training for trial deputies.

The changes are still too new to evaluate. For the most part, they do seem to aim at easing the victim's journey through the criminal justice system. Prosecutors seem to be in general agreement that for a successful prosecution, proper, early handling of the case and victim are crucial as is a cooperative and credible victim.²⁸ And they are apparently beginning to take steps to answer their need.

In the Battelle survey, a quarter of the respondents indicated that their offices had initiated new procedures for dealing with rape offenses and another quarter expected to do so shortly.²⁹ The survey authors noted the eclectic nature of the innovations:

No particular prosecutive innovation was paramount. Some changes appeared to reflect concerns with the treatment of victims (use of female deputies and investigators), while others were more concerned with means to develop the technical aspects of rape cases (forensic and investigative applications).³⁰

The most frequently cited change that was anticipated by offices involved special training for deputies.

The tinkering involved in most of these changes does not yet reflect a clear philosophy of how the prosecutive response can or should be restructured.

²⁸ Forcible Rape: An Analysis of Legal Issues. Battelle Memorial Institute Law and Justice Center, 1976, p. 28.

²⁹ Ibid., p. 20.

³⁰ Ibid.

As the Battelle survey concluded:

The crime of forcible rape is a relatively infrequent event confronting prosecutors and yet it can be one of the most serious forms of criminal victimization that can befall any of their constituents. Conflict arises as to the means by which scarce resources can be utilized to achieve general efficiency and effectiveness. Rape, by its sheer infrequency, yet severe nature, may present that conflict in the extreme. Prosecutors, like police, appear to have chosen a middle course, applying generalized procedures and policies to the processing of forcible rape cases, but recognizing the unique nature of the crime. Where local situations dictate, agencies are likely to provide greater and more specialized resources.

Prosecutors have been slower to respond than law enforcement officials to community and victim concerns for the development of improved methods for handling forcible rape cases. At this point, prosecutors view the responsibility for significant change as resting with others; particularly with the police and the public. Despite the apparent reluctance to critically examine their own role in the processing of rape cases, many prosecutor agencies plan to institute new procedures or policies in the future.³¹

E. The Community Response

1. Background on Community-Based Services

By the early 1970's, the women's movement had dislodged the widespread prohibition on the public discussion of rape. And women succeeded in focusing attention on the fact that rape is a devastating invasion of one's person. At the same time, women's groups began to examine the handling of the rape victim by the generally male-dominated institutions with which she had to interact either for treatment or to prosecute her assailant. Women judged the attitudes they found prevailing at many of the institutions to be sexist and highly insensitive.

In response to such perceptions, rape crisis centers sprang up to help rape victims and women in general to deal with the system. Initially, the purpose of most centers was to provide support and counsel to victims and to develop political strategies for obtaining more sensitive and effective services for women from hospitals and criminal justice agencies.

The early efforts have been rewarded gradually as many more conventional organizations, including government agencies, became involved in projects for rape victims. As the Prescriptive Package notes: "At each level of government, both legislators and administrators are now involved in the effort to control

³¹Ibid., p. 32.

rape and to make the criminal justice system more responsive to the victims of crime."³²

2. What Citizens are Doing

Hospitals and criminal justice agencies are initiating reforms in the way they approach rape cases. But many of the efforts will pale unless continued citizen involvement is encouraged. As is the case with any other program to control and prevent crime, positive community response is an essential ingredient. Cooperation between government agencies and local citizen programs is likely to effect the most constructive changes in the response to rape and its victims.

Already some of the ideas and programs developed largely by women are proving productive especially when their activities have been coordinated or even absorbed within the established power structure. The formulas employed by currently operating organizations vary widely. But rape crisis centers and other community-based programs that are proving successful appear to share one or more of the following goals:

- to provide victim support services;
- to initiate public education programs;
- to lobby for reform in medical and criminal justice institutions; and
- to lobby for legal reform.³³

For example, in Alexandria, Virginia, the Alexandria Rape Victim Companion Program has instituted a number of services for both a victim of rape and her family. The project is prepared to provide crisis intervention counseling and trained companions who can offer support, basic procedural information, and referrals to mental health specialists when necessary. The companions also serve as liaisons with police, hospitals and prosecutors. In addition, the program disseminates information to the public about rape. As new issues arise, program coordinators and volunteers work with other agencies to make internal reforms in the institutions treating rape victims.

³² Brodyaga, L., et al., Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies. LEAA/NILECJ, Washington, D.C. 1975. p. 119.

³³ Ibid.

Prior to commencing operation, Alexandria women spent a full year researching and planning the program. By the time operations began, working relationships with police, hospitals and prosecutors had been established and a program for training volunteers had been designed.

In the Washington, D.C., metropolitan area there are another half dozen programs for victims of rape or sexual assault, including one operating at D.C. General Hospital. The hospital's program consists of both emergency medical care for rape victims, a 24-hour hotline staffed by counselors trained to handle crisis situations, and follow-up procedures for victims.

The follow-up unit, staffed by two public health nurses, seeks to offer support to victims, provide medical information, and keep victims in contact with criminal justice agencies.

In Des Moines, Iowa, the Polk County Rape/Sexual Assault Care Center offers medical and social support services to rape victims. The center also aides law enforcement and criminal justice personnel in the investigation and prosecution of sexual assault offenders. Professional rape education programs for the community are another aspect of the center's programs.

This project does not attempt to duplicate or interfere with the work of other agencies but is a clearinghouse for information for victims and institutions. Although staffed primarily by volunteers, the center has been unusually successful, perhaps because by involving the entire Des Moines community in its organization, an ample supply of "expert and influential" volunteers has been assured.

Another innovative program is underway in Seattle, Washington. The Seattle Rape Reduction Project combines and coordinates two rape-oriented community service programs--the Rape Relief Project and the Sexual Assault Center. Together these projects provide hot-line and follow-up crisis counseling; medical care and treatment designed to serve the victim's immediate needs and preserve evidence for prosecution; community and professional education and training programs; and a liaison with the city's law enforcement and court agencies.

Initially, the project staff focused on encouraging or instituting uniform procedures for rape treatment, investigation and prosecution. As respect for the project developed, investigators, prosecutors, and hospital personnel began to take the initiative in designing new approaches. For instance, the prosecutor's office now becomes involved almost immediately in the case and its investigation. One attorney follows the preparation of a case so that there is a continuity in the gathering of evidence and the victim is no longer forced to tell her story over and over.

Closer study of these and other ongoing projects (many of which are described in the Prescriptive Package) can provide insight and models for groups preparing to upgrade their community's response to rape.

3. Major Problems in Organizing Community Response

Major problems for community-based service delivery are:

- a. Funding
- b. Staffing

- c. Acceptance by criminal justice institutions (credibility)
- d. Failure to attract minority women.

The traditional role of women has precluded their having adequate access to the skills, training, and knowledge of resource development required for the organization, planning, and management requirements of obtaining funding and allocating resources. A recognition of this lack has led to a proliferation of seminars, workshops, and other training programs to help women overcome this handicap. (The Prescriptive Package even includes information on "funding sources and proposal writing.")³⁴ While government grants have been obtained by community-based groups, the search for matching funds has been a major problem area, as is the search for operating funds when the expiration of government grants approaches. Those crisis centers which have existed on the largesse of private donors, the enthusiasm of volunteers, and fees from speaking engagements also are seeking to obtain more stable funding. Thus, we find these agencies entering the competition for funds along with more traditional organizations.

Significant trade-offs can occur between community-based agencies and traditional agencies in the providing of rape-related services through coordination at the decisionmaking level. Policymakers for these agencies, through a joint assessment of the needs of their organizations, clientele, and the community and an examination of resources available within and outside their organizations, can plan for a pooling of resources at their points of interaction. This can result in a reduction of money and personnel allocations within each organization.

In addition, interaction with courts, hospitals, and police as facilitators of the criminal justice process evokes acceptance and validation of the services offered by community-based centers.

A change of priorities for service or of organizational goals could also be a highly desirable strategy for rape crisis centers. They would benefit from the crisis intervention skills employed by wife abuse and child abuse counselors. An expansion of the services of rape crisis centers to the victims of these offenses would benefit the center as well as the victim. The inclusion of such no-rape-related concerns not only helps the centers obtain funds, but also provides increased benefits to the community and the criminal justice system. Crisis centers assure an additional benefit of increased acceptability by police prosecutors and hospitals as a vital link in the victim's movement through the process.

Staffing, largely a volunteer effort for rape crisis centers, has been a problem for several reasons, among which are, the normal waning of enthusiasm among volunteers; faulty initial perception by volunteers as to their roles as counselors, with a subsequent drop-out rate; emergencies, diverting volunteers who are scheduled for duty; changes in schedules for volunteers, particularly when college students staff centers; and the desire of volunteers for paid employment. But as women's groups become more knowledgeable about funding sources, they are likely to rely less on volunteers at the management levels. They will tend also to abandon the collectivist form for more conventional organizational

³⁴ Ibid., pp. 313-317.

structure.

Community-based service delivery can, as demonstrated in Seattle and Polk County, be an effective catalyst which leads to higher clearance rates and conviction rates at little or no additional cost in terms of money and personnel to governmental agencies dealing with rape victims.

Another overriding problem for these groups, who can provide support to the victim with little money and small staffs, is how to gain acceptance by the institutions dealing with rape victims. A part of this institutional resistance emanates from the perception (by police and prosecutors especially) of these groups as composed of strident, militant females.

Professional social workers, too, often reject the efforts of volunteer counselors. Many centers overcome this resistance by establishing a formal or informal "sharing" of service delivery, in which a division and definition of tasks are made for each organization. In general, to overcome resistance, institutional administrators must be shown how the goals of community-based services impact on each other, and how everyone benefits from the coordination.

In areas where there is a substantial minority population, rape crisis centers fail to attract, as clients or as workers, a representative number of minority women. Minorities, accustomed to getting what they perceive to be separate and insensitive treatment by white, middle-class institutions, often choose not to be involved. Many poor black women, it is theorized, fail to report rape even to crisis centers because of their perception of the treatment of black males by the criminal justice system as brutal and inhumane.

An extensive community education campaign (through media, especially ethnic-oriented media, churches, schools, etc.) will have some effect. The plan of Women Organized Against Rape (WOAR) in Philadelphia is, however, a more direct approach to the problem. WOAR intends to establish satellite rape crisis centers in each of the ethnic areas of Philadelphia, involving residents of the community in the activities of their own neighborhood centers as workers.

CHAPTER 6: THE DYNAMICS OF CHANGE

As demonstrated by the Polk County Sexual Assault Care Center, to achieve any improvement in human services, change is necessary. Change may be needed among individuals--in their attitudes, skills or performance. Or, change may be needed in organizations--in policies and procedures, goals, and results. Or, change may be needed in individuals and organizations at the same time. For instance, police officers may harbor derogatory attitudes toward rape victims and their personal responses may be reinforced by a department that gives the crime very low priority.

When improvements in services such as rape-related services are sought, change is, by definition, not change for the sheer sake of change, but change which will make a positive difference--a change for the better. Polk County decided to make changes so more victims would report and also remain in the criminal justice system.

By its nature and process, change is both difficult and complex. Many of the characteristics which influence change in individuals also affect change in institutions, because institutions are made up of individuals. But organizations have unique characteristics which may impede or enhance the process of change.

A. Characteristics of Change

1. The impetus for change usually comes from the outside.

A person who has been exposed to a new idea on the outside--by attending a conference or reading a periodical or visiting in another city--may become the impetus for change in his or her own organization. The media can also be the generating source for change. In the criminal justice system, decisions by appellate courts have demanded changes in recent years. In the case of rape, women's organizations and community groups have served as motivators for change.

The one who directs the impetus for change is important, because the reputation, motivation, and power of the innovator have vital influence on the process of change. Because members of women's organizations seeking change in the handling of rape cases were considered militant feminists they found it hard to find a sympathetic ear for their complaints.

2. Persons who function as change agents have limited perspective.

A study of 133 change agents who serve in a consultative role disclosed that they break down into four categories:

- The social action changer (women's organizations played this role) who brings outside pressure on the organization's relation to

the social environment and seeks to make the organization socially responsible.

- The people changer who through behavior modification attempts to improve the functioning of the individual in the organization. Great efforts have been made in this area to modify and change the behavior of police and hospital personnel during their handling of the rape victim.
- The organization development specialist who looks at the organizational culture and focuses on internal procedures, team building and communication. (A demonstrated by police departments in setting up special squads to handle the rape problem.)
- The top management specialist who seeks to encourage the adoption of policies by top management to increase efficiency, production and to improve work processes. The Multnomah County District Attorney adopted changes in his own office and spear-headed reports to change other agencies' response to rape.

Each of these types of change agents has a limited frame of reference that gives him a narrow perspective. All could analyze the same organizational problem and arrive at different diagnoses.

Persons within an organization undergoing change need to be aware of the limited perspective of the change agent.

3. The motivation for change from within comes when customary practices fail to produce results.

When the current way of doing things just isn't working, the notion arises that something is wrong. The lack of results or the fear of criticism for the lack of results bring some movement for change within any organization.

For example, for years the crime of rape was widely hushed up. And those responsible for investigating and prosecuting rapists seemed to accept the premise that there would continue to be few arrests and even fewer convictions for the crime. It was not until some vocal segments of the public began to demand more responsive action that movements for change really began.

4. Change runs through cycles.

A new practice or idea encounters an immediate initial resistance, merely because it is unfamiliar. This early resistance may subside rather quickly as the new becomes familiar. The assignment of female police officers to investigate rape cases was met with resistance but when it was discovered that they were capable of doing the job, the resistance subsided.

Change generally occurs in stages and through small steps which gather momentum. As change occurs, a realignment of forces occurs. Some persons who were opposed to the change align themselves in favor of it. As the change

becomes less fearful and more known, and as those favoring the change gather in force and number, the organization may divide into pros and cons and some form of confrontation occurs. If the change survives this confrontation, it becomes accepted and "owned" and thus is protected and defended. What once was considered radical becomes standard and routine. As is seen in those cities where change was instituted first in one agency and then in another, the final agency to attempt change had less resistance to it.

Change has a dynamic of its own. Forces for and against change continuously shift their positions as a result of new experience. Change cannot be dealt with always as it was at the point of its inception.

5. The more stratified the power structure of an organization, the greater the resistance to change.

Organizations with several layers of management in the hierarchy are more impervious to change than those with more centralized management. This has been particularly noticeable in hospitals where there are several lines of authority: doctors, administrators, emergency room personnel, etc.

Organizations which are dependent upon outside control, such as a political constituency or jurisdiction are slower to change.

An organization which is in trouble--where distrust runs high or the climate is in flux--will be resistant to change. Too much or rapid change creates its own resistance.

For any person or group seeking improvements in human services, the most relevant characteristic of change is resistance to it.

B. Resistance Comes in Many Forms

1. Change is resisted by force of habit.

Humans are creatures of habit. The time we get up, the way we dress, the route we take to work, where we carry our articles in pockets or purse, the place we sit in meetings or at home or in church, the way we investigate a rape case--our entire life style is habitual. Changing any of these habits makes us uncomfortable. Routine seems safe, known. If by demand or circumstances, we are forced to depart from habit, tension occurs.

2. Change disturbs what is regarded as normal.

In our personal lives and in organizations, we follow norms. What is customary, what is old (the good old days, the old-fashioned way) are assumed to be "normal" while change is deemed "abnormal." The status quo is preserved because it is a known with which we can deal. Organizational norms--often merely understood and unwritten--take on the force of the accepted "way we do things here" and are ascribed as tried and true simply because of their existence. The fault with the dropout in rape cases was always ascribed to the fact that they were cases of "rape" which had certain natural characteristics which made the case impossible to win.

3. Change is contrary to the way a pattern was first learned.

Our primary experiences carry throughout life--the "familiar music" we first heard and learned to appreciate, the foods we were "brought up on," the "way we were taught" was proper to dress, the way we always treat a rape victim to find out if she is lying--form a hard pattern. Organizations often tend to follow practices simply because "that's the way we started doing it."

Some first-learned patterns become sacrosanct, sacred cows. The person who first learned to read the King James version of the Bible tends to regard it as the only authorized version. The Catholic man or woman reared in the ritual of the church has difficulty accepting as legitimate any liturgical changes, such as jazz mass. Negative patterns take on the firm of a taboo, something that "just isn't done" because it was prohibited in early experience. (Investigative procedures involving rape and other sex crimes are often such entrenched sacred cows.)

4. Change may be perceived as an admission of past failure or the judgment of inadequacy.

A new procedure which will save money is sometimes resisted because making the change would seem like admitting that money is now being wasted.

People sometimes resist training because to accept training appears to be an acknowledgement that they are "dumb."

The advocate of change seems to declare that "something is wrong" and to correct what is wrong appears to be an indictment of the present system. Although few arrests or convictions were realized in rape cases, police and prosecutors would blame others for their shortcomings.

5. The reasons for change--the goals--may be unclear or misunderstood or be inconsistent with personal goals.

The motivation for change is sometimes suspect. Why do you want this change, for what purpose? An assumption is sometimes made that the change agent will benefit inordinately from the change. As was assumed by most people when women demanded change--they were only doing it for the publicity.

Some changes which might be accepted "professionally" are resisted because they are contrary to the unstated personal goals or attitudes of some persons. A change may interfere with an opponent's need to push for some other change.

6. The full implications of change are not known or the proponents of change fail to see the interrelationships and consequences involved.

Change at one level may have a ripple effect--it may require changes in budgets, staffs, chain of command, training, or even in legislation, as has been the experience of rape.

7. Change can represent a challenge to authority.

A change, especially suggested from outside, represents an invasion of "turf," or might mean the loss of some control by an authority figure. The change may take away some of the "good guy" privileges of the authority person or require him or her to place additional demands upon staff.

Change often implies to an authority figure that "somebody is trying to tell me how to do my job." And wasn't that the feeling when women's groups complained about the re-raping of the victim in the criminal justice system?

8. Resistance is frequent to anything "not invented here."

Communities and organizations resent the "outside agitator" who suggests changes. Local pride is offended by "outside interference" whether it be from "the feds" or from an exemplary idea from another city. Practices initiated in competitive cities or those which carry stereotyped antipathy, such as New York, are resisted by the argument that "it won't work here" because the home community is smaller, more rural or "different" in some unusual way.

9. Change may result in an increase or decrease in workload.

The fear that a change will require more work is natural but some changes are resisted out of fear that somebody may lose his or her job, or power, or responsibility.

Unions resisted automation and computerized operations out of fear of loss of work. Some professional associations resist advanced technology out of concern for a fall-off of fees for members. Police departments and prosecutors' offices were not interested in rape reform since it might lead to the reporting of more cases which would be losers anyway.

10. People feel powerless to make changes.

Bureaucracies are perceived as immovable and hope for change is useless. A sense of impotence comes when accountability for change rests upon vague, faceless forces--"They ought to do something about it."

The anonymous community is blamed for lack of change--"People get the kind of government they deserve."

All-encompassing umbrella terms are often used to describe a problem--racism, sexism, society, the bureaucracy. They are unmanageable terms and at the same time they often create impediments as, for instance, making "the hospital" change.

C. Prescriptions for Change

Not all resistance to change is negative. Those who caution against change, or at least unwise change, serve to preserve stability and the integrity of values and institutions and to prevent the chaos that comes from ill-considered change. Conservationists and environmentalists, once regarded as enemies of progress, now enjoy public support for their resistance to changes in the environment which may be dangerous to all life.

Resistance to change forces the change advocate to give more thoughtful consideration to the change, to justify it, and to be concerned about its consequences.

Successful approaches to change are dependent upon the nature of the change, the setting, and the persons and institutions involved. No hard and fast rules can apply to movements for change, but there are some empirical guides or prescriptions for change.

1. Gather complete and precise information about the problem.

A carefully thought-through statement of the problem is needed, one which is fully documented. In military terms, action strategy requires reconnaissance. More bluntly: Know what you are talking about.

(Caution: information alone will not bring much change. A report or study, circulated or not, needs active support. Information, however, is the beginning of any change effort. People with the same information tend to move in the same direction. For example, as information on rape makes its way into the media, more women are apparently willing to report the crime.)

2. Know exactly what change is sought.

Goals for change should be crystal clear, simple and concise. Only if you know exactly what changes you seek will your goals stand up in interactive discussion. Goals for criminal justice agencies are clear--more arrests and more convictions.

3. Enlist the support of power figures.

Power persons cannot usually produce change by themselves, simply by ordering it, but change is seldom effective without their approval.

While change can occur in spite of resisting authority, the road to improvement is more rapid and smooth with the support of power persons, particularly when that support is observed by all. Where criminal justice agencies are concerned, it is often imperative to involve power figures such as a mayor, governor or the state legislature. Some changes are impossible to make without them (e.g., change in rape statutes).

4. Inform and involve all concerned.

While time consuming, the involvement of all who are conceivably concerned is the shortest route to change. Keeping everyone up to date, touching base with both advocates and opponents, will prevent the type of resistance which comes from misinformation or lack of information.

Try to give all--even those minimally involved--the same information. Informed people tend to assume more responsibility for action.

5. Focus on the local level.

Change should be justified by the needs or demands of the home community. Improvements can become a source of local pride. Many communities

have instituted innovative programs. But what might work in New Jersey where most communities are easily accessible might not work in Vermont where the topography is completely different.

6. Let others take the credit.

Nothing impedes change more than concern over who gets the credit. The old axiom that there is no limit to what a person can accomplish if he or she does not care who gets the credit is a prescription for successful change. A good point is to let the person at the top take the credit. Even if that person has done little to reflect the change. He/she will be more amenable about further change.

7. Provide continuous feedback on both successes and setbacks.

Frequent reports should include not only aspects on progress, but also information on delays, setbacks and rejections. Negative news has value. Through sharing problems and reverses, all personnel become aware that they are involved in the process together. Sometimes help comes from those least expected to give it. And sometimes efforts are duplicated because all are not aware of recent advances.

8. Be aware of the limitations of the change agent role.

You alone cannot bring about change. Your perception is limited and different from those upon whom you are dependent for change. Some misunderstanding of your role or lack of appreciation may be the price of change. But remember the victim is uppermost in your mind--what helps her helps you.

9. When you confront a stalemate, look for higher ground.

If two opposing sides become locked in an immovable position, seek some new and different approach or action that rises above the present situation and offers something for each side to share, perhaps a proposal that sets a new goal. This is demonstrated in Polk County, where the police chief refuses to cooperate. However, the police officers on the operation level work well with all agencies concerned.

10. People seldom change immediately under pressure, but they seldom change without pressure. Without criticism from the public, many agencies dealing with the rape victim would never have changed their policies.

Intensive striving for change--pressure--increases tension and resistance. Defenses are raised. By periodically withdrawing pressure, there is time for defenses to drop and for the change idea to germinate. When "saving face" is not a factor, change sometimes comes in more abundant form than first proposed.

11. Change may not come in the form or at the time you expect.

Because change has a dynamic of its own, the equilibrium of the process of change will evolve differently as time goes on. When new factors arise, they may signal change occurring. Be ready to modify your timetable and

your expectations. Change may come in a manner and form which was not what was first described. Learning to recognize success in a movement for change requires the ability on the part of the change agent to alter his or her perceptions. When women began to look at the problems a rape victim faces, they blamed the police department for many of the abuses. When the police department was responsive, women learned that others were to blame, too--hospital personnel, prosecutors, etc.

12. Listen to opponents.

Respect your opposition and take resistance seriously. Listen hard to what opponents are saying. The obstacles may not be as severe as you suspect. Paying close attention will disclose openings or handles for your next move. Resistance is uneven; sort out that which is hard from that which is soft.

13. Piecemeal changes are more easily accepted.

Small changes may not meet your goal, but they form a breakthrough. Change begets change. Be willing to accept partial change now, because it is possible, in the hope of gaining more change later. Victims accepted changes in the police department first and then sought changes in other agencies.

14. Temporary changes are more readily accepted.

"Try it for a while" may be the opening wedge for a new procedure. A practice which can be withdrawn will sometimes be approved when one which is permanent will not. Some agencies have acted this way in handling rape cases. Temporary programs that proved successful, such as special police squads, eventually become permanent.

15. Expect change at the pace of the individual or organization that is changing.

Some people and organizations are open to change and move quite rapidly. Others proceed slowly and with caution. Adjust your expectations to the rate of change of those concerned. Pushing for change too rapidly may sabotage the entire effort. And it must be remembered that bureaucracies change at a snail's pace.

Seeking to make changes involves both strategy and tactics. Strategy includes data collection, setting of goals, identification of persons and organizations involved, and developing a broad plan of action. Tactics are those moves or objectives within the broad strategy which lead toward the goals, but which are more open to adjustment.

One way to develop strategies for change is to make a list of the forces that promote the change and those which impede it. Increasing the force of the proponents of change is the conventional approach, but sometimes a more effective approach is to neutralize or reduce the opposition.

Some desire for change may be hidden or blocked behind some obstacle which, if removed, will release the present desire for change and allow it to evolve.

One essential requirement for producing change is the willingness to change yourself.

The temptation to expect all change to come from others impedes the progress of the change agent, narrows the scope of approach, the range of tactics, and the flexibility of attitude. As in human relationships, change in one can evoke change in others.

The skilled change agent regards change as a sharing in which each side moves closer to the process of changing. The proponent of change who refuses to change himself creates a negative climate and thereby defeats his or her own good. As the Prescriptive Package points out, the agencies involved with rape victims had a tendency to operate without communicating with one another. It was only through an understanding of each others' roles that change began to take place in the rape arena.

CHAPTER 7: THE TRAINING WORKSHOPS—A PERSPECTIVE

The rationale for the Training Workshops of the Executive Training Program was taken directly from the conclusion of the Prescriptive Package.

A basic finding in these studies was that the functions of police departments, hospitals, prosecutors, courts, and citizen groups are highly interdependent. The procedures of each one greatly influence all the others. One need only consider the influence rape crisis centers may have on a victim's decision to report the crime to the police, or the role of physicians in collection of evidence, to recognize that law enforcement's success is often heavily influenced by other institutions and organizations.¹

The authors identify the absence of coordination as a major problem area that should be addressed and they demonstrate how some communities have attempted to correct this failing through the use of liaison officers, umbrella groups, inter-agency training, and so forth.

At the 10 regional Training Workshops, agency and community representatives had an opportunity to meet and to discuss their specific problems of interaction. They were asked to identify at least one significant problem of coordination from their own community and, using the tools provided during the training sessions, to develop an action strategy for implementing an effective solution.

Prior to the Workshops, the majority of participants were of the opinion that rape-related services in their communities were quite adequate and even pretty good. However, the profile forms they completed before attending the sessions told a very different story. (The five-page profile form is included at the end of this chapter as it is an effective tool for evaluating problem areas in any community.) Some participants were not even aware of what programs their community had developed. For example, neither the hospital nor the rape center representative from one area were aware that their police agency had officers with special training in handling rape victims and cases.

Following the Workshops, the majority of these same participants drew a completely different picture of the nature of the services and the way they worked in their home communities. The following excerpt from the overall evaluation of one of the Workshops is typical.

¹Brodyaga, L., et al., Rape and Its Victims: A Report for Citizens, Health Facilities, and Criminal Justice Agencies, LEAA/NILECJ, Nov., 1975, p. xii.

In general, the respondents assessed the present effectiveness of the rape-related services in their communities as barely adequate. They tended to evaluate the services provided by their own agencies a little higher than the services provided by other agencies in their own community. Most respondents indicated that the cooperative efforts among agencies in their communities are below that adequate level.

When requested to state the problem which the participants of the Workshop would address on their return, 94 percent of the respondents listed at least one such target for action. "The lack of coordination, cooperation among agencies" again surfaced as the number one problem. Other problems identified were: lack of community education regarding sexual abuse, lack of sexual assault centers in the community, lack of protocol regarding rape victims, ambiguity of current law regarding sexual assault.

Some of the steps outlined for resolving these problems were: contact other agencies in the community to promote cooperation; form a core group of agency heads in the community, establish a task force; promote monthly meetings of all agencies; draw up guidelines or standards for treatment of assault; establish a crisis team; start a statewide newsletter; coordinate legislative information dissemination; establish public education programs; conduct training courses for professionals; work on curriculum development and training for law enforcement officers; produce videotape for use as teaching aide.

In every evaluation of the Workshops, analysis of the data revealed that prosecutors tended to assign slightly lower ratings to all aspects of the program than any other group. Bearing that in mind, it was particularly rewarding for the training team to hear later from one prosecutor who had participated that, in fact, he found himself using data he had gleaned from the Workshop.

The prosecutor had won his first rape conviction and according to the local newspaper account, he had probably swayed the jury when he warned them, "You shouldn't put the victim on trial in this case just because she make a mistake... You don't vote her out of the protection of the laws...because you don't approve of her judgment."

WORKSHOP ON RAPE AND ITS VICTIMS

Executive Training Program in Advanced Criminal Justice Practices
University Research Corporation

Code (for URC use) _____

1. Name _____ Date _____

2. Agency _____ Phone _____
(Area Code) _____

Agency Position _____

3. Business Address _____

(Zip Code) _____

To make the Workshop relevant to your needs and help ensure that you derive the maximum benefit from it, we need some information on your background and experience. Please take a few moments to answer the following questions as completely and accurately as possible. Return the completed form with the Travel Request Form in the enclosed envelope. Thank you.

4. Current Job Title: (Circle one)

20 Judge

43 Public Defender

44 Prosecutor

60 Chief of Police

92 Hospital Administrator

93 Director/Coordinator of Community-Based
Agency (Please name) _____

09 Other (Please specify) _____

Current job responsibilities related to rape _____

Current activities related to changing/improving rape-related services:

5. Percentage of time spent in rape-related activities: (Circle one)

100% 75% 50% 25% 0%

6. Have you had any FORMAL TRAINING (workshops, academic training, etc.) in the following skills? (Circle all appropriate categories.)

1 Management

2 Planning/Resource
Development

3 Problem-Solving

4 Crisis Intervention/
Counseling

5 Sensitivity Training

6 Treatment of Rape Victims

7 Other (Please specify) _____

RAPE SERVICES IN YOUR COMMUNITY

Do the agencies in your community offer special rape-related services/programs?
(Circle the appropriate number to the right of each item listed below.)

	Yes	Projected	No	Don't Know
7. Does your POLICE DEPARTMENT have:				
a. a special rape unit?		2	3	9
b. some officers specially trained to work with rape (not assigned to a special rape unit)?	1	2	3	9
c. all officers trained to work with rape?	1	2	3	9
d. female officers?	1	2	3	9
e. other rape programs/services (Please specify)				
_____?				
8. Does your PROSECUTOR'S OFFICE have:				
a. a special rape or sex crimes unit?	1	2	3	9
b. a specific prosecutor assigned to sex crimes?	1	2	3	9
c. special training programs for prosecutors of sex crimes?	1	2	3	9
d. hearings of sex crimes at specially scheduled times?	1	2	3	9
e. other programs/services (Please specify)				
_____?				
9. Does your HOSPITAL have:				
a. a rape crisis unit in the hospital?	1	2	3	9
b. a private room for the examination of rape victims?	1	2	3	9
c. a specially designated person for the examination of rape victims?	1	2	3	9
d. special protocols for the treatment of rape victims?	1	2	3	9
e. a rape kit?	1	2	3	9
f. training programs for those who examine and/or treat rape victims?	1	2	3	9

Yes Projected No Don't Know

g. other programs/services (Please specify)

_____?

10. Do your COMMUNITY-BASED service groups have:

a. a rape crisis, sexual assault, or similar center?	1	2	3	9
b. rape victim advocates?	1	2	3	9
c. a hotline for rape victims?	1	2	3	9
d. community education programs?	1	2	3	9
e. other programs/services (Please specify)				

_____?

11. Do other agencies or groups provide rape-related services in your community? (Circle one)

Yes No Don't Know

If yes, what are the agencies or groups? _____

What services do they provide? _____

12. What problems, if any, have been encountered in delivering special rape-related services in your agency?

13. What problems, if any, have been encountered in delivering rape-related services in your community?

Is there interagency coordination in the delivery of rape-related services in your community? (Circle the appropriate number to the right of each item listed below.)

Yes Projected No Don't Know

14. Do the agencies/groups have:

a. an interagency rape task force?	1	2	3	9
------------------------------------	---	---	---	---

	Yes	Projected	No	Don't Know
b. joint committees?	1	2	3	9
c. joint activities/services (e.g., training, education)? (Please specify)				

_____?

If yes to "a" or "b" above, what is the composition of the group (e.g., directors, staff)? _____

How often and for what purpose(s) do they meet? _____

What stimulated the formation of the group? _____

15. How would you assess the effectiveness of the rape-related services delivered in your community? (Circle the appropriate number to the right of each item listed below.)

	Very Good	Good	Adequate	Not Adequate	Poor	Don't Know
a. Services overall are...	5	4	3	2	1	9
b. Services delivered by <u>my</u> agency are...	5	4	3	2	1	9
c. Services delivered by <u>other</u> agencies are...	5	4	3	2	1	9
d. Cooperative efforts among the agencies are...	5	4	3	2	1	9

16. Are any efforts planned or underway to improve the delivery of rape-related services in your community? (Circle one)

Yes	No	Don't Know
-----	----	------------

If yes, in what areas? (Circle all applicable)

- | | |
|---------------------------|--------------------------|
| 1 Services/programs | 4 Training |
| 2 Community education | 5 Other (Please specify) |
| 3 Interagency cooperation | _____ |

What specifically is planned or underway? _____

What problems have been encountered? _____

17. Please indicate your level of understanding for each of the following:
(Circle the appropriate response.)

	Very High	High	Moderate	Low	Very Low
a. The level of services and interagency cooperation needed to provide adequate support and care to the rape victim, prosecute the offender, and start preventive programs in your community.	5	4	3	2	1
b. Appropriate roles, potential contributions; and points of interface of the various community agencies and groups in providing services to the victim, prosecuting the offender, and preventing the crime of rape.	5	4	3	2	1
c. Problems frequently encountered in providing adequate services; reasons for these problems.	5	4	3	2	1
d. Activities, programs, and other means of overcoming problems in the delivery of effective and efficient services.	5	4	3	2	1
e. Strategies for implementing changes in your agency and among other agencies.	5	4	3	2	1
f. Internal and external resources available to assist in the development of more effective and efficient rape services.	5	4	3	2	1

18. Listed below are the objectives of this Workshop. Please rate each in terms of its importance to your work. (Circle the appropriate number.)

a. To increase the participant's understanding of the needs of the rape victim and how they affect agency services and goals.	5	4	3	2	1
---	---	---	---	---	---

	Very High	High	Moderate	Low	Very Low
b. To increase the participant's understanding of the roles, contributions, and points of interface of community agencies in serving the victim and prosecuting the offender.	5	4	3	2	1
c. To increase the participant's understanding of the need for interagency cooperation in serving the victim and prosecuting the offender.	5	4	3	2	1
d. To increase the participant's understanding of the problems of achieving adequate inter-agency cooperation and how to overcome them.	5	4	3	2	1
e. To increase the participant's understanding of the resources available for the improvement of rape services.	5	4	3	2	1

19. List below any other training needs you have related to rape and its victims.



END