

Deterrence Factors Affecting Victims of Sexual Violence: Police, Medical, and Criminal Justice
Involvement

Keannah Dunsmore

English Department, Anna Maria College

HON 490: Senior Honors Seminar

Dr. Craig Blais

May 2021

Chapter 1: Introduction

The influx of people on social and the internet has brought awareness to the nationwide issue facing the underreporting of sexual assault crimes. With the increase in awareness of this issue, steps can be taken towards growing the number of victims that choose to report the crime. The first step in minimizing this problem is understanding and recognizing sexual violence while supporting victims. In the United States, an act of sexual violence can be defined as a sexual act that is not consensual, or the consent cannot be made due to lack of capacity, defined by state, federal, or tribal laws (The United States Department of Justice, 2019). There are a few factors that may be present at the time of the crime to add to the sexual violence. These dangers can include physical aggression, weapons, alcohol, or drugs. Physical aggression and the use of weapons can heighten the danger associated with the crime, thus heightening the penalties. Intoxication, such as alcohol, drugs, or the common date-rape drug Rohypnol, can diminish the capacity to give consent for a sexual act. Diminishing the capacity to give consent is often what constitutes a sexual assault. These intoxicants are often found in cases of sexual violence, whether the victim is under the influence, the perpetrator, or both.

An assailant does not have to be the stereotypical man in a van but can include a spouse, family member, stranger, friend or co-worker (Overview of Rape and Sexual Violence, 2010). Sexual assault can happen to anyone, by anyone. The constituted act of sexual assault is a broad category that contains differing subcategories, including: “sexual harassment, sexual assault, and rape” (Overview of Rape and Sexual Violence, 2010). Sexual harassment ranges from verbal remarks to unwanted touching in an explicitly sexual way. Sexual assault includes any or unwanted sexual acts excluding penetration. All of these acts are done without the consent of involved parties and not done out of free will (Overview of Rape and Sexual Violence, 2010).

There is no more reality to the stereotypical rape scenario, but it has become a crime that occurs at any place at any time. This crime has become a nationwide problem to the fact that “[e]very 73 seconds another American is sexually assaulted” (RAINN, 2021b). Sexual assault occurs all too frequently within this nation.

A victim of sexual harassment, assault, or rape is faced with a choice following the criminal act. The choices that arise concern retrieving medical attention for the assault, reporting the act to the authorities, pressing charges against the assailant, or keeping the crime to yourself. The choice a victim makes can be influenced by many external and internal factors, which may deter the victim from reporting the crime. As cases of sexual violence differ, circumstances and evidential collection will vary, but the routine of a forensic medical examination and the adjudicative process remain rather similar across the board. Once the victim has reported the assault to the authorities, a forensic medical examination will be conducted. The forensic exam includes a kit to complete the exam, collecting all the possible evidence of the crime left on the physical person of the victim. This is commonly known as the “rape kit” (RAINN, 2021c). A rape kit is performed to preserve any evidence of the perpetrator(s) on the physical person of the victim. Once a rape kit is complete, the victim again has the choice to report the crime and press charges or to store the collected evidence until further notice. This happens if the victim decides in the future to make an accusation (RAINN, 2021c). Forensic exams can be very intrusive in order to gather all possible evidence. The intrusiveness does not end with the forensic medical examination; in order to prosecute an assailant, the victim must also explain the crime in front of a courtroom while on the stand. Victims are faced with, what some may say, is a tough decision, whether to report the assault to authorities or not to.

Although there are many cases of sexual violence that are reported, many more assaults go unreported. “Only 230 out of every 1,000 sexual assaults are reported to the police. That means about 3 out of 4 go unreported” (RAINN, 2021a). So, the question that remains is why do victims choose not to report an assault? There are numerous possibilities to answer this question, including but not limited to: victims may feel as though they will break their families apart when a sexual offense is committed by another family member, they do not want to be involved in the criminal justice system, and fear of not being believed by friends, family members, law enforcement officials, or a jury. Deterrence is a strong force that affects the lives of many people that become the victims of sexual violence.

One of the deterrent factors stated above is a reason why many adults do not report a sexual violence crime: the external influence of the medical-legal system. Involvement in the criminal justice system means completing a forensic medical examination and prosecuting a perpetrator. This process can further be broken down into the areas of concern that will be addressed in this thesis. The factors include the involvement and interaction with law enforcement officials, the evidence collected by the forensic medical examination, and the general loss of autonomy with reporting a sexual violence act. The first interaction many sexual assault victims have with the law is through the involvement with law enforcement officials. Following this interaction, or hand-in-hand with the communication to the police, the forensic medical examination occurs. The forensic medical examination alone involves the interaction with many personnel, retelling the specifics of the assault, a physical examination from head-to-toe, which includes internal examinations of “the mouth, vagina, and/or anus” (RAINN, 2021c), taking samples of bodily fluids, and pictures of the victim’s body to document injuries sustained (RAINN, 2021c). Following the intrusive medical examination, prosecuting a perpetrator comes

with its deterrence as well. These are the only factors that will be focused on within this paper, but with reporting a sexual assault crime, the victim is faced with many more deterrent factors. Interactions with law enforcement officials, the evidential collection of the forensic medical exam, and the legal aspect of prosecuting a perpetrator act as deterrence for sexual assault victims.

Statement of the Problem

There are numerous deterrent factors for victims of sexual assault to not report the crime, but three are going to be focused on in this paper. The three deterrent factors that will be discussed remain within the medical-legal system of reporting a sexual assault. The first area of routine for cases of sexual violence involves interacting with law enforcement and becoming an advocate for one's self. This is the first step in achieving legal help for an illegal sexual act. A case of sexual violence involves both the criminal justice system, but also the healthcare field as they perform an examination once a victim has come forth. When a victim has come forward to have a medical examination completed, they are given the choice to move forward with the case or remain an autonomous number until further notice. When cases move forward in court, the victim will be faced with the perpetrator while having to tell their story on the stand. The factors being discussed in this paper relate to the deterrence of reporting an act of sexual violence. Reporting involves the interaction with law enforcement personnel, interaction with at least one nurse examiner for the forensic medical examination, and the legal personnel involved with the court system.

Every person is different and claiming a deterrence factor that acts upon the majority would be a false claim. The deterrence factors listed have been seen to create a negative outlook or experience for victims of sexual assault, and in some cases have deterred victims from

reporting their story. The first area that is being addressed is how interactions with police officers may deter victims of sexual assault from reporting. A police officer may be the first person a victim speaks to after being traumatized by an assault, having the ability to set the tone for the experience of the victim in the medical-legal systems. The first issue that may arise with interaction with police officers is a negative attitude, especially for marginalized victims or victims that are hesitant to report (Whiting et al., 2020). Victims report feeling judged for the clothing they are wearing and their appearances, while another victim was told “regret was not grounds to file a report for rape” (Whiting et., 2020). A second deterrence that arises within the police departments is the backup of rape kit submissions to forensic laboratories. This issue has become very public in recent years and has become a problem in many departments (Campbell & Cabral-Fehler, 2018). Adults who are victimized by sexual assault experience many negative interactions with police officers. Victims report being shamed, blamed, or rejected by the law enforcement officials they report the assault or rape to.

Following interactions with law enforcement, many sexual assault victims will be treated with a forensic medical examination. There are instances where a forensic medical examination report is not used, nor any biological evidence. These occurrences happen when a victim comes forth with the crime at a later date. This can happen for numerous reasons. The study “Predicting Sexual Assault Prosecution Outcomes: The Role of Medical Forensic Evidence Collected by Sexual Assault Nurse Examiners” determines that the evidence collected by the nurse examiner accounts for “significant unique variance in case outcomes” (Campbell, Patterson et al., 2009). A perceived opinion of many people is that the outcome of a sexual assault prosecution will be strongly based off external factors rather than the assault itself. This study explains that many cases of sexual assault prosecution are influenced by a “victims’ age, race, and prior relationship

to the assailant” (Campbell, Patterson et al., 2009). This study brings awareness to how the varying evidence collected by the nurse examiner accounts for most of the differences, in cases than the perceived opinion of external factors. Differing experiences of forensic medical examinations have a large influence on the outcome of the prosecution of an assailant as the evidence produced from the examination is majorly biological evidence. Recent advancements in policy innovations have shown negative effects on sexual assault victims. Some of the policy innovations include the implementation of Sexual Assault Nurse Examiner (SANE) certification to assist the medical personnel with treating victims of sexual assault and rape. SANE clarifies procedures, behaviors, and questions that are to be asked during a forensic medical examination. Nurses can be SANE certified to better treat victims of sexual violence. Although these innovations have positive impacts on many victims, there are some that report it as a deterrence or a negative implementation (Corrigan, 2013). The implementation of policies and evidential collection can impact the want to report a sexually related crime.

When reporting a sexual assault, it is possible to report the sexual assault to the authorities to receive a proper forensic medical examination but withhold from prosecuting the assailant. When this happens, a person receives a case number, rather than the report and evidence being associated with the person’s name. Once the victim decides to prosecute the assailant and bring the case to court, the case is then attached to their name. With this being said, a person loses anonymity with prosecuting an individual (Whiting et al., 2020, p. 1). This particular study gathers 600 tweets that were attached to the hashtag #WhyIDidntReport. These tweets examine 600 different victims of sexual assault, explaining why they did not report. Among these tweets are various personal reasons, and among these reasons relate to the systems implemented for sexual assault victims. With the loss of autonomy when prosecuting an

assailant, there also begins to be another factor intertwined with victims that decide to withhold from reporting immediately. There is a statute of limitation encompassing evidential collection during a forensic medical examination, making it impossible for victims coming forth past the 72-hour mark (Whiting et al., 2020, p. 9). Importance lies within receiving a forensic medical examination prior to changing, bathing/showering, and within 72-hours to ensure evidence can be collected. Victims being deterred from reporting the assault or rape are limited to the outcome of their case due to these stipulations of biological evidence. This brings time constraints on to a victim's choice. Without the biological evidence, victims experience more disbelief from attorneys and judges, putting a large emphasis on the time constraint.

There are many factors that could deter a victim from reporting a sexual assault, but with these reasons, comes the importance of reporting sexual violence cases. A factor represented above examines the lack of submission of rape kits. These rape kits are being upheld, for a number of reasons, before being sent for DNA testing. The DNA cannot be used in prosecution until tested. Another study examines the role of forensic nurse examiners and the variance in evidence collected. Lastly, tweets are examined to conclude reasons for not reporting sexual assault cases.

Background and Need

Sexual violence has been documented for as long as human documentations have been made. This was first documented as early as the ancient Greeks and continuing throughout human history (History.com Staff, 2018). Continuing into the Code of Hammurabi, these codes acknowledged “the rape of a woman...a property crime against the victim's husband or father” (History.com Staff, 2018). Sexual violence has been seen to be a gender-specific crime against women, but the crime was not always accepted to be against the woman herself, but her male

counterpart instead. Sexual violence occurring globally for centuries continued after the independence of the United States, becoming a generalized crime with slave owners. At the time, these incidents were not considered “assaults” (History.com Staff, 2018) but were not consensual and even produced enslaved children as well. The House of Burgesses addressed pregnancies resulting from these, resulting in children born into slavery by law (History.com Staff, 2018). Later, in the 1960s, came the anti-rape movement making progress in both acknowledging and recognizing sexual violence as an assault to an individual as well as advancements in the medical-legal system process. Advancements are continuing every day in the United States, specifically within individual states by adopting laws related to sexual violence. Over time, the courts have moved away from the belief of an “unwritten law” and towards the justice, victim-oriented direction of showing compassion and empathy to victims of sexual assault throughout their medical and justice treatment.

Purpose of the Study

The purpose of this study was to collect qualitative data from SANE in the state of Massachusetts to determine deterrent factors of the medical-legal system through a brief questionnaire. Victims of sexual assault that do not report a sexual violence case allow the assailant to remain free of no charges. Other repercussions of not reporting rape or sexual assault to authorities leave an absence of justice for the victim. Focusing on the particular deterrent factors of the medical-legal system could bring awareness to the improvements that need to be discussed to eliminate this controllable factor of deterrence for future victims. The systems are intended to protect individuals that become victims of crime rather than to publicize the wrongdoings of the criminal or assailant. Bringing focus and awareness back to this issue will provide implemental strategies that are in defense of the victims. Within the victim’s eyes, they

suffered a horrible tragedy that no human deserves, but feeling deterred because of the governmental protocols is controllable and can be improved to be minimized. The design of this study was to ensure firsthand experiences were used in order to validate the particular opinions asked within the questions. Consequences of not addressing these deterrent factors will continue to make sexual violence the most underreported crime within the United States.

The researcher conducted this study with registered SANE in the state of Massachusetts. The Sexual Assault Nurse Examiners chosen to participate in this study are those that have treated victims 22 years and older. The study began by reaching out, via email, to the SANE for approval of participation in the study. Once approval was achieved, the consent form was signed, and the brief questionnaire was completed. At any point in the questionnaire, the participant had the freedom to back out of the study and stop the completion of the questionnaire with no answers submitted. The participant also had the choice to answer only the questions they chose too. The survey was then collected by the researcher. The qualitative data was collected via a direct email from the participant.

The expected outcome of this study is to bring focus and awareness to the deterrent factors of the current medical-legal system. Bringing awareness to these factors could provide future implementations that minimize the deterrence. The benefits of this study could be seen through future deterrence's minimized in the field of the medical-legal system. Becoming victim-friendly while maintaining a high standard for hard evidence could influence future victims of sexual violence to report the assault. Numerous positive repercussive outcomes from higher reporting of sexual violence could result.

Research Questions

What within the interaction with law enforcement officials deters victims from reporting the act of sexual violence?

What processes within the police's control deter victims of sexual assault from reporting the crime?

What aspects of receiving a forensic medical examination deter victims of sexual assault from reporting the crime?

Are there perceptions within the court system that deters victims from reporting the assault?

What factors of prosecuting an assailant of sexual assault deter victims of reporting?

Significance to the Field

There are no short-term or long-term benefits to participating in this study besides the participation within the study and how it is applicable to the career of the participant. This study has significance to the field of Forensics, Criminal Justice, and Medicine because it is applicable to one intertwining factor of all of the systems. It can be significant to the field because it demonstrates the need for further implementation of education and awareness to these victims. Further implementing education to law enforcement officials, medical personnel, and personnel involved with the justice side of reporting will benefit victims in the future and may decrease the amount of deterrence in future crimes.

Definitions

Code of Hammurabi: One of the earliest sets of written laws (Bishop, 2018).

Medical-legal System: of or relating to both medicine and law (Merriam-Webster, 2021).

Reporting: In this paper, reporting will include the process of prosecuting an assailant. It can be assumed that when a victim has not reported, it means they have not prosecuted the perpetrator of the crime.

Sexual Assault: Although defined in the paper as a crime excluding penetration, within the context of this paper, sexual assault and rape may be used interchangeably

Limitations

The first limitation that was recognized prior to the study beginning, was the neglect of sexual harassment analysis within this researcher's study. The researcher acknowledged this limitation, as the participant only had experience treating victims of sexual assault and rape. Although the participant did not have experience solely with the treatment of sexual harassment alone, it is possible the participant had experience treating victims of multiple levels of sexual violence. The sample size of SANE was very small and only pertained to nurses within the state of Massachusetts. The sample size was one participant, creating a very large limitation for this study. Gathering experience of only one Sexual Assault Nurse Examiner from the state of Massachusetts creates a very small population size. This study also only addressed the experience of SANE with adult victims of sexual violence. This study does not regard the experience of adolescent victims with the medical-legal system. The timeline of the research was limited to one semester, inhibiting the ability to create a more valid study. Another limitation of this study was the bias of the researcher with analyzing the data. There is an unconscious bias that may play a role in the analysis of the data collected due to the lack of another person to analyze the data.

Ethical Considerations

The researcher followed ethical guidelines by first getting approval by the Anna Maria College Institutional Review Board. The potential risks for the participants were allotted prior to the study beginning and continued by getting consent by the participants via a consent form and signature.

Chapter 2: Literature Review

Sexual violence is a crime of low filing reports. Sexual violence is a non-consensual act against another, including sexual harassment, sexual assault, and rape. Consent cannot be granted by someone who is not of age to consent, which is different state-to-state (U.S. Department of Health & Human Services, 2016), who is intoxicated by drugs, alcohol, etc., someone who has a disability, whether mental or physical that could diminish their capacity to consent, or someone who is unconscious (RAINN, 2021d). When a situation lacks one of these factors, it presents an opportunity for sexual assault or rape to occur.

With a crime this personal, and a process that is as intrusive as the forensic medical examination, reporting the assault or rape may be influenced. Reporting the crime means a forensic medical examination and then the choice of prosecuting the assailant(s). A victim of sexual violence will have the choice of receiving a forensic medical examination to collect evidence for an investigation, if the victim chooses to press charges at the time of the crime or at a later time, protection against pregnancy and sexually transmitted infections or diseases, and possible resources for recovering from this assault. Resources go beyond the walls of the hospital when receiving a forensic medical examination, ranging from advocates in the community to psychological treatment. These are resources victims who do not report, do not gain access to through the examination. Getting a forensic medical examination does not mean the victim is

prosecuting the assailant; the victim has the choice to receive the examination under a case number rather than their name to maintain autonomy. There are many factors that come into making these choices that influence the decision of the victim. Social factors, financial burdens, reputational influence, work-related factors, and medical-legal factors can act as deterrence when deciding whether to report a crime. The factors in the medical-legal system that act as deterrence for victims of sexual violence are the interactions with law enforcement, the forensic medical examination and its production of evidence and the legal aspect of reporting sexual assaults including attorneys and the courts.

Area One: Interactions with Law Enforcement

The article “Why Police ‘Couldn’t or Wouldn’t’ Submit Sexual Assault Kits for Forensic DNA Testing: A Focal Concerns Theory Analysis of Untested Rape Kits by Rebecca Campbell and Giannina Fehler-Cabral, discusses a study conducted set in Detroit, Michigan, where thousands of untested rape kits reside. This study took the reports of 11,000 rape kits that were not tested between the years 1980 and 2009 to determine why rape kits do not get sent in for DNA testing. This study examines how law enforcement officials take it upon themselves to decide which rape kits get sent in for DNA testing. In the eyes of the police, rape kits that got sent in during 1980-2009 had to aid in the investigation of the sexual assault. This means that the police officers would send in only rape kits that were aiding in the prosecution of an assailant, where the victim declared the participation in the criminal justice system. Sexual assault victim credibility is another factor that police consider when determining whether to send a rape kit in for DNA testing or not. This study concluded that police “have considerable discretionary power in rape investigations, and a large body of research suggests that they privilege concerns about victim credibility and cooperation over evidentiary concerns” (Campbell & Fehler-Cabral, 2018).

With police officers adding in their opinions of the collection and submission of rape kits, trust in the reporting process declines.

The article “Trauma, Social Media, and #WhyIDidntReport: An Analysis of Twitter Posts about Reluctance to Report Sexual Assault” by Jason Whiting, Jaclyn Pickens, Abby Sagers, Morgan PettyJohn, and Bria Davies reports on a study that collects 600 tweets on the social media platform Twitter that are attached to the hashtag, #WhyIDidntReport. These tweets are explanations of why victims of sexual violence chose not to report the assaults. The study is conducted by gathering these tweets and categorizing them. The categories are as follows: Culture, Community Systems, Relationships, and Survivor Experience. The category of concern for this thesis is the Community Systems category. This category contains local organizations like the “legal and police system...and medical, educational, church, or military systems” (Whiting et al., 2020). These tweets concluded that police attitude towards the sexual assault victims deterred them from reporting because of criticism, lack of being believed and denial. Being treated this way is a deterrent for sexual assault victims.

Within the interaction between police officers and sexual assault victims, many victims who did report the assault, felt the repercussions of becoming a “secondary victim” (Lorenz et al., 2019). A victim of sexual assault becomes a secondary victim with blaming, shaming, guilt, and perceived perspectives of police officers and those around them. The “Qualitative Study of Sexual Assault Survivors’ Post-Assault Legal System Experiences” by Katherine Lorenz, Anne Kirkner, and Sarah E. Ullman examined the answers to an interview of 28 sexual assault survivors and 13 informal support providers that reported the assault to the authorities. Victims that were involved within the criminal legal system expressed feelings of further trauma that extended past the assault to the reporting process, deeming this process to be unhelpful for them.

“Over half of the survivors rate their experience with the system as harmful, unsatisfactory, unfair, and in some cases, more harmful than the assault itself” (Lorenzo et al., 2019). These answers demonstrate the negative experiences victims have had with the criminal justice system ranging from numerous aspects of the system. This mistrust prevents further reporting of crimes and will prevent those influenced by these survivors from trusting the reporting process.

Area Two: Forensic Medical Examination

The article “Predicting Sexual Assault Prosecution Outcomes: The Role of Medical Forensic Evidence Collected by Sexual Assault Nurse Examiners” by Rebecca Campbell, Debra Patterson, Deborah Bybee, and Emily Dworkin reflected on a study on the importance of evidentiary concerns in medical-legal settings. Many cases of sexual violence that are reported, the adjudicative process has much more concern with “extralegal” factors rather than hard evidence of the crime. This study focused on the implementation of sexual assault nurse examiner programs. With these programs implemented, the researchers examined the factors that were the most predictive of the outcomes of sexual assault cases and the prosecution of them. These predictions included forensic medical evidence, assault characteristics, and victim characteristics, but the findings determined that the evidence collected by forensic nurses gave way for the variance in the cases and their outcomes much more than these other predictive factors. This study is crucial to this thesis because a victim’s decision to prosecute an assailant can be deterred because of the lack of evidence that is collected during a forensic medical examination.

The article “New Trial by Ordeal: Rape Kits, Police Practices, and the Unintended Effects of Policy Innovation” by Rose Corrigan examines a study conducted using interviews with local rape care advocates to demonstrate the negative effects of SANE programs. The data

used in this article was gathered from six states: “Colorado, Kansas, Michigan, New Jersey, South Carolina, and Washington” (Corrigan, 2013). These states were selected based on numerous reasons, and once they were selected, the rape crisis centers within each state were contacted for permission to conduct an interview. 167 interviews were conducted across these six states. Limitations on this study include using advocates of rape because this position can put them in a difficult position on accordance with law enforcement officials. The study concluded that law enforcement responses to sexual violence took up a lot of the rape crisis centers’ resources and attention. With confidentiality and ethical guidelines, maintaining confidentiality excluded descriptive data of participants, making all the responses autonomous. A last limitation of this study was the inconclusiveness of SANE programs. Many places thought that any forensic medical examinations are defined as SANE examinations, when it technically involves specific forensic medical training. This relates to the thesis topic because these SANE programs maintain good intentions but are, again, policies that can inflict damage or harm. The repercussions include deterrence. There were numerous accounts of sexual assault victims not being taken seriously by police officers and their reports being disregarded or ignored. This study provides numerous accounts of police aggressively interrogating victims of sexual violence and that they are “lying until they can prove otherwise” (Corrigan, 2013).

The article “Forensic Medical Results and Law Enforcement Actions Following Sexual Assault: A comparison of Child, Adolescent and Adult Cases” by Theodore Cross and Thaddeus Schmitt examines comparisons of the prosecutions of cases of child, adolescent, and adult sexual assault victims. This study compared arrest records of assailants with ages of victims of sexual assault cases. This study found that more arrests were recorded with children compared to adolescents compared to adults. The study’s participants were items rather than people, being

sexual assault incident reports filed between the years 2008 and 2010 in the state of Massachusetts. The cases that were used in this sample were chosen at random from the PSCR Database. 711 of the 3530 randomly chosen cases were used in this study. This study found that about one-third of cases were unfounded by police in adolescents and adult cases but not in child cases. The study also found that it was uncommon to find a DNA match to a suspect and that arrests were the most common in the young adolescent groups. These results distinguish characteristics that could lead victims to not report sexual assaults. When DNA testing is not sufficient in determining its intended purpose, what is the point of getting it done? These findings can act as deterrence of the medical-legal system (Cross & Schmitt, 2019).

Area Three: Criminal Justice System

Jason Whiting, Jaclyn Pickens, Abby Sagers, Morgan PettyJohn, and Bria Davies conducted the study “Trauma, Social Media, and #WhyIDidntReport: An Analysis of Twitter Posts about Reluctance to Report Sexual Assault.” This particular study gathers 600 tweets that were attached to the hashtag #WhyIDidntReport. These tweets examine 600 different victims of sexual assault explaining why they did not report. Among these tweets are various personal reasons, and among these reasons relate to the loss of autonomy that happens when reporting a case of sexual violence. Many victims fear the publicity that criminal cases receive and determine this to be a valid explanation for not reporting the crime.

There is also a well-known issue arising in forensic laboratories all over the United States: rape kits not being submitted to DNA testing. These kits are getting upheld either in police possession or at the forensic laboratory waiting to be submitted for DNA testing. These kits hold tremendous value when a sexual assault victim decides to prosecute an assailant. “DNA evidence may be helpful to sexual assault investigations and prosecutions by identifying

offenders, revealing serial offenders through DNA matches across cases, and exonerating those who have been wrongly accused” (Campbell & Fehler-Cabral, 2018). The study conducted examined many different factors of the tests not getting submitted for DNA testing. This is a major problem within the criminal justice system that deters victims from reporting an assault or act of violence.

Chapter 3: Methods

Sexual violence is a broad category of crimes, including rape, sexual harassment, and sexual assault (Overview of Rape and Sexual Violence, 2010). Sexual assault crimes occur everywhere and all the time across the nation. This is one of the unfortunate crimes that victimize people of all ages, genders, races, ethnicities, and sexualities. Sexual assault crimes are also one of the most underreported crimes. There are many reasons that victims choose not to report a crime of sexual violence, including societal, familial, or emotional reasons. Aspects of the reporting and adjudicative processes can act as deterrence for victims of sexual violence. How does law enforcement serve to be a deterrent? What aspects of the forensic medical examination are turning victims of sexual violence away from reporting the crime? What keeps a sexual assault or rape victim, once reporting the assault to the authorities, from prosecuting the assailant? Can the system work against victims and act as a deterrent rather than protection? How can this deterrence be minimized? These research questions are applied to the motive of the research performed for this thesis. The research conducted was collected via email in the form of a brief questionnaire.

The setting of this research study was under the observation of the Anna Maria College IRB. The researcher gained a certification from the Board of Ethics of Human Research and approval from the Anna Maria College IRB. The participants were chosen from a list of

registered SANE in the state of Massachusetts, making up a purposive sample. These nurses were emailed asking for their participation in the study. The chosen sample included both men and women of varying ages. The only participant in the study is a woman. The materials included in this study are the script of questions for the written interview. This interview is a student-made interview. The data is collected via email, with the attached interview. The participant has no time constraint on completing the interview; the participant in this study finished the interview within five days of receiving it. The researcher followed a simple, brief procedure of gaining participation, sending participants a consent form to sign, confirming a signed consent form for participation in the study, and sending the interview to the participant as an attached file in an email. Once the participant completed as much of the interview as desired, she responded with it as an attached file to an email.

Chapter Four: Results

Deterrence is an acting barrier for many victims of sexual assault. Deterrence can be rooted from numerous areas of one's life stemming from family, fear, society, or lack of trust. Whatever the feeling may be, these emotions can be routed from particular parts of a person's life like the assailant, the division of family, the government, or social reactions. The researcher conducted a study to gain insight on the perspective of people that firsthand treat victims of this particular crime. The crime of sexual violence includes sexual harassment, sexual assault, and rape. The participants in this study treat patients of sexual assault and rape. The study conducted gained participants from the population of nurses in the state of Massachusetts that are registered Sexual Assault Nurse Examiners (SANE) for adults. The research includes one ten-question survey regarding questions around their experience with sexual assault victims. The participants can only gather from their experience of victims who did decide to report the assault to receive a

forensic medical examination, but there is no knowledge from the participants whether the victims move forward with the adjudication process. The study was analyzed with the results from one participant.

The brief questionnaire provided knowledge to the researcher with regards to registered adult SANE participation and experience with sexual assault victims. An analysis of the data yielded from the Sexual Assault Nurse Examiner's answers to a brief questionnaire revealed findings within areas of the research questions. The response of the participant was grouped to correspond to the research questions. The first research question of the study is asking the participant what in the forensic medical examination deters victims of sexual assaults from reporting the assault. The participant in this study was asked on the questionnaire if patients will tell him/her what part of the medical examination they fear the most. Upon answering this question, the participant said that victims would feel "nervous, embarrassed, especially about removing their clothes or having the speculum exam done." The last question addressed on the questionnaire asked what would make the medical examination process easier for the victims of these crimes. The response is to provide better education for personnel treating these victims as well as education at the hospital level that is "compassionate, and trauma-informed." The belief of this participant is beginning with believing these victims rather than to blame or shame them for the assault that happened.

The second research question is asking what within the adjudicative process deters victims from reporting the assault. Question three on the survey asks participants how their interactions with police officers within this line of work have been. The participant answered with saying that most of the time law enforcement officials are "compassionate" when given the proper training to inform them of trauma care and sexual assault education. At other times,

police officers will need to be reminded to sit when interviewing or talking to the victim. The eighth question on the survey asks participants what sexual assault victims need to be aware of within the criminal justice system. Upon review, the researcher found that the participant wanted victims to know that not all cases move forward upon being reported first and foremost.

The third research question asks what contributing factors of the medical-legal system deter victims of sexual assault from reporting the crime. Question number seven of the survey asks participants the reasons victims have told you they reported the assault. The participant noted that marginalized victims fear not being believed, giving them mistrust in reporting. Another factor that arose during the analysis of question nine of the questionnaire is education for those within the medical-legal system. Providing education to judges and DA offices is a recommendation of the participant within this study. The participant stated, “There are so many cogs in the wheels of justice, and everyone needs to know their part to ensure a positive outcome for the survivor!”

This study contains validity due to the credibility of the participant. The participant is a registered SANE, RN. Validity is also a concern with the researcher’s personal bias as the researcher who created and conducted the study also analyzed the results. Other limitations include the small sample size of the participants, with only one participant; time constraint of one semester created limitations with the availability of participants and resources converting into validity concerns; and the study did not address one aspect of sexual violence: sexual harassment. There was no autonomous analysis of the data, but it was analyzed by the researcher.

Chapter Five: Discussion

Sexual assault victims are not only faced with the crime they were victimized by but also the aftermath of the criminal act. Choices arise that victims never think they will be faced with,

and these decisions are often influenced by outside sources as well as the internal thought processes of the victim. These influences can route from social influences stemming from family, friends, society, or peers; they can route from internal processes like emotions, fear, or confusion; or external factors like governmental influences or financial situations. The problem addressed within this research is of governmental deterrence and forensic medical examination treatment. This deterrence varies as each victim's situations vary greatly between assaults. Minimizing this deterrence that is within control for many victims will only benefit victims in the future. Deterrence factors that are discussed within this study are experienced by victims of sexual assault that have been treated in the state of Massachusetts by registered SANE.

Both the adjudicative process and the forensic medical examination are at hand with the research conducted. The area of research at hand involves the interaction of law enforcement with Sexual Assault Nurse Examiners that treat sexual assault victims. The cause of the research is to find potential factors of the medical examination that deter victims of sexual assault by surveying a registered SANE. The factors of the medical examination that are being portrayed by this study are those that SANE personnel experience when treating victims of sexual assault. The study addresses the problem of this thesis in the aspect of the factors of the medical examination specifically and how they voice these opinions to those treating them. The answers to many of the questions addressed the positive ways the medical examination and medical system interact and treat the sexual assault victim, while others display areas of weakness within the system.

The first notable finding within this study is the need for improvement in the area of education for medical examiners treating sexual assault victims. Enforcing the importance of bedside manner into the education by incorporating the need for compassion and understanding for these victims. Education that also involves treating trauma is another key aspect of inducing a

better experience for sexual assault victims. A second notable finding within this study is the presence of victim-blaming and victim shaming within the systems today. Some victims do not feel as though they have the voice to come forward within a timely fashion to present biological evidence, prohibiting their cases with the lack of this crucial evidence. This may be one cause of marginalized victims; there are many other causes that can also make victims appear or feel marginalized. The perspectives others have on marginalized victims are the causes for deterrence of this sort.

The greatest aspect of improvement to take away from this particular survey is the need to increase medical personnel's belief of victim's stories. Marginalized victims feel the most at risk for victim blaming and victim shaming. The first step in increasing the empathy of medical personnel is to educate them fully on the range of sexual acts of violence and the need to show compassion to the victims. It's also important to implement appeals to the personnel by ensuring them of the low number of false reports of sexual violence. The education needed for the improvement and appeal of the medical and criminal justice systems as being pro-victim rather than focusing on the penalizing of criminals goes beyond the medical personnel and hospitals at large to personnel working within the criminal justice system. There are many people that victims interact with while prosecuting the perpetrator and also many difficult duties the victim must complete in order to receive justice.

The largest limiting factor of the study conducted during this research is the lack of participants. With only one participant, this study can only be as reliable as the experiences of this one participant. This majorly routes from the time constraint for the semester. The semester only spans the time of fifteen weeks, limiting the time to gather resources, create a study, gather contact information for participants, complete pre-study processes, and finally gather data. The

time constraints were displayed heavily in the step of gathering contact information for participants. A second limitation with this study on a larger, topical scale is the privacy in this aspect of the law and medicine. Asking a Sexual Assault Nurse Examiner to discuss his/her experiences with victims of sexual violence conflicts with ethical standards and the privacy of these victims. These ethical standards and privacy protocols are followed with the research conducted during this study but made research difficult. These standards set limitations on the accessible information for the study. Having one participant aided in the small accessibility to information as well.

Recommendations for future research involve creating a better platform for the questionnaire to be administered on and a larger sample of participants. The first improvement in the procedure of this study to be made with future research is to gather a larger sample size of participants for the study. This study lacked participants, which created a large limitation. The second improvement in the procedure to be made is gathering information via a questionnaire or survey platform to better organize the data. In future research, when the study gains more participants, organizing the qualitative data will be crucial in order to analyze it using the research questions. This organization is made easier with platforms that are made to input a large amount of information.

The first critical conclusion that can be made based upon these findings is the need for education within the medical and criminal justice systems. The participant noted on multiple accounts is the need for education for both medical personnel and those within the criminal justice systems, ranging from police officers to District Attorney Offices. The second critical conclusion that can be made from the research above is the need for empathy by increasing the belief of victims and minimizing the victim shaming and victim-blaming. Extending human

morality through compassion and empathy to these victims can be taught through education. The need for advocates within the reporting process is another critical conclusion that can be drawn from this research. This may also be implemented within educating the personnel involved with treating victims. Ensuring the victim's control is one recommended implementation of medical personnel.

References

- Bishop, K. (2019, April 20). *A reflection on the history of sexual assault laws in the United States*. The Arkansas Journal of Social Change and Public Service.
- Campbell, R., & Fehler-Cabral, G. (2018). Why Police “Couldn’t or Wouldn’t” Submit sexual assault kits for forensic DNA testing: A focal concerns theory analysis of untested rape kits. *Law & Society Review*, 52(1), 73-105. <https://doi.org/10.1111/lasr.12310>
- Campbell, R., Patterson, D., Bybee, D., & Dworkin, E. R. (2009). Predicting Sexual Assault Prosecution Outcomes: The Role of Medical Forensic Evidence Collected by Sexual Assault Nurse Examiners. *Criminal Justice and Behavior*, 36(7), 712–727. <https://doi.org/10.1177/00938548093335054>
- Corrigan, R. (2013). The New Trial by Ordeal: Rape Kits, Police Practices, and the Unintended Effects of Policy Innovation. *Law & Social Inquiry*, 38(4), 920-949. Retrieved March 26, 2021, from <http://www.jstor.org/stable/24545849>
- Cross, T.P., & Schmitt, T. (2019). Forensic Medical Results and Law Enforcement Actions Following Sexual Assault: A Comparison of Child, Adolescent, and Adult Cases. *Child Abuse & Neglect*, 93 103-110. <https://doi-org.ezan.ez.cwmars.org:3443/10.1016/j.chiabu.2019.04.014>
- DePrince, A. P., Wright, N., Gagnon, K. L., Srinivas, T., & Labus, J. (2019). *Social Reactions and Women's Decisions to Report Sexual Assault to Law Enforcement*. SAGE Publications. <https://www.du.edu/tssgroup/media/documents/dpwrightetal19.pdf>
- History.com Staff. (2018, October 9). *How sexual assault has been portrayed—or erased—Throughout history*. HISTORY. <https://www.history.com/news/sexual-assault-rome-slavery-columbus-jim-crow>

- Lorenz, K., Kirkner, A., & Ullman, S. E. (2019). A Qualitative Study Of Sexual Assault Survivors' Post-Assault Legal System Experiences. *Journal of trauma & dissociation: the official journal of the International Society for the Study of Dissociation (ISSD)*, 20(3), 263–287. <https://doi.org/10.1080/15299732.2019.1592643>
- Merriam-Webster. (n.d.). Medico-legal. In *Merriam-Webster.com dictionary*. Retrieved March 21, 2021, from <https://www.merriam-webster.com/dictionary/medicolegal>
- Overview of Rape and Sexual Violence*. (2010, October 25). National Institute of Justice. <https://nij.ojp.gov/topics/articles/overview-rape-and-sexual-violence>
- RAINN. (2021). *The Criminal Justice System: Statistics*. RAINN | The nation's largest anti-sexual violence organization. <https://www.rainn.org/reporting-and-criminal-justice-system>
- RAINN. (2021). *Scope of the Problem: Statistics*. RAINN | The nation's largest anti-sexual violence organization. <https://www.rainn.org/statistics>
- RAINN. (2021). *What is a Sexual Assault Forensic Exam*. RAINN | The nation's largest anti-sexual violence organization. <https://www.rainn.org/articles/rape-kit>
- The United States Department of Justice. (2019, May 16). *Sexual Assault*. U.S. Department of Justice. <https://www.justice.gov/ovw/sexual-assault>
- U.S. Department of Health & Human Services. (2016, February 17). *Sexual intercourse with minors*. ASPE - Office Of The Assistant Secretary For Planning And Evaluation. <https://aspe.hhs.gov/report/statutory-rape-guide-state-laws-and-reporting-requirements-summary-current-state-laws/sexual-intercourse-minors>
- Whiting, J. B., John, M. P., Pickens, J. C., Davies, B., & Sagers, A. L. (2020). *Trauma, social*

media, and #WhyIDidntReport: An analysis of twitter posts about reluctance to report sexual assault. Journal of Marital and Family Therapy.

