

A Research Report

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Research and Development  
of Model Procedures  
for Criminal Justice System  
Involvement with the Crime  
of Forcible Rape

**First Year Report**

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November 1975

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**Battelle**

Human Affairs Research Centers  
Law and Justice Study Center

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RESEARCH AND DEVELOPMENT OF MODEL  
PROCEDURES FOR CRIMINAL JUSTICE  
SYSTEM INVOLVEMENT WITH THE  
CRIME OF FORCIBLE RAPE

FIRST YEAR REPORT

Submitted to the National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration, U.S. Department of Justice, by the Battelle Law and Justice Study Center, Seattle, Washington, under Discretionary Grant #75-NI-99-0015.

November 10, 1975

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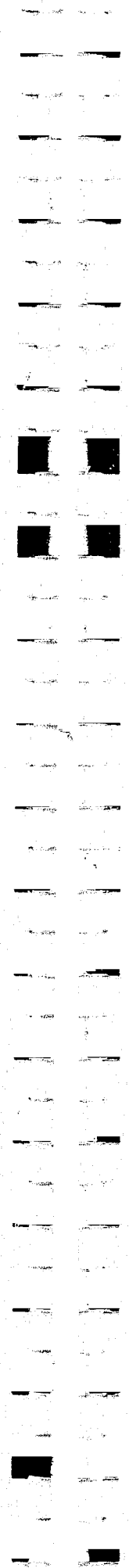
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THE JOURNAL

TABLE OF CONTENTS

	Page
INTRODUCTION AND OVERVIEW. . . . .	1
NATIONAL SURVEYS . . . . .	4
Nationwide Survey of Police Response to . . . . . Forcible Rape	5
Nationwide Survey of Prosecutor Response to. . . . . Forcible Rape	27
PILOT-SITE ACTIVITIES. . . . .	35
Preparation and Planning . . . . .	36
Police Procedures for Handling Rape. . . . .	44
Prosecutor Procedures for Handling Rape. . . . .	49
Procedures for Treatment of Rape Victims . . . . .	53
Procedures for Treatment of Rape Offenders . . . . .	61
PILOT-SITE RESEARCH EXPERIENCES. . . . .	65
Analysis of Initial Rape Reports . . . . .	67
Analysis of Follow-Up Investigation Reports. . . . .	72
Analysis of Arrest Reports . . . . .	82
Analysis of Prosecutor Records . . . . .	92
Analysis of Patrol Officer Interviews. . . . .	101
Interviews with Other Criminal Justice Personnel . . . . .	107
Police Investigators . . . . .	107
Police Administrators/ Policymakers . . . . .	109
Prosecutors. . . . .	110
Defense Attorneys. . . . .	111
Judges . . . . .	112
Analysis of Victim Interviews. . . . .	114



	Page
RAPE LEGISLATION DIGEST . . . . .	128
CONCLUSIONS . . . . .	138

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INTRODUCTION AND OVERVIEW

"The law enforcement and criminal justice agencies have the dual responsibility of upholding the laws of the society and providing justice for victims and offenders. These agencies admittedly have difficulties fulfilling these responsibilities in cases of forcible rape, but are unclear as to the proper direction to take in resolving their difficulties."<sup>1</sup>

This statement indicates succinctly the nature of current responsibilities and dilemmas confronting criminal justice agencies in the area of forcible rape. The importance of these responsibilities and dilemmas has been emphasized by the high level of community concern about the crime of forcible rape. In large part, this concern has been based upon the dramatic increase in the reported incidence of forcible rape throughout the United States during the past decade.

Confronted by a situation requiring a rapid response, criminal justice agencies in many parts of the United States are seeking ways of strengthening their capabilities to deal with

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<sup>1</sup>Jackson, Cynthia S. "Forcible Rape: Consideration of the Basic Issues," Research Operations Division, National Institute of Law Enforcement and Criminal Justice, August, 1973, p. 24.

this serious form of assault. Despite recent innovations in the handling of this offense, a number of major dilemmas appear to remain.

First, the advances made to date have been on an ad hoc basis. Separate agencies in different parts of the country are experimenting with new approaches to the crime of forcible rape without necessarily being aware of what is being tried elsewhere. Second, the development of, and agreement upon, the most effective and efficient procedures for criminal justice agencies in this area have been minimal. Information related to fresh approaches which do or do not work has yet to be communicated on an extensive basis. Third, no centralized information source currently exists to which criminal justice agencies can refer for assistance to determine the appropriate response to the crime of forcible rape. Even were such a source available, no systematic attempt has yet been made on a national level to identify the nature or dimensions of the problems and needs of the criminal justice system in dealing with this crime.

In an effort to address and provide solutions to the major issues discussed above, it was proposed to implement a two-phase research program over a period of 24 months. The overall aim of this research program was, and continues to be, the development and initiation of realistic nationwide procedures for the handling of forcible rape offenses. The long-range objectives to be met by this program included:

- (1) the development of effective strategies and procedures for law enforcement departments to

utilize in the investigation of rape cases, including the gathering of evidence, apprehension of offenders, and handling of victims;

- (2) the development of effective strategies and procedures for district attorneys in the prosecution of rape cases, including procedures for interaction with police during investigation, strategies for the interrogation and treatment of victims and witnesses, and courtroom procedures.

In order to accomplish the primary program objectives, two institutions cooperated in the research venture. The Law and Justice Study Center of Battelle Memorial Institute coordinated and administered the entire project. In cooperation with Battelle and in the role of subcontractor, the National Legal Data Center (NLDC) assumed responsibility for the conduct of research related to current and proposed rape legislation and other issues relevant to forcible rape prosecutions.

The research tasks to be accomplished in the first year included:

- (1) national survey of at least 200 law enforcement agencies to determine current procedures for handling forcible rape offenses and identification of primary problems;
- (2) national survey of at least 200 prosecutors' offices to determine current procedures for

the prosecution of rape offenses and identification of primary problems;

- (3) survey and analysis of state and federal statutes and cases related to forcible rape;
- (4) interviews with convicted rapists in an effort to determine "typologies" or patterns of rape offenses and preventive strategies which could be utilized by potential victims;
- (5) interviews with rape victims to determine the nature of their interactions with elements of the criminal justice system, or reasons for non-reporting;
- (6) intensive pilot research of criminal justice procedures for handling forcible rape offenses.

A summary overview of the methodology and results of each of these tasks is presented in the following sections of the final report. More extensive findings appear in previous quarterly reports, in appendices referenced in the text, or under separate cover (national surveys of police and prosecutor agencies).

#### I. National Surveys

The use of national surveys of law enforcement and prosecutive agencies was dictated by the firm belief that the diversity of criminal justice procedures across the country necessitated an adequate sampling of techniques used, and problems encountered, in handling rape cases. Only by national surveys would it be possible to classify and evaluate current and proposed procedures

and provide the cumulative knowledge of these procedures lacking in single city or sole agency studies. In addition to other objectives, these data were anticipated to permit identification of truly innovative programs being conducted in the field of forcible rape.

Nationwide Survey of Police Response to Forcible Rape. The research methodology adopted for the police survey was designed to obtain responses from the broadest representation of law enforcement agencies dealing with the problem of forcible rape. Agencies were selected from all parts of the country and varied in size from those serving the largest jurisdictions to those serving jurisdictions of 25,000 people. Agencies were also selected to represent different types of law enforcement jurisdictions including city, county, and university departments.

The total sample for the police survey consisted of 208 law enforcement agencies randomly selected to represent all parts of the country. This sample included 25 pre-test agencies, 184 primary sample agencies, and 29 alternates which were utilized as replacements for non-responding primary sample departments. These agencies were sub-divided into the following six groups which reflected the size and type of jurisdiction:

- |           |   |
|-----------|---|
| Group I   | - agencies serving urban populations in excess of 500,000;  |
| Group II  | - agencies serving urban populations of 100,000 to 500,000; |
| Group III | - county agencies with more than 95 personnel;              |

- Group IV - agencies serving urban populations of 50,000 to 100,000;
- Group V - agencies serving small cities with populations of 25,000 to 50,000; and
- Group VI - university police agencies with manpower strengths exceeding 60 officers.

The population from which responding departments were selected represented police agencies which dealt with over 90 percent of the nationally reported rapes in 1974. Actual departments included in the survey handled more than 60 percent of the rapes reported nationally in 1974. (See Forcible Rape: A National Survey of the Response by Police for a complete discussion of the survey methodology and findings.)

Respondents were asked to provide information about their agencies' general policies and specific practices in the following nine areas:

1. Classification methods - those elements considered important in classifying a reported crime as rape, and in later clearing or unfounding such complaints;
2. Factors involved with rape - those factors observed to be frequently associated with the crime of rape in respondents' jurisdictions;
3. Processing criteria - factors important in the agency's decisions to investigate, arrest, and file charges in rape cases;
4. Procedures in taking crime reports - agency practice with regard to the taking of initial reports or complaints of rape;
5. Victim services - agency awareness, utilization and perceived effectiveness of extra-legal services available to rape victims;
6. Investigative strategies - respondents' appraisal of the usefulness and perceived effectiveness of various investigative tools in making successful rape cases;
7. Prosecutive outcomes - those factors of rape cases perceived important in yielding successful outcomes in the judicial process;
8. Training methods - the extent and nature of special training given police personnel regarding responses to and investigations of rape cases;
9. Innovative activities - new and innovative policies or practices either instituted or planned in police agencies.



Each of these areas was thought to represent an important dimension of current police practice in response to the crime of forcible rape. As a group, these nine areas were considered sufficient to provide a fully comprehensive picture of rape enforcement policies throughout the nation.

The solicitation of classification methods is a fairly standard survey request in the study of system practice with regard to any crime. In effect, the survey was asking respondents to "define rape" according to the operational realities of their own agencies. Though a standard request, responses were not standardized in nature. Most agencies (52%) reported the straightforward adoption of UCR guidelines as the means whereby an offense is classified as rape, that is, the presence of penetration and force. A significant proportion of respondents (28%), however, reported the operational use of a standard higher than that of the UCR guidelines, requiring evidence of a weapon and/or victim resistance in addition to penetration and force in order to classify an offense as rape.

A majority of agencies (38%) reported that both insufficient evidence and lack of victim cooperation must exist before a report of rape is unfounded, although 36 percent of respondents indicated that lack of victim cooperation alone was enough to unfound a report. Respondents in 18 percent of the agencies sampled reported that an excess of time between the alleged event and its report to them was enough to unfound the complaint.

Lack of victim cooperation was again frequently reported as a significant element in the decision to clear a rape case, appearing in 45 percent of the responses. Slightly more important, however, was the victim's ability to identify the offender, accounting for 58 percent of the cases cleared.

The relative stringency of police classification criteria in the crime of rape has often been thought to be a significant factor in the considerable under-reporting associated with this crime. The data of this survey partly supported and disputed this contention. Initial classification standards showed a significant negative relationship to number of rapes reported, although standards regarding case clearance and unfounding were not consistently related to the number of crimes reported.

With regard to those factors of rape events most frequently associated with the crime, police respondents showed substantial capacity to characterize rape as a crime event in their jurisdictions. In fact, general patterns of rape events could be gleaned from the survey, but the number of factors examined was so large that an accurate summary cannot be efficiently included here.

Criteria used in making process decisions at different stages in the police handling of a case are some of the most critical in determining whether the report of an event moves forward in the criminal justice system. Processing criteria solicited by the police agency survey was related to three critical decision points: the decision to investigate; the decision to arrest; and the decision to formally charge or move forward to prosecute. While some of the same factors important for initial classification, clearance and unfounding of a crime report were also reported as significant to processing decisions, some interesting re-prioritizing of these factors seemed to occur at the investigative, arrest and charging stages. For example, while proof of penetration, offender use of force, and promptness of reporting (those factors considered important in classifying an offense as rape) were equally important in the decision to investigate, two new factors were also significant for the investigatory decision: 1) the extent of injury to victim, and 2) the relationship between victim and suspect. As a case moved further toward arrest, however, promptness of

reporting lost its prominence, and "penetration" and "use of force" took positions of second and third importance to a newly prominent factor: "extent of suspect identification." Similarly, the presence of witnesses was injected into the arrest decision, a factor much less important in the decision to investigate, presumably because such individuals are likely to be "products" of the investigative process.

As a case moves toward prosecution, proof of penetration, suspect identification, and use of force (in that order) were reported by respondents as most important, with relationship between victim and suspect and availability of witnesses assuming important fourth and fifth positions. Most interesting was the degree of identity between those factors indicated as important for arrest decisions and those perceived as important in the decision to prosecute. In effect, the data strongly suggest that police agencies, at least in the rape area, conform arrest criteria to the same elements perceived as most important at the prosecutive level.

Indeed, the evidentiary needs of the prosecutor appeared to dominate police process decisions to the exclusion of other more qualitative aspects of the crime, such as offender arrest record, demographics of victim and suspect, or the location of the offense. Absent from all three police process decisions was, of course, the degree of victim cooperation--a factor screened at the classification stage.

The police procedures used in taking crime reports have long been considered an important source of later victim attrition. Respondents were asked to provide information on three aspects of their agencies' initial report procedures: 1) the characteristics of police personnel who first respond to a rape report; 2) the degree of specialization of the report form on which information is recorded; and 3) the extent and use of third parties as report sources.

Eighty-two percent of all respondents reported that the most readily available patrol officer was most likely to respond first to a rape report. Specifically designated individuals or units were first to respond in only 18 percent of the respondent agencies. Usually, the responding patrol officer recorded information given by the victim and/or witnesses on a general crime report form. Rape-specific forms were utilized by only two percent of the agencies surveyed. Other agencies reported the use of assault or crimes-against-persons forms (14 percent of those responding); sexual offense forms (3%), or felony forms (7%).

Only 23 percent of agencies in the sample indicated the presence of third-party reporting systems in their jurisdictions. Of these agencies, only three percent felt that third-party reporting systems provided information helpful in apprehending rapists, while nearly half of these agencies did not find third parties at all helpful. Of those agencies unfamiliar with third-party systems, 74 percent reported no

plans for such a system in their jurisdictions, and 70 percent saw no potential assistance from such sources.

Third-party reporting systems are very often part of broader systems of service for victims of rape. Survey respondents were asked about the availability and presence of victim services in the areas of medical treatment and crisis counseling. Both medical and counseling services for victims appeared to command much more support from police than reporting services designed to protect the identity of victims.

In 76 percent of the agencies responding, special medical services for rape victims were available on a 24-hour basis. In those jurisdictions where such services were presently unavailable, 65 percent of the respondents felt they would be useful. The existence of special counseling services for rape victims was reported by 65 percent of the agencies surveyed. Counseling services were usually staffed by a combination of professional and paraprofessional personnel. Ninety-four percent of all victim services were available on a 24-hour basis.

Those police agencies familiar with victim counseling services characterized their relationship with these service groups as "very cooperative." Only 3 percent felt their relationship with rape counselors was uncooperative.

In those jurisdictions where counseling services were presently unavailable, virtually every agency (99%) recog-

nized the need for these services. In these same jurisdictions, most respondents (63%) felt that special agencies staffed by professionals were preferable; followed by hospital-based services (26%); volunteer groups (19%); services provided by law enforcement agencies (14%); and finally, utilization of volunteer counselors working through law enforcement agencies (5%).

The core of the police agency's response to rape is the nature and content of the investigative resources and strategies applied to individual cases. With regard to the nature of investigative resources devoted to rape cases, most respondents (66%) indicating the existence of a special unit in their agency that handled rape cases. Questions related to caseload content and investigator time spent on rape cases, however, revealed that only 16 percent of the agencies surveyed contained units that specialized exclusively in sex offenses. In most agencies (24%), "special units" which handled rape offenses also investigated homicides and felonious assaults. Only 12 percent of the agencies responding reported that special unit investigators spent at least 75 percent of their time exclusively on sex offenses. Actual specialization was, therefore, relatively infrequent.

Regardless of the specialization of the investigative unit, a female investigator was often included among its personnel. Female investigators comprised 22 percent of the investigative resources devoted to rape.

With regard to specific investigative strategies, respondents were asked to evaluate 14 investigative tools in terms of their frequency of use, their effectiveness, and the percentage of 1974 arrests which resulted from their use. The responses were most instructive. The five investigative tools used most frequently by agencies were the following:

- 1) photo files (i.e., mug books);
- 2) physical evidence other than fingerprints;
- 3) known offender files;
- 4) MO files; and
- 5) line-ups.

On the effectiveness dimension, respondents evaluated the various strategies in the following manner: most effective was the victim's ability to name the suspect, next in effectiveness was the line-up followed in order by the auto license check, the photo file, and the administration of a polygraph test to the victim.

The five investigative tools which accounted for the highest percentages of contribution made by various strategies in 1974 arrests included the following: 1) the victim's ability to name the suspect (22%); 2) the line-up (20%); 3) the photo file (16%); 4) physical evidence (7%); and finally, the auto license check (6%).

The most frequently used investigative tools were not necessarily those evaluated as most effective or most capable of resulting in an arrest. Part of the reason for this inconsistency relates to the nature of the most effective strategies. The victim's ability to name the suspect or the

use of a line-up are infrequently available. When the victim knows the suspect or when an auto is involved, the use of strategies related to these elements appear to hold great potential. Interestingly enough, however, such elements are qualitative dimensions of the offense of the kind which do not generally appear to affect process decisions in most police agencies.

A similar phenomenon was revealed when respondents were asked to comment on a list of apprehension methods vis-à-vis frequency of use, effectiveness, and contribution to arrests. Once again, the most frequently used apprehension methods (the known offender file and the vehicle patrol) were recognized neither as the most effective methods nor as those most capable of yielding an arrest. Rather, the suspect confession and the statements of witnesses were considered the most effective strategies for effecting an arrest, while the confession and the known offender file together accounted for the largest proportions of actual arrests.

Only when respondents were asked about prevention methods were their responses consistent across the dimensions of use, effectiveness and arrest. The two prevention methods reported by police agencies as most frequently used, most effective and most responsible for arrests were the use of the known offender file and vehicle patrol.

Since police insensitivity is often suggested as a contributing factor to high rates of victim dropout during rape

investigations, respondents were specifically asked about their interactions with the rape victim. Most respondents (80%) did not report the existence of any special guidelines for use in interviewing victims, but nearly one third (32%) reported the need for more private or improved facilities for conducting victim interviews.

If victim dropout occurs, most agencies experience it at the point when an investigation is underway, but before an arrest is made. Twelve percent of victim dropouts occurred during this period. When asked about the reasons for victim dropout, respondents indicated that false allegations by victim and the victim's fear of the court process as the two most frequent reasons for victim attrition. Interestingly enough, none of the respondents attributed victim dropout to insensitive police procedures, although such an option was present on the survey instrument.

With regard to prosecutive outcomes, respondents were asked to provide information about the policies and practices of their local prosecutor's office vis à vis rape cases. Since an independent, nationwide prosecutor survey was being conducted, police respondents were not asked to describe local prosecutive practice in detail. Instead, respondents were requested to comment on specific dimensions of prosecutive practice that might be expected to affect their activities. Specialization, or lack thereof, in a prosecutor's office, for example might be expected to affect the ease with which a rape case moves smoothly from the police agency into the judicial process.

Most respondents (78%) reported a lack of crime-specific specialization in the local prosecutor's office. Even in those offices where some specialization was reported, further questioning revealed that in most cases (91%) the "special unit" of the prosecuting attorney handled many other kinds of cases in addition to rape. Specialization at the prosecutive level, then, was even less likely than that found within police agencies.

While most police respondents reported an excellent relationship with the local prosecutor, one third of the police agencies surveyed indicated that the relationship was either merely acceptable or needed improvement. The one improvement cited most frequently which would enhance enforcement of rape was the formation of a special rape unit in the prosecutive office. The second most frequent means by which the police/prosecutor interface could be improved was an increased understanding of rape on the part of prosecutors.

Despite the relative lack of specialization reported at the prosecutive level, those police respondents who saw needed improvement advocated greater specialization on the part of prosecutors either in the development of more crime-specific knowledge or in the handling of cases by specialized units.

Outcomes of the judicial process often occur in situations over which the prosecutor has considerable control or influence. In particular, the plea bargain and the sentence recommendation are two such outcome dynamics. Police respondents were asked to evaluate the policies of their respective prosecutive agencies in regard to the use of pleas and sentence recommendations in rape cases. Most respondents (76%) saw plea bargaining as a necessary dynamic of the criminal justice system, although 41 percent of them reported a need for change in its application to rape cases in their jurisdiction. Reporting agencies indicated a frequent use of the plea bargain in their jurisdictions for rape cases. Plea negotiations occurred in an average of 56 percent of rape cases handled in the jurisdictions surveyed.

In general, police respondents indicated that the sentences meted out to convicted rapists were too lenient (57%). A significant proportion (42%), however, were persuaded that current sentencing levels were appropriate. (See pp. 112.) Most respondents preferred differential sentences for first offenders and for those convicted of subsequent rapes. The most frequently recommended sentence for first offenders carried a minimum of probation/suspended sentence or a term of less than five years, with a maximum of six to 10 years. For repeat offenders, however, most respondents recommended life sentences.

Having asked respondents to report the policies and practices of their agencies, to describe rape events in their jurisdictions, and to comment on the nature of the outcomes applied in the judicial sector, the final two sections of the survey requested information about proactive agency responses in the area of rape. The first of these sections dealt with the existence and need for special police training on rape. Seventy-five percent of the agencies surveyed reported a compulsory pre-service training program for all personnel. Of these, 84 percent indicated that specific information on handling rape cases was included in such training programs. The most frequent aspects of rape cases covered in such programs related to the special evidentiary requirements of the crime, the interviewing of the rape victim, and the use of referral services. "Rape as a social problem" was least likely to be included in such training, although this aspect was reported to be included in 38 percent of police training programs.

In-service training programs on rape included many of the same subject areas as the pre-service programs. The existence of an in-service training course related to rape was reported by 84 percent of the respondents. Two trends were apparent in the selection of agency personnel to receive special rape training. In general, either all personnel received such training or fewer than 25 percent of agency personnel received such training.

The final area covered in the survey dealt with present

or planned police innovations in the area of rape.

Respondents reported an average of 6.5 percent increase in reported rape in their jurisdictions. Most respondents attributed this increase to two separate factors: 1) a general societal increase in violence; and 2) changes in public attitudes resulting in more reporting of the offense.

Increasing rape rates combined with heightened public awareness of the crime appeared to have elicited a large number of special studies of rape in local jurisdictions. In the past three years, a special rape study had been conducted in 35 percent of the areas represented by respondents. Interestingly enough, jurisdictions in which studies had been done were also those sustaining the largest increases in rape rates. The average rate increase for the "studied" jurisdictions was 24 percent; while the average increase for "non-studied" jurisdictions was 6 percent.

Most respondents (52%) reported that their agencies had instituted some form of innovation in the past three years to deal with rape cases. The most frequent innovations mentioned were the introduction of special training programs and the use of female rape investigators. In addition, 31 percent of the agencies surveyed indicated that future changes were planned, with the same two innovations again noted most frequently. The presence or planning of innovations appeared directly related to the seriousness of the problem faced in the jurisdiction. Thus, in those agencies where changes were

planned, the rate of increase in rapes between 1973 and 1974 was as much as 33 percent.

The three major improvements seen as necessary by police respondents in dealing with rape were, as follows: 1) more public education; 2) the provision of more victim services; and 3) more appropriate sentencing levels. Interestingly enough, the first two suggestions involve improvements which are outside the purview of the criminal justice system.

#### Conclusion

On the whole, respondents to the nationwide police survey provided a full and detailed picture of current police policy and practice in dealing with forcible rape. In addition, they provided some intriguing insights into the nature of the crime itself, the nature of extra-system services available, and the need for changes and improvements both within the criminal justice system and in the larger society as well.

If one summarized the experience of police agencies in the crime of forcible rape, then, it would be characterized as follows: most agencies confront a rape event involving a victim and a suspect who are total strangers. The event is likely to have occurred in the victim's place of residence, without her consent and to have been facilitated by the use of physical force by the suspect. While she is not likely to have resisted, she is likely to have received physical injury. The more her resistance, the more serious the injury. Although she will not have known her assailant beforehand, she will be able to identify him if seen again. He is likely to

be an individual retrievable by police since he will have an arrest record for previous assaultive behavior, often prior sex offenses. The victim will be likely to report the event directly to police within one hour of its occurrence.

The first individual to respond to the victim's report is likely to be the patrol officer nearest the scene. He or she may be joined later by an investigator or a special rape-trained patrol unit if either is available. In general, the officer who responds to the initial complaint will be responsible for transporting the victim to a hospital for treatment and for the gathering of forensic evidence. Hospital services are likely to be available 24 hours a day with a physician present.

In most cases, the patrol officer will have received about one day's training on handling a rape situation as part of his/her basic training program. He will be less likely than his more specialized investigator counterpart, however, to have had any training beyond this. In most cases, the officer will record information at the scene on a report form that is general in nature. Because the rape event is an infrequent one confronting him, he may fail to note details that are later important to the case.

The officer's agency will receive the report and will look for two main factors in order to classify the event as rape: 1) proof of penetration, which the hospital will provide; and 2) use of force by the offender, as evidenced by injury to the victim or her statement. If either or both of these elements is missing, the agency is likely to unfound the report.



The victim's lack of cooperation will also have this effect. If the victim fails to cooperate, the case may also be classified as cleared, but clearance is most likely to follow the victim's identification of the suspect.

From the patrol officer, the case will pass to an investigator. Generally, this investigator will not specialize in rape cases exclusively but will deal as well with homicides and felonious assaults. The investigator will look for such elements as proof of penetration, use of force, promptness of victim reporting, and victim injuries in deciding whether to go forward with an investigation. One of the investigator's first steps will be to interview the victim at his police department office in surroundings that will be neither adequately private nor comfortable.

Once the decision to investigate is made, the investigator will pursue fairly routine investigative strategies unless the particular situation provides short-cuts. The victim's ability to identify the suspect by name and/or the use of a car by the suspect will, for example, lead him to pursue these elements of information. At this point, the investigator will be most interested in those elements of the crime that directly relate to the evidentiary needs of the prosecutor. Thus, in making the decision to arrest a suspect and file formal charges against him, the investigator will keep the five following factors uppermost in his mind: 1) the ability of the victim to identify the suspect; 2) whether or not this ability is generated from a prior social/sexual relationship; 3) proof of penetration;

4) use of physical force by suspect; and 5) the availability of witnesses. Even with the most cooperative of victims, the investigator may experience dropout because of the time lag between his launching of an investigation and the making of an arrest.

Once the case is filed, it will go to a prosecutor who is unspecialized in dealing with rape cases. This individual is likely to accept a plea from the suspect that the investigator will not be entirely happy with. The sentence meted out is also unlikely to meet with the investigator's expectations or satisfaction.

In general, the police agency will not be positively inclined toward a third-party report of the rape. The agency will, however, support the victim in her desire to receive medical and counseling services from third-party sources.

It is quite likely that officers working in jurisdictions where rape has increased significantly in the past few years will have experienced some procedural or policy changes regarding that crime. They are more likely to utilize female officers or investigators on rape cases, to have received some special training, and to be aware of a special study of rape conducted in their jurisdiction. They will still, however, see the need for improvements. Within the system, officers are likely to want to see more specialized prosecutive attention to rape. Outside the system they will see the need for better public education and victim services.

The crime of forcible rape is a relatively infrequent event confronting police agencies and yet it is one of the most serious forms of criminal victimization that can befall any of their constituents. As with all types of crime, the conflict will always arise as to the utilization of scarce resources to achieve a kind of general efficiency and effectiveness as opposed to a more specialized response to varying situations. Rape, by its sheer infrequent yet severe nature, presents that conflict in the extreme. In general, police agencies would appear to have chosen a middle course, applying generalized procedures and policies for the processing of such crimes, but recognizing the unique nature of the crime and providing training programs to deal with it. Where local situations dictate, agencies are quite likely to begin focusing greater resources in a specialized fashion.

Nationwide Survey of Prosecutor Response to Forcible Rape.

In addition to the Police Survey, the Prosecutor Survey was a major product of the first year of research. This survey was undertaken to gather descriptive data pertinent to the prosecution of rape cases. The questionnaire used for this survey resembled the one used for the police survey. Some of the topics included on the questionnaire related to the structure of the prosecutors' offices, established policies and procedures for disposing of rape cases, factors surrounding the rape event involved in the cases presented for prosecutors' office, established policies and procedures for disposing of rape cases, factors surrounding the rape event involved in the cases presented for prosecution, and prosecutive innovations and reforms.

A complete report on this portion of the research was prepared by the National Legal Data Center under subcontract to Battelle Institute. The following contains a capsulation of the material presented in that report. (See Forcible Rape: A National Survey of the Response by Prosecutors for a complete discussion of the results.)

A potential sample of 300 prosecutor's offices was selected to represent jurisdictions with populations ranging from 25,000 to 1,000,000 plus. From this group, 228 agencies were contacted to participate in the research. Eventually, 150 offices (66%) returned completed questionnaires. These were divided into three groups. The first contained the 15 offices representing the "large" jurisdictions that serve populations of 1,000,000 or

more people. The second group contained the 101 offices representing the "medium" jurisdictions that serve populations of from 100,000 to 999,999 people. The last group contained the 34 offices representing the "small" jurisdictions that serve populations of from 25,000 to 99,999 people.

The offices were initially contacted by telephone. Permission was sought from someone in authority for the agency to participate in the research. Additional telephone calls and Western Union Mailgrams were used as a means of follow-up contact to encourage participating agencies to complete and return the questionnaires which they had been sent.

The survey included questions related to various factors (location, injuries, race, etc.), that are involved with rape events. The primary finding in this section was that rape is not a singular, well-defined crime. The circumstances involved with the event may vary considerably, but the episode can still be classified as rape. However, it was determined that many of the factors associated with the events generally categorized as rape are remarkably similar across jurisdictions of all sizes.

While a precise description of the "average" rape case referred for prosecution is impossible, most of the cases presented to courts can be described. Generally, rapes involved adults of the same race. Although the assailant was usually a stranger to the victim, she was able to identify him on sight. Some type of weapon was often used and the victim generally sustained some type of injury. The offense, to which there were normally no witnesses, was frequently reported to the police within one

hour of the occurrence. In the cases presented for prosecution, the accused was often unemployed, but most frequently a non-professional worker of some type. He generally had a record of prior arrests and convictions for rape or other sex offenses, but not infrequently for other violent offenses.

Certain factors were found to be related to the decision to file charges against an alleged rapist, and certain factors were believed important in obtaining a conviction once charges were filed. According to respondents from prosecutor's offices representing jurisdictions of all sizes, the most important factor in making the decision to file charges and in obtaining a conviction was the use of physical force by the defendant. Proof of penetration was the second most important factor used by prosecutors in deciding whether to file charges for rape or some other offense. With respect to obtaining a conviction, injury to the victim was the second most important factor. The promptness with which the offense is reported was the third most important factor for both filing decisions and obtaining a conviction.

Fifty-four percent of all jurisdictions reported having a special complaint prosecutor who was responsible for filing all rape cases. However, only 16 percent of the responding offices utilized a special unit to prosecute rape cases. Of the 127 offices that reported having no special group to try rapes, 42 percent indicated that all prosecutors handle them equally, and 34 percent reported that all prosecutors handle them, but some handle more than others. In addition, 24 percent of the offices

indicated that particular prosecutors handle all rape cases, but they are not a special unit.

A total of 69 percent of the respondents reported the existence of an excellent relationship with the local law enforcement agencies in dealing with rape cases. In the large jurisdictions, 80 percent of the offices reported an excellent relationship. Only four percent of the offices reported that their relationship with the police needed improvement. The most frequently cited reason for having a good relationship was the use of interdepartmental liaison personnel. When asked how relations with law enforcement could be improved, the most frequent response was an increased understanding of rape issues on the part of police personnel.

Based on data received from respondents, lack of victim cooperation does not appear to be a problem for prosecutors. Only two percent of the offices reported that victims withdrew cooperation more than 50 percent of the time. Fifty-eight percent reported that victims withdrew less than 10 percent of the time. The most frequently given reason for this occurrence, especially in the smallest jurisdictions, was fear or embarrassment associated with pursuit of rape prosecution.

Very few (1%) of the prosecutor's offices had written descriptions of trial procedures available for victims and witnesses involved in rape cases. Victim-witness handout materials were rare for victims/witnesses of any crime. Only seven percent of the offices surveyed had any written information available.

Plea bargaining was used in over half of the cases handled by all responding offices. In the largest jurisdictions it was used in 62 percent of the cases handled, and in the smallest jurisdictions it is used in 48 percent of the cases. The perceived appropriateness of plea bargaining was also explored. Respondents thought bargains were appropriate in the following percentage of cases: large jurisdictions (65%); medium jurisdictions (62%); and small jurisdictions (54%).

When asked about their general feelings toward plea bargaining, 77 percent of the respondents indicated that they felt that the system "is fine the way it is." By far the most common reason for holding this belief was that "the system is fair and effective." In contrast, among the 19 percent of the respondents who indicated that the system "should be retained but changed," it was most commonly held that the sentences given were too lenient.

The questionnaire asked what was the average sentence actually imposed by the courts in rape cases. Thirty-five percent of the respondents indicated that the average sentence entailed no incarceration whatsoever. Twenty-nine percent indicated that the average sentence imposed was one to five years, and 20 percent indicated that it was six to 10 years. Only eight percent reported that 20 or more years of imprisonment was the term of the average sentence.

Agencies were asked to indicate the most significant difficulties encountered in obtaining a conviction in a jury trial. The credibility of the victim was the response provided the most

frequently (92%). The next most frequently reported difficulties consisted of strictness of the corroboration requirements (22%) and limited resources available for presentation of cases (15%).

In order to determine whether changes have been implemented in prosecutor's offices, respondents were asked whether their agency had modified or developed any new procedures in dealing with rape. Only 26 percent responded affirmatively. The most common change reported was better forensic resources available for prosecution. Use of more female deputies and special training for prosecutors were also noted with some frequency. In addition, 26 percent of the respondents indicated future plans to make changes in the procedures for handling rape. The most commonly planned change was the introduction of special training for trial deputies. Other planned changes included the formation of a special rape unit and use of female investigators. Use of female deputies was rated a distant sixth as a planned change.

Respondents were asked whether members of their offices received special training on forcible rape prosecution. Only 19 percent of the agency respondents indicated that they did. Although 54 percent of the agencies reported the use of special prosecutors for handling rape cases, the number of offices offering special training fell far below the number of offices reporting the use of special prosecutors for rape cases. This was a discrepancy which indicated the need for the development of training materials for the prosecution of rape cases.

In the concluding sections of the questionnaire, agencies were surveyed about those aspects of the problem of forcible rape

considered to be the most important with respect to the need for improvement. Public education was ranked first in need for improvement and police investigation techniques were ranked second. Fewest improvements were needed in prosecution policies.

With respect to revisions of state rape statutes, respondents were almost unanimous in their choice of suggested changes, i.e., limiting the extent to which a victim can be cross-examined, especially in reference to her prior sexual conduct. The least important change designated was the removal of statutory requirements for cautionary jury instructions.

As previously stated, the complete findings of the prosecutor survey constitutes a complete report of its own. Only descriptive highlights of that report have been included here. For example, one very interesting, but perplexing finding not discussed above was that prosecutors from within the same states gave different answers to questions about the specific provisions of the statutes and case law which governed rape prosecutions in their jurisdictions. This indicates that there is a great deal of latitude in the way rape law is interpreted and applied in different jurisdictions even with the same state.

In general, analysis of the data obtained from the prosecutor survey revealed three specific areas of need. The first of these is a complete analysis of the legislative and case law that applies to the prosecution of rape cases. Such an analysis must address those issues most relevant to rape prosecutions, e.g., victim consent, resistance and use of force, corroboration, victim character evidence, protection of the privacy of the victim and

offender, legal provisions related to the treatment of convicted rapists, degrees of rape, and cautionary instructions to juries.

A second area of need concerns standards for the exercise of prosecutive discretion, particularly at the filing stage of criminal prosecution. The survey results clearly indicated that factors which influenced this decision were often unrelated to the legal aspects of the cases brought before filing deputies.

Finally, if forcible rape convictions are to be increased, effective prosecutive techniques and strategies must be identified and put into use. Trial deputies who try cases, particularly those who lack sophistication in the prosecution of forcible sexual assaults, require more guidance than can be provided by occasional on-the-job experiences.

## II. Pilot Site Activities

The purpose of the pilot site study was to determine the feasibility and usefulness of such research to the ultimate development of guidelines for criminal justice agencies in handling/preventing forcible rape offenses. A pilot site study method was adopted to ensure that all parts of one system were examined simultaneously. This would allow careful examinations of current procedures and their effectiveness, the interactions among various elements of the system, resources devoted to victim treatment and victim perceptions of such treatment, and policy matters related to the enforcement, prosecution and adjudication of forcible rape cases.

Thus, it was determined that one site, capable of providing information across the spectrum of research concerns, would be selected. Further, this site should be doing something new and imaginative in the way of victim treatment, law enforcement, prosecution or legislation. We were fortunate that such a site was available (Seattle/King County) and that the site had adopted innovations at all levels in the handling of forcible rape offenses.\* The implementation of the pilot site research

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\* An additional innovation occurred during the course of study at the pilot site. In April of 1975, the Washington State Legislature passed new rape legislation, effective September 8, 1975, which substantially altered the previous statute by providing three degrees of rape and an expanded definition of "victim" to include males.

tasks required very extensive and careful planning to assure that all those likely to be involved in the research fully understood its scope, dimensions and purposes.

Pilot Site Preparation and Planning. As an initial step in this planning process, letters were written to the Mayor of Seattle and all members of the City Council to acquaint them with the nature of the project. The Mayor responded to this communication with a most cooperative and encouraging letter indicating his desire to see full collaboration and cooperation with the project. The director of the Seattle City Law and Justice Planning Office, Mr. Philip Sherburne, was designated by the Mayor as the official coordinator between the city and the project for the development of specific research planning.

In addition to the City of Seattle, contact was also made with the King County Sheriff's Department, Executive Office, and Prosecutor's Office. A meeting was held with King County prosecutors and the research team during the period that NLDC staff visited Seattle in October, 1974. A most encouraging and supportive approach toward the project was expressed by the prosecutors.

The only major dilemma encountered during this phase of the planning process was a clarification of the time commitment that would be required of local criminal justice personnel to complete the project. This was resolved by assuring the criminal justice agencies that their personnel, already hard-pressed by large investigative and prosecutive case loads in the area of

forcible rape, would not be diverted from their primary duties by participating in interviews and other project activities. To alleviate these particular concerns, the project staff guaranteed that the costs of pulling files and other documents would be met from project funds. Interviewing of officers was also intended to be conducted during their off-duty hours with a payment made directly to officers for voluntary participation.

An important element in the development of the planning at the pilot site was the interaction with various organizations and individuals already participating in the Seattle Rape Reduction Project, including members of the Sexual Assault Center at Harborview Hospital and victim advocates from Rape Relief. There was initial disquiet about another rape project being initiated in the area and some misunderstanding concerning the scope of this new program. To alleviate these concerns and to brief these individuals and organizations about the research project, a meeting, attended by more than 30 people, was held at Battelle on November 1, 1974. At the meeting a description was given of each segment of the research and discussion and questions invited. From subsequent follow-up, it was clear that the meeting accomplished its purpose. As a consequence, the project team received many offers of assistance and expressions of desire to collaborate in the research activities.

Despite consent from the Seattle executive branch of government to proceed with the research, several additional meetings were held with members of the Police Department. The concerns of the Department, centered upon issues discussed

above, related to the inevitable disruption of police activities in an agency already suffering dramatic manpower shortages and budget cuts. In addition, the research required access to highly confidential information which could only be shared on the basis of trust and established credibility. These meetings resulted in a formal request for the following:

- (1) one sex offense unit detective, full time, for a period of 12 weeks;
- (2) permission to obtain interviews with detectives from the Sex Offense Unit;
- (3) permission to obtain interviews with police administrators responsible to policy development related to the handling of sexual assaults;
- (4) access to police records related to forcible sexual assaults; and
- (5) reimbursement for the costs associated with time and materials required for duplication.

Chief Hanson responded to the request for city involvement in mid-January, 1975, and formal permission to proceed with the research was granted by the Law and Justice Planning Office on January 17, 1974. Detective Michael Germann was identified as the police officer assigned to the research and Major Frank Moore was named as the contractual and methods liaison.

Two documents were then prepared and submitted to the Police Department. The first was a letter from the Law and Justice Study Center which specified the agreements and tasks involved in the conduct of the research. The second document consisted of a contract between Battelle and the Seattle Police Department for the services of Detective Germann and the

agreement to reimburse the costs associated with the reproduction of certain police records. The contract was signed by Chief Hanson and Detective Germann was placed on special duty status and assigned to be on-site at Battelle from February 17, 1975 for a period not to exceed 12 weeks.

Detective Germann was able to secure permission to obtain all 1974 police reports relevant to the investigation of rape complaints including the initial offense reports, medical reports, victim/witness/defendant statements, investigation reports, correspondence with prosecutors and case disposition information. There is no question that this was the most complete access to rape reports ever allowed research anywhere in the United States. In order to gain such access, Battelle provided written assurance of the proper use of any police records and guaranteed adherence to the following conditions:

- (1) Detective Germann would assume full responsibility for the records sought and would guarantee the ethical use of any information contained therein;
- (2) all information gathered as a result of this research would be reviewed by representatives of the Police Department prior to publication;
- (3) no arrest or offense records obtained would be assembled by name, but by case number and unit file number;
- (4) all records obtained would be under Detective Germann's control and would be used in a lawful manner for the purposes of research; and
- (5) there would be no interference with the regular work routine of police personnel in gathering the records needed for research.



The Seattle Police Department accepted the guarantees and responded with a more specific letter of understanding. As a condition of access to certain case files, Battelle agreed not to record from case files any of the following information:

- (1) names, addresses, or phone numbers of defendants, victims, or witnesses;
- (2) contents of F.B.I. or local rap sheets, by name;
- (3) names, addresses, or phone numbers of officers, investigators, prosecutors, judges, doctors or social workers;
- (4) contents of medical reports, laboratory reports, psychiatric reports, or reports submitted by social workers, by name; and
- (5) results of medical examinations, by name.

This agreement was completed and signed on February 24, 1975.

At this point, the pilot site data gathering was initiated.

The NLDC was primarily responsible for the negotiations and planning required for the prosecutorial aspects of the pilot site research. However, because of the distance between the NLDC headquarters in California and the King County Prosecutor's Office in Seattle, much of the planning and implementation was actually conducted by members of the Battelle research staff.

Early negotiations resulted in the appointment of a person (Chief Criminal Deputy Prosecutor, Patricia Atkins) from the Prosecutor's Office to act as a liaison with NLDC. Mrs. Atkins was to function as the person who would review and act on requests for information from official records and on descriptions of local prosecutorial procedures.

Battelle staff were able to interest two third-year law students in the actual gathering of information from the official files regarding the handling and disposition of rape cases brought before the King County Prosecutors. Although this data-gathering was related to law school requirements for independent research, the Battelle staff assisted in defining the nature of the data to be obtained and the method of computer coding. In addition, NLDC staff submitted requests for specific information to be obtained from this data-gathering effort.

The victim portion of the pilot-site research has been an interesting challenge. Initially, it was anticipated that access to victims would be developed through two organizations (Rape Relief and the Sexual Assault Center) funded and maintained by the Seattle Rape Reduction Project. The Sexual Assault Center, as a segment of Harborview Hospital (county-supported), provides 24-hour on-call social workers to assist rape victims during the medical examinations, to offer follow-up counseling services and to offer a liaison with the criminal justice system for cases processing through the criminal justice system channels. Rape Relief advocates (trained volunteers) provide a 24-hour crisis telephone line as well as in-person medical advocacy, police and legal advocacy, transportation, counseling, counseling referrals and public education.

Numerous meetings were held with staff of the two organizations to establish procedures for victim access. A protocol of procedures outlining responsibility for each task was formalized through letters to Rape Relief and the Sexual Assault

Center and by Rape Relief advocates. The rape victim would be telephoned and receive a brief description of the study including information about confidentiality and informed consent.

Victims would be contacted who met all of the following criteria:

- (1) all interviewees must voluntarily agree to participate in the study;
- (2) all interviewees must be legal adults (18 years and older);
- (3) all interviewees must be victims of forcible rape or attempted forcible rape;
- (4) all interviewees must have been victims within the King County jurisdiction;
- (5) all interviewees must sign an informed consent form prior to participation in the study; and
- (6) all interviewees must not be included as participants in a victim study presently conducted by Dr. Shirley Feldman-Summers (Sexual Assault Center).

If interest was shown by the victim, she would be asked to participate and be given further information about procedures of the interview. The Rape Relief worker and the Sexual Assault Center staff person would refer the name of the woman, her address and telephone number to the interview team.

During the meetings with the Sexual Assault Center staff and the Rape Relief staff, a series of concerns was voiced. The primary concern was the anticipated difficulty in contacting a victim who had attempted to forget the trauma of the rape incident and return to a normal life style as quickly as possible. It was agreed that the social workers and advocates would use

their discretion in contacting victims who might not respond favorably to the telephone call or interview situation.

Another concern voiced by the service agencies was the issue of victim confidentiality. In order to protect the identity of the individual and to guarantee that the information remained confidential, the following procedure was established:

- (1) only Rape Relief advocates or social workers from the Sexual Assault Center would make initial contact with victims to explore their willingness to participate in this study;
- (2) if victims agreed and were willing to cooperate, their names, addresses and phone numbers would be given to the staff of the Rape Relief Project or the Sexual Assault Center;
- (3) the interview team would assign case numbers to each interviewee and pass the names, etc., of the victims to the appropriate interviewer;
- (4) upon completion of the interview, the names, addresses and phone numbers of all victims would be returned to Rape Relief or the Sexual Assault Center;
- (5) signed informed consent forms would be returned to the Rape Relief Project or the Sexual Assault Center upon completion of the interviews, to be maintained for one year;
- (6) Battelle would retain only case numbers associated with each interview schedule; and
- (7) access to the informed consent forms (without identifying case numbers) would be allowed only if the funding source required proof that the interviews actually occurred. Such proof would not require revealing the signatures of the participants.

This procedure required all documents with the victim's name and other identifying factors to remain with the service agency or interview team, while the only documents to return to Battelle were without identifying characteristics. One staff member at the Sexual Assault Center remained uncertain if this procedure would protect the victim's identity.

Additional telephone calls were made to reassure this staff member.

The two organizations acted as pre-testing sites for the questionnaire. The Rape Relief and Sexual Assault Center staff members reviewed the questionnaire with knowledge of victim responses in mind and recommended improvements in the format and wording of the questionnaire. All of the suggestions were incorporated into the final draft of the questionnaire. Thus, with the confidentiality issue resolved, and human subjects concerns in the process of review by the Battelle and University of Washington Human Subjects' Committee, the interviewing was ready to commence.

Pilot-Site Police Procedures for Handling Rape. To appreciate the nature of the research findings, it is necessary to describe the police procedures used at the pilot site for handling forcible rape offenses. The brief description which follows was excerpted from a more extensive document prepared by Detective Germann (see Appendix 1 ).

Victim reports of forcible rape are accomplished in one of several ways:

- (1) person reporting calls "911" and a uniformed patrol unit is dispatched (see Appendix 2 for a complete description of dispatch procedures for rape complaints);
- (2) police unit reports the crime "on view" to themselves;
- (3) victim visits a medical facility, usually the local receiving hospital, for treatment and/or to report to police;
- (4) victim requests advocacy services from Rape Relief which may, if the victim desires, precipitate a report to the police.

No matter which avenue is used for reporting, it is almost always a uniformed member of the patrol division who conducts the initial investigation of a rape complaint.\*

Once the initial complaint has been received by the line unit, an investigation is initiated. A general complaint form (Appendix 3 ) is utilized to record the incident under investigation. Investigation at the line level generally encompasses the 5 W's: who, what, where, why, and when. An initial investigation might include any of the following:

- (1) identification evidence, including the gathering of all data relevant to the crime and suspect information so that an immediate arrest can be made, if justifiable;
- (2) corroboration evidence, including gathering of all physical evidence relative to the crime, i.e., clothing, fingerprints, signs of forced entry, articles taken, etc.;

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\* Training to handle this task is both broad and specific. In basic training, recruit officers are given a minimum of 24 hours of training in behavioral sciences, plus 4 hours on the investigation of sex crimes. (A complete outline of the sex crimes training guide is presented in Appendix 4 ).

- (3) written statements from victims and witnesses; and
- (4) forensic evidence, including medical examination of the victim for both medical and forensic purposes. In addition to general physical and pelvic examinations, an acid phosphatase sample (vaginal washing) is done for forwarding to the police laboratory. Photographs of the injuries may be taken and the victim's clothing may also be obtained.

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\*The Seattle Police Crime Laboratory conducts most of the analysis intended to determine vaginal penetration. The integrity of these analyses is dependent on several factors, the most important of which is the time between the sexual contact and the medical examination. The survival time of spermatozoa motility in the vagina is approximately 24 hours. Once the evidence is collected from the body, it can be maintained in refrigeration for many months. In contrast, seminal stains found on clothing, etc., do not require refrigeration and are available for analysis months or even years afterward.

Like most other police crime laboratories, the Seattle office conducts a microscopic search for spermatozoa. If this method fails, the laboratory uses the acid phosphatase test. (See The Journal of Forensic Sciences, Vol. 14, 1969, pp. 540 for a complete description of the basic Berg Acid Phosphatase test). If evidence of acid phosphatase activity is discovered, a disc electrophoretic examination is administered. This examination finds the two isoenzymes in human semen and is therefore useful in differentiating between the acid phosphatase of humans and that from other origins. The results of these tests are distributed to requesting officers and to the records division, where they are kept on file. The analyzed evidence is kept under refrigeration for future reference.

Once the initial investigation is completed, all paperwork is routed to the patrol officer's supervising sergeant for review and signature. If an arrest has been made, this must be screened by a sergeant prior to the actual booking. The paperwork goes to the distribution center for coding, indexing, and duplication. This entails a delay while processing is underway and an "Alert" system may be instituted to insure delivery of paperwork to the follow-up unit in cases where immediate attention is required. When the "Alert" system is utilized, copies of the initial police report are hand carried by the patrol officer(s) to the follow-up unit for immediate investigation, while the originals go through the normal distribution flow. Normal distribution flow can encompass anywhere between 24-48 hours, depending upon where the paperwork originates (outlying precincts), time of day, day of week, any personnel/equipment problems, etc.

Once the paperwork has been received by the follow-up unit, in this case the Sex Crimes Squad, it is name-indexed as to victim, witness(es) and suspect(s). The supervising sergeant of the Sex Crimes Unit then reviews the contents of the case and, if it bears investigative leads, it is assigned to a detective for follow-up investigation. If it is not a rape or attempted rape, if there are no investigative leads available from an examination of the initial report, the sergeant utilizes a form letter procedure (see Appendix 5 ). If the case is assigned for investigation, it will go to one of two female detectives or one of three male detectives.

The Sex Crimes Squad performs the follow-up investigations of all reported sex offenses in which adults are known or alleged to be suspects. This amounts to over a thousand cases a year, about a third of which are classified as rapes or attempt rapes.

Case investigation is both an art and a science. Since each case is different, there is no set of investigative activities appropriate for all rape cases. However, the following investigative steps represent those that are typically involved in many rape cases:

- (1) inventory of evidence and determination of needs to establish a prima facie case;
- (2) record check of all named subjects in the case for criminal history and other indexed materials;
- (3) receipt of victim medical records and acid phosphatase sample for laboratory analysis;
- (4) victim/witness interviews and written statements;
- (5) additional processing of crime scenes/automobiles for identification/corroborative evidence;
- (6) attend prosecutor's interview with victim for the purposes of determining credibility and reaching a filing decision;
- (7) interview suspect, either in custody or at large, with admonition of rights and waiver of same with suspect's agreement and the documenting of any oral or written statements;
- (8) photographs of any victim injuries and crime scenes to corroborate victim statements (see Appendix 6 );
- (9) preparation of case file for presentation to prosecutor;
- (10) if an arrest warrant is issued in conjunction with the case filing, it is served and the case is cleared by arrest; and

- (11) if a no-file decision has been made by the prosecutor, then the case is closed for investigative purposes. It is either cleared exceptionally, unfounded, or inactivated.

In some instances, prior to the prosecutor's interview, the detective can make the determination during the victim interview that she doesn't desire a prosecution and the case is cleared exceptionally if the offender is known.

If the offender is unknown, but the victim can identify, then the I.D.M.O. File is used for photographic identification. If no identification is made and there are no investigative leads, then the case is inactivated until new information becomes available (very rare except for multiple offenders). If an identification is made, then the investigation proceeds to prove or disprove that the subject identified is the offender.

Once a case has been filed, local rules require adjudication within 60 days. However, most defendants not in custody waive this right, upon advice of their attorneys, and some effort may be made to plea bargain. If a defendant refuses to admit any culpability for his act, then the case will most likely proceed to trial.

#### Pilot-Site Prosecutor Procedures for Handling Rape

The King County Prosecuting Attorney's Office serves 34 jurisdictions from throughout the county including the largest law enforcement agencies, the Seattle Police Department and the King County Public Safety Office (Sheriff). Within the prosecutor's office, there are 30 deputy prosecutors handling criminal cases, eight of which are specifically assigned to the

Sexual Assault Unit. The Sexual Assault Unit deputies form a committee that handles and reviews all sexual assault cases presented to the office. Sexual Assault Unit deputies are selected on the basis of their trial experience, maturity of judgement, and specific training to screen and file cases involving sexual contact. In contrast to other felony cases, the victims of sexual offenses are always interviewed by the filing deputy prior to a filing decision. In cases that involve young children, two deputies interview the victim so that the strength of testimony and the victim's court credibility can be assessed from more than one viewpoint.

The King County Prosecutor's Office becomes involved in an alleged rape case when a detective from one of the 34 jurisdictions served by the office has completed his/her investigation of the crime and has telephoned the Senior Trial Deputy in charge of morals offenses to arrange an interview for the victim. A Senior Trial Deputy assigns the interview to one of the eight deputies responsible for review of sexual assault cases for a filing decision. The victim's interview with the filing deputy is usually scheduled on the same day as the telephone conversation between the detective and the Senior Trial Deputy. This interview is held to determine whether the victim's complaint, together with the detective's investigation, constitutes a chargeable offense. At this time, the deputy prosecutor questions the victim about the details of the incident and answers any questions the victim has about prosecutorial and judicial procedures. The filing deputy assesses

the proof offered including the credibility of the victim and corroboration of her statement (medical reports, physical evidence, witness statements, etc.).

If, at the end of the interview, the filing deputy decides to decline prosecution, a form is filled out which contains the alleged offender's name, the offense and the deputy's reasons for withholding a filing charge. Copies of this form are filed in the prosecutor's office and the detective's case file. If the filing deputy believes that sufficient evidence exists to corroborate the victim's statement, he/she fills out a charge/information sheet.

Before the case is formally filed, the Senior Trial Deputy reviews the case and approves/disapproves the filing decision. From the charge/information sheet, a complaint is prepared and filed in either the District Court or Superior Court.

If the filing deputy decides to charge the offender with a misdemeanor, he files with the District Court Clerk. The case is given a District Court cause of action number, logged by the number and the case title, and placed on the District Court calendar for trial.

If the filing deputy decides that the chargeable offense should be prosecuted as a felony, the deputy has two choices. The charge can be filed and logged with the Clerk of the District Court for a preliminary hearing or the charge can be filed directly in the Superior Court. Direct filing to the Superior Court is accomplished by presenting the case to the Clerk of the Superior Court for filing by number and case

title. The case is placed on the Superior Court Arraignment Calendar.

After the charges have been filed and the suspect arraigned, the rape victim will be interviewed by the trial deputy assigned to the case. The trial deputy can be and often is the filing deputy who first interviewed the victim. However, there is no guarantee that the filing deputy will be free of other trial commitments and able to take the case. During his/her interviews with the victim, the trial deputy reviews the case with the victim and explains the victim's responsibilities during the courtroom appearances.

The purpose of the preliminary hearing in the District Court is to evaluate the case. The District Court judge must decide from the evidence presented at the hearing if there is:

- (1) probable cause that the offense charged was committed; and
- (2) probable cause that the suspect charged was the assailant.

If there is sufficient evidence, the case will be bound over for trial at the Superior Court level.

The purposes of the arraignment are threefold: (1) to inform the offender of the charge against him; (2) to allow the offender an opportunity to enter a plea of guilty, not guilty, or guilty by reason of insanity; and (3) to select a trial date. The trial date must be set within 90 days if the offender is not in custody or 60 days if the offender is in custody.

The next stage in the process is the omnibus hearing. The omnibus hearing occurs after the arraignment, but before the trial date. Omnibus application forms allow the discovery and legal matters to be cleared before the trial. The application is essentially a discovery checklist available to the defense and prosecution which identifies the following:

- (1) the witnesses to be called by either side and proposed testimony;
- (2) exhibits to be introduced;
- (3) results of tests and analyses to be introduced;
- (4) matters touching on previous convictions of either the victim or offender that either side is aware of, will contest or stipulate; and
- (5) pre-trial motions requested by either the deputy prosecutor or defense attorney.

After the omnibus hearing, the case is ready for the actual courtroom trial.

#### Pilot-Site Procedures for Treatment of Rape Victims

The Sexual Assault Center, as a segment of the county-supported Harborview Hospital, provides 24-hour medical attention to victims of forcible rape. These services include use of the emergency room, crisis counseling by on-duty social workers, follow-up counseling and criminal justice system advocacy. The city-wide Seattle Rape Reduction Project provides these services. The protocol presently used at Harborview for victims of sexual assault is outlined below (see Appendix 7 for details).

When the victim arrives at the emergency room of the hospital, she registers at the desk and a physician is notified. The victim is escorted immediately to a private examining room. There she is seen first by the emergency room social worker on a priority basis. Within the confines of the private room, the social worker attempts to minimize any emotional trauma manifested by the victim. During this process of initial assessment, the social worker allows the victim to verbalize as she wishes while she gathers the social history of the events surrounding the assault. It is explained to the victim that some of the questions might be embarrassing, but are necessary for thorough medical care. The social worker documents his/her evaluation of the victim's present level of functioning for use by the attending physicians.

The victim is asked if she would like to file a formal complaint with a police officer.\* If the victim so desires, the police department is notified immediately so that a patrol officer will be available to take the initial report at the end of the medical examination.

The victim next encounters the emergency room physician. The victim is seen by a pediatric resident if she is 16 years of age or under. If the victim is over 16, she is seen by a regular emergency room physician. The physician obtains a medical

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\* Washington State law requires that medical facilities must report known or alleged crimes to the appropriate police agency. Police investigation of these reports is discretionary and rapes involving non-cooperative victims are usually not pursued.

history from the victim and records it on a History of Sexual Assault Form (see Appendix 8 ). The history includes information about menstrual cycles, contraceptive use, venereal disease history and other pertinent medical history. The following are examples of important questions:

- (1) age (minors need parental consent before medical treatment can be administered);
- (2) last menstrual cycle, length of normal cycle, and abnormalities associated with menstrual cycle;
- (3) birth control method, if any;
- (4) any drugs or medication currently in use;
- (5) last consensual sexual contact;
- (6) forced sexual acts (vaginal, oral, anal, etc.); and
- (7) did ejaculation occur.

The physician explores the woman's general emotional state and documents any obvious psychological trauma.

Areas of the sexual assault are examined. Any physical trauma is recorded. Cultures of body areas involved in the sexual assault are taken to rule on pre-existing gonorrhea. The victim can be recultured to detect if gonorrhea was contacted during the assault. Blood is drawn for a VDRL baseline test for syphilis. An immediate VDRL will detect only pre-existing syphilis. A follow-up blood test at eight weeks can document syphilis transmitted from the sexual assault. A gravindex (urine test) is taken if a victim has some question of pregnancy from a prior sexual contact.



During the medical examination by the attending physician all efforts are made to meet the victim's need for medical treatment (gonorrhea, syphilis, pregnancy detection, pregnancy prevention, etc.). Secondly, the physician focuses on possible medical proof of a sexual assault for legal documentation. In cases where the victim decides to report to the police, she must sign a consent form which allows the release of the medical forms covering the emergency room examination.

During the legal portion of the examination, the physician searches for evidence of intercourse, evidence of forced intercourse, and for evidence of assault on the woman's body. Common tests and examinations used to obtain legal evidence of sexual assault include:

- (1) Wood's lamp (ultraviolet), which causes semen to fluoresce (even after a vasectomy) and indicates areas of the body or clothing to be examined more extensively;
- (2) wet-mount preparations of body secretions and microscopic observation within 5 minutes to document presence or absence of sperm and the number of motile/non-motile sperm;
- (3) specimens collected from areas of fluorescence or areas of sexual contact for acid phosphatase examination at police laboratory;
- (4) permanent (Pap) smear of secretions for hospital pathologist to document presence or absence of sperm; and
- (5) additional tests conducted at the request of police, e.g., scrapings of skin from beneath fingernails of victim, further blood tests, etc.

The physician decides if photographs of the bodily injuries would be beneficial to the documentation of the assault. The physician requests permission from the victim to photograph her

injuries and notifies the hospital photographer or uses the Polaroid camera available in the Sexual Assault kit. Two copies are necessary to complete the medical chart and the police report.

The social worker returns to discuss follow-up medical procedures with the victim. A follow-up appointment is scheduled at the Harborview Gynecology Clinic for approximately five days after the assault. During this examination, a second gonorrhea culture is taken to ascertain if gonorrhea has been contacted from the assailant. Possible compensation for the medical expenses from the assault is explained to the victim. Crime victims can receive state compensation for bodily injury and costs incurred for medical treatment through the Crime Victim Compensation Act of 1974. If the victim responds that she has decided to file for state compensation, the social worker gives the victim two forms:

- (1) the application for compensation (Appendix 9 ); and
- (2) the authorization for release of medical information (Appendix 10 ).

The social worker describes the variety of social services available to the victim through the Sexual Assault Center. A follow-up service plan is developed with the victim which might include any of the following services:

- (1) follow-up counseling (individual, family or marital) either in the home or at the center;

- (2) referral services (mental health agencies);
- (3) volunteer services (Rape Relief, third-party report, advocacy, interim housing, etc.); and
- (4) advocacy during criminal justice system procedures.

Often emotional trauma remains long after the assault. Usually, these emotional and social problems have more lasting consequences and the victim requires more intervention and assistance than during her medical examination. For this reason, the Sexual Assault Center stresses follow-up counseling.

The social work staff is relatively aggressive about out-reach efforts. Experience with victims has shown that they often have a tendency to be passive and withdrawn during the days following the sexual assault. About five percent of the women seen by the emergency room social work staff have prior serious emotional problems and the sexual assault is the incident that causes the coping mechanism to give way. The social worker tries to identify these women during the initial medical examination so that additional support and monitoring can be given to her. About one percent of the women seen have need for psychiatric hospitalization. The general counseling services provided are built on a belief that the majority of the sexual assault victims are basically healthy and that the assault has created a crisis situation in her life. The social worker gives information and support so that unhealthy patterns will not develop during the crisis period.

In cases where the victim is young and still living with her parents, the social worker involves the family in the process to the extent that the victim feels comfortable. Often with

young girls, the majority of the crisis intervention, support and counseling efforts are directed at the parents. Medical examination and treatment of a minor by law requires parental consent.

The Sexual Assault Center staff believes that it is impossible to deal effectively with the sexual abuse of the child without dealing with the family as a whole. According to the social worker staff, the parents are often critical and judgmental, perhaps feeling that the child was somehow responsible for the attack. The parents also have angry feelings about the incident and need an opportunity to find mechanisms for healthy resolution to the crisis.

A difficulty experienced by the young victim who does not choose to inform her parents of the sexual assault is her lack of ability to receive thorough medical attention. Another stipulation influencing procedure is that the Sexual Assault Center is required by law to notify the Children Protective Services if a family member is involved in the sexual assault and/or if further abuse is suspected.

Throughout the medical examination, crisis intervention and follow-up counseling, confidentiality is strictly maintained. In the case of adults, the victim must sign a consent form to release any medical information about her case to a police agency or any other agency that might desire information about her medical examination.

Another service provided by the Sexual Assault Center staff is criminal justice advocacy. Particularly in cases which involve young children, the social worker can be

present during interviews and court room testimony to support the victim and her family. The follow-up counseling services include assistance in dealing with victim and family reactions to and feelings about the requirements and discomforts of the criminal justice procedures.

The staff of the Sexual Assault Center offer assistance to the criminal justice system. On a case-by-case basis, the social workers are in contact with the assigned detective and deputy prosecutor. The social worker follows the case to make sure that the history of the sexual assault form, medical evidence and physical evidence gathered during the examination is obtained by a detective. The medical and legal evidence gathered during the initial exam is placed in the emergency room refrigerator where it remains until a police department representative assumes official possession.

This case-by-case contact allows for specific feedback among the three agencies (police, prosecutor and hospital personnel) when difficulties appear in the procedures and protocol. The Sexual Assault Center staff participate as instructors for the police department in pre-service and on-going sexual assault training sessions for patrol officers and detectives. In instances where a victim requests additional support, the social worker accompanies the victim to the initial report, detective follow-up interview, and interview with the prosecutor.

Other services are available to victims in the Seattle-King County area through Rape Relief, the crisis intervention component of the Rape Reduction Project. Rape Relief advocates

are available 24 hours a day to provide victims with support and information related to medical examinations (venereal diseases, pregnancy, etc.) and medical tests (Pap smears, vaginal washings). In addition to attending to the emotional and physical state of the victim, the advocates are also available to provide information on criminal justice procedures. If the victim chooses to report the crime to police, advocates often accompany victims during their interaction with police and prosecutors.

This particular service is one of the best known, highly advertised programs in the King County area. The 24-hour telephone number for Rape Relief appears on the sides of buses, billboards and bumperstickers. Short public service announcements are rotated through the radio and television stations. Advocates speak before civic groups, public school students, and participate in police recruit training. In contrast to rape victim advocates in some communities in other parts of the nation, the services provided by Rape Relief are supported by the general community, as well as police departments and the prosecutor's office. (A more detailed discussion of Rape Relief advocate training, referral procedures, third-party reports, etc. are discussed in the Victim Interview portion of this report.)

#### Pilot Site Procedures for Treatment of Rape Offenders

The scope of pilot-site research was also concerned with the availability and use of special treatment facilities for sex offenders. Although the scope of the research did not encompass an evaluation of the effectiveness of such treatment, access to special programs for sexual offenders had considerable relevance to the process of adjudication.

Since 1966, the State of Washington has maintained a specialized treatment center for sex offenders. This center was established by the State's Department of Institutions in a wing of Western State Hospital. The legal framework for the treatment program was developed in 1951 when the state legislature passed a sexual psychopath statute. Briefly, the statute provides for an evaluation period at the treatment center; a recommendation to the court for treatment or incarceration; and, if committed for treatment, a continual review and control of the case by the committing court. The continued control by the committing court allows for release dates and conditions of release to be decided upon by those persons responsible for an offender's treatment and rehabilitation.

The purpose of the center is to provide an effective and economical evaluation and treatment service for habitual sex offenders from throughout the state. The sex offenses may take many forms, including forcible rape, carnal knowledge, indecent liberties, indecent exposure, or sodomy. Regardless of the nature of the crimes, the entire program is designed to move the offender through four distinct stages in the rehabilitative process.

The first stage, evaluation, includes a 90-day observation period. The individual sex offender is committed by the Superior Court to the treatment center to determine whether the person qualifies as a "sexual psychopath" as defined by law. During this period, the sex offender is assigned to a psychotherapy group, and completes the Biological Data

Sheet and Autobiography. An intake meeting is convened so that extensive psychological tests can be administered and the individual case reviewed. At the end of the 90-day period, the individual is evaluated by the psychotherapy group members and the program staff and classified into one of four diagnostic categories: (1) not a sexual psychopath, no other pathology; (2) not a sexual psychopath, but other serious pathology; (3) sexual psychopath, not amenable to treatment; or (4) sexual psychopath, amenable to treatment.

The sex offender returns to Superior Court with the findings and recommendations of the treatment center. If an individual is classified as a sexual psychopath who is considered treatable, he returns to the program at Western State Hospital for an indefinite period of time.\*

The second stage, in-patient treatment, consists of a minimum of 12 months of residential treatment. The progress of the offender through the in-patient stage is based on his accomplishments of definite behavioral objectives. The offender must accomplish four basic objectives:

- (1) recognition of his hurtful behavior patterns;
- (2) understanding of their origins and operation;
- (3) acceptance of responsibility for change; and
- (4) application of new patterns of responsible behavior in dealing with people.

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\* Statistics developed by the center during 1971-72 period, showed 20 percent of the referrals were returned to the court with a recommendation for probation in the community; 13 percent were returned to the court with recommendations for adult correctional system decisions; and 52 percent were accepted as amenable for treatment at the center.

These four objectives are expected to be met in all social and work activities, as well as interpersonal relationships. The group votes privileges to fellow members with approval from the individual, the staff and staff supervisors. Discharge decision (when the individual is safe to be at large) are made at the group level, approved by staff and reviewed by senior staff. At this point, the sex offender returns to Superior Court with recommendations to be released on probation under specific terms of conditional release which are recommended by the hospital. The sex offender returns to the hospital for a minimum of three months, on work release. He must be employed full time or attend school. He returns to the hospital each evening and follows all in-patient rules. Progress is monitored through regular evening meetings. A gradual increase in the number and length of social and overnight leaves is accomplished during the work release phase. When the individual has proven his ability to handle the responsibility of community life, he enters the next phase.

The final stage is labeled "out-patient treatment" and consists of follow-up procedures. During this phase, the sex offender lives in the community and attends regular, weekly psychotherapy meetings for a minimum of 18 months. Attendance is gradually decreased by a group vote and approval by hospital and parole staff. The length of stay for each offender varies with his ability to move successfully through behavioral objectives and complete successive phases of the treatment program.

General treatment plans are built on a philosophy of the sexual offender's own self-help capabilities. Each offender

participates in a small, 15-person, self-administering treatment group. The psychotherapy groups are responsible for every aspect of the offender's actions including his custody, supervision, work assignments, recreation, family relationships, and other social activities. The individual will remain in the same therapy throughout the four phases of the treatment program for a period of at least three years.

Security precautions and risks have been of great concern since the inception of the treatment format for sex offenders. Despite this concern, only three percent of all offenders escaped from the program during the last four years. When the recidivism rate and the escape rate are viewed together, the use of the sexual psychopath statute and the program at Western State Hospital are clearly practical alternatives to the imprisonment of sexual offenders.

The selection of Seattle-King County as the pilot site provided research opportunities which exceeded all expectations. Recent innovations in the handling of rape cases had been adopted by the police, the prosecutor, and the county health facility. Victim services and sexual psychopath programs were available. Thus, nearly everything one would wish to examine was available at the pilot site.

#### Pilot-Site Research Experiences

The purpose of the pilot-site study was to determine the feasibility and usefulness of such research to the ultimate development of guidelines for criminal justice agencies in

handling/preventing forcible rape offenses. Intensive examination of one site was expected to yield valuable information on the interactions among various elements of the system, the effectiveness of particular investigative techniques, resources devoted to victim treatment and victim perceptions of that treatment, and possible preventative strategies.

The pilot-site research involved a number of interrelated tasks. At the law enforcement level, these tasks included (1) detailed descriptions of current procedures; (2) analyses of all 1974 initial rape reports, investigative reports, and arrest records; and (3) interviews with patrol officers, investigators, and administrators. At the level of adjudication, the tasks included (1) detailed descriptions of current procedures; (2) analyses of all prosecutor records from 1972-1974; and (3) interviews with special rape prosecutors and selected judges and defense attorneys familiar with rape cases. In addition, the research tasks included interviews designed to determine the impact of criminal justice procedures and policies on victims, methods which might prevent rape or limit injuries, and the reasons for not reporting rape offenses to the police.

Although the content and purpose of many pilot-site activities overlapped substantially, each will be discussed separately to maintain clarity. It should be noted that these findings will be combined with those obtained during the second year of research and integrated to fit the research products to be produced in the second year.

Analysis of Initial Rape Reports. All forcible rape complaints made to the Seattle Police Department from January 1 - December 31, 1974 were made available to us for analysis. This initial complaint was usually taken by a patrol officer(s) dispatched to the location of the victim. The complaint was recorded on a general form used for all major offense reports and included any preliminary investigations undertaken by the responding officers. These data were meant to serve as the foundation for subsequent analyses of (1) follow-up investigations conducted by police detectives, and (2) arrest and case preparation materials when or if suspects were apprehended or prosecuted.

A total of 43 items were selected for analysis from the initial reports (see Appendix 3 of the Third Quarter and National Advisory Panel Report). In general, these items were subdivided into seven categories, including setting events (time, day, month, location, etc.), characteristics of victims/offenders, numbers and kinds of witnesses, physical evidence collected, kinds of medical treatment rendered to the victim, circumstances of the offense, and victim resistance.

A summary of the results (descriptive) is presented in Appendix 11. However, highlights of the results are presented below.

(1) Time Between Offense and Report

Within 6 hours	= 72.4%
6 - 24 hours	= 14.5%
1 - 3 days	= 5.6%
4 - 30 days	= 3.9%
30 + days	= 3.0%
Unknown	= .7%

The relative "speed" with which most victims reported offenses indicated that important physical evidence (sperm, semen) might be intact. In addition, other data will indicate that promptness of reporting was an important variable in decisions to file rape charges against suspects.

(2) Time of Occurrence

Typical pattern, wherein 46.4% occurred in the six-hour interval between 8 P.M. - 2 A.M. This had important implications for Seattle detectives, since no investigators were on duty during the hours when most rapes occurred.

(3) Race - Victim

White	= 79.7%
Black	= 13.4%
Amer./Ind.	= 3.3%
Chicano	= .7%
Asian Amer.	= 2.3%
Unknown	= .3%

Race - Offender

White	= 33.8%
Black	= 59.0%
Amer./Ind.	= 2.3%
Chicano	= 2.0%
Asian Amer.	= 1.0%
Unknown	= 2.0%

The racial distribution of victims mirrors that of the total population of the pilot-site. However, a disproportionate representation of Black offenders was observed.

(4) Number of Witnesses

Witnesses were available in 25.9% of all cases reported to the police. Note that "eyewitnesses" were very rare, although

corroborating witnesses with information related to the identification of the suspect were more common.

Eyewitness	= 6.2%
Corroborating - I.D. Info.	= 16.1%
Corroborating - No I.D. Info.	= 3.6%

(5) Number of Suspects

1	= 83.9%
2	= 11.1%
3	= 3.0%
3+	= 2.0%

The overwhelming majority of sexual assaults involved single offenders. "Gang" rapes were almost totally absent.

(6) Arrests

Patrol officers actually arrested offenders in 9.2% of the cases reported. Although the arrests usually resulted from a combination of factors, the following breakdown describes the frequency with which those factors were present.

Arrest on View	= 14.3%
Full Name of Suspect	= 67.9%
Partial Name of Suspect	= 7.1%
Description of Suspect	= 89.3%
Suspect Lic. Number	= 7.1%
Description Suspect Vehicle	= 14.3%
Suspect Residence	= 67.9%
Suspect Occupation	= 42.9%

(7) Evidence Gathered by Patrol Officers

Victim Clothing	= 21.3%
Suspect Clothing	= 7.2%
Weapon	= 4.2%
Fingerprints	= 9.2%
Acid Phosphatase	= 12.1%
Victim Photos	= 2.0%
Photos - Scene	= 1.3%
Impound Auto	= 1.0%
Suspect Belongings	= 5.9%

Note that although a variety of items were entered as physical evidence, there seemed to be no item or evidence collected in more than one quarter of the cases.

(8) Victim Injuries

Injuries were reported in 35.4% of the cases and ranged from bruising to vaginal tears and stab wounds.

(9) Relationship

The relationship between victim and offender was sometimes difficult to determine from the initial report. This item was reexamined on follow-up reports. However, results from the first victim complaints indicated that 59.0% of all rape offenses occurred between strangers.

(10) Location of Offense

Rape offenses occurred most frequently in the home of the victim (32.2%), the auto of the offender (16.8%), or the offender's residence (14.1%). Relatively few offenses occurred

in situations where it would be difficult to recreate the crime scene, e.g., street (10.2%) or park (3.9%).

(11) Most offenders (85.9%) took no precautions to conceal their identity and were, therefore, potentially identifiable by their victims.

(12) Weapons. More than 33% of all offenders were armed with some weapon. When a weapon was used or threatened, knives or other sharp objects were preferred.

Based upon the analyses of the initial reports, the most "typical" rape occurrences at the pilot site could be characterized as an offense which occurs on a weekend evening or early morning in late summer. The victim will be Caucasian between 14-20 years of age and will be enrolled in school at the time of the offense. Both the victim and the offender will be unknown to one another prior to the events leading to the assault. Both the first contact between victim and offender and the forcible rape will occur in the residence of the victim. The suspect will be Black and will be approximately five years older than the victim. He will act alone. He will not attempt to conceal his identity, although he will threaten or use physical violence against the victim. Although the victim may suffer injuries, the physical trauma will not be extensive. The victim will report the incident to the police within six hours. The identification of eyewitnesses or corroborating witnesses is unlikely. The victim will not know the name of her assailant, although she will be able to provide an extensive physical description. She will



receive medical attention for her injuries or for a confirmation of the presence of sperm or semen. Only one offender in 10 is likely to be arrested by the investigating patrol officer.

Follow-Up Investigation Reports. The follow-up investigation reports, written by detectives, were companions to each of the initial complaint reports. These reports contained all information pertinent to the development and conclusion of cases (initial reports) at the level of the pilot-site police agency. These reports served to provide the substantive data related to case disposition, victim and suspect background information, investigative techniques utilized and their relative "payoffs," detailed circumstances of the offense, victim resistance and injury, utilization of community resources, and contamination/destruction of physical evidence.

A total of 56 items were selected for analysis from the follow-up reports (see Appendix 12 for descriptive results). It should be noted that the follow-up reports often indicated revisions or modifications in the types of information obtained from the initial reports. One such revision was the reclassification of the reported offense (rape or attempted rape) to some other offense or combination of offenses. Of the 308 cases originally examined and identified as rape or attempted rape, only 83% were identified as such on the follow-up reports.

Other highlights obtained from the investigative follow-up reports are presented below.

(1) Unfounded Offenses

Only 3 cases (1% of the total) were reclassified as unfounded offenses.

(2) Time Between Report and Initiation of Follow-Up

The time between the victim report and the initiation of investigative follow-up has important implications to such areas as, (1) victim cooperation and, (2) destruction of valuable physical evidence. To date, the importance of this interval has not been examined, although it is clear from Seattle data that 3 or more days elapse in approximately one third of all cases.

Within one day	=	26.7%
1 - 2 days	=	32.0%
3 - 7 days	=	22.8%
7 + days	=	10.2%
Unknown	=	8.3%

(3) Case Disposition

This variable reflected the disposition of cases at the level of the police agency. Note that more than one half of all cases go "inactive."

<u>Case Inactive</u>	=	51.4%
Pending further leads	=	20.0%
No known suspect	=	13.0%
No reason specified	=	11.7%
Pending further victim info.	=	6.7%
<u>Case Cleared</u>	=	21.7%
By arrest	=	15.0%
By summons	=	3.7%
Referred to juvenile court	=	1.3%
At large warrant	=	1.0%
Cleared (unspecified)	=	.7%

<u>Cases Exceptionally Cleared</u>	=	16.3%
Victim uncooperative or refuses to prosecute	=	12.0%
Prosecution declined	=	3.0%
Insufficient evidence	=	1.0%
Suspect Deceased	=	.3%
<u>Cases Unfounded</u>	=	3.3%
<u>Cases Reclassified</u>	=	.3%
<u>Dispositions Unknown</u>		6.7%

(4) Method of Detective Contact with Victim

This variable referred to the means by which investigator interviews with victims were accomplished. It was possible to confirm in-person interviews in less than 50% of all victim reports.

In Person	=	48.1%
Telephone Only	=	23.5%
Letter Only	=	6.3%
No Contact or Unknown	=	20.5%

(5) Investigative Methods Used in Attempt to Identify Suspect

This category illustrated the variety of investigative techniques attempted in an effort to identify the suspect. These activities were conducted by patrol officers and by investigators.

<u>Method</u>	<u>Number of Cases</u>
IDMO (Mug Shots)	70
Vehicle License Number/Checks	34
Vehicle Type/Checks	39
Vehicle Descriptions/Checks	39
Location of Offense	31
Modus Operandi	6
Stolen Property (IDAS)	1
Additional Info. Re: Location of Offense	9
Additional Info. Re: Offender Vehicle	4
Additional Info. Re: Offender	87
Suspect Belongings/Checks	1
Fingerprints	4
Suspect - Unusual Ident. Characteristics	1
Show-Ups (Line-Ups)	2
Victim Polygraph (Corroboration)	2
Suspect Left Clues to Own ID (Phone Number, Etc.)	6
Vehicle License/Type/Color	0
Contacted Intermediary ("Love Line")	0
K-9 (Dogs)	1
Unknown or None	178

(6) Investigative Methods Used Which Successfully Identified Suspect

This variable is a companion item to the one above and describes the methods used in cases which resulted in a successful identification of a suspect. The following list is meant only

to enumerate those techniques. More sophisticated computer analyses will be used to examine these techniques during the second year of research.

<u>Method</u>	<u>Number of Cases</u>
IDMO (Mug Shots)	24
Vehicle License Number/Checks	18
Vehicle Type/Checks	17
Vehicle Description/Checks	16
Location of Offense	19
Modus Operandi	15
Stolen Property (IDAS)	4
Additional Info Re: Location of Offense	15
Additional Info Re: Offender Vehicle	5
Additional Info Re: Offender	106
Suspect Belongings/Checks	7
Fingerprints	25
Suspect - Unusual Ident. Characteristics	6
Show-Ups (Line-Ups)	4
Victim Polygraph (Corroboration)	3
Suspect Left Clues to Own ID (Phone Number, Etc.)	8
Vehicle License/Type/Color	4
Contacted Intermediary ("Love Line")	1
K-9 (Dogs)	4
Unknown	29
Other	64

#### (7) Relationship

The relationship between victim and offender was more easily determined from the follow-up reports than from the initial reports. The follow-ups indicated the following:

Strangers	= 62.7%
Acquaintances	= 25.7%
Friends	= 7.3%
Relatives	3.0%
Unknown	1.3%

#### (8) Suspect Statement v. Victim Statement

In the 66 cases in which formal suspect statements were taken or summarized by investigators, the following characterizations were observed when suspect accounts were compared to victim accounts. For the purposes of clarity, the comparisons were divided into events prior to, during and after the sexual assault.

(Prior) Suspect Agrees with Victim	54.5%
(During) Suspect Agrees with Victim	9.2%
(After) Suspect Agrees with Victim	11.5%

A further characterization of the suspect statement indicated the following:

Denies Sexual Contact	49.2%
Admits Sexual Contact-Insists Consensual	35.4%
Alibi-Suspect Elsewhere	9.2%
Agrees with Victim Statement	3.1%
Unknown	.7%

#### (9) Victim Restraint

A variety of methods was used by offenders to restrain victims. Note that more than one method was used in many cases.

Verbal Threats	47.7%
Physical Control	65.9%
Tied or Bound	4.0%
Threatened with Weapon	24.7%
Held Weapon or Weapon Present	26.1%
None/Unknown	10.4%

(10) Forms of Physical Force Used to Restrain Victims

Physical force was used to restrain victims in approximately two thirds of all cases. Forms of force included the following (in rank order of frequency).

Held	62.2%
Beat with Fists	13.6%
Choked	12.6%
Threw to Floor/Ground	10.7%
Slapped	10.1%
Tied	2.9%
Attempted to Smother	2.9%
Shook	1.6%
Knocked Unconscious	1.6%
Clubbed	1.6%
Kicked	1.0%
Pushed	1.0%
Bit	1.0%
Dragged by Hair	1.0%
Twisted Arm/Leg	1.0%
Cut with Knife	1.0%
Broke Bones	.7%
Pinned by Furniture	.3%
Burned	.3%
Banged Head Against Wall	.3%

(11) Weapon Threatened or Used to Restrain Victim

Weapons were used in 35.9% of all cases. Surprisingly, the weapon most frequently used was a knife. In previous years, analyses of Seattle offenses indicated that the weapon of choice was usually a hand gun. Guns and knives, however, were only two weapons among the many which included:

Knife	19.7%
Gun	13.4%
Wine Bottle	1.0%
Scissors	.3%
Flashlight	.3%
Cake Cutter Comb	.3%
Screw Driver	.3%
Ice Pick	.7%
Cooking Fork	.3%
Lighted Cigarette	.3%
Hammer	.3%
Chain	.3%
Crow Bar	.3%
Chair	.3%

(12) Victim Resistance

A total of 61.8 percent of the follow-up reports indicated some form or forms of victim resistance. Methods these forms included were verbal resistance, physical resistance, threats or use of a weapon, screaming, running or crying. Victim resistance appeared to have the following effect upon the assailants:

Seemed to Have No Effect	25.7%
Seemed to Provoke Verbal Abuse	9.1%
Seemed to Provoke Physical Violence	25.1%
Seemed to Increase Sexual Arousal	1.6%
Rendered Offender Unable to Continue	3.2%
Seemed to Terminate Assault	20.9%
Unknown	14.4%

(13) First Person or Agency to Whom Victim Reported

Analysis of the follow-up reports indicated that nearly two thirds of all victims first reported their offenses to someone other than a law enforcement officer. This has great importance to investigations in that these persons often serve as corroborating witnesses and can be called upon in court to testify in relation to the victim's emotional state, general demeanor, and description or circumstances of the assault.

Police	35.1%
Friend (Female)	10.2%
Friend (Male)	7.2%
Mother	6.2%
Relative Other Than Spouse or Parent	5.2%
Neighbor	4.3%
Husband	2.3%
Rape Relief Advocate	1.6%
Father	.7%
Sexual Assault Center	.3%
Other	7.5%
Unknown	19.0%

(14) Evidence Contaminated or Destroyed

Physical evidence was contaminated or destroyed in more than 20 percent of all cases. This destruction resulted from the following:

Victim Douched	3.0%
Victim Bathed	5.9%
Victim Washed/Destroyed Clothes	1.6%
Victim Removed Fingerprints	.3%
Victim Delayed Reporting 72 + Hours	5.6%
No Medical Tests Taken	5.9%

Based upon the analyses of the follow-up reports, the most "typical" investigation at the pilot-site could be characterized as one which will be undertaken by a male detective who will begin follow-up work 24-48 hours after the initial victim report. Both the victim and the assailant will live within the jurisdiction of the investigating police agency. If the victim has an arrest history, the offenses will be minor juvenile incidents. Previous arrests for suspects will include crimes of violence or drug/alcohol abuses. The offender and the victim will be adults and will have made initial contact with one another in the home of the victim or on the street under conditions involving force. The rape itself will occur within one hour of this contact in the victim's residence or in the auto of the offender. There will be no evidence of consensual (preliminary or previous) sexual activity between the victim and offender. The victim will be physically restrained and will resist either verbally or physically. The resistance will not extricate the victim from the situation. She will be released immediately after the sexual assault. The victim will report the offense to the police.

and she will be treated at the local receiving hospital with facilities for the examination of persons who are sexually assaulted. The presence of semen or sperm will be detected. She will have a personal interview with a detective at police headquarters. The victim will be unable to name her assailant, although she will be able to provide an extensive physical description of the suspect. The detective will use a variety of investigative techniques in an effort to identify the suspect, including "mug shots" of known offenders, automobile identifiers, modus operandi comparisons, and fingerprints. Despite these efforts, the case will go inactive.

Analysis of Arrest Records. The Seattle Police Department maintains an independent set of records on each individual who is suspected of forcible rape offenses. For the purpose of this analysis, these records are referred to as "arrest records," although some suspects were never physically detained or charged.

All arrest records (85) which involved 1974 rape complaints were made available to the research staff. The information contained in these reports included all correspondence between the prosecutor's office and police department related to case filings and declines, charges, previous arrest records of the suspect and the victim, victim photos, medical and counseling

reports, results of court hearings, case dispositions and sentences.\* Much of the data derived from the arrest records will be used to determine the effectiveness of various strategies utilized by the police and, to some extent, by prosecutors. First year pilot-site results will be combined with those obtained from other cities examined during the second year. In this way, case outcome data from several locations will be used to determine the "payoffs" associated with various criminal justice procedures and strategies utilized in the enforcement and adjudication of rape offenses.

Extensive descriptive data obtained from these records are presented in Appendix 13. Highlights of the results are presented below.

(1) Prosecutor Charges

Despite the fact that 85 suspects were identified in 1974, not all individuals were charged with rape offenses. In many cases, suspects were charged with more than one crime or with less serious crimes. In other instances, suspects were arrested, but were never charged with any crime. Analysis of individual arrest reports indicated that the following charges were made:

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\* It should be noted that some police agencies do not receive case disposition information from prosecutors or courts. This is particularly true in instances which involve disposition by offense, i.e., the initial complaint and follow-up records seldom include an account of criminal justice actions beyond the level of prosecutor charge. In accordance with recent Supreme Court rulings, however, most arrest records do contain case disposition information by suspect.

<u>Charge</u>	<u>Number</u>
Rape	50
Attempted Rape	4
Carnal Knowledge	12
Sodomy	12
Indecent Liberties	6
Sexual Abuse	1
Sol. Minor/Immoral Purpose	1
Del. Attempted Rape	1
Assault (2°)	9
Robbery	5
Burglary	3
Grand Larceny	1
Auto Theft	1
Kidnap	1
File Missing	2
No Charge	11

(2) Investigation and Release of Suspects

A total of 25 suspects were arrested and released from custody prior to formal charging process. Reasons for release included the following:

Prosecutor Declined to Charge	40.0%
Victim Refused to Cooperate	36.0%
Victim Unavailable	4.0%
Case Unfounded	4.0%
Victim Admits False Report	4.0%
Charge Reduced to Misdemeanor	4.0%
Suspect Deceased	4.0%
Arrested Suspect Proven Innocent	4.0%

(3) Decline of Prosecution

The prosecutor declined to file charges in 13 cases. Reasons for this decline included (1) noncredible victim account (61.5%); (2) inadequate proof of penetration (15.4%); and (3) successful polygraph examination of suspect (7.7%).

(4) Method by Which Arrest Secured

An arrest or attempted arrest was made in 79 of the 85 cases. The methods by which these arrests were accomplished or attempted included the following:

Patrol Officer Acting on Probable Cause	54.4%
Suspect Surrendered to Warrant	8.9%
Suspect Surrendered to Summons	8.9%
Detective Acting on Warrant	7.6%
Patrol Officer Acting on Warrant	6.3%
Warrant Issued - Suspect Fugitive	5.1%
Suspect in Custody on Other Charge	1.3%
Unknown	3.8%

Note that more than one half of all arrests were made by patrol officers. Most of these arrests were accomplished prior to the assignment of the cases to follow-up investigators.

(5) Suspects' Previous Arrests

Nearly three quarters of all 1974 rape suspects had previous arrest records as juveniles or as adults. The adult arrest offenses included the following:

Adult - Part I Offenses

Homicide	2
Rape	4
Assault 1° and 2°	19
Robbery	2
Burglary	6
Larceny	17
Auto Theft	<u>11</u>
Total Part I Arrests	61

Adult - Part II offenses

Assault 3°	9
Threats to Kill	5
Possession Stolen Property	2
Vandalism (Prop. Dam.)	2
Sol. Minor for Immoral Purpose	2
Indecent Exposure	2
Contributing to Del. of Minor	2
Carrying Concealed Weapon	13
Gambling	2
Narcotic Drug Laws	2
Driving Under Influence	3
Drunk in Public	24
Bootlegging	2
Minor Consuming	3
Prowling	6
Disorderly Conduct	7
Profanity	1
Resisting	1
Dyer Act	<u>2</u>
Total Part II Arrests	90

Note the high proportion of previous arrests for violent or potentially violent offenses, i.e., homicide, rape, robbery, assault, threats, and carrying a concealed weapon. Previous arrests for sex offenses other than rape were relatively infrequent.

(6) Victims' Previous Arrests

Twelve of the 85 victims identified in the arrest records had previous arrests. The majority of these arrests resulted from juvenile status offenses such as runaway, truancy, and incorrigibility. Adult arrests for Part I offenses included auto theft (2) and larceny (5). Adult arrests for Part II offenses consisted of offer and agree (3), narcotics (2), and minor consuming (1).

(7) Court of Adjudication

A total of 51 of the 1974 cases was adjudicated or in the process of adjudication. The following courts were responsible for hearing the cases:

Municipal Court	8.0%
Justice Court	24.0%
Superior Court	64.0%
Juvenile Court	4.0%

(8) Dispositions from Justice or Municipal Court

A total of 17 cases were tried as misdemeanors in Justice or Municipal Court with the following results:



**CONTINUED**

**1 OF 2**

<u>Dispositions</u>	<u>Number</u>	<u>Percent</u>
Dismissed	3	17.6%
Acquitted	2	11.8%
Pled Guilty	5	29.4%
Found Guilty	4	23.5%
Pending	3	17.6%

Of the five guilty pleas, three were to assault 3°, one was to soliciting a minor for immoral purposes, and one was unspecified. Of the four cases in which the defendant was found guilty, three suspects were charged with assault 3°, and one charge was unspecified. In these nine cases involving guilty defendants, seven were given deferred sentences or probation ranging from one day to six months; one was given a jail sentence of 30 days; and one defendant was discharged upon payment of costs. Additional penalties included four cases in which defendants were fined in the amount of court costs (two cases, \$50.00 (one case), or \$100.00 (one case)).

(9) Dispositions from Superior Court

The following dispositions were noted for the 34 cases bound over for trial before the Superior Court (adults only):

<u>Dispositions</u>	<u>Number</u>	<u>Percent</u>
Dismissed	6	17.6%
Acquitted, All Charges	3	8.8%
Found Guilty	4	11.7%
Pled Guilty	17	50.0%
Pending	1	2.9%
Non-Suspect Fugitive	3	8.8%

The six dismissals from Superior Court resulted from insufficient evidence (1), State's motion based upon victim refusal to cooperate (1), victim withdrawal of complaint (1), defendants pled guilty to other charges (2), and unspecified (1). The 17 defendants who pled guilty did so to the following charges: rape (6), assault 1° (1), assault 3° (1), carnal knowledge (4), indecent liberties (3), soliciting a minor for immoral purposes (1), and unknown (1). Three of these defendants also pled guilty to two additional charges of rape, one charge of soliciting a minor, and one charge of assault.

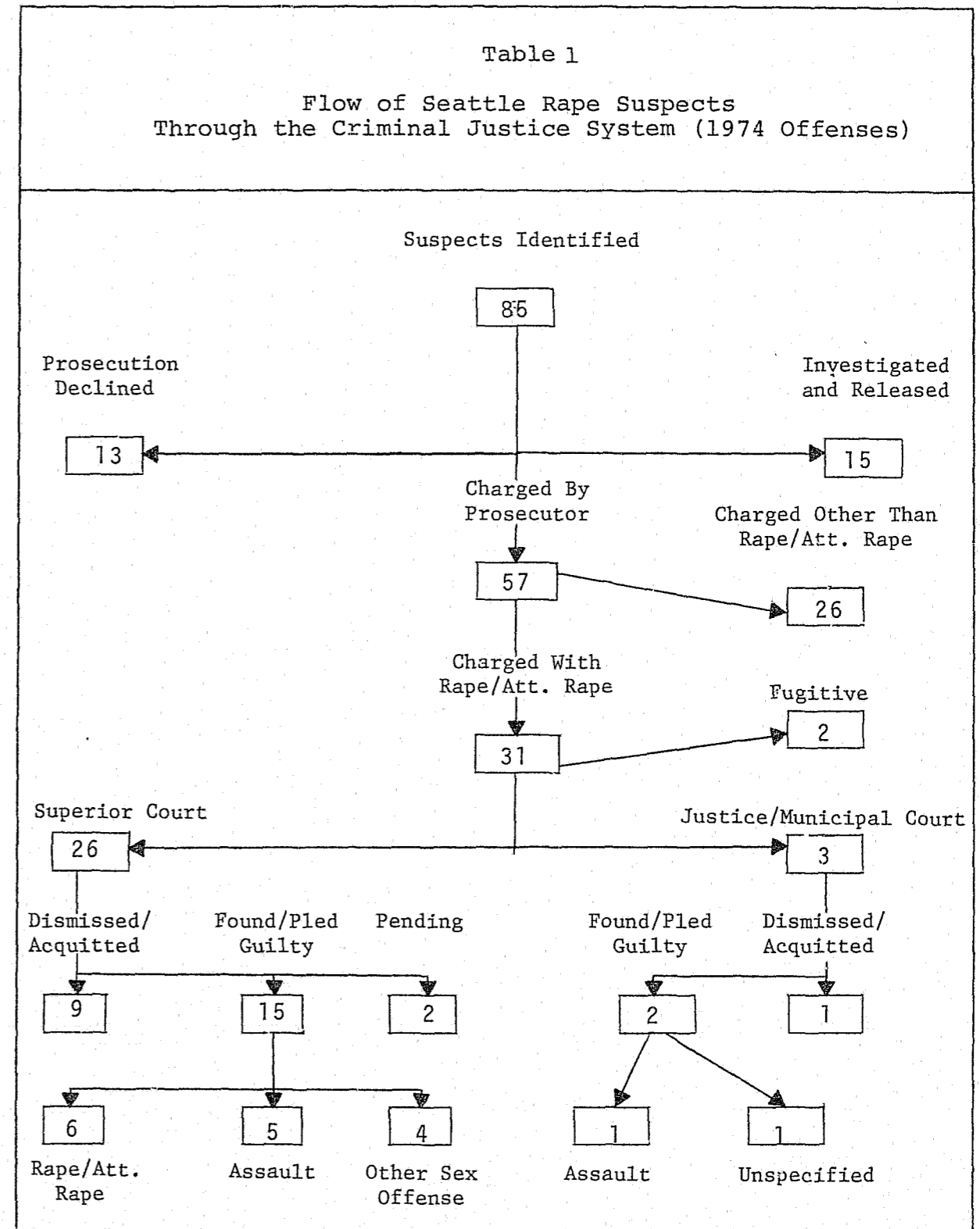
(10) Superior Court Sentences

Sentences were specified in 20 of the 21 "guilty" dispositions. The sentences included the following:

<u>Sentence</u>	<u>Number</u>	<u>Percent</u>
Deferred	8	40%
Time Suspended	1	5%
Institution	8	40%
Pending	1	5%
Deferred and Jail Time	2	10%

Sentences were deferred or suspended for the following periods: one year (1), three years (3), four years (2), five years (4), and 10 years (1). Conditions associated with deferred sentences included payment of court costs (3) and completion of treatment program (1). In addition to deferred sentences, two defendants were also sentenced to jail for three months and six months, respectively. Of the eight defendants sent to institutions, the sentences handed down consisted of 10 years (1), 20 years (3), 30 years (1), 35 years (2), unspecified (1).

A slightly different version of the flow of Seattle rape suspects through the criminal justice system is illustrated in Table 1. Rather than focusing upon the disposition of cases across defendants, the table presents the disposition of cases handled as rape at levels of law enforcement, prosecution and adjudication. Note that of the 85 individuals identified as suspects, only 31 were charged with rape/attempted rape. Of these 31 defendants, only six were found guilty of or pled to a charge of rape. Thus, less than two percent of 308 initial rape complaints resulted in rape convictions.



Analyses of Prosecutor Records. The legal literature and numerous descriptive studies indicated that much of the controversy and the difficulty of proof in rape cases center on factors which find their way not only into the courtroom, but are used as criteria for judging whether or not investigation and charging should be pursued along the way. Because these factors were thought to be particularly important at the level of prosecution, much of the analysis of prosecutor records was concerned with a determination of the relationship between these factors and decisions to file charges of rape and proceed to trial.

The Washington law, as it existed at the time of data collection, defined rape as "an act of sexual intercourse with a person not the wife or husband of the perpetrator, committed against the person's will and without the person's consent." (R.C.W. 9.79.010). In general terms, the necessary elements of proof for a rape charge consisted of the following:

- (1) that the victim and defendant were not married to each other at the time of the alleged offense;
- (2) that the defendant was the perpetrator of the alleged offense;
- (3) that sexual intercourse did take place; and
- (4) that the victim did not consent to the act.

Although the element of marital status is not particularly difficult to prove, the others are more difficult. For example, despite the fact that Washington law does not require corroboration evidence for proof of rape, it is generally assumed that a case which is limited to the victim's word against the defendant's

stands little chance of successful prosecution. This implies that the presence of corroborating evidence such as victim or defendant injury, medical evidence of penetration, witnesses to the incident or to the victim's immediate emotional state, use of weapons or other force, is highly relevant to the prosecutor's decision to file a rape charge, a lesser charge, or no charge at all. The same factors are taken into consideration when plea bargaining is considered. Also relevant to these decisions are factors related to the victim's credibility and the likelihood of consent.

To explore these issues, extensive data were collected from the case files of the King County Prosecutor's Office. Cases chosen for analysis consisted of 60 percent random sample of all the cases brought to the Prosecutor's Office during 1972, 1973 and 1974 which contained an allegation of rape. Thus, the sample included cases in which crimes other than rape were also alleged and cases in which the prosecutors had reviewed the information and decided to file a lesser charge or no charge.

The information from each case was recorded on a six-page data sheet which was coded for computer analysis. Four types of information were collected: dispositional information, characteristics of victims and defendants, circumstances of rape offenses, and evidentiary factors.

Numerous cross-tabulations were run to determine the relationship between: specific social and evidentiary factors and charge or the final prosecutor's decision. (See Appendix 14

for a complete discussion of the methodology and results of the analyses of prosecutor records).

Special mention should be made at this point in regard to the difficulty of obtaining the rape cases from the files. The King County Prosecutor's Office had undergone changes in record keeping procedures between 1972 and 1973. This change made cases for the later two years in the study difficult to find. All criminal cases in the office were filed in straight numerical order according to the prosecutor's own numbering system through 1972, and then according to the Superior Court docket numbers. No central indexing system had been perfected. An elaborate, but time-consuming, scheme was devised to detect these cases.

The first variable (dependent) examined was the prosecutor decision to charge. The charge components were collapsed into three categories:

- (1) rape - including filing charges of rape, carnal knowledge, and attempted rape;
- (2) other - including filing on any other charge;
- (3) decline - including all cases in which no charges were filed.

The second variable (dependent) was termed the "prosecutor's final action." The components of this variable were collapsed into three categories:

- (1) plea/trial rape - defendant either (a) was brought to trial on a charge of rape or carnal knowledge, or (b) pleaded guilty to rape or carnal knowledge;

- (2) plea/trial other - defendant either (a) was brought to trial on charge other than rape or carnal knowledge, or (b) pleaded guilty to charge(s) other than rape or carnal knowledge;
- (3) dismissed prior to trial - prosecutor either (a) never filed any charge at all, or (b) initially filed some charge, but dismissed it.

Highlights of the results are presented below. In all cases the Chi Square test was used to determine the significance of the relationship and the Cramer's V was used to gauge the strength of association between the independent and dependent variable.

(1) Defendant Identification.

The identification of the defendant as the perpetrator of the rape act was an important variable in terms of both the prosecutor's charging decision and the final prosecutor's action. Three types of identification data were collected: (1) police photo identifications; (2) police line-up identifications; and (3) corroborating witnesses to defendant's identity.

A total of 43 positive identifications were secured from a combination of photo and line-up identifications. Rape was charged in 85 percent of the cases which contained such positive identifications and in 58 percent of the cases without either of these types of identity corroboration. Prosecutors declined to charge in 9.3 percent of the positive identifications and in 26 percent of those without identity corroborations.

In terms of the prosecutor's final action, the case either went to trial or the defendant pleaded guilty in 65.8 percent of the positive identification cases, and in only 31.8 percent of those without identity corroboration. Thus, it does appear that photo or line-up identification of the defendant is significant in terms of the prosecutor's charging decision and the final prosecutorial action.

Identity-corroborating witnesses existed in 68 cases. Here the results were similar to those discussed in relation to photo and line-up identifications.

(2) Sexual Penetration.

Penetration, "however slight" is a necessary element of proof for the crime of rape. If penetration did not occur, notwithstanding how much the offense resembled rape in other aspects, the prosecutor could not charge rape.

No significant differences were observed in the prosecutor's charging decisions when related to the presence or absence of medical evidence of penetration. However, when the prosecutor's final action was examined, the availability of medical evidence did become significant. Nearly 52 percent of the cases with medical evidence of penetration were sent to trial as rape, while only 31 percent of those without such evidence were sent to trial as rape.

(3) Consent.

The lack of victim consent is possibly the most controversial issue in rape prosecutions. It was anticipated that evidence of force, threats, victim injury, victim resistance, and the

emotional state of the victim immediately following the event would make the case more likely to be prosecuted as rape. To a large degree this anticipation was substantiated by the data.

(a) Force. Some type of force was present in 86 percent of the cases. While the relationship between the use of force and charging was not significant, the anticipated direction of the relationship was significant. (Comparison data on the prosecutor's final decision was not available at the time of this writing.)

(b) Threats. The relationship was highly significant between physical threats to the victim and the prosecutors' charging decision or prosecutors' final decision.

(c) Victim Injury. Injuries to the victim were recorded in 46 percent of the cases. Because of the tangible nature of this evidence, it was anticipated that this factor could be highly influential to the prosecutor's charging decision and to the final prosecutorial action. However, the results revealed that while the relationship between injury and the charging decision was significant, the relationship between injury and the prosecutor's final action was not significant.

(d) Victim Resistance. Rape laws in the past have often required "utmost resistance" by rape victims, placing them in the position of having to risk death or serious injury to demonstrate lack of consent. While "utmost resistance" was not required by Washington Statute, it does state that the intercourse must occur "against the person's will."

Some form of resistance (verbal, flight, physical or weapon) appeared in 63 percent of the cases. When some form

of resistance was exhibited by the victim, rape charges were filed in 73 percent of cases. This was significantly higher than the 56 percent recorded for cases without resistance.

In reviewing the prosecutor's final action, it was revealed that many rape charges were either reduced or not sent to trial. More than 41 percent of the cases in which no victim resistance was expressed were dismissed prior to trial compared to 21 percent when resistance was present. While not by itself as influential as some other factors, the presence of victim resistance did appear to make the case more prosecutable.

(e) Victim's Emotional State. The victim's emotional state immediately following the offense can also corroborate lack of consent. The study recorded both objective and subjective measurements of the victim's emotional state. The objective measure, whether or not there were witnesses to the victim's emotional state, yielded significant results. Indeed, the results were so significant that this appeared to be one of the most influential factors in relation to charging decisions and the prosecutor's final actions.

(4) Previous Victim-Defendant Relationship.

Of the 137 cases analyzed, 38 percent of the victims were strangers to their assailants; 38 percent were casual acquaintances; 15 percent were close acquaintances; and nine percent were relatives. The highest percentage of rape charges occurred within the stranger-to-stranger category. The closer or more intimate the relationship, the less likely the prosecutor would charge rape.

(5) Leading Events - Voluntary Victim Interaction

The effect of victim entry into what became a rape situation

was recorded under four headings. Three headings indicated that preliminary interaction between victim and defendant was voluntary (hitchhiking, party or tavern, and other). The fourth category involved a variety of circumstances, all without the victim's agreement.

The results indicated that in all cases where contact occurred without the victim's agreement, charges were filed. The significance and association levels were also fairly high in this tabulation, indicating that victim non-agreement correlates with greater likelihood of a rape charge being filed, while victim agreement correlates with a lesser likelihood of a rape charge being filed.

In summary, the five factors which contributed most favorably to the prosecutor's initial decision to file rape charges were:

- (1) the victim entering the rape situation without her consent;
- (2) the defendant having evidenced drug or alcohol involvement, but not the victim;
- (3) a positive identification of the defendant via a photograph or police line-up identification;
- (4) the defendant threatening the victim with a weapon; and
- (5) the availability of witness(es) to the victim's physical or emotional state after the rape offense.

The five factors which contributed most favorably to the prosecutor's final action to send the case to trial on a rape

charge (or to obtain a guilty plea from the defendant on a rape charge) were:

- (1) the victim entering the rape situation without her consent;
- (2) a positive identification of the defendant via a photograph or police line-up identification;
- (3) the defendant threatening a minor victim with physical harm;
- (4) the defendant having alcohol-drug involvement, but not the victim; and
- (5) the availability of witness(es) to the victim's physical or emotional state after the rape offense.

The practical implications resulting from this first year research analysis are potentially numerous and extensive. For the prosecutor's office, data on factors which most affect prosecutorial decision-making can be used to great advantage in trial strategies, investigation, and case preparation, as well as in improving office procedures and record keeping systems. Extending beyond the prosecutor's office, this information can be useful for police investigations in identifying what evidence is most important to the successful prosecution of the case. Victim cooperation and evidentiary contributions to the cases can be improved by dissemination of the information to victims, victim service agencies, and medical facilities which can note and preserve the evidence that will be most helpful to prosecutors.

Analysis of Patrol Officer Interviews. The national survey of police agencies indicated that the most readily available patrol officer was almost always the person assigned to take the initial victim rape complaint. Because of the importance of this first victim contact and initial investigation, methods and instruments were developed and tested to collect data from patrol officers at the pilot site.

The questionnaire was designed to elicit information from officers in a personal interview situation or in a mail-return version. Two groups of officers were selected for participation: (1) 47 officers who had taken a specific rape complaint in 1974; and (2) 30 officers who had not taken a specific rape complaint in 1974.

Detective Michael R. Germann, from the Seattle Police Department Sex Crimes Squad, acted as liaison person in this study and hand-carried the contact letter and officer interview information sheet to those patrol officers selected for the sample (see Appendices 15 and 16 for copies of the contact items). The contact letter from Chief Robert L. Hanson of the Seattle Police Department briefly explained the research study and how the researchers wished to accomplish the patrol officer segment of it. The officer interview information sheet requested basic information about the patrol officer should he choose to participate, i.e., name, division, precinct number, preferred time for interview, etc. The patrol officers who agreed to participate were instructed to return the completed information to Detective Germann, who subsequently then returned it to the Battelle researchers.



Upon receipt of the completed information sheets, the Battelle interviewers were notified and an in-person interview was scheduled according to the preference of each volunteering patrol officer. The follow-up letter (see Appendix 17) which was then sent to those officers informed them of the interview time and place, method of payment for the interview, and, if the officer had taken a 1974 initial rape report, an additional request for him to use a particular case number as a reference for the interview. A total of 51 interviews were conducted in person.

We also wished to test the efficacy of mail-out responses. Thus, questionnaires were sent to those patrol officers who indicated a willingness to participate. Included with the questionnaire was a letter giving instructions for the completion and return of the questionnaire (see Appendix 18). Again, if a patrol officer had taken a 1974 initial rape report, he was asked to refer to a particular case number for this interview. A total of 26 questionnaires were mailed out in this fashion; twenty-four were completed and returned.

The 34-page questionnaire resulted in the generation of 305 variables. The following represents the highlights of the results obtained from the patrol officer interviews (see Appendix 19 for a more complete description of the results).

(1) Response Time.

More than eight of 10 patrol officers indicated that they were on routine patrol when they were dispatched by radio to take the rape complaint. Ninety-eight percent of all responses were accomplished within 10 minutes of receipt of the dispatch.

(2) Promptness of Report to Police.

The promptness with which victims report to police has important legal and investigatory implications (medical proof of penetration, other forms of physical evidence). The respondents indicated the following delays: (1) 57 percent within one hour; (2) 36 percent within one day; and (3) 6 percent more than one day delay.

(3) Condition of the Victim

This variable is important to subsequent prosecution, since the patrol officer may be called as a witness to corroborate the condition of the victim at the time of the report. The following responses were obtained when officers were asked to characterize the emotional state and appearance of the victim:

Emotional Condition

Calm	38%
Upset, but responding	57%
Too upset to respond	3%

Appearance of Victim's Clothing

No apparent disarray	69%
Torn, dirty, bloody, etc.	28%
Naked	3%

(4) Methods of Developing Leads on Suspects

By physical description	67%
Victim knew assailant	59%
Location of offense	36%
Witness knew	13%
Vehicle license number	10%
By modus operandi	10%
Caught in act	3%

(5) Officer's Feeling About Receiving a Rape Call.

This question explored the officer's personal reactions regarding the initial investigation of a rape complaint. The following responses were obtained:

Challenged by potentially interesting assignment	59%
Routine report like any other felony	21%
Don't like it - victims difficult	12%
Hassle-- generally no payoff	7%

(6) Most Difficult Aspect of a Rape Complaint.

When officers were asked to identify the most difficult feature of an initial rape investigation, the following responses were obtained:

Calming an upset victim	45%
Obtaining useful information for investigation	39%
Maintaining victim cooperation	7%
Dealing with victim's friends/family	5%

(7) Most Appropriate Personnel to Take Initial Rape Report.

When officers were asked who would be the most appropriate personnel to respond to the initial report, a rather surprising range of responses were reported.

Regular patrol officer	48%
Specially trained, female patrol officer	28%
Specially trained, male patrol officer	1%
Don't know	5%

(8) Recommendations for Change in Rape Investigations.

(Multiple answers acceptable.)

Use more female officers	54%
Expand size of sex crime unit	42%
Patrol officer taking initial report should conduct entire investigation	9%
No changes recommended	32%

(9) Effect of Using More Female Officers.

On Treatment of Victims:

No change	53%
Treatment would improve	45%
Treatment would get worse	1%

On Apprehension Rate:

No change	70%
Increase apprehensions	27%
Decrease apprehensions	3%

(10) Areas of Needed In-Service Training for Patrol Officers.

(Multiple responses acceptable.)

Resources available to deal with victims	77%
Victim interviews	75%
Suspect interviews	64%
Report writing	34%
Gathering physical evidence	27%
No more training necessary	13%

(11) Adequate Cooperation Between Patrol Officers and Detectives in Rape Cases.

This item attempted to probe officers' feelings of continuity and purpose in their activities and those of detectives. A total of 65 percent of the officers felt that the level of cooperation needed some improvement (37%) or considerable improvement (28%). Of those officers who indicated that improvement was needed, 92 percent indicated that this could be accomplished if detectives provided communication or feedback to the investigating patrol officers.

(12) Areas of Improvement Needed by Patrol Officers.

(Multiple answers acceptable.)

Use of community services	65%
Suspect interviews	64%
Knowledge of rape statutes	55%
Evidence collection	52%
Victim interviews	44%
Use of medical services	28%
Report writing	20%

(13) Important Reasons for Victim Non-Reports.

This item explored the evaluations and perceptions of patrol officers in regard to reasons why victims might not report offenses to law enforcement agencies. (Note that multiple responses were acceptable.)

Embarrassment if known to others	87%
Fear of criminal justice system procedures	54%

Feel nothing can be done	33%
Would rather forget incident	30%

(14) Areas Believed to Cause Special Problems in Rape Cases.

This was a particularly important item which attempted to pinpoint areas causing the greatest difficulty in the investigation of rape offenses. (Multiple answers acceptable.)

Emotional state of victim	81%
Victim interviews	64%
Delay in reporting	58%
Interaction with family/ friends of victim	36%
Evidence gathering	28%

Additional Interviews with Other Criminal Justice Personnel.

In addition to the interviews conducted with patrol officers, other criminal justice personnel familiar with rape cases were also interviewed at the pilot-site. These personnel included police investigators (9), police administrators/policymakers (7), deputy prosecutors (3), defense attorneys (2), and judges (3).

Because the intent of this portion of the research was to determine the feasibility of obtaining specific types of information and to evaluate its usefulness, the results from these interviews will be incorporated with second-year findings. For the purposes of the final report, the discussion will focus upon only the issues of feasibility and usefulness.

a. Police investigator interviews. A 48-page interview schedule was used to gather data from the Seattle detectives assigned to the sex crimes investigation unit. The instrument was designed for the purpose of surveying these detectives about

their experiences, evaluations, and recommendations concerning the handling of rape cases at the investigative level. Since these were the officers who had the most frequent and prolonged contact with rape cases, they probably knew more about rape and how it is handled than any other criminal justice personnel. It was, therefore, most important to survey them about the various aspects of their handling of rape cases.

The investigator interview was prepared to address many of the same issues that were addressed in the national survey of police agencies, but to examine them in much closer detail. The interview format was prepared with the assistance of the sex crimes investigator who was temporarily assigned to Battelle by the Seattle Police Department. This was the most extensive questionnaire of all of those prepared for administration to criminal justice personnel.

The investigator questionnaire is divided into a number of different sections, the first of which focuses upon current departmental procedures. The purpose of this section is to examine various aspects of caseload and case assignment, initial investigation, follow-up activities and investigative strategies. Personal experiences interacting with victims, suspects and other criminal justice personnel were also explored. The final portion of the interview was concerned with individual evaluations of the means by which rape investigations, prosecutions and judicial practices might become more efficient and effective. The questionnaire was very comprehensive and should provide much highly useful data when combined with the findings generated during the second year (see Appendix 20 for a copy of the

the Investigator Interview).

b. Police administrator/policymaker interview. The procedures followed by line personnel are developed according to the policies set forth by a department's upper level administrators. Moreover, these procedures are also affected by the department's mid-level, supervisory administrators. While these latter individuals do not necessarily have a direct influence on the formation of policy, they do have a great influence on how established policies are put into practice. Thus, this interview was prepared to survey both upper- and mid-level administrators about policy issues concerning the handling of forcible rape cases.

The administrator survey was prepared so that the results obtained from a substantial number of items could be compared to the data derived from other criminal justice personnel interviews. One very important reason for doing this was to determine if the system was functioning as they conceived it to be. In addition, the questionnaire was designed to measure the way in which these individuals evaluated various aspects of rape cases.

The preliminary sections of the instrument deal with the training received by police personnel, how the administrators perceived preliminary and follow-up investigations to be handled, and what they knew about the availability and delivery of victim services. These items were followed by sections concerned with reporting, investigation unit composition, and prosecution. The final section of the interview focused upon any institutional changes that were planned or thought to be necessary.

Not all police administrative personnel were considered to be appropriate interview candidates. Because of the structure

of the Seattle Police Department, interviews were conducted with Sex Crimes Unit supervisors (two sergeants), all Crimes Against Persons administrators (lieutenant, captain and major), the Assistant Chief, and the Chief of Police. (It should be noted that all of these individuals were very familiar with all aspects of departmental police, training and investigating practices related to rape offenses. Indeed, without the understanding, cooperation and consent of these persons, no pilot-site research could have been conducted.)

The administrator interview schedule was divided into a number of sections intended to explore satisfaction with present policies and procedures governing the handling of rape offenses and any modifications or policy changes likely to be put into effect in the near future. The first section of the interview, for example, explores current and proposed pre-service and in-service training in forcible rape for new police recruits, patrol officers and investigators. Subsequent sections concern policies related to the initial investigation (patrol responsibility), follow-up investigations, victim services, liaison with trial deputies, resource allocation, unit composition, reporting procedures, and institutional changes. The findings from the administrator interviews will be combined with those obtained during the second year and will be instrumental in guiding the development of research products intended for police agencies. (See Appendix 21 for interview format.)

C. Prosecutor interviews. The prosecutor interviews were designed to obtain more specific information regarding many of the issues included in the national survey of prosecutor agencies.

The first portion of the interview schedule was prepared by the National Legal Data Center (NLDC) and consisted of approximately 58 open-ended items. The second portion of the instrument was prepared by Battelle research staff and consisted of 32 computer coded items related to the individual perceptions and experiences of trial deputies experienced in rape cases.

Only three interviews were actually conducted with members of the Sexual Assault Unit of the King County Prosecutor's Office. The NLDC interviewers selected these respondents from among the seven members of the Unit based upon their availability to be interviewed. The interviews were tape recorded, transcribed, and summarized.

This method of data collection proved to be much less effective than those techniques used to survey other members of the criminal justice system. Responses to open-ended questions tended to be "fuzzy" and difficult to group. Before the technique of interviews with prosecutors is conducted in the second year of research, the instrument utilized at the pilot-site will need to be modified in terms of form and content.

d. Defense attorney interviews. The interviews with defense attorneys attempted to explore the strategies and techniques utilized in the defense of clients accused of rape offenses. The interview format was similar to that developed for prosecutors, i.e., answers to open-ended questions were tape recorded for later transcription and summarization.

NLDC selected only two attorneys to act as respondents-- the Chief and Senior Trial Attorney of the Public Defender's Association of Seattle. These two respondents were asked

questions related to general issues regarding rape, e.g., frequency of false reports and the effect of increased public interest in rape on victim reporting and subsequent prosecutions. Other portions of the interview format dealt with more specific issues related to defense tactics, plea negotiations, jury selection, verdicts and sentencing.

The information obtained from these interviews was disappointing. Based upon the results of the interviews, interviews with defense attorneys were not considered a particularly worthwhile pursuit. No further attempts to collect this type of data will be made during the second year of the project.

e. Judicial interviews. In order to study the posture of the judiciary in relation to rape cases, NLDC attempted to interview a sample of trial judges who had tried rape cases. The method of obtaining these interviews was similar to that used by NLDC in other portions of their research. In this instance, the names of three trial judges were obtained from the Chief Criminal Assistant in the prosecutor's office. Appointments were made and personal interviews conducted.

The interview schedule prepared by NLDC was designed to explore those aspects of rape cases that presumably would be most important at trial. The initial sections of the instrument dealt with the experiences of respondents while on the bench or as prosecuting or defense attorneys. Other sections were concerned with any special preparations that judges might make to hear a rape case, their procedures with respect to plea negotiations, and their perceptions of how rape trials are conducted compared to other felony cases. The concluding sections pertained to

factors that might influence verdicts or sentences.

The results of the judicial interviews were even more disappointing than those obtained from interviews with defense attorneys. The judges were too inexperienced in actually trying rape cases. As a consequence, no effort will be made in the second year of research to pursue additional interviews with trial judges.

Analysis of Victim Interviews. The victim portion of the pilot-site research was an interesting challenge. The methodology, content and highlights of the results are discussed in detail to illustrate the unique features associated with this portion of the pilot-site study (see Appendix 22 for more complete results).

Since much of the public interest in rape has been stimulated by reports of victim maltreatment by the criminal justice system and emotional trauma experienced as a result of the sexual assault, victim interviews were considered absolutely necessary to the research effort and the development of subsequent products for use by system personnel. The interview instrument itself was intended to explore victim experiences with agents of the criminal justice system, the circumstances of their individual assaults, and the types and effectiveness of various methods of resistance used by them. In addition, the purpose of the research was also directed toward the reasons why some victims do not report offenses to police. Thus, the thrust of the interviews was designed to elicit information from victims which might be used to increase victim reporting and to maintain victim cooperation with police and prosecutors once the complaint has been made.

Access to victims was developed through two organizations (Rape Relief and the Sexual Assault Center) funded and maintained by the Seattle Rape Reduction Project. The Sexual Assault Center, as a segment of Harborview Hospital (county-supported), provides 24-hour on-call social workers to assist rape victims during the

medical examinations, to offer followup counseling services and to offer a liaison with the criminal justice system for case processing through the criminal justice system channels. A monthly average for the number of victims seen by the Sexual Assault Center staff for medical services in the emergency room was 25. On the average, the Sexual Assault Center sees five victims each month who request only followup counseling. Rape Relief advocates (trained volunteers) provide a 24-hour crisis telephone line as well as in-person medical advocacy, police and legal advocacy, transportation, counseling, counseling referrals and public education. During an average month, Rape Relief is in contact with approximately 40 victims.

Contact was initiated with the directors and staff of the two organizations in October, 1974. Further meetings with the two organizations were held to establish the procedures outlining responsibility for each task. This was formalized through letters to Rape Relief and the Sexual Assault Center. Initial contact with the rape victim would be secured through the staff of the Sexual Assault Center and by Rape Relief advocates. The rape victim would be telephoned and receive a brief description of the study including information about confidentiality and informed consent.

If interest were shown by the victim, she would be asked to participate and be given further information about procedures of the interview. The Rape Relief worker and the Sexual Assault Center staff person would refer the name of the woman, her address and telephone number to the interview team.

The two organizations acted as pretesting sites for the questionnaire. The Rape Relief and Sexual Assault Center staff members reviewed the questionnaire with knowledge of victim responses in mind and recommended improvements in the format and wording of the questionnaire. All of the suggestions were incorporated into the final draft of the questionnaire.

At the questionnaire review meeting with the Sexual Assault Center, objections were stated about the length of the questions and the additional time required of the victim. The format of the questionnaire allowed many victims to omit three sections and portions of other sections. Section A was of concern because of the large number of questions potentially leading to the identity of the victim. Question I.1. through I.5. were psychological in intent and the Sexual Assault Center asked that they be deleted. (The Battelle staff had originally agreed not to ask questions dealing with the psychological effects of the rape.) It was decided that questions I.1. through I.5. (psychological consequences) would not be asked of victims referred from the Sexual Assault Center. The final objection of the Sexual Assault Center staff was the possibility of a subpoena for the questionnaires by the courts.

It was resolved that the risk was small and that the Battelle staff would have 100 questionnaires with no identifying information. After this final meeting with the Sexual Assault Center the interviewing was ready to commence.

During the first 4 weeks of interviewing, 2 victims were referred from the Sexual Assault Center and 9 victims from Rape

Relief. (Two were under age and a third, upon contact by the interviewer, decided not to participate). This left the victim portion of the project with 8 victims to interview. It was clear from the 4-week test period that Rape Relief and the Sexual Assault Center were not able to provide the number of victims anticipated by the Battelle staff. Continued contact with Rape Relief and the Sexual Assault Center showed no improvement in the number of victim referrals.

Alternative methods for victim access were surveyed. A decision to assess the feasibility of victim contact through news media coverage was made. A press release outlining the intent of the project was circulated to the Seattle area newspapers (see Appendix 23 ). The news release asked victims of rape to volunteer to be interviewed about the circumstances of the assault. It was explained in the news release that information would be confidential and anonymous. Within the short news article, it was stipulated that the victim must be 18 years of age or older. In order to reassure the victim that the interview situation would be comfortable, the release detailed the training, experience, and sensitivity of the interviewers. The victim could select a time and place for the interview which was convenient for her. The time commitment and reimbursement were mentioned as further explanation about the study. Interested women were asked to call the Battelle staff and the telephone number was given.

A classified advertisement was also run in the Seattle area newspapers for a period of one week. The classified advertisement included the following information: (1) experienced interviewers,



(2) two hours of the victim's time, (3) reimbursement, (4) who to telephone.

A special effort was made to reach Third World women who were victims of rape. The news release and classified advertisement were carried by the major Black newspapers in the area.

Within the 10-day period during which the news releases and the classified advertisement appeared in the Seattle area newspapers the Battelle staff received 85 calls. Of the 85 telephone calls, 40% of the women responded after viewing the evening paper (The Seattle Times), 25% responded from the morning paper (The Post-Intelligencer), and the remainder of the victims learned about the project through other sources (The University of Washington paper, outlying community newspapers and local radio station announcements). Approximately half of the telephone calls came in response to the news releases, while the other half gained information about the project through the classified advertisement. From this response rate during the initial 10 days of media coverage, it appeared that it was important to utilize both sources of coverage (advertisement and news release) as well as both major newspaper outlets.

When the victim telephoned the Battelle number, one of the female staff members explained the scope of the study, the guarantee of confidentiality, the consent form, the length of the interview, and the reimbursement of \$10.00. If the woman appeared interested, a contact sheet was completed (see Appendix 24). The contact sheet included information about the victim (name, address, telephone number, age), the circumstances of the rape, (location, date, and brief description), the reasons for participating in the study, and the source of information about the study.

Of the 85 calls, 41 women had been raped within King County during the last 3 years. All of these women were informed an interviewer would be calling her to establish a convenient time and place to administer the questionnaire. The remainder of the women were informed that they probably wouldn't be interviewed and were thanked for their interest in the project. Many women who telephoned in response to the news items stated that they had never told anyone about the rape incident; some of the women still felt the psychological results of the assault. These women were given information about the counseling services available through Rape Relief and the Sexual Assault Center. The two Battelle staff members who handled the telephone calls from victims volunteering to participate in the study noticed that many of the women were exceptionally eager to participate.

Because of the success of the news release and the classified advertisement, it was decided to place a display advertisement in the Sunday edition of The Seattle Times for further coverage. The display advertisement brought a minimum response from victims of rape, but increased further coverage through an unexpected avenue. The display advertisement caught the attention of several local radio stations as well as one of the major television networks in the Seattle area.

The news media coverage appeared to be an excellent method for contacting victims of rape. A limited amount of energy, time and money was necessary to design and distribute a news release, classified advertisement and display advertisement. The relative expense for the news coverage was within the range established as overhead for the victim portion of the project. Another benefit

of the news coverage decision was the spiral effect. As one news story was disseminated to the general public, other news organizations contacted the Battelle for further information and possible interviews.

The news media alternative eliminated the necessity for meetings and telephone calls to maintain the relatively unsuccessful procedures of access through the two service agencies. The news media method of contact eliminated the concern for the invasion of the victim's privacy because the victim was the initiator of the telephone contact. (With the previous procedure, the telephone contact was initiated by the social worker at the Sexual Assault Center or the advocate from Rape Relief.) The news media coverage reached a larger population of women, thus decreasing the likelihood of sample bias created by the victim referral through two service organizations.

Further news media coverage included a second classified advertisement for a period of one week in the major evening newspaper. The response rate was less than the initial period, yet still sufficient to justify the expense of the advertisement.

One final source of victim access came during the seventh and eighth week of the victim interviewing. Rape Awareness Week during early May caused an increased advertisement campaign by the Seattle Rape Reduction Project. Rape Relief victim contacts increased significantly during the week of advertisement and the following week. During that time period, we received 20 new referrals from Rape Relief advocates.

The breakdown of victim referral sources resulted in about 25% from Rape Relief and 75% from news media coverage. The time and effort devoted to establishing contacts with the Sexual Assault Center proved to be very unsuccessful. The news media appeared to be the most efficient and successful method for contacting victims of rape interested in further research efforts to encourage improved criminal justice system procedures and prevention strategies. The main selection factors influencing the sample were the characteristics of volunteers (a factor which would be impossible to avoid in this sensitive area of research) and the characteristics of people who respond to requests through the news media.

The questionnaire was evaluated according to the Department of Health, Education and Welfare requirements for the protection of human subjects by two committees. The Battelle Human Subjects Review Committee recommended approval of the victim interview schedule and the procedures for informed consent. The approval of the interview schedule consisted of the following:

- (1) the rights of the subject were adequately protected;
- (2) the welfare of the subject was adequately protected;
- (3) the possible risks to the subject were outlined; and
- (4) the stated benefits outweighed the risks to the subject.

The approval of the informed consent included the following basic elements:

- (1) a fair explanation of the procedures to be followed;
- (2) a description of the risks and discomforts;
- (3) a description of the benefits;
- (4) an offer to answer any inquiries by the subject; and
- (5) an instruction that the subject was free to withdraw consent at any time or to discontinue participation in the project.

The Battelle Human Subject Review Committee also required a three and six month progress report as well as immediate notification if anything were to develop that would pose a threat to the human subjects participating in the study.

An attachment to the informed consent was developed for the interviewers. Each issue of consent mentioned above was included. (See Appendices 25 and 26.) The interviewer was instructed to discuss fully each item and to inquire if the subject had any questions before the actual signing of the consent form. Also included in the attachment was a short discussion about the informal understanding which has developed between the victim service organization (Rape Relief and the Sexual Assault Center) and the Seattle/King County criminal justice system about the issue of a misprison of a felony.

A second review was required because the Sexual Assault Center is located in a University of Washington training hospital. The University of Washington Human Subjects Review Committee evaluated the interview schedule and the informed consent

procedures. The application required information about follow-up and financial responsibility for adverse effects. In this case, the Sexual Assault Center was designated as the agency which would assume responsibility.

The victim interview schedule was developed by the Battelle research staff and included some questions from other components of the research effort. The questionnaire was 58 pages in length and divided into nine sections covering:

- (1) introduction (information about the victim);
- (2) circumstances of the rape;
- (3) relationship to offender, i.e., stranger, acquaintance, friend or relative;
- (4) victim resistance;
- (5) case report data;
- (6) criminal justice system response; and
- (7) impact of experience on victim's life style.

It was hypothesized that the relationship between the assailant and the victim would influence the means by which the rape encounter developed, the circumstances of the assault, and the outcomes (reporting to the police, the criminal justice response, etc.). Consequently, the interview schedule was divided into three sections according to the relationship between the assailant and the victim (stranger-to-stranger, acquaintance, and friend/relative).

In cases of stranger-to-stranger rapes, the majority of victims made initial contact with offenders in their own homes. Most entries were made via unlocked doors/windows or some means

of force or coercion. The most typical characterization of such a stranger-to-stranger rape suggests a pattern of immediate assault (no matter where the initial contact occurred), use of verbal or physical threats, other forms of sexual assault in addition to one act of vaginal penetration, threats to avoid reporting the incident to police, and feeling on the part of victims that there was nothing they could have done to avoid the assault.

The category of acquaintance rapes generally included victims who had met their assailants the day of the offense. Again, the most frequent location of such offenses was the home of the victim. Additional sex acts, other than vaginal intercourse, were common. At the time of release, the offender usually treated the victim with friendliness or indifference.

Only six victims were interviewed who described their relationship to the assailant as that of a friend or relative. Initial contact usually occurred in the victim's home. All six victims were physically controlled. One victim was tied to a chair. No weapons were used in any of these assaults. All victims except one felt there was no way they could have stopped the assault.

Resistance by the rape victim is an important element in the attempt to establish that forcible rape occurred. In the sample of women interviewed, nearly three quarters of all victims resisted in some manner. According to the victims who used verbal resistance, the majority felt that it had no effect on the offender. In contrast, physical resistance seemed to provoke physical violence on the part of the offender.

The 20 percent of the victims who had received self-defense training prior to the assault were asked to assess whether the training prevented further assault. According to victims, the self-defense training did not seem to benefit them during the assault.

When asked whether self-defense training might be a useful method to prevent sexual assaults on other women, 64 percent of the victims responded affirmatively. The affirmative responses, however, were based upon circumstances which would militate against the use of self defense, such as presence of a weapon, size and strength of the male, presence of children, etc.

The next section of the questionnaire dealt with victim evaluations of encounters with the various levels of the criminal justice system. Of the victims sampled, 72 percent reported the rape assault to the police. The other 28 percent did not choose to make a formal report of the crime.

When victims were asked the reason(s) why they did not report, the following responses were noted (multiple responses acceptable):

Fear of publicity/embarrassment	31%
Didn't want family/friends to know	31%
Fear of reprisal from offender	31%
Didn't want offender punished	15%
Offender unknown/apprehension unlikely	12%
Lack of interest by police	35%
Fear of treatment by police/prosecutor	54%
Fear of trial procedures	39%
Procedures too time consuming	19%
Other	54%

Victims who reported offenses were usually interviewed initially by uniformed officers within 15 minutes of the request for assistance. In the majority of cases, the women evaluated their interaction with patrol officers as highly positive.

Only 57 of the 72 reporting victims had follow-up interviews with detectives. Thirty-eight of the victims were interviewed by a male detective; eighteen percent by a female detective. When asked their preference for sex of the detective, the majority of women (62%) stated they had no preference. Eighteen women responded that they preferred a female detective, while three women preferred a male. These victims were also asked to evaluate the understanding and support provided by the investigating detective. In general, detectives were rated lower than patrol officers in terms of their victim treatment.

A total of 22 women were interviewed by prosecutors. Eighteen victims stated that they had no preference for the sex of the prosecutor; the remaining four victims preferred a female prosecutor. Victims evaluated treatment by prosecutors quite favorably and felt that the prosecutors thoroughly explored and developed the case.

The interview also explored various psychological after-effects which resulted from the rape occurrence. These included the following items:

Changes in sleeping patterns/nightmares	71%
Changes in eating patterns	34%
Physical problems (vaginal infections, etc.)	25%

Changed residence	34%
Increased home security	47%
Social/family relationships disrupted	49%

The remainder of the interview required the respondents to state their opinions on various topics related to rape offenses. One question was directed at the victim's present attitude toward reporting rape offenses to police. Eighty-five victims stated that they would advise other women to report the assault to police. Ninety-three women felt that a woman's previous sexual history was not relevant to her credibility in a rape case.

### III. Rape Legislation Digest

The Rape Legislation Digest was intended to provide a comprehensive overview of current and proposed legislation/case law related to the adjudication of rape cases on a state-by-state basis. This formidable document has been received by project monitors of NILECJ. An overview of the contents of the digest is presented below.

Evidentiary Rules Relating to Rape. A number of evidentiary issues related to methods of proving the various elements of rape has created continuing controversy within and without courtrooms. Most of these issues are subsumed in one or another of the six areas discussed below.

(1) The issue of the non-marriage of the accused and victim is fairly straightforward and offers no opportunity for defense, though several cases attempted to reverse convictions if the indictment failed to state this "non-fact" specifically.

(2) Conversely, the occurrence of the sexual act was an early battleground issue. The problems of actually proving this (by independent evidence) are so great that the statement of the victim that "intercourse took place", etc., were from early on accepted as sufficient proof. This has been modified by most jurisdictions to require the victim to show proof of penetration.

(3) It is not surprising that the real furor arose on the issue of the victim's consent. Evidentiary rules were proliferated to aid the "finder of fact" in his assessment of this crucial point. Marriage equalled "consent;" and the victim's being below

a statutorily-fixed age equalled "no consent," as did mental illnesses, etc. It is here that the most controversy has been generated.

The admission into evidence of the victim's sexual proclivities; the requirement that her resistance be "to the utmost;" the requirement that her testimony be "corroborated" by direct testimony; the mandatory "cautionary instruction" about the difficulty of disproving the charge; the admissibility of the relationship between the accused and the victim; the Wigmore proposal for compulsory mental examination of the victim; the presumption of falsehood attributed to any but the swiftest of complaints to the police; and the special bar on complaints delayed for a certain period of time, etc., all these are arguably psychologically and socially based in male chauvinism. These rules set the stage for the real drama that has surrounded and consumed rape trials.

(4) It was clear in early rape cases that force was necessary. The central issue was "what constituted sufficient force?" Was a threat of murder or kidnapping of the victim enough? Did it matter if the person making the threat was holding a gun? These issues gradually disappeared as jurisdictions recognized these various components as "constructive force" and sufficient to satisfy this element of the crime.

(5) A majority of the amendments to the rape laws of the various jurisdictions have dealt with "rape numerology" as legislators tried to decide at what age a woman could be considered equal to the task of consenting to sexual intercourse. In most

jurisdictions the only trial issue was whether or not the accused knew the victim's age. If she was above the age he was tried for forcible rape of an adult; only if she was below the statutorily fixed age did the issue arise, and then the crime was always statutory rape.

(6) Curiously, the age of the accused was also an issue because at common-law a fascinating conclusive presumption arose, i.e., the impotency of all males below the age of fourteen years.

American jurisdictions went in every possible direction on the impotency issue. Oregon raised the presumption age to 16. Florida specifically abolished the presumption by statute. Louisiana courts took a similar position. There the State Supreme court held that the common-law presumption was based entirely on climatic conditions which did not apply to Louisiana.

Adopting similar reasoning, most jurisdictions had altered the conclusive presumption of impotency to rebuttable, resulting in a new problem. Just how does a prosecutor "prove" a 13-year old's physical ability to accomplish penetration? Are the words of the victim enough? One suspects that they are, particularly given the more permissive evidentiary and procedural climate of juvenile courts. If so, then yet another element of the crime is rendered not susceptible of defense, thus exacerbating the clash over the only front left to the defense--the issue of consent.

Most every rape charge pivots inevitably on the one primary issue: Did the female consent to the sexual intercourse or not?

As with the occurrence of the act, there is usually very little evidence save the testimony of the victim and accused. Judges and jurors must of necessity draw upon their experiences, prejudices, beliefs, etc. to decide the question. Most jurors believe, or would seem to predominantly entertain doubts to the effect that women "want it" and "tease" men until they "get it," then perversely cry, "rape."

Legislators also seem to share these prejudices, and have fashioned a set of rules and statutes designed to facilitate "suggesting" such a scenario to the jury. Chief among these rules are the following: The admissibility of the victim's sexual activities not only with the accused, but also with all other men; the requirement (in 16 states at its zenith) that the occurrence of the act and/or the identity of the accused be based not solely upon the "word" of the victim but also be proven by some independent evidence; a time limit for lodging complaints of rape with a concomitant presumption of "non-sincerity" accruing to any complaint not filed as soon as possible; and a mandatory jury instruction "cautioning" the finders of fact on the difficulty of disproving rape accusations. To fully understand the present wave of pro-women reforms, we must look both backward and forward. First to the turn of the century, then, to 1970.

The legal system had swung decisively in the direction of protecting the female complainant in the latter part of the 19th century. In addition to discarding the conclusive presumption of impotency for boys under 14, the law had consistently raised the age of consent for the female, thus totally eliminating the

only issue available for a defense in an ever-increasing percentage of cases. Most jurisdictions also forbade at that time the admission of specific instances of prior sexual conduct by the victim. They furthermore granted to the victim a "presumption of chastity" which placed an even heavier burden of proof upon the accused. The era's procedural reforms were strongly pro-victim.

Most importantly, an increasing number of states allowed evidence of the past sexual crimes of and charges against the accused to be introduced as evidence of the act alleged, whether or not the accused took the stand in his own defense. This virtually denuded any 5th Amendment protection available to the accused and allowed possibly unfounded earlier charges (which had never even resulted in conviction) to pyramid into a conviction on the latest allegation.

The normal rule against admitting such prior crime evidence was of ancient lineage at common law. The past "character" of an accused was excluded under the "positive" version of this rule at common-law. American jurisdictions, however, eventually changed over to a "negative version," refusing to allow in certain types of character evidence except those relating to or which show, "motive, opportunity, intent, preparation or plan, knowledge, identity or the absence of mistake or accident." The legal myth was that evidence of these traits did not show "guilt" but only certain other "relevant" considerations.

Courts have generally been able to deal with the impulse to "convict someone for being a bad man, regardless of whether

or not he committed the act in question" in most trials, but when rape was the charge they have been less than successful. Instead of the delicate balancing of relevancy and prejudice to the defendant which should take place, the courts have evolved a process "where the majority rule is that in a prosecution for a sexual offense evidence is admissible which tends to show prior acts or offenses of the same kind." Thus the action, reaction, and resulting counter-reaction of emotion-charged polemics produced a pro-victim trend, then a pro-accused reaction, and recently yet another pro-victim drive focusing on the failure of the legal system itself, as well as the rapist, to treat the female with respect due a human being.

As is evident from protests, media reports and articles which have appeared in scholarly journals during the past few years, the offense of forcible rape has become a rallying point for the "Feminist" or "Women's Liberation" movement in this country. This response has had a considerable impact on state legislatures and felony courts. In this section, some of the major changes which have occurred, or have been proposed, are discussed.

(1) The abolition of the corroboration requirements. At one time, 16 states required independent evidence of the act of rape itself and/or the identification of the accused as the rapist. This requirement results in an almost impossible situation for prosecutors, to say nothing of the untold emotional anguish for victims. It was not until February, 1974, that the "corroboration requirement" was stricken from the books in



New York. Iowa followed suit. The District of Columbia and 13 other states still have some kinds of corroboration requirements, but movements are afoot to eliminate these as well.

(2) Cautionary instructions. Instructions are also under attack which caution a jury to be wary of convicting a defendant for a crime easily charged but difficult to disprove, even by one who is innocent.

A bill introduced by State Senator Alan Robbins (California) bids to delete them from the approved jury instructions. Several other states have similar legislation under consideration.

(3) Limiting admissibility of victim's sexual past. Of all the pro-defendant provisions, none has so aroused the enmity as this controversial rule of evidence. Most states allow into evidence the sexual reputation of the victim on the issue of consent. As a result, many rapes undoubtedly went unreported by women who understandably desired to be "victimized" no more. The underlying presumption of the rule was that a woman who "consented" to intercourse with other men was more "likely" to consent to the accused and, therefore, by inference, lying in her complaint and direct testimony.

Illustrative of the changes taking place in many states is California's "Robbin's Rape Evidence Law," which created a court hearing (out of the jury's presence) to determine if the offered "evidence" is relevant and not outweighed by "prejudice" to the victim.

One major change under this law is in the timing of the evidence. Heretofore, the defense could make its case-in-chief

the issue of the victim's consent, as well as having available the narrower avenue of attacking the victim's credibility as a witness. The new law forbids such evidence on the consent issue, unless the prior sexual conduct was with the defendant himself. Prosecutorial discretion as to the filing of cases and the pursuit of same to trial has become the main safeguard of the accused against "unfounded" complaints under this system.

(4) Programs to aid the victim. In keeping with the women's rights thrust of the recent rape law reforms, the drive has not merely concentrated upon making the job of the prosecutor easier by eliminating defense bastions. Much of the agitation has been directed against the legal system itself. Women have rallied against the alleged "sexist" and "oppressive" attitudes of police, hospital personnel and prosecutors just as vehemently as against the accused. Police scepticism of victims and the subsequent lack of enthusiasm for pursuing the alleged rapist; hospital indifference and scorn for the victim; and prosecutorial dealings have become legendary in the eyes of many women's groups. It is these attitudes which allegedly have made rape the most under-reported crime in the United States, not the low conviction rate.

In the past year, two states (Minnesota and Massachusetts), have initiated programs to directly aid the victims of rape. The Massachusetts mandate is the most comprehensive. First, each municipal police school is required to train its members in rape prevention and prosecution and mandated rape reporting and prosecuting units in each police department in the state. Said units were required to contain police investigators trained in

the counseling of rape victims. Each individual police department was told to encourage employment of women police officers in said units. Each unit shall utilize the services of counselors, attorneys, and medical personnel as necessary.

The police were further required to make available a 24-hour telephone for reporting rapes and to publicize activities of the rape unit throughout the area. Finally, all rape reports and conversations with victims were required to be held confidential at penalty of one year in jail and \$1,000 fine.

Minnesota's approach was more direct in its attempt to physically aid the victim. Voluntary counseling by trained personnel was to begin immediately following the report of a sexual attack. The rape counselor was to be the same sex as the victim and, if requested, was to accompany the victim through all proceedings pertaining to the alleged attack.

The penalty for this crime has generally been severe. Set first at castration, then death, it was relaxed briefly to a misdemeanor (Westminster I) then restored to Draconian dimensions-- death and castration. In this form it was adopted by U.S. jurisdictions (without the "loss of member," however).

A wave of anti-death penalty fervor at the turn of the century accounted for the large number of states introducing the option of life imprisonment if the judge or jury felt like being "lenient." Further reforms led to the inclusion of a further option for sentencing of convicted rapists. An indefinite term of years with a minimum set harshly at 20 or so was the usual model, though a few states allowed minimums as low as 3 years.

In another typical example of the reaction/counter-reaction phenomena, the "relaxation" of sentences to allow prison terms of less than terminal duration was followed by provisions forbidding parole and/or probation to the convicted rapist. When the term was lowered further (to say 3 to 5) and parole was not proscribed, the reaction was sometimes to require sex offenders to "register" with the police in any town they moved into or visited for more than a short, specified period.

An extreme sanction, found only in a handful of states, was to visit upon the rapist some share of the psychic brutality he had enforced upon his victim. Statutes allowed the castration ("asexualization") of recidivist rapists. There have been reports that many such operations took place in California prison hospitals. In the State of Washington, where a similar statute was enacted, the penalty was only sterilization. The operation was held not to be "cruel and unusual punishment" as long as it was "performed skillfully and scientifically."

In conclusion, a review of the historical development of rape laws discloses a recurring cyclical "tilting" of the scales of justice to favor either the alleged victim or accused rapist. The current legislative trend is to enact "pro-victim" measures. Whether these measures will balance the scales or tip them against the defendant, only experience will tell. (For details of the contents of this legislative digest, see the separate report entitled Rape Legislation: A Digest of its History and Current Status.)

### Conclusions

The major products of the first year research effort consisted of surveys of nationwide samples of police and prosecutive agencies, an extensive on-site analysis of criminal justice procedures and victim responses in the pilot city of Seattle, and a digest of legislative and case law relating to rape. The police and prosecutor survey results have been analyzed and a report of the findings has been submitted to the Institute monitors for review. Interviews with victims, patrol officers, detectives, police policymakers, prosecutors, defense attorneys and judges have been completed. The digest of legislative and case law has been completed and submitted to Institute monitors.

On the basis of the first year of experience, nine basic areas of concern in the criminal justice system's handling of the problem of forcible rape were identified:

- (1) inadequate materials available to rape victims which would apprise them of the criminal justice procedures for reporting and prosecuting rape cases;
- (2) uncertainty regarding the most appropriate form for obtaining the initial victim report, gathering evidence and recording relevant information related to initial investigation;
- (3) inadequate/absent pre-service police training for handling forcible rape offenses;

- (4) uncertainty regarding the most efficient and effective medical/forensic protocol for handling rape victims and assuring the proper gathering of physical evidence;
- (5) inadequate training and facilities for the interviewing of rape victims;
- (6) uncertainty regarding the effectiveness of investigative strategies used to identify rape suspects;
- (7) uncertainty and disagreement regarding prosecutive decisions to charge forcible rape;
- (8) uncertainty and considerable disagreement regarding the most effective strategies to prosecute forcible rape; and
- (9) legislative inconsistency and problem areas associated with legal aspects of victim consent, corroboration, cautionary jury instructions, etc.

The research conducted to date indicated substantial differences in the approaches used by the criminal justice system to handle cases of forcible rape. Little is known and little has been done to examine the effectiveness of various procedures and techniques that are currently used by practitioners. In the second year of this research program, we intend to examine each of the nine problem areas already identified. Based upon research of these specific areas of concern, we propose to

develop products designed to assist police, prosecutors, and legislators interested in the efficient and effective handling of forcible rape offenses.

**END**

*7/11/77*