

RAPE REVICTIMIZATION: AN ANALYSIS OF TIME SERVED IN PRISON FOR
CONVICTED OFFENDERS

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CHAPTER 1

INTRODUCTION

Rape is an important topic in women's studies (Offen, 1998). Susan Brownmiller suggests that rape is about power and control. Brownmiller's idea of extending the definition of rape beyond a sexual act has made her viewpoint become a major force in how women's issues are defined and studied (1975). Feminist theorists have also revealed that rape victims/survivors¹ are revictimized in several ways as various systems try to balance women's rights and the letter of the law. For example, as a society we have yet to come to a consensus as to the definition of rape and we have failed to hold all suspected rapists to the same level of prosecution (Abbey, BeShears, Clinton-Sherrod, and McAuslan, 2004; D'Alessio and Stolzenberg, 2003; Landwehr, Bothwell, Jeanmard, Luque, Brown, and Breaux, 2002). In addition, due to rape myths and

¹ The use of the term victim/survivor is used throughout this work in order to not label the experience of a female who has been raped.

the stigma associated with rape, rape victims/survivors face the challenge of convincing the criminal justice system that their crime occurred, getting an appropriate sentence imposed and then ensuring time is served (Kahn, Jackson, Kully, Badger, and Halvorsen, 2003; Livingston, Buddie, Testa, and VanZile-Tamsen 2004). The proposed study will use data from the National Corrections Reporting Program to explore revictimization by examining whether convicted rapists serve less time and/or a smaller proportion of their sentence than other violent offenders. It will also examine if the treatment of convicted rapists might vary by two other dimensions of stratification, race/ethnicity and class.

CHAPTER 2

LITERATURE REVIEW

Definitions of Rape

Currently, there is no consensus on the legal definition of rape. According to the Texas Department of Public Safety: “rape, as defined in the UCR program, is the carnal knowledge of a female forcibly and against her will” (2000:10). Statistical reports from this agency include assaults to commit forcible rape; however, statutory rape and sexual assaults of males are excluded. A major problem with this definition is the word ‘forcibly’; it is undefined and implies that if the victim/survivor complies out of fear, the rape did not occur because she did not fight her attacker. However, another definition provided by the Texas Penal Code states a person commits sexual assault “if that person causes the penetration of the anus, vagina, or mouth of another person with a sexual organ or object, without that person's consent OR causes another person to contact or penetrate the mouth, anus or sexual organ of another person without their

consent” (www.rapecrisisbv.org). This definition is the most expressive in defining rape, since it includes all forms and possible types of rape. It does not define who the victim/survivor and perpetrator must be, leaving room for hetero/homosexual acts, as well as male rape. Other definitions such as that from the United States Department of Justice allow verbal threats of rape to be prosecuted as well as account for homosexual rape. The Department of Justice definition does not say anything about marital status, which is beneficial since it does not expressly exclude it, as some definitions have in the past (<http://www.ojp.usdoj.gov/bjs/pub/ascii/svcw.txt>). The fact that each agency has a different perspective on rape makes it harder to prove the case for the seriousness of rape. According to the 2000 National Crime Victimization Survey, the total number of rapes, attempted rapes and sexual assaults is about 261,000 for the year 2000 (www.rainn.org). This number varies from the National Institute of Justice and Centers for Disease Control and Prevention, which estimated 17.1 million victims of rape (1998). Some of this variation is likely due to the lack of consensus on the legal definition of rape.

As with the legal system, sociologists and the general population have struggled to define rape. As history has progressed, the definitions of rape have changed. The feminist movement has taken on the primary challenge of continually defining and redefining rape, as women’s roles have changed. As

women's rights have increased so have their perceptions of the right to control and protect their bodies. With these increases in gender equality, the definition of rape has broadened.

In nations and times characterized by extreme patriarchy, men held the right to women's bodies. This being true, rape was not legally or culturally possible. If the female body belonged to the male then a male could not violate it (Brownmiller, 1975). Rape was a legitimate means to control women and was men's basic unit of force against a woman. This remained true until near the time of Henry II. During this time, a virgin could file a civil suit against a male in order to possibly attain restitution for the atrocity (Brownmiller, 1975). As noted, rape was only recognized if a virgin was violated. The offense was not violating her body but instead violating her purity (which in turn devalued her as a possible wife prospect thus affecting a possible male suitor). There is no one reason as to why rape became recognized at this time. However, this was the first step towards creating legal accountability for rape.

Because men have more status and power than women in most societies, rape has continued as a form of control and punishment, most especially in patriarchal societies. Patricia Yancey Martin agrees, "rape...is a practice available to all men who believe they have the right to sex from a woman" (Martin, 2005:7). However, with the recognition of women and the women's

liberation movement the definition of rape began to encompass more instances in which a woman refuses intercourse. For example, early definitions of rape excluded husbands as potential rapists because women's bodies were viewed as the property of their husbands (Brownmiller, 1975). However, this perception has changed and wife rape has become a relatively new legal, cultural, and academic issue (Daly and Chesney-Lind, 1988; Simpson, 1989). Kirkwood and Cecil (2001) found in their study of marital rape that some still consider wife rape not legally possible. Overall, the work found that wife rape is still determined to be less severe than stranger rape. It appears that these respondents do not consider the betrayal of trust in addition to the attack to be more severe than any other type of attack. However, the majority of the literature is in consensus about the need to accept a legal and social definition of wife rape (Kirkwood and Cecil, 2001; Mahoney, 1999).

More recent and unresolved controversies involve acquaintance, date and/or drug rapes. Yescavage (1999) discusses the significance of prior sexual engagement when determining whether a rape occurred in regard to date and acquaintance rape. She found that victim accountability increased the longer the victim/survivor was in the relationship (1999). This trend reinforces the situational enforcement of rape. Because the female agreed to a date or has previously been intimate with the male, the (semi) relationship reduces

perceptions of attacker responsibility and thus is less likely to be labeled as rape and prosecuted as such (Wood, 1999). However, the trend of sexual precedence is changing, albeit slowly (Monson, Langhinrichsen-Rohling, and Binderup, 2000). Another issue is the victim/survivor's inability to reject the sexual encounter (Cohn, 1996). If a woman is incapable of refusing a sexual act, then a rape charge may be legally and culturally recognized. Drug induced rapes occur with the use of three main drugs, gamma-hydroxybutyrate (GHB), rohypnol, and alcohol. Perpetrators can use these weapons with or without intent (Asante, 1999). Essentially, the offender either knowingly drugs a victim/survivor with the intention to rape or rapes a woman who has consumed these drugs and has lost her ability to communicate her desires (Dunlap, Golub, Johnson and Wesley, 2002). The issue of capability to respond is currently being reviewed by numerous states so that their legal definitions may eventually become more comprehensive. However, these issues remain contentious.

With all of the confusion about the cultural, sociological and legal definitions of rape, it is easy to understand why so many victim/survivors do not come forward (Bryden and Lengnick 1997). In addition, Kahn et al. explain that, labeling one's experience as rape is essential when indicting and punishing the offender (2003). These, among other issues keep rape from becoming a static entity that is defined and punished accordingly. Another problem with creating

a coherent definition of rape is that every rape situation and victim/survivor differs. Hence, the definition needs to compensate for variation in a broader manner, which is difficult.

Underreporting

Rape is particularly susceptible to underreporting (Bondurant 2001; Yescavage 1999). In addition to the confusion over the definition of rape, rape myths contribute to underreporting. Rape myths are widespread attitudes about rape that harbor rape supportive beliefs and acceptance of all or some forms of rape. These myths are generally false and serve to justify male sexual aggression against women (White, 1999). Some rape myths include, blaming the victim/survivor, questioning the victim/survivor's responsibility in the attack, blaming the woman for her inadequate self-defense, blaming the woman for ambiguous possibly provocative or affection seeking behavior, and blaming the woman for being in the wrong place at the wrong time, for dressing inappropriately, and for voluntarily partaking in alcohol or drugs (Sheldon, 2002; White, 1999). Rape myths vary with differing impacts on society and are often used to make women responsible for their attacker's behavior. Some consider women fundamentally passive and submissive, if a woman behaves alternately then she is the one who has violated the social norm and deserves to be punished for such. One such punishment is rape (Sheldon, 2002). By endorsing such rigid gender roles, male patriarchy can continue. Rape myths are considered false by sociologists because they place the blame on the victim/survivor, when in reality, it is the perpetrator who is guilty of assaulting the victim/survivor. While the fault of the perpetrator is true, it is not widely believed by men and women in

most acquaintance/date/marriage rapes (White, 1999). In addition, White and Kurpius found that, “men have more negative attitudes toward rape victims and endorse rape myths more than women do” (1999:990). Currently, more men hold legal positions and so it is difficult for the victim/survivor to turn to the legal system for justice. Women are also unlikely to report a rape because they hold the belief that they are to blame (Yescavage 1999) and because they fear repercussions. Finally, Cowan (2000) argues that sexual violence is trivialized in American society and not afforded the status of an important social issue, which likely reduces reporting.

If we look at underreporting on a larger scale, those involved with law making are putting their subjective opinions into the legal definitions of rape thus making it more difficult for those outside of the legal system, yet abiding by it, to understand why they may or may not be a victim/survivor legally. The fact that society must place blame somewhere and that decision is subjective makes it possible for the victim/survivor to be blamed and not the perpetrator. This in turn reaffirms the attackers’ belief that he was not wrong in what he was doing, neither morally nor legally. Yescavage makes a powerful argument on behalf of victim/survivors about the negative myths surrounding rape: “If a victim believes that she is to blame for her victimization, what might a perpetrator be thinking?” (1999:797).

Women’s centers across the country provide advocates for victims/survivors. The advocates provide a source of comfort and remind officials of the delicateness of the situation. However, advocates are only present if the victim/survivor, or another party, contacts a crisis hotline. Again, this requires the victim/survivor to understand the circumstances of the event and be confident the justice system will prosecute the offender.

Prosecution, Sentence Length, and Time Served for Rape Cases

If a rape is not reported, it cannot be prosecuted. Even if a rape case is brought to the attention of the District Attorney, it does not ensure that the case will be prosecuted. If the reported offender is charged, Wood found that “the smaller and more innocent the victim, the stronger and more guilty the defendant appears” (1999:158). This attention to victim/survivor characteristics puts the emphasis on the victim/survivor and not the offender. Throughout this entire process, the victim/survivor must defend her actions as well as explain those of her attacker. Mardorossian makes the point that: “The juxtaposition of the degree of aggression of the rapist with the level of innocence of the victim necessarily obscures the fact that a victim can neither be more nor less innocent of a crime she did not commit” (2003:266).

A major problem in the courtroom is that the victim/survivor is often revictimized by prosecutors who attack her history. Rape shield laws were enacted to keep a victim/survivor’s sexual history out of the courtroom. Rape shield laws are supposed to prevent this but have failed to provide the intended effects (Matoesian, 1995). Matoesian also found that the legal system has a role in legitimating sexual violence against women due to judicial discretionary practices and the fact that jurors entertain traditional stereotypes (1995). For examples, some jurors believe that a victim/survivor’s sexual history should factor into their responsibility to the rape. Similarly, Temkin found mistreatment of victim/survivors by defense counsel and submissive attitudes on the part of judges and prosecutors (2000).

The victim/survivor is responsible for recognizing the attack as rape, seeking medical attention (in order to have evidence), bringing the matter to law enforcement and then being available for the prosecution to question in order to

build a case. The victim/survivor may also be responsible for appearing at parole hearings. In sum, the victim/survivor carries the majority of the burden when it comes to accounting for her rape. The victim/survivor is responsible because society is more likely “to attribute others’ behavior or circumstances to dispositional characteristics” instead of situational (Johnson, Mullick, and Mulford, 2002:249). This means that society prefers to blame the person instead of the event. For example, society may blame the victim/survivor for being at the wrong place at the wrong time.

Another aspect of revictimization includes the high rate of attrition in rape cases. One study reveals that 98% of rape victim/survivors never see their attackers arrested, brought to court, or imprisoned (Bryden and Lengnick, 1997). In general, of felony cases brought to court, 46 to 60 percent result in pretrial dismissal. Of those felony cases, only two to five percent of rape cases end with a conviction (Bryden and Lengnick, 1997). Frazier and Hanley analyzed multiple studies and found that only 12% of reported rapes result in conviction (1996). There is some evidence that attrition is higher for rape cases in relation to other types of cases. In California in 1980, only 17% of arrested rapists received a sentence while 38% of homicide offenders served time (Frazier and Haney, 1996). Further, 45% of rape trials end in acquittal, while other violent crimes have a 38% acquittal rate (Frazier and Haney, 1996). These alarming statistics are based on the fact that prosecutorial convictions (or lack thereof) are complex and rely on police policy and procedure as well as prosecutor and judicial discretion (Feldman-Summers and Linden, 1976). However, some studies have found that high attrition is not unique to rape. Steffensmeier found that rape has a lower level of loss than assault or burglary across time and jurisdictions (1988). He further found that processing and conviction rates are comparable to other major felonies (1988).

Essentially, rape myths distort cultural and legal effects or deprive women from equal protection under the law (Bryden and Lengnick, 1997). Rape victims/survivors may decide to remain silent because they are familiar with those stereotypes and fear the legal repercussions of seeing their case through to the prosecution phase. There are many points in the legal process for a victim/survivor to decide to not pursue her case, such as contacting the police, not helping investigators or prosecutors, etc. Further, various people can prevent a rape case from proceeding to court at any point after the attack. When prosecutors are making the decision to prosecute, they look for cases they can win. In order to determine if a case is winnable prosecutors look at the defendant's criminal history as well as the victim/survivor's reliable account of the event (Bryden and Lengnick, 1997). This makes prosecuting date/acquaintance/marriage rape nearly impossible, further enforcing the idea that not all rape is equal in the eyes of the law. Other factors, such as medical evidence, the victim/survivor's character, and intelligence are also taken into account when a prosecutor determines whether or not to proceed with a case. Again, this provides some victims/survivors the option of prosecution but not others. This being the case, Feldman-Summers and Linder (1976) make the argument that rape is different from other crimes and should be treated as such. Which victim's/survivor's cases are being prosecuted and why is a topic unto itself and is not further explored in this study.

CHAPTER 3

THEORETICAL PERSPECTIVES

Feminist Theory

Feminism is an activist school of thought based in methodological expression and a struggle for historical, cultural, and sexual consciousness (MacKinnon, 1983). Within this broad category are various theoretical perspectives that explain the causes of rape and the necessary response. Some of the main branches of feminism are, radical, cultural, Marxist/neo-Marxist, socialist, liberal and activist. It is through these schools of thought that academic, cultural and legal definitions of rape have continued to change.

Radical feminism is a political movement aimed at ending patriarchy in social and economic life. It rejects opposing male and female natural differences. Further, radical feminism aims to dramatically change social structures that currently control the distribution of power. Those who follow this frame of thought are influenced by controversial thinkers such as Andrea Dworkin. Dworkin views all heterosexual sex as an extension of male patriarchy, thus making heterosexual sexual encounters a form of rape (1987). Obviously, this is

a radical belief not held by all, but it is an influential part of the ever-changing cultural definition of rape.

Cultural feminism aims to free women from the imposition of male values and create a counterculture of female values (Willis, 1984). Consequently, cultural feminists believe that it is our culture that reinforces feminine “values” (ex. submissiveness) and it is these values that subordinate women and make actions like rape accepted. Cultural feminists believe in the natural (even biological) superiority of women (Bachofen, 1967). The difference between cultural feminists and radical feminists is that cultural feminists are not revolutionary although they hold the same general beliefs as radical feminists (Echols, 1989). The solution is to make men and women aware of and responsible for aspects of maleness, like domination, which contributes to rape (Radin, 1993). With awareness and a concerted effort to change, ending rape is possible and becomes the duty of both men and women. Some credit the cultural feminist movement with rape crisis centers and other structural changes that helped to create a women’s culture in a patriarchal society (http://www.uah.edu/woolf/feminism_kinds.htm).

Marxist/Neo-Marxist feminists emphasize economic inequality as the source of gender inequality. They argue that those with economic means (men) should not oppress those without (women) (<http://www.feministissues.com/index.html>). It is in male patriarchy that male economic power is highlighted. This emphasis on male economic power helps reinforce the subordinate other role, namely women. If women are subordinate then it becomes acceptable for males to dominate the female body. Again, this branch of feminism believes that by ending male economic patriarchy women can become equals. If women are equal to men then perhaps rape will not serve to further subordinate.

Socialist feminists also believe that social class influences gender relations however it is one of many relevant variables. The construction of sexuality, family, femininity, and masculinity are also important when explaining gender inequality (Feminist Review, 1986). By understanding how society is constructed we can move to change aspects deemed harmful, for example rape. In examining our concepts of masculinity (power, emotional control, etc.) and femininity (submissiveness, extreme emotionality, etc.) society can make a conscious effort to abolish these stereotypes and stop the consequences of them, such as rape. The stereotypes are not acceptable and men and women must be freed from them before equality can happen.

Despite the heterogeneity of the feminist movement, there are certain consistencies regarding rape. In general, feminist theory looks at rape as another form of dominance and control in American patriarchal society, similar to the definition created by Susan Brownmiller. Rape from a feminist perspective shows a pattern of gender inequality, women's oppression and men's abuse of power (Chasteen, 2001). Feminists would agree that at the least rape is as any violation of ANY woman's non-consent to any sexual act. Feminist theories are also concerned with revictimization. Rozee and Koss found that in rape cases where the victim/survivor decided to press charges, the victim/survivor found herself on trial (2001). By disbelieving a woman's account of rape, society revictimizes the victim/survivor (Chasteen, 2001). Most feminist scholars argue that raising the social costs to perpetrators is important to preventing future rapes. This can be done by enforcing sentence length and lengthening time served for rape offenders.

Conflict Theory

The general focus of this study is to examine time served for offenders convicted of rape in comparison to other offenders from a feminist perspective. However, one cannot ignore the various other possible influences on sentencing. Conflict theory, like feminist theory, suggests that inequality exists in society but focuses on stratification other than gender, namely race/ethnicity and class. Conflict theorists would suggest these factors greatly affect sentence length, time served and appear to benefit Caucasians and those with higher socioeconomic status.

There are contradicting findings in regard to the effect of race on sentencing and time served. La Free's (1980) study found that the most important predictor of a guilty verdict is the victim/survivor's race in comparison to the defendant's race. Other studies have found disadvantages for minorities in general. When accounting for educational attainment, employment status, and previous convictions, several studies reveal that minority inmates receive and serve longer prison terms than non-minority offenders (Ruddell and Urbina, 2004; Sorenson and Stemen, 2001; Spohn and Beichner, 2000; Spohn and Holleran, 2000; Steffensmeier, Ulmer, and Kramer, 1998; Stolzenburg, D'Alessio, and Eitle, 2004). Further, African Americans in particular are given substantially longer sentences compared to Caucasians in regard to rape, other sexual offenses and burglary (Sullin, 1935). However, when accounting for plea bargains, number of previous felonies, region and urbanization, Bullock (1961) found that African American offenders were under-penalized for some crimes (ex. Murder) and over-penalized for other (ex. Burglary). To curtail this discriminate sentencing many states and federal courts have enacted sentencing guidelines (Johnson, 2003). In contrast, Thomson and Zingraff (1981) and Hagan (1974)

found no racial differences in time served or time sentenced. While dated, these works have continued to be at least partially significant in regard to more recent studies (Wilbanks, 1987). Thus, the evidence for the effect of race on time sentenced and served is inconclusive. This is due to the complex issue of race that varies across time, by crime, and location of the commission of the crime (Johnson, 2003).

Another factor possibly influencing sentence length and time served may be socioeconomic status (SES). SES is linked with level of formal education (Stanfiel, 1973). There is a criminological debate as to the significance of the effect of SES (and thus level of education) on conviction (Thornberry, 1973). Lochner and Moretti found that those who have a higher level of education are less inclined, in general, to participate in crime (2004). However, Maxwell, Robinson and Post found that level of education is not associated with having sexually aggressive ideas and definitions (2003). This means that education and SES may affect perpetration but not necessarily prosecution of the crime. In general, there is no consensus on the effect of education and SES on sentence length and time served.

CHAPTER 4

GAPS IN LITERATURE

There has been extensive study of rape in the criminal justice system. We know that a lack of a clear definition of rape, rape myths and the tendency of the justice system to blame the victim/survivor reduce reporting and increase attrition of rape cases. However, few have looked at the possibility that revictimization continues in rape cases through sentence length as well as time served. I hypothesize that rapists receive shorter sentences and serve a smaller percentage of their sentence than other violent offenders serve. Further, there is a need to understand how offender sentencing relates to other factors such as race/ethnicity and education. For this study, I argue that in addition to type of crime an offender may face discrimination based on these two factors.

CHAPTER 5

METHODOLOGY

Data

I use existing data from the National Corrections Reporting Program from the United States Department of Justice (2000). The data collection took place from January 1, 2000 to December 31, 2000 and includes 38 state and federal prisons, including the California Youth Authority. Prison admission, release from prison and release from parole are all recorded. Data used in this study refer to those prisoners released from prison in 2000. The Department of Justice used official data records of prison populations in order to obtain prisoner information. I chose prisoner release data because it gives a thorough record of all inmates' crimes, sentence lengths, and time served, by crime, age, race, and highest level of education for offenders released in 2000.

Data from the state of Maryland will not be used in this study based upon the NCRP notes which state that “placing any value on issue analysis using their data is questionable due to a continuous problem in maintaining a high level of data entry” (2000:76)² I will analyze the states collectively.

The Uniform Crime Report offenses examined are homicide, forcible rape, robbery, aggravated assault, burglary, larceny/theft, vehicle theft, crimes against persons, and property crimes (including arson). Due to the nature of this study, I examine rape in relation to other interpersonal crimes such as homicide, robbery, and burglary. Further, I will examine arson as it is considered a precursor to other violent behaviors (Kocsis, Cooksey, Irwin, and Allen, 2002). I will not examine aggravated assault as the variation in this offense and the recording of this personal crime is too great to compare to sexual assault. I will also exclude murderers who have also been convicted of rape. Those convicted of non-violent crimes are excluded. The subsample of violent offenders used in this study is 114,146.

Variables

My key independent variable is type of crime. I classify each prisoner into 1 of 5 crimes, reflecting the most serious offense. The five categories are rape, murder, robbery, burglary, and arson (the other crimes are excluded). I define

²The following states are included in the National study but have the following disclaimers, as per page 76 of the NCRP Codebook. Hawaii reports sentenced felon probationers, which serve less than 1 year in prison and the rest on probation. Not all of Michigan’s data is available from offenders admitted prior to 1982; this information is marked as missing in the data. Minnesota excluded all transfers to and from other state and federal facilities. Missouri approved their data only as estimates. Nebraska only included one record per inmate despite numerous offenses or release and readmissions. New York’s data cannot be used to study parole and prison due to differing inmate ID numbers. North Carolina records include pre-sentence diagnostic offenders. Finally, Oklahoma admissions maybe undercounted for parole revocation admission type if there is more than one admission per year.

rape as forcible rape; I do not include sexual assaults, pedophilia or statutory rape. Forcible rape is the carnal knowledge of a female, forcibly and against her will. Murder, for my study, does not include any form of manslaughter. Murder is the willful (non-negligent) killing of one human being by another. I examine armed robbery but not unarmed robbery. Robbery is defined as the taking or attempting to take anything of value from the care, custody or control of a person or persons by force or violence or by putting the victim in fear. Burglary is the unlawful entry of a structure or dwelling with the intent to commit a felony or a theft. In this analysis, burglary does not include theft of motor vehicles. Lastly, arson is defined as any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle, or aircraft, personal property or another, etc. Arson includes bombings, as there is no way to manipulate this data to exclude bombings. All crime definitions are taken from the Federal Bureau of Investigations Uniform Crime Report Handbook (http://www.fbi.gov/ucr/cius_04/).

I will examine two dependent variables, the length of the longest sentence on the most serious offense and percentage of time served for the most serious offense. The length of the longest sentence is measured in months while percent of time served is the actual percent of time served in relation to time sentenced.

The control variables are race/ethnicity, level of education, and prior incarceration. Race/ethnicity is divided into seven categories, White, Black, American Indian or Alaskan Native, Asian, Native Hawaiian or Pacific Islander, Other and Not Known. In a separate variable White is defined in terms of Hispanic or Latino origin or not. These data are recoded into White, Black, Hispanic, Asian, and Other. Level of education is separated into ten categories, 8th grade or less, some high school, 9th grade, 10th grade, 11th grade, 12th grade or GED, some college, college degree, special/ungraded or not known.

Special/ungraded refers to vocational/occupational/technical training. This variable was recoded into dummy variables that include less than high school, high school, college, and special/ungraded. Age is measured as a ratio variable. Prior incarceration is a dichotomous variable with a yes/no option and was left as such. Obviously, such initiatives as the “Three Strikes” law show that prior incarceration does have an effect on prison sentence. The importance of a prior criminal record lends society to believe that the offender has a blatant disregard for the law and that future criminal behavior is quite possible (Clarke and Koch, 1976). Thus, harsher punishment (or actual enforcement of punishment) is necessary.

Analysis

Univariate, bivariate and multivariate analysis are conducted. Univariate analysis provides a description of all the study variables (type of crime, age, education, race/ethnicity, prior felony incarceration, sentence length on most serious offense, and time served as a percent of the maximum sentence for most serious offense).

The bivariate analysis consists of analyses of t-tests for time served as a percent of the maximum by crime as well as for sentence length by crime. This is followed by a multivariate analysis. Linear regression analysis is performed for the two dependent variables (sentence length and percent of time served). Dummy variables for type of crime are included as independent variables in the regression models with rape as the reference category. Age, race (White is the reference category), education (less than high school as the reference category), and prior felony convictions (yes/no) are included as control variables.

In addition, the regressions are run with interaction terms for rape and race and rape and level of education. This analysis examines whether rapists are treated differently (receive longer sentences and serve a larger portion of these sentences) when they are African American and or Hispanic and/or if they are uneducated.

The above-mentioned analyses will test my hypothesis that convicted rape offenders are sentenced to less time and serve less time in prison than homicide, robbery, burglary and arson offenders. It also explores whether these effects vary by race/ethnicity and level of education.

CHAPTER 6

FINDINGS

Frequency distributions are run for both dependent and all independent variables and presented in Table 1. Among the violent offenders in the sample, the majority are in prison for burglary (54.6%), while robbers are the second most common offenders in the sample at 31.7%. Murderers make up 6.7% of the sample with rapists following at 4.8% and arsonists at 2% of the sample.

For percent of time served of the maximum sentence the mean time served is 464.7% of the given sentence. It is possible for an inmate to serve more than one hundred percent of his sentence for a variety of reasons. One is that many inmates are in prison for multiple offenses, thus the total time served in months relative to the time sentenced for the maximum offense is often over 100%. Another reason is that inmates often commit offenses in prison, which add years to their sentences. Length of longest sentence is computed in months. The mean length of longest sentence is 674.93 months this is roughly 56 years. Again, this mean appears high. However, this is due in part to the fact that inmates are

often sentenced on several counts for a crime and each count could carry 30 years to life. In addition, the data code a life sentence or a death sentence as 9993 months. While the absolute figures for the two dependent variables are difficult to interpret, they can be used as relative measures when comparing how much time one type of offender receives relative to another as well as how they compare in terms of the percent of their time served.

The bivariate analyses focus on the relationship between the type of crime and sentence length and percent of time served. The results (presented in Tables B1 and B2) reveal a seemingly logical hierarchy (see Appendix). T-tests reveal that murderers on average are sentenced to longer sentences than the other five types of offenders. Rape has the second highest sentence length, followed by burglary and arson, and robbery. These results do not support my hypothesis that rapists received shorter sentences than other violent offenders. However, when examining percent of time served the bivariate analysis supports my hypothesis. Rapists served a smaller proportion of their sentence than those convicted of murder, robbery and burglary (See Table B2 in Appendix). Rapists serve a larger percentage of their time than arsonists.

The regression analysis examines the relationship between type of crime and sentence length/percent time served when controlling for other factors, namely race/ethnicity, education, age and prior incarceration. Results are

presented in Table C. Consistent with the bivariate analysis, rapists are sentenced to more time than those convicted of robbery, burglary and arson but less time than murderers. African Americans, Hispanics and other racial/ethnic groups are sentenced to less time than Caucasians. However, Asians are sentenced to more time than Caucasians. When examining level of education I found that those with higher education are sentenced to more time than those with lower education. The findings for race/ethnicity and education go against the conflict theory perspective and some literature. This may be because those with social and economic disadvantages garner more sympathy from judges/juries than those with privileged backgrounds. However, more results are needed to confirm these patterns. As expected, prior incarceration increases sentence length.

The regression analysis for percent of time served reveals some interesting findings. As revealed in the bivariate analysis, rapists serve a smaller proportion of their sentence than those convicted of murder, robbery, and burglary. Arsonists are the only criminals to serve a smaller percentage of their sentence than rapists, when controls are included. While those with less than high school education are sentenced to less time than those with high school and college education, they serve a greater percentage of their sentence. African Americans and other racial/ethnic groups serve more time than do Caucasians, while

Hispanics and Asians serve less time in comparison to Caucasians (Refer to Appendix Table D). In sum, the analysis of the percent of time served supports my hypothesis that rapists serve less time than other offenders. It also demonstrates that African Americans and less educated serve more time.

The final phase of the analysis examines the two dependent variables with the independent variables and interaction terms. The interaction terms are used to explore whether rapists are treated differently in the system if they are African American or Hispanic and if they are uneducated. The results are presented in Tables E and F. The analysis reveals that being either African American or Hispanic and convicted of rape means the offender will be sentenced to less time than being Caucasian and convicted of rape. However, when analyzing actual percent of time served I found that those who are African American or Hispanic and sentenced to rape serve more of their sentences than Caucasians rapists serve. The interaction effects for rape and education are more complex. A similar finding is true for level of education. Those who have a high school education and are convicted of rape are sentenced to more time and serve a larger percent of their sentence than those with less than a high school education. Those with a college education who are convicted of rape receive shorter sentences but serve more of their sentence than those who are convicted of rape and have less than a high school education.

CHAPTER 7

DISCUSSION

The literature about rape concludes that it is still a major social issue in that it is still heavily studied and continually redefined. Due to a lack of consensus in regard to defining rape (Brownmiller, 1975; Kirkwood and Cecil, 2001; Mahoney, 1999), victims/survivors are forced to define the experience, overcome rape myths and aid in the prosecution of their attacker (Wood, 1999; Monson, Lang-Ron, and Binderup, 2000). These factors help contribute to the attrition of rape cases (Bondurant, 2001; Yescavage, 1999). If a rape case is tried in the legal system, the victim/survivor is revictimized in multiple ways, one of which is inappropriate sentencing (Brynden and Lengnick, 1997). This study examined revictimization by analyzing time sentenced and percent of time served for rapists in comparison to other violent offenders.

Results reveal an expected hierarchy in sentence length by type of crime (e.g. murders receive the longest sentences, then rapists, then burglars, etc.).

However, T-tests and regression analyses reveal that rapists serve a smaller proportion of their sentences than those convicted of murder, robbery and burglary. These hypotheses are consistent with Brownmiller's (1975) work and that of Brynden and Lengnick's (1997) study. They support general feminist arguments that social control of rapists is lacking because sexual crimes against women are not judged as harshly as other violent crimes. However, no empirical studies of this type with such comprehensive data were found in the literature.

Results also reveal that the experience of rapists in the judicial/penal system vary considerably by race/ethnicity. African Americans and Hispanics receive shorter sentences than White rapists but serve a higher percentage of their sentences than White rapists. This finding is to be expected as multiple authors have found inequality by race/ethnicity (Thornberry, 1973; Ruddell and Urbina, 2004; Sorenson and Stemen, 2001; Spohn and Beichner, 2000; Spohn and Holleran, 2000; Steffensmeier, Ulmer, and Kramer, 1998; Stolzenburg, D'Alessio, and Eitle, 2004).

This study reveals that on the surface, the judicial system claims to prosecute the most heinous crimes in a serious matter, and it does. However, after the prosecution of the crime the intent of the sentence is lost. As evidenced, this matter is further related to race/ethnicity. These findings show that

revictimization does occur, primarily during the actual time served in comparison to time sentenced for rape offenders.

The limitations of this study are due in large part to the data set available. The dependent variables are collected and presented in a manner that is confusing. Due to the manner presented, the variables cannot be recoded into more interpretable data. Further, not all of the states were included due to a lack of confidence in their data and or inability to maintain proper records, thus making regional analysis difficult. In addition, the study could have benefited from other variables such as the victim's race, which has been linked to sentencing decisions. While the data are flawed, they are the best available data for inmate populations in the United States. The data set includes all incarcerations, releases and parole releases on an annual basis, thus making the records for the prison population very comprehensive even with a few states not being reliable.

Further research should attempt to replicate and expand upon the findings of this study. In particular, it is important to understand why rapists serve a smaller portion of their sentences than other violent offenders. These analyses need to account for other variables such as the victim's race, time off for good behavior, and additional offenses committed in prison. In addition, the

association between race and time served deserves further and more recent study, as does the connection between time served and level of education.

APPENDIX

Table A. Frequencies of Independent and Control Variables

UNIVARIATE ANALYSIS OF STUDY VARIABLES		
Variables	Mean	N
Type of Crime		
Arson	0.0203	114146
Burglary	0.5462	114146
Murder	0.0676	114146
Rape	0.048	114146
Robbery	0.3179	114146
Race/Ethnicity		
White	0.3611	502494
Black	0.4662	502494
Hispanic	0.0563	502494
Asian	0.0033	502494
Other	0.0958	502494
Level of Education		
Less than High School	0.0617	502494
High School	0.3431	502494
College	0.0366	502494
Special	0.004	502494
Prior Felony Incarceration	0.3205	404373
Length of Longest Sentence	464.73	502494
Time Served as a % of Maximum	674.93	472603

Table B1. Bivariate Analysis.

CRIME TYPE WITH SENTENCE LENGTH				
Variables	Mean Sentence	SD	N	Sig.
Arson	6680.17	24824.6	2316	***
Burglary	7730.39	26585	62347	*
Murder	21673.41	41047.7	7714	***
Rape	9259.47	28792	5478	***
Robbery	4645.41	20830.8	36291	***

***P<=.001

**P<=.01

*P<=.05

Table B2. Bivariate Analysis.

CRIME TYPE WITH % OF MAXIMUM SENTENCE SERVED				
Variables	Mean Sentence	SD	N	Sig.
Arson	403.509	453.212	2316	***
Burglary	482.078	468.104	62347	***
Murder	448.328	462.178	7714	***
Rape	435.291	457.092	5478	***
Robbery	517.856	465.785	36291	***

***P<=.001

**P<=.01

*P<=.05

Table C. Multivariate Analysis. (N=83755)

REGRESSION WITH SENTENCE LENGTH			
Variables	B	SE	Sig.
Arson	-1580.2	328.88	***
Burglary	-1417.4	190.56	***
Murder	12349.2	235.13	***
Robbery	-700.08	197.06	***
High School	133.515	83.108	**
College	1263.65	224.55	***
Special	5531.04	748.11	***
Black	-591.65	85.759	***
Hispanic	-797.14	169.95	***
Asian	471.795	617.97	*
Other	-634.06	138.02	***
Age	86.805	3.53	***
Prior Felony Incarceration	942.173	83.738	***

R Square= .089

***P<=.001

**P<=.01

*P<=.05

Table D. Multivariate Analysis. (N=90717)

REGRESSION WITH % OF MAXIMUM SENTENCE SERVED			
Variables	B	SE	Sig.
Arson	-28.274	12.627	**
Burglary	37.725	7.254	***
Murder	9.95	9.016	*
Robbery	59.809	7.527	***
High School	-185.66	3.189	***
College	-207.7	8.441	***
Special	101.637	26.473	***
Black	9.56	3.305	***
Hispanic	-293.99	6.537	***
Asian	-67.516	24.698	***
Other	121.71	5.468	***
Age	11.496	0.131	***
Prior Felony Incarceration	129.959	3.194	***

R Square=.093

***P<=.001

**P<=.01

*P<=.05

Table E. Multivariate Interaction Analysis. (N=90717)

INTERACTION EFFECTS WITH LENGTH OF LONGEST SENTENCE			
Variables	B	SD	Sig.
Rape	322.12	312.81	*
Black	-175.8	89.571	*
Hispanic	256.21	179.81	*
Asian	720.32	646.33	*
Other	-700.6	143.24	***
Black and Rape	-567.2	406.29	*
Hispanic and Rape	-654.5	1068.4	*
High School	468.73	88.712	***
College	1789.9	342.84	***
Special/Ungraded	6098.5	782.74	***
High School and Rape	371.51	413.27	*
College and Rape	-77.42	950.77	*
Prior Felony Conviction	347.9	87.052	***

R Square=.003

***P<=.001

**P<=.01

*P<=.05

Table F. Multivariate Interaction Analysis. (N=83755)

INTERACTION EFFECTS WITH % OF MAXIMUM SENTENCE SERVED			
Variables	B	SD	Sig.
Rape	-117.3	11.571	***
Black	9.097	3.3	***
Hispanic	-298.9	6.638	***
Asian	-63.83	24.696	***
Other	126.65	5.427	**
Black and Rape	118.61	14.835	***
Hispanic and Rape	119.8	34.949	***
High School	-189.1	3.257	***
College	-208	8.744	***
Special/Ungraded	98.455	26.478	***
High School and Rape	59.142	14.943	***
College and Rape	14.937	33.363	*
Prior Felony Conviction	129.95	3.175	***

R Square=.092

***P<=.001

**P<=.01

*P<=.05

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