

# Sexual assault case attrition– Key findings from the UML-WCW NIJ-funded research

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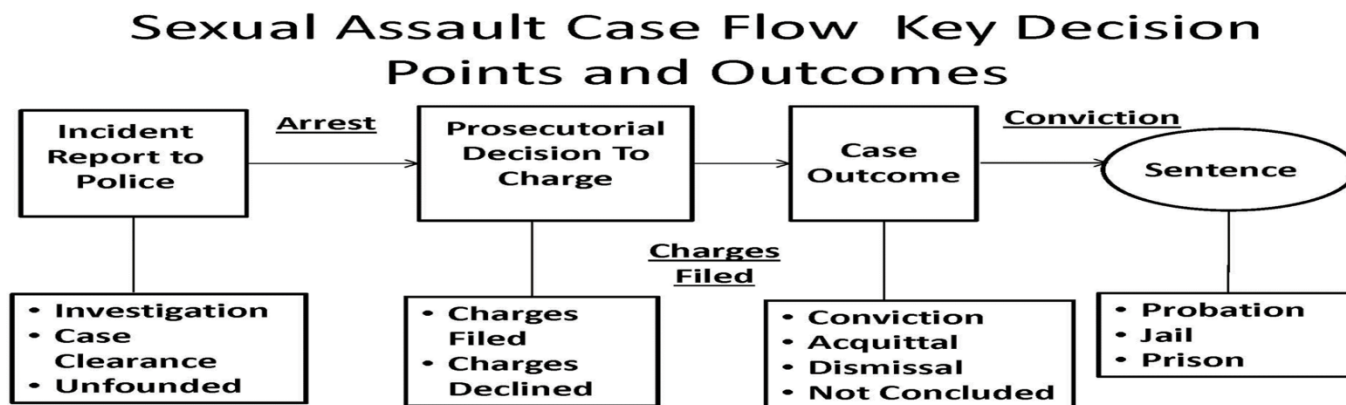
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# Research on SA Case Attrition

## Defining Attrition

- Systemic focus that follows incidents beginning with the first report to police through the prosecution and disposition



# The Need for Attrition Research

- Of course most cases are never reported to the police
- The percentage of SA incidents that are reported and that end in arrest continues to be small
  - and varies from 12% - 45% across studies
- Research on attrition at the arrest and prosecution stages has typically found that case decisions are influenced by legal and extra-legal factors.
- Emerging research is suggesting a need to move away from a linear approach to the attrition process and toward understanding this as a process in a **system** where the boundaries between police and prosecutors overlap.



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# UML-WCW Approach to Data Collection: Quantitative

- *In part a replication, of the work Spohn and Tellis 2012*
- *6 jurisdictions representing small, medium and large police departments:*
- *Consider the case outcomes of interest*
  - *Arrest decisions (police reports)*
  - *Charging decisions (prosecutor)*
  - *Case Disposition (courts)*
- *Collected information on all SA cases reported to the police involving victims 13 years of age and older (excluding intrafamilial SA).*
  - *(N=3,269 victims for the years 2008-2010; 2887 Female victims )*



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# UML-WCW Approach to data collection: Qualitative

- *Interviews with detectives and prosecutors*
- *Duration: 30 to 90 minutes; conducted at the convenience of the practitioner*
- *Used to Explain and Understand the Quantitative Findings*
- *Interviews conducted until Saturation was Reached or all Practitioners were Interviewed*
- *Focus Groups with Victim Service Providers*



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# Case Outcomes: Female reports to Police (2008-2010 cases) (n=2887)

- 1) *Unfounded (7%)*
- 2) *Cleared by Arrest (18%)*
- 3) *Cleared by Exceptional Means (30%)*
  - *Official FBI classification option (**probable cause must exist**)*
    - *Death of the suspect*
    - *Suspect is in custody in another jurisdiction*
    - *Juvenile diversion*
    - *Victim refuses to cooperate*
    - *Prosecutorial decline*
- 4) *Case Still Open (44%)*



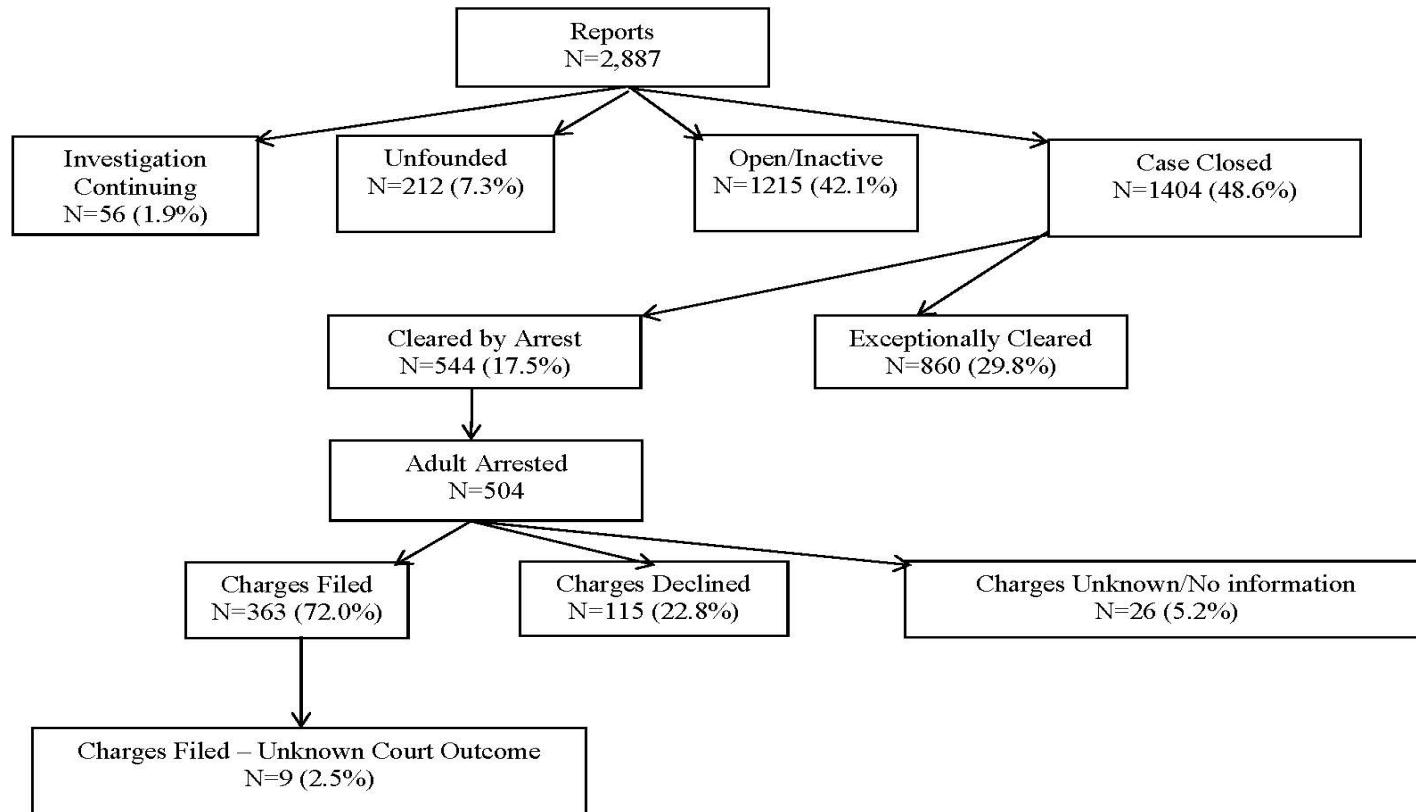
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## Sexual Assault Case Attrition– Female victims

Case outcomes for Reported Sexual Assault Incidents in 6 jurisdictions –  
Report to charging decision, 2008 to 2010



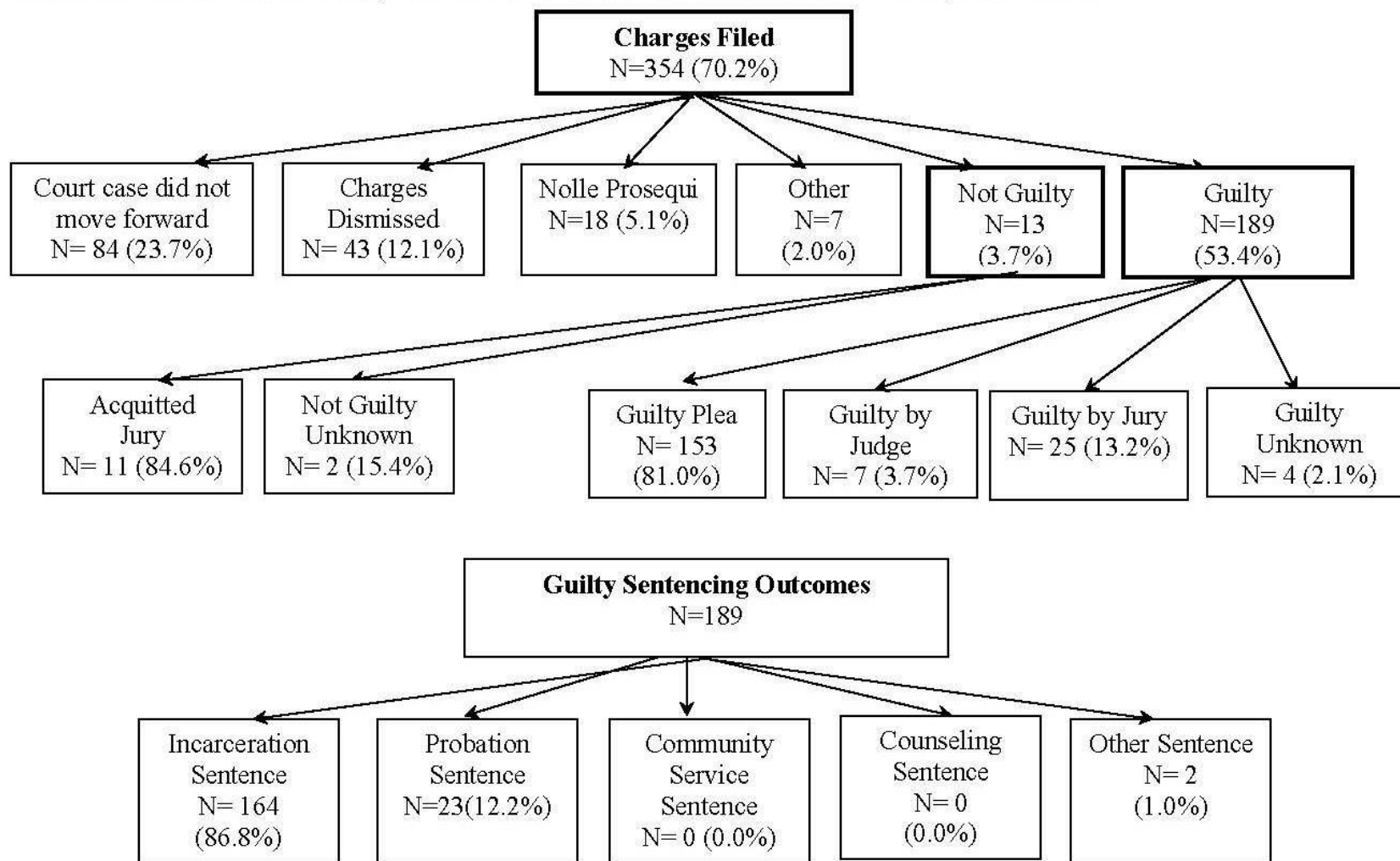
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## Prosecutorial Case outcomes for Reported Sexual Assault Incidents in 6 Jurisdictions, 2008 to 2010



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# Prosecutorial Case Outcomes

Prosecutors go forward with cases that have high likelihood of conviction (70% of those arrested– but only 13% of all reports)

- Over ½ of cases with charges filed by prosecutor resulted in a “guilty” outcome
- Most are the result of guilty pleas

Few Jury trials

- Only 36 cases (total) went to a jury trial
- 6% of all reports result in a conviction



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**For every 100 cases reported to Police**

**93 Investigations Opened**

**18 Arrested**

**13 Prosecution Lodged Charges**

**7 Enter Plea**

**5 Pled Guilty  
1 Guilty Verdict**



# Predictors of Case Outcomes

- *Legal Factors*
  - *Case Seriousness*
    - *Suspect Physically Assaulted Victim*
    - *Weapon Use*
    - *Collateral Injury*
    - *Type of resistance (verbal, physical, both)*
  - *Strength of Evidence*
    - *Reporting within one day*
    - *Number of Witnesses*
    - *Victim “cooperative”*
    - *Physical Evidence*



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# Predictors of Case Outcomes

- *Extra-Legal Factors*
  - *Age– to be discussed in more detail below*
  - *Race*
  - *Relationship to suspect*
  - *“Risk-Taking” Behavior ( alcohol, alone, accepted ride)*
  - *Questions about Character*
  - *Mental Illness or Mental Health Issues*
  - *Motive to Lie*



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## STILL HIGH RATES OF CASE ATTRITION– EVEN AFTER MUCH WORK TO IMPROVE RESPONSE?

–> 40 YEARS AFTER THE INITIAL RESEARCH CONDUCTED IN PHILADELPHIA (MCCA HILL, MEYER, FISCHMAN 1979)

- Most reports of sexual assault (SA) do not result in an arrest or prosecution... why?
- Victim cooperation issues –
  - Police now less likely to “unfound” cases
  - Now attrition and (exceptional clearance) due to attributions of victim “non-cooperation”
- Downstream orientation (considerations of what will the jury do?) System issues raised by Police and Prosecutors’ decisions not to go forward with cases based on assessment of the likelihood of conviction.



# 40 YEARS OF EFFORTS TO REDUCE CASE ATTRITION— STILL A PROBLEM

- ▶ Recent authors have argued that the attitudes that need altering for the justice gap to be successfully addressed must include the attitudes of those in the legal profession (Temkin & Krahe. 2009)
- ▶ Suggestion that it is the **gap between the law and the law in action** that is an essential component of the justice chasm in sex cases.
- ▶ The attitudes of CJS actors are just too entrenched?
- ▶ Where might these issues/ attitudes be most intransigent?
  - ▶ When not “real rape”– e.g., no weapon or other force
  - ▶ When rape is NOT by a stranger
  - ▶ When rape involves victim use of alcohol or drugs
  - ▶ When the victim is seen as less credible, valued or chaste?
  - ▶ When the victim has mental health issues
- ▶ **Where else does the problem lie?**



## SO “HEGEMONIC FEMININITY” STILL IMPACTS CASE PROGRESS IN THE CJS.

Cases are less likely to move forward when women have engaged in behaviors that signal “risk taking” like drinking alcohol or are of lower status (age) and reputation.

This is not a new finding. The ideal woman is believed....

Should this have changed? YES, in a changing cultural environment that purports that women now have more agency, independence and are “permitted” to embrace more of the behaviors that have always been ok only for men!

Yet we still find that these behaviors are seen as “risky”.





# CONSIDER THE BROADER IMPACT OF COMMUNITY ATTITUDES ON CASE DECISION-MAKING— A FEEDBACK LOOP?

Focus Groups – stressed the theme of the **need for community education**

Prosecutors – identified key issue of community response: (consider this now in light of the responses to #MeToo and the Kavanaugh hearing.... Will the impact be even fewer prosecutions)

One prosecutor told us—“the toughest factor is the community attitude towards sexual assault which creates the jury pool.”

“...we have a really simple standard: if we believe that a case can be proved to a jury behind a reasonable doubt, we’re going to file it, no matter how tough it is, whether it’s a prostitute ...a woman in a bar ... a mom in a nice neighborhood and someone jumps out of the bushes. None of that matters. All that matters is we believe that the capacity of the evidence will yield a jury saying, ‘Guilty beyond a reasonable doubt...’



# For more information:

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