



# Sexual assault case attrition: An examination of the factors related to the filing of criminal charges

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# Introduction

- ▶ The United States has seen significant changes in laws related to sexual violence
  - ▶ Inclusive definitions of sexual assault
  - ▶ Repeal of marital rape laws
  - ▶ Loosened or abolished active resistance requirements
  - ▶ Enacted rape shield laws
- ▶ Criminal justice system changes
  - ▶ Specialized units
  - ▶ Multi-disciplinary approach

# Medical examinations and forensic evidence in sexual assault cases

- ▶ Sexual assault victims are unique in the criminal justice system
  - ▶ both witnesses and crime scenes
- ▶ Victims undergo demanding medical examination procedures to provide samples that can be analyzed by crime lab
- ▶ System of examiners, evidence kits, and crime lab analysis needed to provide care to victims and analyze medical exam samples
- ▶ Yet little is known about the effect of forensic evidence on the criminal justice system

# Evidence from Forensic Medical Examinations

- ▶ Non-genital injuries
- ▶ Genital injuries
- ▶ Biological evidence
  - ▶ Semen/sperm
  - ▶ Blood
  - ▶ Saliva (amylase)
- ▶ DNA profile derived from bio evidence
  - ▶ Match to suspect
  - ▶ Match to another investigation in FBI's Combined DNA Index System (CODIS) database
  - ▶ Match to a convicted offender in CODIS

# Uses of DNA Evidence

- ▶ Can help identify stranger suspects
- ▶ Can undercut suspect claims of lack of sexual contact with victim
- ▶ Sometimes supports victim's account of what happened vs. suspect's (e.g., location of sperm)
- ▶ Demonstrates prosecutor's thoroughness ("CSI" expectation)

# Case Attrition Literature

- ▶ Weapon use
- ▶ Collateral injuries
- ▶ Witnesses
- ▶ Type of force used
- ▶ Victim credibility
- ▶ Prompt reporting
- ▶ Victim resistance
- ▶ Victim-assailant relationship
- ▶ Suspect identification
- ▶ Strength of evidence

# Evidence and Case Attrition

- ▶ DNA (mixed findings)
  - ▶ Some have found that DNA is associated with case progression (Campbell et al., 2009; Briody, 2002)
  - ▶ Others have found that DNA evidence is not associated with case progression (Ingemann-Hansen et al., 2008; McGregor et al., 2002)
- ▶ Crime scene evidence
  - ▶ Sexual assaults with crime scene evidence are more likely to move forward (Peterson, et al. 2010)
  - ▶ Sexual assaults with evidence are associated with longer sentences (McEwen, 2011)

# Gap in Literature

- ▶ Limited research on the influence of forensic evidence on whether a case is charged or carried forward to prosecution



# Research Questions

- ▶ RQ1: Is forensic evidence related to case progression?
- ▶ RQ2: Does forensic evidence predict whether criminal charges are filed?
- ▶ RQ3: Does forensic evidence predict whether a case will move forward to prosecution?

# Data

- ▶ New England metropolitan prosecutor's office
  - ▶ 2005 to 2011
  - ▶ Female victims age 12 or older & male assailants
  - ▶ Charging (N=189); Carried Forward (N=80)
- ▶ Data sources
  - ▶ Prosecutor files
  - ▶ Police reports
  - ▶ Forensic medical examinations
  - ▶ Crime laboratory reports

# Sample Characteristics

## ▶ Dependent variables:

- ▶ Filing of criminal charges (38%)
- ▶ Accepted for prosecution (43%; N=80)

## ▶ Legally relevant factors

- ▶ Penetration (86%)
- ▶ Collateral injuries (.54)
- ▶ Physical force (63%)
- ▶ Verbal threats (23%)
- ▶ Corroborating witness (62%)
- ▶ Suspect arrest record (51%)
- ▶ Evidence collected (4.4; N=80)
- ▶ DNA match (31%; N=80)

# Sample Characteristics

## ▶ Extra-legal Factors

- ▶ Victim-assailant relationship
  - ▶ Stranger (22%)
  - ▶ Intimate Partner (22%)
  - ▶ Acquaintance (56%)
- ▶ Victim physically resisted (38%)
- ▶ Victim credibility concern (37%)
- ▶ Drug and/or alcohol use
  - ▶ Victim (49%)
  - ▶ Suspect (49%)
- ▶ Victim arrest record (13%)

## ▶ Control Variables

- ▶ Minority
  - ▶ Victim (62%)
  - ▶ Suspect (81%)

# Does biological evidence predict which cases will be prosecuted and convicted?

Evidence Variable	Summary of Results
Semen/sperm	No effect
Saliva	No effect
Any biological evidence	No effect
DNA match to suspect	Significantly related to... <ul style="list-style-type: none"><li>• Filing criminal charges</li><li>• Carrying cases forward without dismissal</li></ul>

# Findings

	<u>Charged Model</u>	
	b ( $\beta$ )	S.E.
Intimate partner	1.10 (2.99)*	.55
Suspect arrest record	1.03 (2.81)**	.37
Collateral injury	.46 (1.58)*	.21
Victim physical defense	1.04 (2.84)**	.81

	<u>Carried Forward Model</u>	
	b ( $\beta$ )	S.E.
Corroborating witness	2.31 (10.10)*	1.11
DNA match	3.21 (24.73)**	1.01
Victim credibility concerns	-3.02 (.05)**	1.06

# Lessons

- ▶ Overall, the case attrition findings point toward the use of legally relevant and extra-legal factors in the decision to file criminal charges and carry a case forward to prosecution
- ▶ Measuring effect of DNA on criminal justice outcomes has to take into account confounding and timing
  - ▶ Mixed methods approaches to explore whether prosecutors are prioritizing forensic evidence testing
- ▶ Research on extra-legal factors
  - ▶ Alcohol-facilitated or incapacitated rape
  - ▶ Victim credibility
- ▶ Trauma informed training