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<http://www.ojp.gov/ovc/assist/nvaa99/chap9.htm>

Sexual Assault

Abstract

Rape is the most underreported crime in America. Significant changes to improve the treatment of sexual assault victims have occurred in the last two decades. The impact of reforms, led by the women's movement, can be seen in the legal, mental health, medical, and victim services arenas. During the 1970s, the first rape crisis center was established. The treatment of victims in the criminal justice system was questioned, and hundreds of laws were passed to protect rape victims in the courts. Medical protocols have been developed and widely accepted. The mental health impact of rape is now well documented in the literature, and the practices of mental health professionals have improved. Although the treatment of rape victims today is vastly different from two decades ago, many victims still do not receive the assistance and treatment they need.

Introduction

Although rape has occurred throughout history, the anti-rape movement in the United States did not begin until the early 1970s. In 1972, the first rape crisis centers were established in San Francisco, CA (Bay Area Women Against Rape) and Washington, D.C. (D.C. Rape Crisis Center), both of which are still in existence today. These grassroots centers were an outgrowth of the women's movement, which recognized that rape was an all too common part of women's lives and that it had a devastating impact on women's health and freedom. The explicit goals of rape crisis centers were to educate society about the problem of rape, to change society in ways that could help prevent rape, and to improve the treatment of rape victims.

In the nearly three decades since its birth, the anti-rape movement has accomplished many of its goals. Major accomplishments include widespread reform of rape statutes and other related legislation, improvements in the criminal and juvenile justice system's treatment of rape victims, greater understanding of the scope and impact of rape, improved medical and mental health services for rape victims, and better funding for rape crisis centers and others who provide services and advocacy for rape victims. Despite this progress, much remains to be done. Most rapes still go unreported (Kilpatrick, Edmunds, and Seymour 1992; Crowell and Burgess 1996; Ringel 1996), resulting in cases that can never be detected, investigated, or prosecuted. Although vast improvements in forensic, law enforcement, and prosecution protocols have been made, further improvements are needed. Too few victims who sustain rape-related mental or physical health problems obtain effective treatment. **The fact that well over a million Americans of all ages are raped each year suggests that efforts to prevent rape have not been entirely successful.**

The Definition of Sexual Assault and Rape

EVOLUTION OF THE DEFINITION OF SEXUAL ASSAULT AND RAPE

Historically, legal definitions of rape have been very narrow.

- It retained a marital-rape exemption (not acknowledging rape within marriage or co-habiting couples).
- It focused on the victim's *consent*, rather than the perpetrator's forcible conduct.
- Established a "grading system" for the crime of rape and rape offenses. For example, it stated that "rape by a voluntary social companion" was a less serious offense than "rape by a stranger." In addition, it treated the rape of men as a lower felony offense than the rape of women.

In the 1970s and 1980s, extensive rape reform laws were enacted throughout the states, and the legal definition of rape changed dramatically. Michigan's Criminal Sexual Conduct Statute, enacted in 1975, became the national model for an expanded definition of rape. Today, Illinois' Criminal Sexual Assault Statute is considered the national model (Epstein and Langenbahn 1994, 8). Both statutes have the following characteristics that broadly define rape:

- Rape is defined as "gender neutral," which broadens the earlier definitions of rape to include men as well as women.
- They include acts of sexual penetration other than vaginal penetration by a penis.
- They distinguish types of sexual abuse on the basis of the degree of force or threat of force used similar to the "aggravated" versus "simple" assault distinction with physical assaults.
- Threats as well as overt force are recognized as means to overpower the victim.
- In addition, a new category of rape victim, "taking advantage of an incapacitated victim," is included. This category can include mental illness, victims under the influence of drugs, and alcohol intoxication. (Some states require that the perpetrator give the victims the intoxicant in order to obtain sexual access).

THE FEDERAL DEFINITION OF RAPE

In spite of these legislative changes, much of the current debate about what constitutes sexual assault and rape stems from how rape should be defined (Crowell and Burgess 1996).

For purposes of this chapter, rape and other forms of sexual assault are defined using the Federal Criminal Code (Title 18, Chapter 109A, Sections 2241-2233) as a guide.

Although criminal statutes differ somewhat across states in their definitions, the Federal Code is national in scope. For example, in addition to incorporating the reform provisions discussed above--gender neutrality and incorporation of a broad definition of acts of sexual abuse--the Federal Criminal Code definition includes the following points:

- Distinguishes between types of sexual abuse on the basis of the degree of force or threat of force used, similar to the aggravated versus simple assault distinction of physical assaults.
- Does not use the term "rape," and does not require the victim to label the act as rape in order to meet the elements of a crime.

The 1986 federal statute defines two types of sexual assault:

- Sexual abuse.
- Aggravated sexual abuse.

Aggravated sexual abuse.

Aggravated Sexual Abuse by Force or Threat of Force: When a person "knowingly causes another person to engage in a sexual act" . . . "or attempts to do so by using force against that person, or by threatening or placing that person in fear that the person will be subjected to death, serious bodily injury, or kidnapping."

Aggravated Sexual Abuse by Other Means: When a person "knowingly renders another person unconscious and thereby engages in a sexual act with that other person; or administers to another person by force or threat of force, or without the knowledge or permission of that person, a drug, intoxicant, or other similar substance and thereby:

- Substantially impairs the ability of that person to appraise or control conduct.
- Engages in a sexual act with that person.

Aggravated Sexual Abuse With a Child: When a person "knowingly engages in a sexual act with another person who has not attained the age of twelve years, or attempts to do so."

Abusive Sexual Contact is defined as when no sexual penetration actually occurred but when "the intentional touching..of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person" occurs.

Sexual Abuse of a Minor or Ward is defined as knowingly engaging in a sexual act with a person between the ages of twelve and fifteen years. (For additional information on sexual crimes against children, see the NVAA chapter on Child Victimization).

IMPLICATIONS OF DEFINITIONS

While great reforms have been made, a clear implication of these criminal code-based definitions of violent crimes addressing sexual assault, abuse, and rape is the following information:

- The victim's state of mind at the time of the crime, such as fear of death or serious bodily harm and the victim's crime-related physical and psychological injuries to assist in better classification of crimes.
- The proper measurement of rape and sexual abuse, which cannot be assessed without information about the types of unwanted sexual acts that are involved, the types of force or the coercion used by the perpetrator, and the ages of the victim and the perpetrator.