Rape Law Reform's Limits

Beth Ann Richman
Oberlin College

Follow this and additional works at: https://digitalcommons.oberlin.edu/honors

Part of the Sociology Commons

Repository Citation
hits://digitalcommons.oberlin.edu/honors/549

This Thesis is brought to you for free and open access by the Student Work at Digital Commons at Oberlin. It has been accepted for inclusion in Honors Papers by an authorized administrator of Digital Commons at Oberlin. For more information, please contact megan.mitchell@oberlin.edu.
Rape Law Reform's Limits

A Senior Honors Thesis
by Beth Ann Richman

1994
Anti-Rape Activism: Exploding Myths and Interrogating Institutions

The Second Wave of "The" United States Women's Movement began in the mid 1970's (Feree & Hess, 1985). Members of this major feminist movement began to examine a range of issues that surround the way gender functions in this country. Most of the issues addressed within this feminist movement were ones that pertained to the health and happiness of white, middle-class, heterosexual women (hooks, 1984, Snitow et al., 1983). Although women of color, working-class whites, and lesbian and bisexual women were all represented within the early stages of the movement, the white, middle-class, heterosexual participants tended focus on issues that pertained to their personal needs (hooks, 1984). This was compounded by the fact that this redirection of focus was not done in a self-conscious way (Mohanty, 1991) Because of this dynamic other forms of feminism's have arisen, such as: Third World Feminism, African-American Feminism, Lesbian-Feminism, Queer feminist thought, Working-Class Feminism, as well as many others. For the sake of clarity, I will refer to the white, middle-class, heterosexual women's movement as "the Second Wave of Feminism" since this is what the movement participants named themselves (Feree & Hess, 1985). I do not mean to imply that this movement is by any means the only, or the most important contemporary feminist movement. When I use the word "women" I am using it in the context in which the movement participants utilized it. Again, I am
not implying that the themes that I am discussing necessarily apply to all women.

One of the major issues that the members of the Second Wave of the Women's Movement grappled with was the ways in which violence functioned in women's lives (Galvin, 1985). Theorists began exploring the systemic nature of gendered violence. This examination took place on many different levels, and in a variety of arenas. Counselors, social theorists, legal theorists, journalists, media critics, as well as women who had personal experiences with violence all began to mobilize around the problem of sexual violence (Bumiller, 1987). Rape and sexual assault soon became issues around which a sub-movement developed. This has been termed the Anti-Rape Movement (Matthews, 1988, Bumiller, 1987).

The Anti-Rape Movement was a somewhat unusual movement, in that individuals mobilized around a specific phenomenon that is usually highly traumatic. Because of this, many of the Anti-Rape Movement members produced literature on the personal, psychological dynamics of rape. Rape crisis centers and battered women's shelters began forming to offer survivors of sexual violence an alternative to an often insensitive and uninformed mental health system (Frazier & Borgida, 1992). Other members focused on exposing the interconnectedness of sexual assault and gendered oppression (Dworkin, 1989). A smaller, more liberal (as opposed to more radical), subset focused on the way that rape was treated under the law (Bumiller, 1987). Legal theorists, litigators, and activist lobbyists began to analyze and scrutinize the laws in their individual states (Goldberg-Ambrose, 1992; Bumiller, 1987).
Reforms to problematic rape laws were created and fought for by these groups.

Rape Mythology and the Feminist Attack

One of the central foci of the anti-rape movement was the exposure of popular views of rape, rapists, and rape victims (Estrich, 1987). This was seen as a vital step toward bringing a more comprehensive understanding of the issues surrounding rape to the general public, as well as to victims (Bumiller, 1987). Leaders felt that before information could be accepted, the old stereotypes had to be interrogated. As I have stated above, these leaders were often white, and often did not feel that focusing on the racial dynamics that existed within rape mythology should be prioritized (Wriggins, 1983). Because of this bias, the myths that they attempted to expose were often tailored to the experiences white, middle-class heterosexual women. If there was an attempt to include issues that were specific to the experience of women of color, many of these early leaders would merely generalize their theories to "all Women" (Mohanty, 1988). There was little concern over whether the "rape truths" that they were championing were based on racist myths that these feminists had not challenged themselves. Some of the authors, such as Susan Brownmiller, wrote explicitly about race; yet her analysis proved to be filled with racist ideologies (Davis, 1983). This has been pointed out as a major flaw of the anti-rape movement by African-American Feminists (Wriggins, 1983; Bumiller, 1987).

Lesbian, gay, and queer theorists have often been criticism these early feminist analyses as heterosexist (Snitow et. al, 1983).
These theorists felt that some of the proposed reforms rape laws did not adequately account for same-sex assault on the stranger acquaintance, or relationship levels. Other lesbian theorists have vociferously disputed this contestation. This split has taken the form of some theorists wishing to expose lesbian battery, and others wanting to hide it from the mainstream (or refuse that it exists) (Malone, 1994). Most of these theorists agree that sexual assaults that are brought about by homophobia (i.e. a heterosexual is offended or threatened by homosexuality, and therefore rapes) have received too little attention.

Despite the lack of self-consciousness, and often racist, classist, and/or heterosexist assumptions that were made within in the movement literature, it is important to examine the major analyses of rape myths if we are to understand the building blocks of legislative rape reforms. There were specific myths that were most often attacked by movement theorists and activists (Estrich, 1987; Brownmiller, 1975; Frayling, 1986). Here I offer a composite of the aspects that some of these theorists have elucidated. The rapist is a strange man that is large, lecherous, predatory, and pathological. He is thought of as strong and violent, he carries a weapon, and threatens the helpless female victim if she does not comply. He is psychologically disturbed, and has no intimates. The woman that gets attacked is virtuous, chaste, and either a virgin or a wife. She has never seen this man; and if he attempted to coerce her into an interaction before the actual attack, she attempted to deflect his advances. She is petite, attractive, innocent, and utterly helpless.
She knows to tell her father or husband about the attack (which is forced coitus), and immediately goes to the police or the hospital.

If the activist describing the myth placed value on racial issues, s/he might have specified that this myth included a racialization of the actors (Wriggins, 1983; Davis, 1984; Bumiller, 1987; Collins, 1990). In that case, the assailant is a black man and the victim is a white woman. There might be additional factors such as, the black assailant was on drugs, or that he robs the victim as well. Other feminists have excluded making this portion of the myth visible because they felt that black men were a threat (and possibly a bigger threat than white men); and that exploding that part of the myth would harm the struggle against rape (Brownmiller). This type of exclusion was a subtle form of racism that was characteristic of many white movement members. It was based in racist mythologies about rape that many members of the movement chose to ignore in their analyses.

The myths that exist pertaining to child molestation do not differ that greatly from those that surround adult rape. Again the molester is a male adult who is psychologically disturbed. He is also a rare breed of deviant. He is a stranger that will approach children in parks, zoos or in school yards. He attempts to offer little girls candy or other such rewards so that they will trust him. He then forces them into a sexual act. As soon as the child is released she runs home and tells her parents or a teacher. She does not return to the molester, even if he has threatened her or her family if she does not. Her family reports the incident to the police promptly.
Anti-rape activists did not map out these myths in order to deny that these forms of sexual assault, or any of the behaviors of the parties involved, do not occur. Rather, their goal was to educate the public that not all rapes or acts of molestation followed these patterns (Estrich, 1987). The activists were responding to the way courts, hospitals, mental health care workers, the media etc. tended to disbelieve that other forms of rape were, in fact, criminal and harmful behavior (Estrich, 1987; Brownmiller, 1975). They were also attempting to pinpoint the justifications for the tendency to blame the victim for the attack if s/he or the attacker did not parallel the myth in any way (Estrich, 1987; Brownmiller, 1975).

Criticizing the Legal System

Dispelling these stereotypes was a major focus for the rape law reform movement (Bumiller, 1987). The reformers hypothesized that members of the legal system, jurors, and the actual laws often accepted and perpetuated these myths (Estrich, 1987; Horney and Spohn 1991; Matoesian, 1993). They theorized that in the courtroom the victim was further victimized if s/he did not fit into these perceptions (Estrich, 1987; Matoesian, 1993). They also noted that the burden of proof was often on the ascriptive characteristics and the pattern of behavior of the perpetrator involved (Estrich, 1987). If s/he proved to deviate from what a rapist was supposed to be, again the blame would be shifted on to the victim (Estrich, 1987; Brownmiller, 1975). The reformers hypothesized that there were a set of complex justifications that led many people to blame the victim rather than the assailant (Estrich, 1987; Matoesian, 1993;
What the rape law reform movement sought to do by altering the laws was to shift the blame from the victim, to the offender by focusing on his/her behaviors (Bumiller, 1987).

Some strains of the movement focused on strategies of shifting popular opinion from judging on the basis of the victim's and the assailant's ascriptive characteristics (Wriggins, 1983; Estrich 1987). These theorists sought to achieve attitudinal changes within the general public. For the most part, due to the rigidity of the legal system, as well as the constitutional premise of due process under the law, legal reform was seen as an impractical forum for this type of change. Such thought was more an influence to reform existing laws, rather than a solid basis for the reforms themselves (Matoesian, 1993).
The Scope of This Essay

The literature that was produced by this movement attacked the laws from a few different, but often overlapping, angles. The first that I will explore is the criticism of the wording of the law. Defining the crime of rape was seen as vital, in that, in many states it was impossible to get a conviction for certain types of sexual assaults, simply because statutorily they did not exist (Chappell, 1976). The second aspect of rape reform theory that I will review is the arguments that attempt to prove that rape is similar to other forms of criminal assault. This body of thought fits into an equality based argument that has been championed by some feminist legal theorists that deal with a great variety of subject matter (Bartlett & Kennedy, 1991). These theorists have worked to reduce the sentiment that rape is a special case because it involves sexual activities or motives. This type of theory has been highly influenced by the school of thought within the rape crisis movement that rape is not sex, it is violence (Brownmiller, 1975).

Some rape law reformers have argued the opposite, however. These reformers spoke out about how rape is special case, unlike all other forms of assault. Feminist legal theorists have classified this type of argument as the difference approach (Bartlett & Kennedy, 1991). Some of the more extreme difference reformers argue that the rape of a woman by a man is what the law should focus on (MacKinnon, 1984). They feel that this is a particularly pervasive and insidious form of misogynist brutality, and that the law should recognize it as such. Oddly enough, the schools of thought that argue
that rape is like other assault, and those who argue that it is
different are not diametrically opposed. They often agree on the
fundamental points, but argue over what should be focused on, or
the most expedient way to solve the problem of rape. I devote the
third section to the theories that exist within the difference
approach.

There are some aspects of reform that defy fitting into the
above these categories. This is largely due to the fact that these
reforms often fit into both. The fourth and fifth sections are allotted
to rape shield law, and the influence of officials' and juror's biases.
Rape shield laws are laws that have been constructed to legally
prohibit the misuse of a rape victim's sexual history (Horney &
Spohn, 1991). Shield laws have been enacted in nearly every state,
and have taken many forms (Winter, 1989). I have devoted the
sixth section to an examination of the way race has functioned within
the history of sexual assault in the United States. This history serves
to challenge the way reformers have criticized the laws (Wriggins,
1983). I have devoted a separate section to these phenomena
because of the lack of acceptance of this form of thought within the

The battle to dispel rape myths within the legal system is what
comprises the final section. It has been shown that the biases that
courtroom members hold are some of the most influential factors in
determining conviction rates (Spohn & Horney, 1991). This has
become a major area of study. The way that these issues factor into
the actual rape law reforms is that they reflect on the ways that
reforms might not be achieving change on a deeper level (Matoesian,
1993). They challenge reformers to enact more sophisticated reforms, as well as giving a perspective on what other movement activities need to be performed to effect legal change.
Redefining The Crime

The legal definition of rape has been challenged by feminist theorists (Chappell 1976). This battle had been fought on both the state and the federal levels (Winter, 1989). Although the federal rape laws have been amended, the creation of criminal law is mainly left to the individual states. To date, the Supreme Court has not passed any landmark cases on criminal rape that would adhere to the rape law reform movement's goals.

In their discussion of definitional change, reformers have noted the historical shape of these laws, across states. The classic common law definition of rape has been, "Unlawful carnal knowledge of a woman by force and without her consent..." (Chappell 1976: 131). A more recent definition that has been said to be typically used and enforced is,

"...rape is the act of sexual intercourse with a woman other than the wife of the offender and without her lawful consent. Emission is not necessary, and penetration however slight is sufficient to complete the crime." (Chappell, 1976:131).

Many states have devoted space in their definition of rape to requiring that the woman prove that she had resisted during the assault. I will discuss the resistance requirement in an upcoming section.

The reformers' criticisms of these definitions were based on a few factors. To begin, the use of the words "by force and without her consent" has been seen as problematic. The way force has been
generally interpreted is that unless the man is physically holding the woman down, is visibly larger and stronger than she is, or is beating her through the entire act that force has not been used (Estrich, 1987). The exception that is often acceptable, if these factors are absent, is that the attack was rape if the perpetrator is brandishing a weapon (Estrich, 1987). When these factors are not present, often the question within the courtroom shifts from whether the assailant forced the sexual encounter, to whether the victim consented to it (Estrich, 1987). Feminist writers have noted that widespread belief in these hypothetical phenomena has served to invalidate most rapes that are played out differently (Estrich, 1987, Brownmiller 1975). Susan Estrich has distinguished between these rapes by terming the rapes that people tend to believe as "real rape", and any other form of rape "simple rape" (Estrich, 1987). Some writers have noted that this is both due to the use of the word "force", as well as the perception of that word by members of the legal decision making process (justices, jurors, attorneys, etc.) (Horney & Spohn, 1991; Spohn & Horney, 1991). The interpretation that they have seen as biased and exclusive, perpetuated (and has been perpetuated by) the rape myths that I have discussed above. Feminists have documented the widespread fear that might immobilize a person who is being sexually assaulted; and specifically how this is intensified for women (Frazier & Borgida, 1992). They have also criticized the fact that this definition does not account for cases in which the person who is being assaulted has been rendered incapable of fighting due to the fact that s/he might be unconscious or semiconscious from the ingestion of alcohol or drugs, exhaustion, or physical illness (Chappell,
1976). The reform that has been advocated to amend the definitional deficit has been the inclusion of the word "coercion" as well as "force". There have also been campaigns to have the law explicitly state that it is illegal to engage in sexual intercourse with a person if he/she is unconscious or otherwise unable to respond (Chappell, 1976).

Another issue that reformers have criticized, and is exemplified by these common legal definitions of rape, is that it has been acceptable for a man to sexually assault his wife (Sigler & Haywood, 1987). Historically married women have been viewed as the property of their husbands, and had no legal rights of their own (Wriggins, 1983; Sigler & Haygood, 1987). Wives were said to be there for their husband's sexual disposal, doing their "wifely duty". Because legally they had no personal agency, specifically against their husbands, wives could not prosecute their husbands for sexual assault (Sigler & Haygood, 1987; Jeffords & Dull, 1982). This concern has fed into a feminist discourse surrounding domestic violence that has expanded into discussions of different methods of sexual assault within just marriage, as well as other forms of intimate personal relationships (Dworkin, 1989). This is one area where the earlier discussion of the use of the word force has been contested. Theorists have explored the dynamics that function within (primarily heterosexual) relationships that could lead to one partner being sexually assaulted through use of emotional/sexual manipulation (Russell, 1990; Dworkin, 1989). This manipulation often functions to inhibit the abused partner from labeling what happened as sexual assault (Russell, 1990). It has often also led the abused partner to
not to report sexual violence as sexual assault (Russell, 1990). This has been said to occur because of fear of repercussions by the assailant, shame that the assault(s) occurred, or fear of loss of economic support from the abusing spouse (Russell, 1990). All of these fears have been reinforced by a legal system that does not consider rape within marriage unacceptable (Russell, 1990; Dworkin, 1989).

Robert T. Sigler and Donna Haygood sampled adults in Tuscaloosa, Alabama (Sigler & Haygood, 1987). Their aim in this exploratory search was to, "... measure public attitudes toward forced marital intercourse, orientation toward traditional sex roles, and a set of demographic variables." (Sigler & Haygood, 1987: 76). They found a high rate of endorsement of traditional roles within their sample (i.e women should be in the home etc.). They also found that their sample was willing to "endorse a felony penalty for most forms of forced sexual intercourse" (Sigler & Haygood, 1987: 78). The other side of this, however, was that as the degree of intimacy between the actors increased, the endorsement of a felony ruling decreased, with one exception that is irrelevant to this discussion (Sigler & Haygood, 1987: 78). When the researchers looked at the percentages of individuals who felt that forced marital intercourse should be a felony (33.1%), it was lower than those who felt that a misdemeanor was more appropriate (45.2%) (Sigler & Haygood, 1987: 78). When they broke these statistics down to the group levels, they found that "Males, blacks, and those with high church attendance tend to favor felony legislation while females, and whites tend to favor misdemeanor legislation (Sigler & Haygood, 1987: 79). They also
found that 57% of those surveyed felt that forced marital intercourse should be a criminal offense (regardless of the degree of punishment that they felt was appropriate) (Sigler & Haygood, 1987: 83). The researchers noted that those individuals that expressed belief in the law's effectiveness felt that stronger penalties were appropriate for marital rape, while those who were more cynical about the effectiveness of the legal system endorsed lesser sanctions (Sigler & Haygood, 1987: 83). They summarized by stating that,

"Attitudes about the traditional roles of women, the effectiveness of the law, the perceptions of rape as an assaultive act, and the right of wives to control sexual access appear to be associated with endorsement of legislation and the degree of sanction endorsement." (Sigler & Haygood, 1987: 84)

Their study shows that there is not a great deal of support for criminalizing forced marital intercourse. This finding might be somewhat demographically specific, considering that it was done in the South, which is often assumed to be conservative (Sigler & Haygood, 1987).

The study that Charles R. Jeffords and R. Thomas Dull performed focused on the demographic aspects that might factor into one's attitudes toward marital rape immunity under the law (Jeffords and Dull, 1982). Their sample of Texas residents was quite large (1300 individuals). Only 35% of the respondents favored legislation that criminalized marital rape. They explained that "this percentage varied significantly among the values of several demographic variables." (Jeffords & Dull, 1982: 756) The variables
that they found were significant were sex, age, education, and marital status; they found that race, family income, and community size were not significant. Jeffords and Dull found that gender was highly influential when deciding whether marital rape should be illegal across each demographic group. They found that 45% of the women surveyed thought that marital rape should be classified as a criminal offense, while only 25% of the men did (Jeffords & Dull 1982: 758). They also found that younger people were more likely to be in favor of a legal sanction. Their statistics showed that single people were more likely to be in favor of a prohibitory law (45%) than nonsingle people (33%) (Jeffords and Dull 1982: 759). The researchers went on to explain that those respondents with more education (i.e. if they had a college degree, 41%) tended to agree with creating such a law more than those who did not graduate from high school (28%) (Jeffords & Dull 1982: 756). The factors that the researchers noted, that might have made their sample less generalizable to other states were the fact that it was done in a conservative state (Texas); that the state maintains complete immunity for husbands that rape; and that the term rape was used as opposed to a less volatile word. The researchers also hypothesized that, due to the age discrepancies, the newer generations might be becoming more tolerant of marital rape legislation. They feel that this might indicate that more conservative states will abolish spousal immunity laws in the future (Jeffords and Dull, 1982).

These studies show that there is not a great deal of acceptance for a marital rape statute. Sigler and Haygood found that 57% of their sample supported this form of statute, while only 35% of
Jeffords and Dull's supported criminalizing forced marital intercourse (Sigler & Haygood, 1987; Jeffords and Dull, 1982). Again, these attitudes were done in somewhat conservative states. These states did not already have this form of legislation on the books, which might also be a reason why the attitudes were so permissive to spousal immunity (Sigler & Haygood, 1987; Jeffords and Dull, 1982).

Diana E. Russell's book *Rape in Marriage* is an in-depth study on the dynamics of marital rape. Although this is a fascinating study that involves a large sample, her focus was not on the legal aspects of rape. She aimed, rather, to elucidate the dynamics of marital rape, and the experiences that the women had because of it. This is an extremely important work, especially in terms of understanding the frequency and brutality involved in martial rape (Russell, 1990).

Another highly contested aspect of the legal definitions of rape is that they have often included the terms "carnal knowledge" or "sexual intercourse" (Chappell, 1976). This has been contested because these terms have been used to specify rape as a penis being forced into a vagina. Feminist theorists and Lesbian-Feminists have elucidated that other forms of sexual assault are extremely harmful as well (Brownmiller, 1975; Snitow et. al., 1983; Estrich, 1987, Burgess, 1985). These have been not been recognized as criminal sexual acts when this narrow definition has been used. Anal penetration, oral penetration, cunnilingus (whether on the victim or the offender), analingus (whether on the victim or the offender), or penetration of any orifice with any object or body part that is not a penis have been cited as acts that constitute sexual assault if brought

---

2 Carnal Knowledge is defined as sexual intercourse.
about by force, coercion or intimidation. There has been an argument that sodomy laws protect against these acts of sexual assault. The counter arguments have been that the acts themselves should not be criminalized, but rather their perpetration against the will of another is what should define the crime (Snitow, et. al., 1983).

This discussion of which acts, when performed against another's will, should be constituted as sexual assault brings the gender of the actors into question. Rape law reform theorists have hypothesized over the importance of making the definition of rape gender-neutral, or keeping it specific to when men rape women (Bumiller, 1987). There has been a great deal of discussion, in general, over rendering laws gender-neutral within the feminist legal theory (Bartlett & Kennedy 1991; Bumiller, 1987). Some feminists have felt that gender-neutrality is a vital part of redefining rape in a way that is inclusive of all possibilities. They feel that this would open up options for prosecuting all sexual violations that occur (Bumiller, 1987). Alternatively, it has been argued that there is a historic pattern, which all women have inherited, that men rape women (Bumiller, 1987). They feel that enacting definitional changes that would render the laws gender neutral would be divisive to convicting what they consider to be the more important rapes (male/female) (Wriggins, 1983). There have been heated debates countering this position, stating that it universalizes women's histories, and is insensitive to the racist history that rape has (Wriggins, 1983). It has also been strongly protested in terms of same-sex assault issues (Snitow et. al.).
Linda Brookover Bourque conducted a study on community attitudes concerning rape in Los Angeles (Bourque, 1989). One portion of the study was devoted to how the respondents defined rape (both personally and legally), and the similarities that the reported definitions had to California's legal definition. At that time (1979) California defined rape as,

"...an act of sexual intercourse accomplished with a person, not the spouse of the perpetrator, under any of the following circumstances...(1) Where it is accomplished against a person's will by means of force or fear of immediate and unlawful bodily injury on the person or another..." (West California Codes, 1983; Bourque, 1989)

Out of her sample of 155 people, only 50 percent offered a legal definition of rape, as opposed to all but 8 people (out of the entire sample) offering a personal definition of rape (Bourque, 1989: 255). She found that there was a tendency for the respondents who did provide a legal definition to have a personal definition that was closer to the 1979 California Statute; the trend was not significant, however. She also found that people that gave both definitions tended toward being in line with the statute. She found that older whites proved more likely to give a legal definition. Bourque's findings also indicated that those individuals who's definitions were similar to the statute, and who included references to sexual activity were more likely to offer a legal definition of rape. Of those who offered the legal definitions, lower-income white females were most likely to "...incorporate multiple components into their legal definitions." (Bourque, 1989: 261) She also found that black females
with higher incomes were most likely to provide legal definitions resembling the California statute. Bourque reported that respondents whom defined rape as an act that (only) involves force, were more likely to offer legal definitions. Those respondents who prioritized resistance in their personal definition of rape were the least likely to offer a legal definition (Bourque, 1989). This suggests that those who were more likely to devote their energies to thinking about the law, were also more likely to offer a narrow and stereotypical definition of rape.

The discussion surrounding the reform of definitions of rape is highly charged. This is due to the fact that the definition serves to symbolize the legal system's opinion of what rape is (Wriggins, 1983; Goldberg-Ambrose, 1992). Because it is the starting block for recognition of what constitutes rape, reformers have invested a good deal of resources in to effecting these changes (Goldberg-Ambrose, 1992). It is probably the most symbolic aspect of the rape law reforms that have been enacted (Goldberg-Ambrose, 1992).
Arguing That Rape Is Like Other Forms of Assault

There is a history of the legal system treating sexual assault differently from other forms of assault (Chappell, 1976). Many rape law reformers attacked this position, and argued that sexual assault should be seen as having the same dynamics as other assaults (Caringella-MacDonald, 1985; Sahjpaint & Renner, 1988). This argument was born out of the school of thought that sought to redefine rape as violence, rather than sex (Brownmiller, 1975). It was seen as politically and emotionally strategic to focus on the brutality aspect (though not necessarily overtly violent component) of rape (Brownmiller, 1975). Politically this was done to combat the widespread myth that women find rape sexually exciting, as well as to express the pain and suffering that a rape victim experiences (Estrich, 1987). Emotionally it functioned to communicate that the subtle undertone of consentuality that the word “sex” conjures up in no way applies to rape (Estrich, 1987). It was thought to allow survivors of sexual assault a symbolic distance between violation and consensual sexual activity that they engaged in either before or after the assault. For these reasons, normalizing the view that all rape is inherently violent, regardless of the degree of force used, has been seen as a vital piece of rape law reform (Estrich, 1987, Brownmiller, 1975, Russell, 1990).

One aspect of traditional rape law that has been criticized is the resistance requirement (Chappell, 1976; Goldberg-Ambrose, 1992). Aside from the use of the word force in the definition of rape, many states included a statute that stated something to the effect of “the
victim must have shown the utmost resistance at the time of the assault." (Chappell, 1976) This has been seen as problematic in that it circumscribes the behavior of the person getting attacked; the innocent party (Estrich, 1987). It has been argued that this sort of restriction has not been placed on victims of other forms of assault (Wriggins, 1983; Estrich, 1987). Some feminists have theorized that this is a way that rape laws are discriminate against women (Brownmiller, 1975). They have argued that this sort of statute was created in an attempt to expose women who are claiming rape as an act of vindication, rather than because an assault actually occurred (Estrich, 1987; Brownmiller, 1975). Some have gone on to claim that the resistance requirement arose because of a perception that due to the sexual nature of rape, and the frequent lack of communication during sex, the assailant may not have been properly notified of the non-consentual nature of the crime (Brownmiller, 1975). Bienin examines the mistake-of-fact defense within rape cases, and how it has been used to subvert rape law reforms (Bienin, 1978). This is a defense that has been used when the assailant allegedly does not know that the interaction is not consentual. Many have arrived at the conclusion that the resistance requirement and the rationales that surround it assist in the dynamic of blaming the victim of rape for the assault (Estrich, 1987; Brownmiller, 1975).

Reformers have felt that by focusing on the victim's response, rather than the assailant's behavior, the victim is put in a position of having to defend her/his actions (Estrich, 1987). Also, as I discussed above, reformers have noted that fear serves to make individuals act differently. If the victim of a rape, for example, becomes so terrified
that s/he freezes, s/he would not meet the resistance requirement (Burgess, 1985; Frazier & Bordiga, 1992).

Another contested aspect of traditional rape law that again symbolizes the law's mistrust of the complainant in rape cases, has been the corroboration requirement (Chappell, 1976). This was a statute that required the victim of a rape to prove that the rape occurred through corroborative evidence. It served to render the victim's testimony as incomplete evidence, and therefore discouraged many victims from prosecuting (Estrich, 1987; Chappell, 1976). Once again, it has been pointed out that no other crimes involving assault have required corroboratory evidence. For many of the reasons that I have stated above, this has been seen as a way of overtly distrusting the victim's account testimony (Estrich, 1987; Chappell, 1976). Again, it places a suspicious eye on the victim (in a way that is absent in other criminal cases) (Estrich, 1987; Chappell, 1976). A strong argument has been made that this statute is problematic due to the fact that often rape (by strangers, acquaintances, or intimates) takes place in a more private arena than other assaults (Lizotte, 1985). This makes it harder to produce corroborating evidence, especially in terms of witness accounts (Lizotte, 1985). An argument has also been made that rape is a difficult crime to produce corroborating evidence for because there are often few visible physical cues that show the way the victim has been brutalized (Estrich, 1987; Lizotte, 1985). Often the physical harm that is done to a victim is genital or internal, as opposed to other forms of assault injuries that may be more visible, leaving cuts or bruises (Martin et. al.).
Some states have required that rape victims be subjected to a polygraph, or lie detector test. This has been seen as another form of invalidating the victim's testimony (in a technologically advanced way) (Estrich, 1987). Many see the flaws of using a polygraph, in terms of the reliability of the test. As one rape awareness educator stated "most people start getting nervous, sweating, and their blood pressure rises just thinking about the rape; let alone when questioned about it for evidence." (Cygan, 1994) Again, the case is made that rape is being singled out as unique, and victims are being suspected of falsifying testimony (Estrich, 1987).

One solution to the corroboration requirement, by more conservative reformers, is a state funded advanced method of evidence collection (Martin et al., 1985). The Rape Kit Exam was created to suite this evidentiary need. This exam can only be fully performed if the victim reports to the hospital very quickly, has not showered, and is wearing the clothes s/he was attacked in (Martin et al., 1985). It has been argued that the kit is cruel, and not effective enough to merit its use (Martin et al., 1985). Others argue that evidence collection should not be improved; belief in victims' testimonies should (Martin et al., 1985). Nevertheless, the institutionalization of the Rape Kit Exam has been seen as a progressive step by some reformers (Martin et al., 1985).

In their discussion of the use and distribution of the Rape Kit Exam, Martin, DiNitto, Maxwell, & Norton discuss the personal repercussions that some rape law reforms might have (Martin et al., 1985). Martin et al. discussion is focused on changing the unnecessary trauma that a victim is subject to under the legal
system. Their study examined the way Rape Kits are administered: where, by whom, and what is actually being done. They studied the hospitals and rape crisis centers in Florida, where the state subsidized the kits. They found that a variety of individuals administer the kit depending on where it's done, who has the time and interest, and what the sex of the victim was. In terms of the procedures involved, they briefly discussed the controversy around standardizing the kit. The controversy consists of weighing jurisdictional freedom against having evidence be translatable across jurisdictions (Martin et. al., 1985).

One of the overarching issues in this discussion of standardization is what should actually be included when performing the exam (Martin et. al., 1985). This discussion has revealed a tension in the interests of the health-care system, the legal system, and the mental health-care system. In other words, some procedures that may yield better evidence may obstruct the physician's ability to treat the patient as quickly as needed. This procedure may also be deemed unnecessarily cruel and traumatic by rape crisis counselors. Martin et al. concluded that rape should be treated as any other crime, and that corroboration statutes are unnecessary. Since this is not the case, they recommend that certain procedures that are cruel and rarely come into court as necessary evidence, should be abolished (i.e. plucking numerous pubic hairs out by the root to compare with the those of the assailant in order to determine whether intercourse had occurred). They advocated standardization of the most humane procedure possible. The feel that the Rape Kit Exam should not be administered in hospital.
emergency rooms, but rather in rape crisis centers. They also recommend that the person who performs the exam be someone who has received training, and who wants to be an examiner, regardless of their official title. They advocated that governmental subsidies be granted for the kit and the training of examiners. They also hypothesized that the victim would greatly benefit from the examiners having undergone sensitivity training (Martin et. al., 1985).

One study that has been done to evaluate the progress of laws that have rendered rape more similar to other criminal offense was done by Suresh Sahjpaul and K. Edward Renner in 1988. Their study investigated the way that Canadian rape reforms have actually played out in court. The new laws redefined rape as sexual assault, eliminated the need for corroboration, eliminated the need to prove penetration, and established rape shield laws (regarding sexual history of the victim). The researchers were attempting to understand the way the law functioned by observing sexual assault and physical assault court cases, and comparing the victim's experience. They measured this by analyzing the questions posed to the victim. They also reviewed statistics regarding conviction rates. Their conclusion was that both rape and other physical assault were "...undercharged in terms of the severity of the offense." (Sahjpaul & Renner, 1988). They also felt that the gains made by the reformers did little to actually change the experience of the victim, or raise the chances of rape trials ending in convictions. Sahjpaul and Renner also expressed the view that Rape Trauma Syndrome experts (a discussion of which will follow below) should not be used because
they reinforce stereotypes. They feel that through this defense, psychologists contribute to the "further victimization" by classifying the victim as a "mental health case" (Sahjpaul & Renner 1988: 511). Their final word was "the new law has not altered the actual practices" (Sahjpaul & Renner 1988: 512).

The argument that rape is similar to other forms of criminal assault is a tricky one to make. It often involves comparing forms of assault that may be extremely different in motive and context. The argument that all assaults are equal is a rather solid legal argument to make, however. By appealing to law makers' sense of equality and justice, many reforms have been enacted. The Difference school of thought comes into conflict with the concessions made by the equality based arguments.
Arguing That Rape Is Not Like Other Forms of Assault

Reforms have also gone in the direction of focusing on the ways that sexual assault is different from other forms of criminal attacks. Most of these are focused on ways to alleviate the burden that the victim has to carry throughout the trial process, as well as increased punitive measures for the assailant (MacKinnon, 1984; Estrich, 1987). Some more extreme reformers have argued that the gendered nature of male-female rape should be retained within the legal language (MacKinnon, 1984; Brownmiller, 1975). They feel that rape should be treated as a special case; a crime against a sex-class (MacKinnon, 1984).

One theorist that sought to elucidate the differences between physical and sexual assault is Alan Lizotte (Lizotte, 1985). He enacted a large scale statistical analysis comparing the physical assault of women, the physical assault of men, and the rape of women. He used the 1978 National Crime Surveys Cities Attitude Subsample. The NCS used a stratified sample of individuals who were over the age of 12. Those women and men who had admitted on the NCS survey that they were the victims of these crimes were the ones that he focused on for his analysis. His finding was that respondents reported were more likely to report rape (50%) to the police than assaults on women (48%), or on men (43%). Lizotte felt that a multivariate analysis was necessary in order to fully examine the differences between these types of offenses. There were also a
variety of other variables (ages of victims and assailants, likelihood of being married, victim familiarity with assailants, right of assailant to be present in the place of the attack, property stolen, amount of victims, time of day, and involvement of a weapon). Lizotte theorized that there were different causal mechanisms for the two forms of assault. When he performed a multivariate analysis, it became clear that the victims that reported the rape to the police had very strong evidence to prove that the rape occurred. It was found to be a good deal stronger than the evidence provided by the physical assault victims who reported to the police. He found that the assault victims had more idiosyncratic patterns in reporting (the victim's age, the offender's age, the time of the assault, and whether or not it was completed) (Lizotte, 1985: 181). Rape victims, on the other hand, only reported when they had a strong case (i.e. there was theft as well, the assailant was a stranger, the offender had a right to be present, there was serious injury, or the victim was married and the assailant was not her husband). Lizotte also found three other factors that would probably be helpful in attaining a conviction, which were: the offender being black and the victim being white; more than one victim; and use of a weapon. While they would greatly influence in a finding of guilt, these factors (that prompted victims of physical assault to report), did not prompt rape victims to report the crime. He explained this as possibly being a function of the victims not knowing that these dynamics would increase their chances for conviction. Lizotte also reported one other variable that is significant for rape: highly educated women were less likely to bring the case to the police. He hypothesized that this could occur because highly
educated women might be more familiar with the criminal justice system's treatment of rape victims (Lizotte, 1985: 184). He concluded that the studies that have shown that rape is similar to other forms of criminal assault in terms of getting a conviction could be falling prey to an inadvertent censoring bias. He asserted that this occurs because, as his findings show, only the rape victims with the strongest cases get reported and are brought to trial, as opposed to other assault cases (Lizotte, 1985).

One type of reform (that also corresponds to an increase in technology) is the use of video transmission when the victim is testifying. Reformers have advocated the use of video cameras so that victims that are terrified (or terrorized) by their assailants do not have to be exposed to them in court (Frazier & Bordiga, 1992; Gothard, 1987). While this has been done to alleviate the anxiety of the victim at hand, this reform has been primarily aimed at increasing the reporting rate of rapes (Frazier & Bordiga, 1992). The logic has been that the victim might be more likely to come forward if s/he knows that s/he will not have to face the attacker in open court. The focus of this battle has often been on allowing child victims of sexual assault to testify via video transmission (Gothard, 1987). The reformers that have pioneered this fight have focused on the way fear and intimidation operated for children who have had their sexual boundaries invaded (Gothard, 1987). They have argued that other types of assault (i.e. physical) are less terrifying and stigmatized. This has led them to advocate the use of video testimony only for rape cases, based on the unique issues involved (Frazier & Bordiga, 1992; Gothard, 1987).
The question of the way that sexual assault affects individuals, be they children or adults, is the focus of another type of reform as well. Some reformers have pushed to allow expert witness testimony to be admitted as evidence in rape cases (Frazier & Bordiga, 1992). The experts that they speak of are psychiatrists, psychologists, and counselors that have experience dealing with survivors of sexual assault. The aspect of sexual assault that these reformers felt needed clarification in the courtroom is what has been termed Rape Trauma Syndrome (RTS) (Frazier & Bordiga, 1992). Rape Trauma Syndrome is a psychological term for the processes that some victims of sexual assault go through because of the trauma caused by the assault. Some of the symptoms are said to be chronic fear, anxiety, depression, social maladjustment, sleeping disorders, severe memory loss, etc. (Frazier & Borgida, 1992; Hazelwood & Burgess, 1987). The justification for allowing these individuals to give expert testimonies is that they, by observing the victim's symptoms and/or mental state, will be able to assess whether the victim has been sexually assaulted (Frazier & Bordiga, 1992). Reformers have seen this as necessary to dispel myths about how a rape victim should act that are held by the jury and the courtroom officials (Frazier & Bordiga, 1992, Estrich, 1987). Furthermore, it can be argued that this sort of expert testimony is vital because of the specific components of RTS. In other words, if one is seized with incapacitating anxiety whenever one thinks of the assault, testifying in court would be a near impossibility.

In their article on Rape Trauma Syndrome, Patricia A, Frazier and Eugene Borgida explore the issues surrounding allowing
"experts" to testify that a victim of sexual assault is suffering from RTS (Frazier & Borgida, 1992). They examine the legal arguments against using RTS as evidence, such as the questions of helpfulness, prejudicial impact, and scientific reliability. They also go into the controversy about the qualifications of the expert witness. They examine the ways that these issues play out in case law, as well as in the available psychological research. Their article was not directed toward drawing conclusions, but rather toward a general discussion of the issues (Frazier & Bordiga, 1992).

Arguments that rape should be legally treated as a special case are somewhat difficult to make under our legal system. Although this is the historical pattern that rape laws have followed, a progressive liberal stance would argue that to correct this historical pattern, we must render rape laws equal to other forms of assault. This is a case where the widespread mythology surrounding rape has helped the struggle, however. It seems that these arguments are less often heard because rape is still seen as a crime that is perpetrated by psychological deviants. This is especially true for most people when they compare a rape to, for example, an assault that has occurs during a theft. Although the belief that rape is a highly deviant crime had helped aid reforms that attempt to classify rape as a unique and brutal crime, there has been a backlash in that it is more likely that those who fit the deviant image will be convicted. This basis for judgment does not aid in convicting (or reporting) the well respected members of society who are sexually violent, coercive, and invasive.
Rape Shield Laws, A Little of Each

Another type of reform defies being boxed into either of the legal discourses of difference or equality. Arguments over the inclusion of rape shield laws have utilized components of all the arguments that I have summarized above. Rape shield laws are statutes that render the victim’s past sexual behavior inadmissible as evidence or as biasing statements during a trial (Chappell, 1976; Goldberg-Ambrose, 1992). These laws have varied in the degree of extremity. For example, some theorists have advocated a total withholding of any form of information about the victim’s sexual history, by arguing that it is never relevant to the case at hand (Spohn & Horney, 1991; Estrich, 1987; Brownmiller, 1975). This has come from the radical school of thought that argues a (female) victim’s word should never be challenged; and therefore it is all the evidence that the court needs (Estrich, 1987; Brownmiller, 1975). These theorists have taken the corroboration requirement and basically reversed it. Furthermore they have pointed to the way in which such evidence has been used to blame the victim for the assault (Estrich, 1987; Brownmiller, 1975). These reformers exposed the way in which prosecutors have painted pictures of the victim that portray them as unchaste, overly sexual, or nymphomaniacal (Estrich, 1987; Brownmiller, 1975). Rape shield laws (regardless of the extremity of the reform at hand), were created to reduce the exploitation of the victim’s past sexual history in court (Spohn & Horney, 1991; Winter, 1989).
The questions that the less extreme reformers have grappled with include a discussion of what evidence is appropriate (Winter, 1989; Horney & Spohn, 1991). They have struggled over the admissibility of evidence that might reveal something about the victim's sexual activities, but might also reinforce her/his case (Winter, 1989; Horney & Spohn, 1991). What is often brought up is the question of the admissibility of physical evidence that the rape occurred (i.e. the attacker's semen collected from the victim's body, other proof that there had been sexual activity between the attacker and the victim, venereal disease transmission, etc.) (Spohn & Horney, 1991; Winter, 1989). These issues have been seen as vital to winning cases by the more pragmatic reformers, and therefore necessary to allow. In order to insure that these pieces of evidence (that are usually collected during a Rape Kit Examination) are not used to bias the court's opinion of the victim (through the exposure of his/her sexuality), reformers have pushed to explicitly state the exact components that are admissible (Horney & Spohn, 1991). They have also felt that the reasons for the exceptions to the general rape shield need to be made explicit. These types of shield laws have specified that the victims history will only be admitted if the prejudicial nature of the evidence does not outweigh the probative value (Horney & Spohn, 1991). This decision has often been left up to the court. Reformers have also argued that there should be in camera hearings before the evidence is deemed admissible (Spohn & Horney, 1991; Winter, 1989).

Kathleen Winter, a legal theorist, delves into the issues surrounding the federal rape shield statute entitled the Federal Rule
of Evidence 412 (Winter, 1989). This was the first amendment to the Federal Rules of Evidence, and was passed November 28, 1975. Before this was passed prosecutors in a rape trials, as all other forms of criminal trials, were allowed to utilize character evidence. She points out the way that past sexual behavior was used to discredit the alleged victim's character in that "unchastity" in women was relevant, not only on the issue of consent, but also the as bearing on the complainant's credibility (Winter, 1989: 954). This had been sanctioned by the Federal Rule of Evidence 404(a)(2). Character evidence included the admission of the victim's past sexual history. Rule 412 was passed as an exclusionary rule. It stated that the use of past sexual behavior is no longer permissible as evidence in rape trials. There are three exceptions to this Rule, however. What is admissible is evidence that is "constitutionally required", past sexual activity with the alleged assailant in order to flesh out the consentual nature of the act; evidence of the alleged victim's sexual activity with the alleged assailant or others in order to determine if the accused was the source of semen or injury (Winter, 1989).

Winter feels that the battles that have taken place on the state level over rape shield laws is a critical piece of history leading up to Federal Rule of Evidence 412. She states this, and goes on to examine the differing degrees of severity of rape shield laws that have been enacted on the state level (noting that nearly every state had included some type of rape shield reform). Winter's hypothesis is that these laws have been interpreted in ways that are not consistent to their meaning, nor the intentions of reformers. She writes on how relevant pieces of evidence have been excluded from cases because
of this misinterpretation. She feels that this is due, in part, to the more restrictive statutes that take the power of judgment away from the judiciary. She also notes that courts have taken measures into their own hands, and "redrafted the applicable statute, while others held the statute unconstitutional as applied." (Winter, 1989: 979) Winter discusses how the three exceptions to the federal rape shield law give the courts the room that they need to make these judgments; yet in the case *United States v. Shaw*, the Eighth Circuit Court ignored the exceptions. She feels that the court, "...excluded highly probative evidence critical to allowing the accused to defend himself", and that this functioned to, "violate his right to due process of the law." (Winter, 1989: 980) Winter explained this violation as unconstitutional, thus violating one of the three safety valves in Federal Rule of Evidence 412 (Winter, 1989).

Cassia Spohn and Julia Horney, a Professor and an Associate Professor of Criminal Justice, have a different approach in their discussion of rape shield laws (Spohn & Horney, 1991). They, too, question the degree to which the officials (judges, prosecutors, and defense attorneys) execute rape laws. Their intent is not to argue the constitutionality of the laws, but rather to see if the laws have significantly changed the way in which officials think about rape; as well as had an influence on trial proceedings. Their underlying goal is to examine the amount of implementation that rape shield laws have actually received (Spohn & Horney, 1991).

Spohn and Horney note that all but two states, as well as the federal government, had adopted some form of rape shield law
by 1985. Since the degree of severity varies from state to state, Spohn and Horney decided on a sample of jurisdictions that represented the spectrum of reform legislation. They decided to investigate Michigan, Illinois, and Pennsylvania jurisdictions to represent states with restrictive rape shield laws. The states that were chosen to represent permissive shield laws were Georgia, Texas, and the District of Columbia (which in fact has no state shield laws, but rather has relied on case law precedents). They interviewed officials by giving them six hypothetical scenarios, and asking them to judge whether they would be used as evidence in court. Different aspects of a woman's (soon to be rape victim's) sexual history made up the content of the scenarios. Each of the stories were constructed to challenge the differing aspects of shield laws (Spohn & Horney, 1991).

The researchers state that the focus of their study is, "(1) whether officials' responses vary among the six jurisdictions, and (2) whether different kinds of sexual history evidence evoke different responses." (Spohn & Horney, 1991: 140). They hypothesize that if rape shield laws are being implemented, then the officials' responses will correspond to their state laws. This would lead to a result of responses varying by jurisdiction. If the laws are not being recognized or implemented, however, the researchers expected to find that the judgment of what is admissible would pivot on what the specific scenario is. They also expected to find agreement across jurisdictions as to what is acceptable as evidence (Spohn & Horney, 1991).
Spohn and Horney found that the most important factor in the decision of whether the sexual history in question should be admitted was the nature of the evidence (i.e., the content of the scenario) at hand. There was also a significant relationship regarding the official's jurisdiction and their judgment of admissibility. They reported that the official role (i.e., which position the respondent held) and the gender of the respondent did not significantly alter the judgments. The researchers also found "...a general correspondence between strength of the law and the officials' judgments that the evidence would or would not be admitted." (Spohn & Horney, 1991: 153) Yet they were not able to simply order the responses by state shield statute (Spohn & Horney, 1991).

Spohn and Horney did find that a reliance on informal norms was widely used. An example of this reliance on informal norms is, many officials state that they would not use (as evidence) the fact that the hypothetical victim has been in singles bar; but that they would use the fact that she had been engaging in sexual activity with several groups of men on the evening that she was attacked. Spohn and Horney state that this "...reflects attitudes about the appropriateness of the sexual behavior described." (Spohn & Horney, 1991: 154) They feel that another explanation is "criminal justice officials perceive a common connection between the 'appropriateness' of the sexual relationship and the fairness of the trial for the defendant." (Spohn & Horney, 1991: 155) In other words, "...the more deviant the behavior, the more relevant it is to showing a pattern of behavior." (Spohn & Horney, 1991: 155) They also note that these judgments are in line with an acceptance of new
roles for women. Spohn and Horney also hypothesized that there are minimal (if any) incentives to comply with rape shield statutes. In fact, in light of the appeals system, there is a motive to "err in favor of the defendant." (Spohn & Horney, 1991: 156) The researchers also suggested that some officials simply feel that sexual history is relevant, and therefore admit it. It was noted that in the states where in camera hearings were supposed to be held, they almost never were. This was attributed to the fact that the judge would probably allow the evidence to be presented anyway, so the hearings tend to be considered a waste of time (Spohn & Horney, 1991).

An exploration of what their findings mean to the rape reform movement reveals that if the laws are to work at all, they need to be presented in the strongest way possible. The finding led the researchers to believe that the restrictive laws do not function to eliminate all use of sexual history, but rather regulate the degree of usage of the victim's past. They also noted that shield laws function best for those victims that have been raped by a stranger, because there will be less reason to begin delving into the victim's past (all states with shield laws include an exception regarding past sexual history with the alleged assailant). They concluded on an optimistic note, stating that most officials do support reforms. Overall, Spohn and Horney felt that there has been a significant shift in attitudes because of the new rape reform legislation (Spohn & Horney, 1991).

Rape shield laws are a direct action against the misuse of victim's sexual histories. They seek to amend the assumptions made by officials and jurors by rendering aspects of a victim's history off limits. The difficulty with this is that the laws may be bypassed by
those in power who feel that this is unconstitutional under the Eighth Amendment (the right to due process of law); or those who simply think that it is inconvenient or wrong. Shield laws are an excellent but symbolic beginning to the fight that a victim of rape should not be judged on her/his sexual past.
Juror's, Attorneys, and Judge's biases in Sexual Assault Cases

In their article "The Law's The Law, But Fair's Fair:” Rape Shield Laws and Officials' Assessments of Sexual History Evidence, Spohn and Horney hypothesize about an aspect that has been focused on by many legal theorists: the human bias when processing the laws. In this section I will summarize some of the findings of researchers that have sought to measure the influence of attitudinal variables upon the decision making process in the courtroom. The focus has often been on juror biases, but some of the braver researchers, like Matoesian and Horney and Spohn, have sought to examine the way officials' biases may influence the way that reforms have been carried out.

Gregory M. Matoesian took an approach that is based on an assumption that the dynamics of the courtroom are oppressive to the victim (Matoesian, 1993). His agenda was to analyze how this second victimization occurs. Matoesian hypothesized that the speech patterns in courtrooms reflect the ways in which domination operates to put the victim on trial, bias the jury, and influence the rate of convictions. He also asserted that the patterns operate to reproduce the oppressive atmosphere that controls the trials' outcomes. Matoesian advocated a bottom-up approach to rape reform, that focuses on the speech dynamics within the courtroom. His argument was that "reproducing rape" is an active process within the courtroom. Because it has to be produced, it can be amended. He felt that reformers should focus on undoing these specific dynamics,
rather than focusing on broader, more general legal issues (Matoesian, 1993).

Peter J. Nelligan searched for the connections between the gender of the jurors and conviction rates in rape cases (Nelligan, 1988). His premise was that sexual assault is different from other crimes in that the juror’s gender might predict the outcome, more so than in other crimes. He attempted to analyze cases from Oahu between 1955 and 1977 by going back and determining the gendered make-up of the individual juries. He hypothesized that he would be able to determine the gendered differences in opinion by comparing the mean number of women on acquitting and convicting juries. He found that the mean number of women on acquitting juries slightly higher than in those where there was a conviction; yet the difference is not statistically significant. He cautions that this does not prove that a juror’s gender has no bearing on the decision that they would make, but rather that the turn out in these cases did not depend on that factor (Nelligan, 1988).

Nora K. Villemur and Janet Shibley Hyde attempted to tie together some of the factors that might influence individuals to convict or acquit the defendant in a rape trial (Villemur & Hyde, 1983). Their study was influenced by past research done by N. L. Kerr who found that in automobile theft cases the “attractiveness” of the victim was found to be a partial determinant of the finding of guilt. Villemur and Hyde felt that this might be a significant determinant in the outcome of rape cases as well. They tested mock juror’s responses to age and attractiveness of the rape victim, as well as the gender of the defense attorney. The researchers were also
searching for any finding of a gendered difference in the decisions of the mock jurors (Villemur & Hyde, 1983).

Villemur and Hyde found that the gender of the defense attorney had a great deal of bearing on the decision of the mock juror. If the defense attorney was a woman, there was a much greater chance of the mock juror handing down a finding of not guilty. 71% of the respondents stated that they would acquit the accused if the defender was a woman, while only 49% would acquit if the attorney was male. There were no significant findings regarding age and attractiveness on the victim, or the gender of the respondent. The one exception was that older victims were rated as more respectable, and therefore the defendant was seen as more at fault for the assault (Villemur & Hyde, 1983).

In the discussion of their findings, Villemur and Hyde hypothesized three possible reasons why the mock jurors reacted so strongly to the female defenders. The first was that the respondents, due to pervading sexism, were so amazed that a woman could be a competent lawyer that they "overvalued" her performance. The second hypothesis was that the juror's perceptions of a woman that would choose to defend a rapist (i.e. allegedly doing this to the disadvantage of her gender) brought about a feeling of respect; and thus, her performance became more believable. Their third possible explanation was that the litigator and the woman on trial are subject to the mock juror's comparative gaze. The juror finds the female prosecuting attorney more respectable, thus devaluing the victim and her experience. The researchers admitted that these hypotheses needed to be studied further. They go on to point out some of the
flaws of their study: the lack of a group decision making process, the
difficulty in reproducing trial dynamics, and the lack of pre-trial
selection that serve both the prosecutor's and the defender's
interests. All of these serve to render the findings somewhat less
valid (Villemur & Hyde, 1983).

Horney and Spohn, in their study entitled *Rape Law Reform
and Instrumental Change in Six Urban Jurisdictions*, explored the
impact that rape law reforms have had in six jurisdictions that
represent the spectrum of reform extremities (Horney & Spohn,
1991). The researchers collected court records data from (adult)
rape cases between 1970 to 1984. They also collected data on the
number of rapes reported to the police at that time. The jurisdictions
that they studied (progressing from most extreme reforms to the
least) were: Detroit, Michigan; Cook County (Chicago), Illinois;
Philadelphia County (Philadelphia), Pennsylvania; Harris County
(Houston), Texas; Fulton County (Atlanta), Georgia; and Washington
D.C. (Horney and Spohn, 1991: 122)

Horney and Spohn's results showed that the reforms enacted in
these states had very little effect on the reporting of rape, or the
processing of rape cases (Horney and Spohn, 1991: 129). They found
only a slight impact in Detroit. The results showed that in Detroit,
because of the 1975 reforms, there was an increase in reporting; as
well as an increase in the ratio of indicted to reported case. Their
results also showed, however, that there was, "...no change in the
percentages of indictments resulting in conviction, in convictions on
the original charge, or in the percentage of convictions resulting in
incarceration." (Horney and Spohn, 1991: 129) They noted that the
increase in reporting was not consistent with an increase in reporting for other violent crimes, and therefore could be attributed to the rape law reforms (Horney & Spohn, 1991).

The participants in the legal decision making process possess a great deal of power over the way rape law reforms will be enacted. This has been amongst the most difficult hurdles for reformers. Not only does changing the opinion of people take a great deal of time, effort, and capital; but I would hypothesize that it is relatively difficult to influence those who control the legal processes. Carole Goldberg-Ambrose comments on the fact that substantive change may not occur until those who learned about the reforms in law school sit on the judicial bench (Goldberg-Ambrose, 1992). Although changing the courtroom participants' opinions of rape is an uphill battle, it is becoming all too evident that this attempt at changing courtroom actors' attitudes on rape is pivotal to rendering rape law reforms effective (Horney & Spohn, 1991).
The Racialized History of Sexual Violence

Throughout much of this essay I have referred to the generic victim. I have done this to be consistent with the language of the works that I have been handling. Most of these works did not focus on the role that racial issues played within rape law reform. African-American Feminists, and African-American legal theorists have produced works that are focus on the dynamics between racism rape legislation (Wriggins, 1983; Hall, 1983; Bumiller, 1987). I have chosen to present this analysis in it's own category because of the overwhelming exclusion of this in depth exploration by the other rape law reformers. I did not want to present this material as being accepted as normative to the rape reform movement, when in fact it has been so ignored. I will first present a brief historical analysis of African-Americans' experience of rape. I will then go on to examine the way that theorists have tied this into rape law reforms.

There is a racial history to sexual assault in this country (Davis 1981; Hall, 1983; Wriggins, 1983; hooks, 1984; Bumiller, 1987; Collins, 1990). The racial nature of rape is best exemplified through the law's treatment of African-American men and women (Hall, 1983). During slavery, it was completely legal to sexually assault African-Americans (Hall, 1983; Wriggins, 1983). Slave holders utilized sexual violence both to enforce social control, and as a means of reproducing the slave population (Hall, 1983). The rape of African-American women by white men was widely enacted because the children that the slave woman had (that would also be owned by whites) would have a lighter skin tone (Hall, 1983; Collins, 1990).
This increased a slave's market value, thus rendering rape as a profitable enterprise for white men (Collins, 1990). However, if there was an interracial coupling of an African-American man and a white woman the man was likely to be brutalized or killed (Hall, 1983). Often the violence enacted against African-American men had a sexual component as well (i.e. genital torture) (Hall, 1983).

The sexual abuse of African-Americans was used as a form of social control during the Emancipation era (Hall, 1983; Giddings, 1984). Widespread lynching of African-American men was justified by accusing them of committing sexual offenses against white women (Hall, 1983; Giddings, 1984). This was an informal exercise of racist formal and informal laws. As these atrocities became recognized as illegal, the formal legal system began to perform historically similar atrocities (Hall, 1983; Wriggins, 1983). The numbers of lynchings reduced; but the number of African-American men that were executed by the courts for sexually assaulting white women stayed extremely (and disproportionately) high (Wriggins, 1983).

The extreme differential between the conviction rates of African-American men and white men has brought African-American Feminists and legal scholars to question if rape law reform is actually going to bring about justice (Wriggins, 1983, Bumiller, 1987). If the reforms that are enacted attempt to institute stronger sentences for assailants, without exploring the racial dynamics of rape, they could serve to further these racist trends. The reforms need to attempt to integrate the racial issues, and correct for them. Unfortunately, most of the reform literature has not integrated the race issues, often arguing that it is divisive to the gender issues.
involved (Wriggins, 1983, Bumiller, 1987). This has been seen as unacceptable by many African-American theorists (Wriggins, 1983, Bumiller, 1987).

African-American women have been discriminated against legally in a complementary way (Wriggins, 1983; Collins, 1990). African-American women, whether they are raped by a white man or a man of color, have an extremely hard time getting a conviction (Wriggins, 1983). Historically, sexually assaulting an African-American woman has been legal (Wriggins, 1983). This trend has filtered through the current legal system (Wriggins, 1983). One way that this discrimination has manifested itself is through racist/sexist stereotypes that portray African-American women as overly sexual (Wriggins, 1983, Collins, 1990). Because of this racism, African-American women's have had an extremely difficult time proving that they did not consent to the sexual assault (Wriggins, 1983). The rationalization goes along the lines of: African-American women are more sexual, therefore, the woman in question must have wanted to have sex with the alleged assailant. These stereotypes coincide with the myths that rape law reformers have attempted to dispel through their various arguments (i.e. enacting rape shield laws, abolition of corroboration and resistance requirements, amending definitions etc.) (Wriggins, 1983). The difference is that African-American analyses are race specific, and serve to point out the systemic nature of racist sexism. They point out that no matter how restrictive a shield law is, it will not amend the racial discrepancies that occur (Wriggins, 1983; Bumiller 1987). In fact, most of the reforms that might function if there was no racial discrepancies made are
irrelevant to women of color as this discrimination persists (Wriggins, 1983; Bumiller, 1987).
Method

I conducted a descriptive, exploratory study by distributing a survey through the mail. The survey contained questions to determine the respondents' opinions on the existing rape laws in Ohio. The aspects of the rape laws that the respondents were asked to comment on were ones that have been debated by rape law reformers. The sample that I distributed the survey to consisted of two groups: workers within the field or rape crisis counseling, and criminal attorneys or legal advocates.

The sample populations that I surveyed were not randomly selected, therefore my findings are in no way generalizable. I found appropriate individuals by networking through those I knew in the fields. The participants range from unemployed volunteers to those holding J.D. and PhD. degrees.

Ohio Rape Law

I feel that an overview of the Ohio sexual assault legislation is necessary to better understand my findings. Ohio is a relatively progressive state in terms of rape law reform. The definition of rape is gender-neutral, and includes forced oral sex and forced anal sex. It does not account for sexual assault where a penis is not the penetrating object. The law prohibits the impairment of a victim's judgment through the distribution of mind altering substances. There is an explicit statement that resistance is not required of a victim in order to prove that a rape occurred. There is also no corroboration requirement.
Ohio has a relatively permissive rape shield law. It states that the sexual history of the victim is admissible as evidence if it is necessary to prove the origin of semen, disease, and/or impregnation. The victim's history is also admissible if involves sexual activity with the offender. This is only so if the court finds that, "...the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value." (Ohio Revised Code 2907.02,1993: 101) There is also a specification that these shield laws are left to the court to judge when and how they should be enacted. It is added that these judgments should be made during in camera hearings.

Spousal immunity is explicitly denied for cases of sexual assault. The way that this reform was incorporated, however, is that within the definition of rape there is a specification that the victim is not the spouse of the offender. It is included in the latter section of the law that proof of marriage is not a defense against rape.

Medical treatment for the victim is funded; and that the state is required to pay for treatment of venereal disease for both the offender and the victim as well. The Code also specifies that all state hospitals are required to staff a physician (on call twenty-four hours a day) that specialize in the treatment of victims of sexual assault. The state of Ohio has also rendered child victims' video testimonies legal. On a final note, in the section of the Ohio Revised Code, # 29 entitled "Importuning", there is a section that prohibits sexual solicitation from a person of the same gender, if it is known that the individual being solicited is hostile to homosexuality.
included questions about this in my survey in order to observe the way the respondents accepted this piece of legislation.

**Hypothesis**

My hypothesis was that I would find different responses to the questions on the basis of field (rape counseling or law), gender, marital status and education level. I expected women, individuals in the counseling field, single or cohabiting individuals, and individuals with a middle range-education level to be more positive about rape reform legislation. I guessed that these variables would factor in this manner because the individuals that I described would probably be more likely to be members of the Second Wave Feminist Movement, the Anti-rape Movement, and the rape law reform sub-movement.
Results

I received 76 of the 200 surveys that I distributed. About 55% of the sample was female, and 45% was male (SD=.5). Racially the sample was comprised of: 7.9% African-American, 1.3% Asian, 1.3% Mexican-American, 85.5% Euro-American, and 1.3% classified themselves as "other" (SD=1.2). 30.7% of the population was single, 58.7% was married, 1.3% classified themselves as cohabiting, and 6.7% checked the category "other" (SD=.9). In this category a good deal of the people that checked "other" wrote in that they were divorced. The mean age was 36.7 (SD=11.6). The mean income level was $30,7015 (SD=27582.1). The average amount of education was 18 years. 40 respondents reported that they had received some education in the field of law. The mean number of years of legal education for this group was 13.6 (SD=10.1). 55 people had sexual assault related education; the mean value in years being 7.9 (SD=7.8).

Crosstabulation tables that were run with gender as the independent variable showed that all of the respondents (that answered the individual questions) agreed or strongly agreed with several independent variables. They all agreed that the portions of a victim's past sexual history that is defined as the exception to the shield laws was acceptable (N=69, SCC=-.4799)*. They also all agreed that evidence of past sexual behavior with the offender should be admissible as evidence (N=63, SCC=-.619).

The respondents all felt that the awkward structuring of the spousal immunity law might effect the way the law is carried out.

* SCC refers to the Spearman Correlation Coefficient. For the crosstabulation tables, see appendix.
Nearly the entire sample agreed that the rape laws should be gender-neutral (N = 72, SCC = .1839). All the respondents that expressed an opinion on the admissibility of expert testimony on rape trauma syndrome (and related syndromes) expressed that they felt that it was valid evidence (N = 65, SCC = .5218). This was also true when the independent variable was occupation (N = 64, .3784). Again, nearly the entire sample agreed that video testimony should be allowed for both child and adult victims of sexual assault (N = 71, SCC = .5359, and N = 70, SCC = .4419 respectively).

Aside from the rape shield legislation, this sample appeared to be extremely permissive of rape law reforms. I did not measure their reaction to the reforms when applied to other forms of assault, and therefore can not state that they are rape law reform advocates. They could be advocates of all criminal assault law reform.

An interesting finding was that, the field (rape counseling or law) that the respondents were in had very little bearing on the way they answered questions. The only areas in which there was a significant correlation between field and an attitudinal variable were questions about lie detector tests. The first question I asked was whether or not the respondent felt that a rapist should be forced to take a lie detector test. Only 50 individuals responded, the significance level (a Pearson’s Chi-Squared) was .03263, and the correlation coefficient (SCC) was .3784. The table (see Appendix II, FIELD by LIERAPE) showed that 37.5% of the counselors, and 46.3% of the lawyers felt that the test should be administered to rapists (agreed, and strongly agreed); while 37% of the counselors, and 57.4% of the lawyers did not (disagreed and strongly disagreed). The next
table has field as the independent variable, and asks the question, should the survivor have to undergo the lie detector test, as the dependent variable (see Appendix II FIELD by LIESURV: N=50; Chi-Square=.03060; SCC=.2715). 13.3% of the counselors agreed that the survivor should undergo the test, and 38.5% of the lawyers did so. In terms of disagreeing or strongly disagreeing 88.6% of counselors did, while 61.1% of lawyers fell into one of these two categories.

This makes logical sense in that the counselors were probably more likely to be sympathetic to the victim's experience; and a lie-detector test could quite easily be seen as a method of doubting his/her experience. From the other side, the attorneys would probably prioritize gathering evidence for the case, and may have seen this form of data gathering as necessary. Another factor that might have influenced the respondents, which I saw commented on in several of the open ended questions, is the amount of skepticism that the test has met. This might account for less people being willing to advocate it's use in either field.

Overall, my hypotheses were in not proven. The lie detector test was the only cite in which the relationship between attitudes and occupational/volunteer positions were significantly correlated at all. Education, gender, and marital status were in no was shown to be significantly related to the attitudinal variables.

This does not, necessarily prove that my hypothesis was wrong. My sample was fairly small, and not random. Therefore I can not generalize my findings to counselors and lawyers at large. There was also a good degree of crossover between the two fields that might have biased my findings.
CONCLUSION

The rape law reform movement has effected many changes. It has fundamentally challenged the way many individuals have conceptualized the legal and social institutions within the United States. I have only been able to scratch the surface of what these actions mean in a wider context. The intersection of feminism and the law is one wrought with difficulties. Many feminist legal theorists write pessimistically about how the law is ineffective until formidable social change occurs (Bartlett & Kennedy, 1993). Many of the achievements made by the rape law reform movement are, therefore, said to be more symbolic than effective (Goldberg-Ambrose, 1992).

I would argue that legal symbolic change needs to occur. Social change is a slow process, that needs to operate on many levels simultaneously. Clearly, the rape law reform movement’s tendency to not be self-conscious about the racialized history of rape needs to cease. There needs to be further interrogation into same-sex issues, and issues affecting working class individuals, as well. It is important that there be a more comprehensive overview of the goals of the movement that can account for difference, specifically differential oppressions. Working through the system is an extremely challenging task for marginal thinkers. It often requires a good deal of compromise. The rape law reform movement has compromised a great deal by transforming personalized feminist texts into legislative language. It needs to move one step further,
and compromise some of the movement history to account for the
history of rape in the United States.

Thinkers such as Matoesian, Horney & Spohn, and Wriggins all
challenge the reform movement to probe more deeply into affecting
attitudinal change through legislation. I feel that this is the direction
that the movement needs to take in order to recognize its goals. This
could take place in law schools, legal professional organizations, in
legal journals, or in the courtroom. This is a massive challenge, but
one that might serve to truly affect and reduce the patterns of sexual
violence within this society.
BIBLIOGRAPHY


Appendix I: Frequencies
Age (in years).

AGE

Number of Cases: 75
Missing Cases: 1
Mean: 36.693
Mode: 40
Standard Deviation: 11.647

Gender of the respondent.

SEX

Number of Cases: 76
Missing Cases: 0
Mean: 1.447
Mode: 1
Standard Deviation: .501

Race of the respondent.

RACE

Number of Cases: 76
Missing Cases: 0
Mean: 4.697
Mode: 5
Standard Deviation: 1.200

Vocational position held by the respondent.

POSITION

Number of Cases: 75
Missing Cases: 1
Mean: 2.893
Mode: 4
Standard Deviation: 1.476
Income (in dollars per year).
INCOME

  Number of Cases: 57
  Missing Cases: 19
  Mean: 37014.912
  Mode: 30000.000
  Standard Deviation: 27582.124

Marital status.
MARRIED

  Number of Cases: 75
  Missing Cases: 1
  Mean: 1.902
  Mode: 2
  Standard Deviation: .912

The respondent's parental status.
KIDS

  Number of Cases: 76
  Missing Cases: 0
  Mean: 1.408
  Mode: 1
  Standard Deviation: .495

Amount (number) of children.
AMTKIDS

  Number of Cases: 46
  Missing Cases: 30
  Mean: 2.087
  Mode: 2
  Standard Deviation: 1.029
Years of education.  
**EDUCAT**

- Number of Cases: 71  
- Missing Cases: 5  
- Mean: 17.993  
- Mode: 19  
- Standard Deviation: 2.412  

Number of years of education in a law related field.  
**LAWED**

- Number of Cases: 40  
- Missing Cases: 36  
- Mean: 13.575  
- Mode: 2  
- Standard Deviation: 10.078  

Years of education in a field related to sexual assault.  
**SEXASSED**

- Number of Cases: 55  
- Missing Cases: 21  
- Mean: 7.971  
- Mode: 3  
- Standard Deviation: 7.824  

Area of focus that respondent is in (i.e. rape counselling, law, or both)  
(THis is a composit variable created from LAWED and SEXASSED;  
1=LAWED; 2=SEXASSED; 3=BOTH; 4=MISSING VALUE)  
**FIELD**

- Number of Cases: 72  
- Missing Cases: 4  
- Mean: 2,083  
- Mode: 2  
- Standard Deviation: .746
Respondent's opinion on whether all sexual activity between consenting adults in private should be legal.

CONSENT

Number of Cases: 72
Missing Cases: 4
Mean: 2.028
Mode: 1
Standard Deviation: 1.256

Respondent's opinion on whether there should be a distinction between female-male rape and male-female rape.

DISFMMR

Number of Cases: 69
Missing Cases: 7
Mean: 1.942
Mode: 2
Standard Deviation: .235

Respondent's opinion on whether the penalties for childhood sexual assault should be the same for both genders.

EQPENMF

Number of Cases: 72
Missing Cases: 4
Mean: 1.056
Mode: 1
Standard Deviation: .231

Respondent's opinion on whether the law for rape should be gender neutral.

GENDNEUT

Number of Cases: 72
Missing Cases: 4
Mean: 1.819
Mode: 1
Standard Deviation: 1.079
Respondent's opinion on whether do you feel that someone should get punished for propositioning someone of the opposite sex into a sexual encounter if they know the person is hostile to the offer. 

**HETIMP**

Number of Cases: 59  
Missing Cases: 17  
Mean: 2.644  
Mode: 2  
Standard Deviation: 1.310

Respondent's opinion on whether a male-female rape should carry a heavier sentence than a same-sex rape or vice versa. 

**HEVSCEN**

Number of Cases: 4  
Missing Cases: 72  
Mean: 1.250  
Mode: 1  
Standard Deviation: .500

Respondent's opinion on whether a male-male rape should carry a heavier sentence than a female-female rape or vice versa. 

**HEVSCEN2**

Number of Cases: 0  
Missing Cases: 76  
Mean: -  
Mode: -  
Standard Deviation: -

Respondent's opinion on whether a female-male rape should carry a heavier sentence than a male-female rape or vice versa. 

**HEVSCEN3**

Number of Cases: 4  
Missing Cases: 72  
Mean: 2  
Mode: 2  
Standard Deviation: .000
Respondent's opinion on whether a female child molester should receive a heavier sentence than a male, or vice versa.

**HEVSCEN4**

- Number of Cases: 4
- Missing Cases: 72
- Mean: 2
- Mode: 2
- Standard Deviation: .000

Respondent's opinion on whether a husband raping his wife should receive a heavier sentence than a rape with the same gender combination without the marital component, or vice versa.

**HEVSCEN5**

- Number of Cases: 63
- Missing Cases: 13
- Mean: 2.143
- Mode: 2
- Standard Deviation: .435

Respondent's opinion on whether a wife raping her husband should receive a heavier sentence than a rape with the same gender combination without the marital component, or vice versa.

**HEVSCEN6**

- Number of Cases: 56
- Missing Cases: 20
- Mean: 2.036
- Mode: 2
- Standard Deviation: .426

The respondent's opinion on the punishment for "Importuning."

**HIMISD**

- Number of Cases: 42
- Missing Cases: 34
- Mean: 1.952
- Mode: 2
- Standard Deviation: .697
Respondent's opinion on whether do you feel that someone should get punished for propositioning someone of the same sex into a sexual encounter if they know the person is hostile to the offer.

HOMOIMP

Number of Cases: 62
Missing Cases: 14
Mean: 2.661
Mode: 2
Standard Deviation: 1.390

Respondent's opinion of the severity of the punishment for child molestation.

KIDSCEN1

Number of Cases: 71
Missing Cases: 5
Mean: 2.042
Mode: 2
Standard Deviation: .917

Respondent's opinion on the way the marital law is structured

LAWSTRUC

Number of Cases: 50
Missing Cases: 26
Mean: 1.240
Mode: 1
Standard Deviation: .431

Respondent's opinion on whether a rapist should have to take a lie detector test.

LIERAPE

Number of Cases: 52
Missing Cases: 24
Mean: 3.808
Mode: 5
Standard Deviation: 1.415
Respondent's opinion on whether a rape survivor should have to take a lie detector test.

<table>
<thead>
<tr>
<th>LIESURV</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases: 52</td>
</tr>
<tr>
<td>Missing Cases: 24</td>
</tr>
<tr>
<td>Mean: 4.077</td>
</tr>
<tr>
<td>Mode: 5</td>
</tr>
<tr>
<td>Standard Deviation: 1.169</td>
</tr>
</tbody>
</table>

Respondent's opinion on whether it should be left up to the court to decide whether or not to include a victim's past sexual history.

<table>
<thead>
<tr>
<th>PASSEXCO1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases: 63</td>
</tr>
<tr>
<td>Missing Cases: 13</td>
</tr>
<tr>
<td>Mean: 1.302</td>
</tr>
<tr>
<td>Mode: 1</td>
</tr>
<tr>
<td>Standard Deviation: 4.973</td>
</tr>
</tbody>
</table>

Respondent's opinion on whether it should be left up to the court to decide weigh the prejudicial nature of a victim's past sexual history against its probative value.

<table>
<thead>
<tr>
<th>PASSEXCO2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases: 53</td>
</tr>
<tr>
<td>Missing Cases: 23</td>
</tr>
<tr>
<td>Mean: 2.340</td>
</tr>
<tr>
<td>Mode: 1</td>
</tr>
<tr>
<td>Standard Deviation: 4.937</td>
</tr>
</tbody>
</table>

Respondent's opinion whether past sexual activities should be admitted under the existing legal standards.

<table>
<thead>
<tr>
<th>PASTSEX1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Cases: 69</td>
</tr>
<tr>
<td>Missing Cases: 7</td>
</tr>
<tr>
<td>Mean: 1.754</td>
</tr>
<tr>
<td>Mode: 2</td>
</tr>
<tr>
<td>Standard Deviation: 0.434</td>
</tr>
</tbody>
</table>
Respondent's opinion whether past sexual activity with the offender should be used as evidence.
PASTSEX2

Respondents decision to rank the following in terms of what deserves the strongest to the weakest sentence:

Female-female rape.
RANKFF

  Number of Cases: 8
  Missing Cases: 68
  Mean: 3.125
  Mode: 3
  Standard Deviation: 1.035

Female-male rape.
RANKFM

  Number of Cases: 8
  Missing Cases: 68
  Mean: 3.125
  Mode: 4
  Standard Deviation: 1.126

Male-female rape.
RANKMF

  Number of Cases: 8
  Missing Cases: 68
  Mean: 1
  Mode: 1
  Standard Deviation: .000

Male-male rape
RANKMM

  Number of Cases: 8
  Missing Cases: 68
  Mean: 3.125
  Mode: 2
  Standard Deviation: 1.026
The Respondents' opinion on classifying rape as an aggravated felony.

**RFELONY**

- Number of Cases: 67
- Missing Cases: 9
- Mean: 2.537
- Mode: 2
- Standard Deviation: 1.700

The respondents' opinion on the admissibility of expert witness testimony as evidence.

**RPTRSYND**

- Number of Cases: 65
- Missing Cases: 11
- Mean: 2.062
- Mode: 1
- Standard Deviation: 1.345

The respondents' opinion on whether male-female rape should carry a heavier sentence than same-sex rape, or vice-versa.

**SAMESEN**

- Number of Cases: 9
- Missing Cases: 67
- Mean: 1.333
- Mode: 1
- Standard Deviation: .500

The respondent's opinion as to if the existing definition of rape is too broad.

**SEXCONBR**

- Number of Cases: 56
- Missing Cases: 20
- Mean: 3.929
- Mode: 4
- Standard Deviation: 1.263
The respondent's opinion as to if the existing definition of rape is too narrow.

**SEXCONNA**

Number of Cases: 45  
Missing Cases: 31  
Mean: 3.422  
Mode: 4  
Standard Deviation: 1.118

The respondent's opinion on whether there should be a distinction between same-sex and male-female rape.

**SSVSMFR**

Number of Cases: 74  
Missing Cases: 2  
Mean: 1.973  
Mode: 2  
Standard Deviation: 0.163

The respondent's opinion on whether video testimony in adult rape cases should be admissible or not.

**VIDEOAD**

Number of Cases: 70  
Missing Cases: 6  
Mean: 2.700  
Mode: 2  
Standard Deviation: 1.536

The respondent's opinion on whether video testimony in childhood sexual assault cases should be admissible or not.

**VIDEOKID**

Number of Cases: 71  
Missing Cases: 5  
Mean: 1.930  
Mode: 1  
Standard Deviation: 1.234
Respondent's opinion on whether a husband can rape his wife. 
**HRAPEW**

- Number of Cases: 74
- Missing Cases: 2
- Mean: 1.041
- Mode: 1
- Standard Deviation: .199

Respondent's opinion on whether a wife can rape her husband. 
**WRAPEH**

- Number of Cases: 63
- Missing Cases: 12
- Mean: 1.063
- Mode: 1
- Standard Deviation: .244

Respondent's opinion on whether a woman can rape a man. 
**WRAPEW**

- Number of Cases: 74
- Missing Cases: 2
- Mean: 1.581
- Mode: 1
- Standard Deviation: .759

Respondent's opinion on whether a woman can rape a woman. 
**WRAPEW**

- Number of Cases: 76
- Missing Cases: 0
- Mean: 1.083
- Mode: 1
- Standard Deviation: 3.476
Respondent's opinion on whether a man can rape a woman.

MRAPEW

Number of Cases: 75
Missing Cases: 1
Mean: 1.293
Mode: 1
Standard Deviation: .540

Respondent's opinion on whether a man can rape a man

MRAPEW

Number of Cases: 76
Missing Cases: 0
Mean: 1.237
Mode: 1
Standard Deviation: .428
Appendix III:
Chi-square Coefficients and Crosstabs
Spearman's Correlation Coefficients

FIELD BY LIERAPE
Pearsons Coefficient=.3784

FIELD BY LIESURV
Pearsons Coefficient=.2715

POSITION BY RPTRSYND
Pearsons Coefficient=.3784

SEX BY GENDNEUT
Pearsons Coefficient=.1839

SEX BY LAWSTRUC
Pearsons Coefficient=-.3037

SEX BY PASTSEX1
Pearsons Coefficient=-.4799

SEX BY PASTSEX2
Pearsons Coefficient=-.6197

SEX BY VIDEOAD
Pearsons Coefficient=.4419

SEX BY VIDEOKID
Pearsons Coefficient=.5359
### FIELD by LIERAPE

<table>
<thead>
<tr>
<th>Count</th>
<th>LIBRAPE</th>
<th>Row Pct</th>
<th>Col Pct</th>
<th>Tot Pct</th>
<th>1.00</th>
<th>2.00</th>
<th>4.00</th>
<th>5.00</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1.00</td>
<td>2.00</td>
<td>4.00</td>
<td>5.00</td>
<td></td>
</tr>
<tr>
<td>FIELD</td>
<td>1.00</td>
<td>1</td>
<td>4</td>
<td>2</td>
<td>5</td>
<td>12</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6.3</td>
<td>33.3</td>
<td>16.7</td>
<td>41.7</td>
<td>24.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>33.3</td>
<td>40.0</td>
<td>15.4</td>
<td>20.8</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>2.0</td>
<td>8.0</td>
<td>4.0</td>
<td>10.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.00</td>
<td>2</td>
<td>4</td>
<td>7</td>
<td>3</td>
<td>16</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>12.5</td>
<td>25.0</td>
<td>43.8</td>
<td>18.8</td>
<td>32.0</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>66.7</td>
<td>40.0</td>
<td>53.8</td>
<td>12.5</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.0</td>
<td>8.0</td>
<td>14.0</td>
<td>6.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>3.00</td>
<td>2</td>
<td>4</td>
<td>16</td>
<td>22</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>9.1</td>
<td>18.2</td>
<td>72.7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>20.0</td>
<td>30.8</td>
<td>66.7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.0</td>
<td>8.0</td>
<td>32.0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Column</td>
<td>Total</td>
<td>6.0</td>
<td>20.0</td>
<td>26.0</td>
<td>48.0</td>
<td>100.0</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Chi-Square**

<table>
<thead>
<tr>
<th>Value</th>
<th>DF</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.74399</td>
<td>6</td>
<td>.03263</td>
</tr>
<tr>
<td>15.19766</td>
<td>6</td>
<td>.01877</td>
</tr>
<tr>
<td>6.10808</td>
<td>1</td>
<td>.01346</td>
</tr>
</tbody>
</table>

Minimum Expected Frequency - .720
Cells with Expected Frequency < 5 - 8 of 12 (66.7%)
FIELD by LIESURV

<table>
<thead>
<tr>
<th></th>
<th>LIESURV</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Count</td>
<td>Row Pct</td>
<td>Col Pct</td>
<td>Tot Pct</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIELD</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>15.4</td>
<td>46.2</td>
<td>13</td>
<td></td>
</tr>
<tr>
<td></td>
<td>38.5</td>
<td>11.8</td>
<td>24.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.0</td>
<td>4.0</td>
<td>12.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>53.3</td>
<td>33.3</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td></td>
<td>13.3</td>
<td>47.1</td>
<td>20.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>4.0</td>
<td>16.0</td>
<td>10.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.00</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>31.8</td>
<td>63.6</td>
<td>22</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4.5</td>
<td>41.2</td>
<td>56.0</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>12.5</td>
<td>14.0</td>
<td>28.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

|        |        |        |        |
| Column | 8       | 17     | 25     |
| Total  | 16.0    | 34.0   | 50.0   |

<table>
<thead>
<tr>
<th>Chi-Square</th>
<th>Value</th>
<th>DF</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pearson</td>
<td>10.66476</td>
<td>4</td>
<td>.03060</td>
</tr>
<tr>
<td>Likelihood Ratio</td>
<td>10.36459</td>
<td>4</td>
<td>.03471</td>
</tr>
<tr>
<td>Mantel-Haenszel test for linear association</td>
<td>5.48119</td>
<td>1</td>
<td>.01922</td>
</tr>
</tbody>
</table>

Minimum Expected Frequency - 2.080
Cells with Expected Frequency < 5 - 4 OF 9 (44.4%)

Number of Missing Observations: 26
<table>
<thead>
<tr>
<th>POSITION</th>
<th>Count</th>
<th>RPTRSND</th>
<th>Page 1 of 1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Row Pct</td>
<td>Tot Pct</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Col Pct</td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td>1.00</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>20.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20.3</td>
<td></td>
</tr>
<tr>
<td>2.00</td>
<td>2.00</td>
<td>9</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>14.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14.1</td>
<td></td>
</tr>
<tr>
<td>3.00</td>
<td>3.00</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>20.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20.3</td>
<td></td>
</tr>
<tr>
<td>4.00</td>
<td>4.00</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>39.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>39.1</td>
<td></td>
</tr>
<tr>
<td>5.00</td>
<td>5.00</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>4.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4.7</td>
<td></td>
</tr>
<tr>
<td>9.00</td>
<td>9.00</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>100.0</td>
<td>1.6</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1.6</td>
<td></td>
</tr>
<tr>
<td>Column</td>
<td></td>
<td>64</td>
<td>64</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

WARNING # 10307

Statistics cannot be computed when the number of non-empty rows or columns is one.

Number of Missing Observations: 12
### SEX by GENDNEUT

<table>
<thead>
<tr>
<th></th>
<th>Row Pct</th>
<th>Col Pct</th>
<th>Tot Pct</th>
<th>1.00</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>SEX</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td>40</td>
<td>100.0</td>
<td>55.6</td>
<td>55.6</td>
<td></td>
</tr>
<tr>
<td>2.00</td>
<td>32</td>
<td>100.0</td>
<td>44.4</td>
<td>44.4</td>
<td></td>
</tr>
<tr>
<td></td>
<td>72</td>
<td>100.0</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

>Warning # 10307
>Statistics cannot be computed when the number of non-empty rows or columns
>is one.

Number of Missing Observations: 4
### SEX by LAWSTRUC

<table>
<thead>
<tr>
<th></th>
<th>LAWSTRUC</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEX</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td></td>
<td>26</td>
<td>26</td>
<td>100.0</td>
<td>52.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>52.0</td>
<td>52.0</td>
</tr>
<tr>
<td>2.00</td>
<td></td>
<td>24</td>
<td>24</td>
<td>100.0</td>
<td>48.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>48.0</td>
<td>48.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Column</td>
<td></td>
<td>50</td>
<td>50</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100.0</td>
<td>100.0</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

> Warning # 10307
> Statistics cannot be computed when the number of non-empty rows or columns is one.

Number of Missing Observations: 26
SEX by PASTSEX1

<table>
<thead>
<tr>
<th>SEX</th>
<th>Count</th>
<th>PASTSEX1</th>
<th>Row Pct</th>
<th>Col Pct</th>
<th>Tot Pct</th>
<th>Row</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>1.00</td>
<td>0.00</td>
<td>0.00</td>
<td>1.00</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.00</td>
<td>37</td>
<td>100.0</td>
<td>53.6</td>
<td>53.6</td>
<td>37</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.00</td>
<td>32</td>
<td>100.0</td>
<td>46.4</td>
<td>46.4</td>
<td>32</td>
<td></td>
</tr>
<tr>
<td>Column</td>
<td></td>
<td>69</td>
<td>100.0</td>
<td>69</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100.0</td>
<td>100.0</td>
<td></td>
<td>69</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

>Warning # 10307
>Statistics cannot be computed when the number of non-empty rows or columns
>is one.

Number of Missing Observations: 7
### SEX by PASTSEX2

<table>
<thead>
<tr>
<th></th>
<th>PASTSEX2</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td>Count</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Row Pct</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Col Pct</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Tot Pct</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SEX</td>
<td></td>
<td></td>
<td>1.00</td>
<td>32</td>
<td>32</td>
<td>100.0</td>
<td>50.8</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100.0</td>
<td>50.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>50.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>2.00</td>
<td>31</td>
<td>31</td>
<td>100.0</td>
<td>49.2</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100.0</td>
<td>49.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>49.2</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Column</td>
<td>63</td>
<td>63</td>
<td>100.0</td>
<td>100.0</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Total</td>
<td></td>
<td></td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

> Warning # 10307
> Statistics cannot be computed when the number of non-empty rows or columns is one.

Number of Missing Observations: 13
### SEX by VIDEOAD

<table>
<thead>
<tr>
<th>SEX</th>
<th>count</th>
<th>VIDEOAD</th>
<th>Row Pct</th>
<th>Col Pct</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1.00</td>
<td>38</td>
<td>100.0</td>
<td>54.3</td>
<td>54.3</td>
</tr>
<tr>
<td></td>
<td>2.00</td>
<td>32</td>
<td>100.0</td>
<td>45.7</td>
<td>45.7</td>
</tr>
</tbody>
</table>

Column: 70  | 70
Total: 100.0 | 100.0

>Warning # 10307
>Statistics cannot be computed when the number of non-empty rows or columns >is one.

Number of Missing Observations: 6
### SEX by VIDEOKID

<table>
<thead>
<tr>
<th></th>
<th>VIDEOKID</th>
<th>Page 1 of 1</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Count</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Row Pct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Col Pct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Tot Pct</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Row</td>
<td>Total</td>
</tr>
<tr>
<td>SEX</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.00</td>
<td>40</td>
<td>40</td>
</tr>
<tr>
<td></td>
<td>100.0</td>
<td>56.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td>56.3</td>
</tr>
<tr>
<td>2.00</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td></td>
<td>100.0</td>
<td>43.7</td>
</tr>
<tr>
<td></td>
<td></td>
<td>43.7</td>
</tr>
<tr>
<td></td>
<td>71</td>
<td>71</td>
</tr>
<tr>
<td></td>
<td>100.0</td>
<td>100.0</td>
</tr>
</tbody>
</table>

>Warning # 10307
>Statistics cannot be computed when the number of non-empty rows or columns is one.

Number of Missing Observations: 5
Appendix III:
The Survey
**FIELD by SEX**

<table>
<thead>
<tr>
<th>SEX</th>
<th>Count 1.00</th>
<th>Count 2.00</th>
<th>Total Count</th>
<th>Row Pct 1.00</th>
<th>Row Pct 2.00</th>
<th>Total Row Pct</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>3</td>
<td>14</td>
<td>17</td>
<td>17.6</td>
<td>82.4</td>
<td>23.6</td>
</tr>
<tr>
<td>M</td>
<td>17</td>
<td>2</td>
<td>19</td>
<td>9.9</td>
<td>4.2</td>
<td>19.9</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SEX</th>
<th>Count 2.00</th>
<th>Count 3.00</th>
<th>Total Count</th>
<th>Row Pct 2.00</th>
<th>Row Pct 3.00</th>
<th>Total Row Pct</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>29</td>
<td>6</td>
<td>35</td>
<td>90.6</td>
<td>26.1</td>
<td>51.3</td>
</tr>
<tr>
<td>M</td>
<td>3</td>
<td>17</td>
<td>20</td>
<td>9.4</td>
<td>73.9</td>
<td>48.7</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SEX</th>
<th>Count 3.00</th>
<th>Count 1.00</th>
<th>Total Count</th>
<th>Row Pct 3.00</th>
<th>Row Pct 1.00</th>
<th>Total Row Pct</th>
</tr>
</thead>
<tbody>
<tr>
<td>F</td>
<td>6</td>
<td>17</td>
<td>23</td>
<td>26.1</td>
<td>73.9</td>
<td>31.9</td>
</tr>
<tr>
<td>M</td>
<td>17</td>
<td>3</td>
<td>20</td>
<td>15.8</td>
<td>8.8</td>
<td>14.4</td>
</tr>
</tbody>
</table>

Column Total: 38 | 34 | 72
Total Row Pct: 52.8 | 47.2 | 100.0

**Chi-Square**

<table>
<thead>
<tr>
<th>Value</th>
<th>DF</th>
<th>Significance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pearson</td>
<td>33.38433</td>
<td>2</td>
</tr>
<tr>
<td>Likelihood Ratio</td>
<td>37.43225</td>
<td>2</td>
</tr>
<tr>
<td>Mantel-Haenszel test for linear association</td>
<td>.00278</td>
<td>1</td>
</tr>
</tbody>
</table>

Minimum Expected Frequency = 8.028

Number of Missing Observations:
Please read each question carefully and either circle your choice, or write out your answer. The survey is on both sides of the page.

1) What is your age (in years) __

2) What is your sex?
   [1] female
   [2] male

3) How many years of education have you completed? __

4) Please list the degrees that you have earned.

5) If you are in a law related field, how many years have you been in that field? __

6) If you are in a field that deals with sexual assault issues, how long have you been in that field? __

7) Are you currently
   [1] non-administrative paid staff
   [2] in an administrative position
   [3] volunteer
   [4] other (please specify) _______________________
   [5] no answer

8) Please state your average yearly income.

9) What is your race or ethnicity?
   [1] Black/African-American
   [3] Native American/Eskimo/Aleut
   [6] Other (please specify) _______________________
   [7] No answer/don't know

10) What is your religious affiliation? (please be specific)

11) What is your marital status?
   [1] single
   [2] married
   [3] cohabiting
   [4] Other (please specify) _______________________
   [5] no answer

12) Do you have any children?
   [1] yes
   [2] no
   [3] no answer

Please Turn Over ->
If you answered "yes" to question #12, please answer questions #13 and #14. If you answered "no" or "no answer", please skip to question #15.

13) How many children do you have? __

14) Please list the sex of your children, and their ages

15) The law states,

"The principle on which the first group of offenses (i.e. SEXUAL ASSAULTS)is founded is that sexual activity of whatever kind between consenting adults in private ought not be a crime."

Do you

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

16) If you disagree or strongly disagree, what sort of sexual activity between consenting adults in private do you think should be illegal? Please be specific.

17) The Ohio definition of rape is based on ways that "Sexual conduct" is misused. Section 2907.01 (A) of the Revised Code states "'Sexual conduct' means vaginal intercourse between a male and female, and anal intercourse, fellatio, and cunnilingus between persons regardless of sex. Penetration, however slight is sufficient to complete vaginal and anal intercourse".

Do you find this definition of rape too broad in its scope?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

18) If you strongly agree or agree with this definition, what would you exclude?

19) Do you find this definition too narrow in its scope?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

20) If you strongly agree or agree that the definition is too narrow, what would you include that is not stated?

---

1 All quotations in this survey are taken directly from Page's Ohio Revised Code, Annotated, Title 29 (Anderson Publishing Co: Cincinnati, 1993).
(For questions 21-41 I am referring to scenarios in which both parties are adults)

21) In the case of rape, battery, or sexual harassment, is it appropriate to disregard the gender of the individuals in question?

   [1] strongly agree
   [2] agree
   [3] neutral
   [4] disagree
   [5] strongly disagree

22) I believe that a man can rape a woman.

   [1] strongly agree
   [2] agree
   [3] neutral
   [4] disagree
   [5] strongly agree

23) If you disagree or strongly disagree with the statement in #22 why?

24) I believe that a woman can rape a man.

   [1] strongly agree
   [2] agree
   [3] neutral
   [4] disagree
   [5] strongly disagree

25) If you strongly disagree or disagree with the statement in #24, why?

26) I believe a man can rape another man.

   [1] strongly agree
   [2] agree
   [3] neutral
   [4] disagree
   [5] strongly disagree

27) If you strongly disagree or disagree with the statement in #26, why?

28) I believe a woman can rape another woman.

   [1] strongly agree
   [2] agree
   [3] neutral
   [4] disagree
   [5] strongly disagree

29) If you strongly disagree or disagree with #28, why?
30) Under 2907.02 of the Revised Code the rape of one adult by another adult is a classified as "an aggravated felony of the first degree."

How do you feel about this punishment?

[1] too severe  
[2] appropriate  
[3] not severe enough  
[4] no answer

31) Why do you think this?

32) If you answered "not severe enough" to question #30, what sort of sentencing do you feel would be more appropriate?

33) Do you feel that there should be a legal distinction between same-sex rape and male-female rape?

[1] yes  
[2] no  
[3] neutral

*If you answered yes to question #33 please answer questions #34 and #35. If you answered no please skip to question #37.*

34) Which scenario do you feel should carry a heavier sentence?

[1] male-female rape  
[2] same-sex rape

35) Do you think that male-male rape and female-female rape should receive the same sentence?

[1] yes  
[2] no  
[3] neutral

*If you answered yes to question #35, please answer question #36. If you answered no, please skip to #37.*

36) Which do you think should carry a heavier sentence?

[1] male-male rape  

37) Do you feel that there should be a distinction between female-male rape (the female has raped the male) and male-female rape?

[1] yes  
[2] no  
[3] neutral

*If you answered yes to question #37, please answer question #38. If you answered no please skip to question #39.*

38) Which do you feel should receive a heavier sentence?

[1] female-male  
[2] male-female
39) Please rank these sex crimes in order according to what you feel deserves the strongest to weakest sentence. Please do this by putting a one next to the crime you feel is deserving of the most severe sentence, and a four next to the crime you find deserving of the least severe sentence. Please skip this question if you don't see a hierarchy, or you don't consider any of the choices rape.

- [a] male-female rape
- [b] female-male rape
- [c] male-male rape
- [d] female-female rape

If you answered question #39, please answer question #40. If you did not answer question #39 please skip to question #41.

40) Why did you rank the sentences for these crimes in #40 this way?

41) Under 2907.02 of the Revised Code the "...forcible rape of a victim under the age of 13 carries the penalty of life imprisonment."

How do you feel about this punishment?

[1] too severe
[2] appropriate
[3] not severe enough
[4] no answer

42) Why do you feel this way?

43) If you answered "not severe enough" to question #42, what sort of sentence(s) do you feel would be more appropriate?

44) Do you feel that the penalties should be the same for male and female assailants?

[1] yes
[2] no
[3] neutral

If you answered yes to question #44, please answer questions #45 and #46. If you did not please skip to question #47.

45) Which child abuser should be more heavily punished?

[1] female
[2] male

46) Why do you feel this way?

47) Do you think that a husband can rape his wife?

[1] yes
[2] no
[3] neutral

48) If you answered no to #47, please explain.
49) If yes (to question #47), how do you think that a husband who rapes his wife should be sentenced in comparison to a man who rapes a woman who he is not married to?

[1] more severe sentence
[2] equal sentence
[3] less severe sentence
[4] neutral

50) Do you think a wife can rape her husband?

[1] yes
[2] no
[3] neutral

51) If you answered no to #50, please explain.

52) If yes (to question #50), how do you think that a wife who rapes her husband should be sentenced in comparison to a woman who rapes a man who she is not married to?

[1] more severe sentence
[2] equal sentence
[3] less severe sentence
[4] neutral

53) Section 2907.02, (A),(1) of the Revised Code states,

"No person shall engage in sexual conduct with another who is not the spouse of the offender or who is the spouse of the offender but is living separate and apart from the offender, when either of the following apply:"

What follows is a succession of conditions that render the sexual conduct rape. Under the heading (G) is written,

"it is not a defense to a charge under division (A)(2) of this section that the offender and the victim were married or were cohabiting at the time of the commission of the offense."

Section (A)(2) states

****"No person shall engage in sexual conduct with another when the offender purposely compels the other person to submit by force or threat of force."

What do you think of the way this is structured?

54) Do you think that this structure might affect the way the law is carried out in terms of a case of alleged marital rape?

[1] yes
[2] no
[3] neutral
55) The law states in section 2907.02, (D) of the Revised Code,

Evidence of specific instances of the victim's sexual activity, opinion evidence of the victim's sexual activity, and reputation evidence of the victim's sexual activity shall not be admitted under this section unless it involves evidence of the origin of semen, pregnancy, or disease, or the victim's past sexual activity with the offender, and only to the extent that the court finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

Do you feel that the victim's past sexual activity should be admissible as evidence in circumstances other than the exceptions that are stated?

[1] yes
[2] no
[3] neutral

56) Why do you feel this way?

57) Do you think that evidence of the victim's past sexual activity with the offender should be admissible?

[1] yes
[2] no
[3] neutral

58) Why do you feel this way?

59) In reference to the question above, do you think that the court should decide whether the, "evidence is material to a fact at issue in the case"?

[1] yes
[2] no
[3] neutral

60) Why do you feel this way?

61) Do you think that the court is capable of deciding whether the "inflammatory or prejudicial nature" of the victim's past sexual activity with the offender, "does not outweigh its probative value."

[1] yes
[2] no
[3] neutral

62) Why do you feel this way?

63) In section 2907.02, (C) the Revised Code states:

"A victim need not prove physical resistance to the offender in prosecutions under this section."

What do you think of this?
64) Do you feel that individuals who can explain phenomena such as Rape Trauma Syndrome, Child Sexual Abuse Syndrome or Post-Traumatic Stress Disorder should be admissible as expert witnesses in trials involving rape or childhood sexual assault?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

65) Do you feel that adults that are alleged survivors/victims of sexual assault should be able to state their testimony in court via a video transmission from another room?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

66) If you disagree or strongly disagree, why?

67) Do you feel that children that are alleged survivors/victims of sexual assault should be able to state their testimony in court via a video transmission from another room?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

68) If you strongly disagree or disagree, why?

69) Do you feel that the result of a Polygraph or Lie Detector Test, performed on the alleged rapist or child molester should be admissible as evidence?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

70) Why do you feel this way?

71) Do you feel that the result of a Lie Detector Test, performed on the alleged survivor/victim should be admissible as evidence?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

72) Why do you feel this way?
In the section titled "Importuning" 2907.07, (B) of the Revised Code it states,

"No person shall solicit a person of the same sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard."

Under this law this activity is classified as a first degree misdemeanor.

73) Do you feel that such an activity should be punished under the law?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

74) Why do you feel this way?

75) If you strongly agree or agree, what do you think of the classification of this activity as a first degree misdemeanor?

[1] too severe
[2] appropriate
[3] not severe enough
[4] neutral

76) If you feel that this sentence is not severe enough, how would you classify this activity?

77) If the law read

"No person shall solicit a person of the opposite sex to engage in sexual activity with the offender, when the offender knows such solicitation is offensive to the other person, or is reckless in that regard."

Would you feel that such an activity should be punished under the law?

[1] strongly agree
[2] agree
[3] neutral
[4] disagree
[5] strongly disagree

78) If you answered disagree or strongly disagree to #73, would this addition to the legal code change your opinion?