

BLAMING THE VICTIM

A Look at Sexual
Assault Adjudication
in the Milwaukee
County Courthouse



Amber Joy Powell
Dr. Heather Hlavka
Marquette University,
Criminology and Law Studies
McNair Scholars Program

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 Ruskin 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)



Research Questions

- 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



Narratives of Consent

- 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.

Discussion

- 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

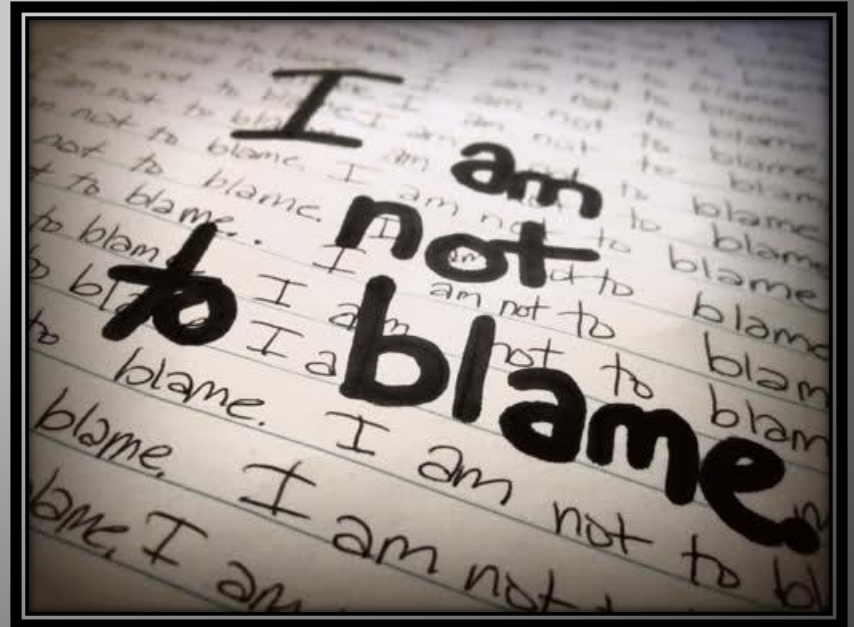
Conclusion

- 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

Conclusion Continued

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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