BLAMING THE VICTIM

A Look at Sexual Assault Adjudication in the Milwaukee County Courthouse

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Literature Review

- One in three women will experience sexual assault (Allison and Wrightsman 1993: 8)
- Effects on adults: PTSD, depression, anxiety, substance abuse, relationship and sexual problems (Bradley, Miller, and Ruskino 2010)
- Effects on children: nightmares, bedwetting, and suicidal thoughts (Lowenstein 2011)
- Most victims do not report
Literature Review

- Rape Myth Culture
  - “Real Rape”
- Prosecutors’ Perceptions
  - Determine who is qualified
- Defense Counsels’ (DC) Strategy
  - Tainting the victim’s character
- Jurors Perceptions and Impact
  - Define rape (ultimate decision makers)
How do defense counsels use victim-blaming strategies in sexual assault cases?

What types of cultural narratives are involved?

Do these narratives differ based on whether the victim is an adult or child?
Methodology and Analysis

- Ethnographic Observational Research
  - Approximately 70 hours
- Secondary Data Analysis
  - Court Monitoring Forms
- Archival Data (CCAP)
- Inductive Analysis Approach
  - Narratives of consent, the question of credibility, the role of corroborating evidence, and the rebellious kid narrative
Consent: permission to partake in sexual activity

Adults: DC’s emphasized a lack of resistance indicates a willing participant
- *State v Carpenter (2013)*: “She didn’t resist. She didn’t say no!”

Children: Unable to consent; DC’s still made the argument that they did not resist
- *State v Petri (2013)*: “The victim was seeking [the defendant] out...I’m [just] stating the facts.”
The Question of Credibility

- Assessing a victim’s reputation
  - Influenced by rape myths and stereotypes
  - Adults: DC’s emphasized intoxication, prior criminal records, and delayed reporting
    - **State v Bell (2013):** “Someone who uses a lot of substances, you can’t believe everything they say.”
  - Children: DC’s focused on delayed reporting, loss of memory, demeanor and young age
    - **State v Feltz (2012):** “A child that age who needs help asks for it...[She could have told her aunt] but she didn’t!”
The Role of Physical Evidence

- Semen, blood, bruises, etc.
- When not present, indication assault never happened. When present, DC’s account for it in varying ways.
  - **State v Martin (2011)**
    - Victim’s DNA found on defendant
    - In a relationship, so does this really help?
  - **State v Akinshemoyin (2012)**
    - Defendant’s semen found on 4-year-old victim’s underwear
    - Defense argued semen came from laundry and redness to the genitals came from soap/detergent or wiping too much
Rebellious Kid Narrative

- Suggests that victim either wanted the sexual activity because she was “acting out” (consent) or lying about the abuse to seek revenge on the assailant (credibility)
- “Girls want attention and will do anything to get what they want”
- **State v Garcia-Reyes (2012)**
  - Stepfather did not permit the victim to wear jeans to school; so, she lied and said he molested her so she could have a social life.
Lack of resistance used to show consent for both children and adults

Narratives pertaining to credibility in child cases focused on her memory, delayed reporting, and young age

Lack of physical evidence was emphasized in both child and adult cases; when present, defense attorneys explained it in different ways

Rebellious Kid Narratives show how consent and credibility are uniquely placed into a narrative pertaining to children
Conclusion

- System continues to support rape myths by developing narratives of “real rape victims”
  - Discourages victims from reporting assaults
- Society should focus on the assailant’s actions, not the victims
Causes of Rape:

1) Victim’s Clothing (0%)
2) Victim’s level of Intoxication (0%)
3) Being Sexually Promiscuous (0%)
4) Prostitute (0%)
5) Drug Addict (0%)
6) Walking Home Alone (0%)
7) Being “rebellious” (0%)
8) Rapists 100%


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