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Kelly, Deborah Persis

RAPE VICTIMS' PERCEPTIONS OF CRIMINAL JUSTICE

The Johns Hopkins University

PH.D. 1983

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Rape Victims' Perceptions of Criminal Justice

by

Deborah P. Kelly

A dissertation submitted to the Johns Hopkins University
in conformity with the requirements for the degree of
Doctor of Philosophy.

Baltimore, Maryland

1982

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ABSTRACT

This study analyzes the legal system from the perspective of victims of crime. In 1980, one hundred adult female rape victims from four jurisdictions in metropolitan Washington, D.C. were personally interviewed and asked to evaluate their contacts with and attitudes toward police, medical, and court personnel. Findings suggest that victims' satisfaction with police and prosecutors' services depends more on how they were treated than whether their assailant was punished. Victims were least satisfied with prosecutors, most satisfied with detectives. When their attitudes toward police and courts changed after the rape, they generally improved toward the police and declined toward the courts. Victims' primary objections were that they were treated as evidence, not as people. They were excluded from deliberations and denied information about case developments. Though most complained about some aspect of the judicial process, most victims were also willing to cooperate again in the future.

The thesis combines analysis of these particular victims' evaluations with a more general discussion of issues of concern to all victims. The study focuses on the conflicting perceptions of police, prosecutors, and victims. It is organized chronologically. It begins with a definition of crime and its victims, proceeds to the victim's decision to label an act a crime and report it to the police, and continues through the sentencing decision. Emphasis is placed on the critical role victims play in police, prosecutors, and jurors' discretionary decisions. Finally, victims' recommendations to improve the judicial process are discussed.

To my parents, Persis and Matthew Kelly

Acknowledgements

The longer a dissertation takes to complete, the more people there are to thank. In my case the list is extensive. In chronological order:

My husband, John Yahner, who encouraged me to begin and boosted my spirits when the task seemed overwhelming.

My father who called me every Sunday for three years to ask, "How's the dissertation coming?"

The various agencies that agreed to help me, especially Carol Hess from the Prince George's County Victim-Witness Unit; Eileen Wall and Joe O'Brien from the D.C. Victim-Witness Assistance Unit; and Judy Sprei from the Prince George's County Sexual Assault Center. Thanks also to Chief Crooke and Lt. Roby from the Montgomery County Police Force; Marion Burkhalter from Montgomery County Crisis Center; Ann Dawson from Arlington Rape Crisis; Laurie Cooper and Candy Clark from Alexandria Rape Companion Program.

The victims - this is their story. I could not have written this without their cooperation, trust, and support.

The American Association of University Women who provided financial and moral support by awarding me a fellowship for the first year of this study.

The Governmental Studies Division of the Brookings Institution who housed me for two years as a Guest Scholar and provided good friends and companionship that helped me open doors which I am sure would have been shut had I been "just" a graduate student.

Bill Haltom who provided computer therapy as I cursed the constant refrain of SPSS, "Fatal error will not run" and Eric Armen who made it run anyway. Thanks also to Denise Birmingham who key punched the data and Bill Ascher who endured my endless questions and quantitative anxiety.

Tina Horton who gathered most of the data for Chapter 2 and toiled over footnotes with good humor in a room without windows or air conditioning - David Kovach who kept me informed of new studies while I tried to finish this one.

John Butner who changed my life with the magic question: "Could you use someone to put this on the word processor?" Lori Hamilton, an excellent student who typed so fast she made me work faster and harder, and Terri Trappen who endured endless editing and finished typing the manuscript.

Finally, thanks to my advisor Professor J. Woodford Howard who demands as much from his students as he does from himself (whether we like it or not) and my good friend, tennis opponent, and second reader Bob Peabody for directing my "energies" toward finishing this opus and put out a few fires along the way.

RAPE VICTIMS' PERCEPTIONS OF CRIMINAL JUSTICE

	Page
List of Tables	viii
Introduction: The Invisible Victims	1
PART I: CONSIDERING VICTIMS	
Chapter One: Methodology	7
Why Study Rape?	
Research Goals	
Research Design	
Chapter Two: Study Sites	27
Crime	
Economic Indicators	
Racial Composition	
Legal Procedures and Related Services in Metropolitan Washington	
Summary	
Chapter Three: Crime: the Definition, the Circumstances, the Victims	50
Defining Crime	
The Circumstances of the Crime	
Who Are the Victims of Crime?	
Who Reports Crime and Why?	
Summary	
PART II: POLICE AND RAPE VICTIMS	
Chapter Four: Police and Rape Victims	71
Discretion in Labeling	
Discretion in Rape Cases	
Victims' Views of the Police: Conflict at the Crime Scene	
Conflict in Questioning	
Conflict in Follow-Up	
Victims' Role in Arrest	
Summary	
Chapter Five: Measuring Rape Victims' Views of Police	102
Evaluation of Police	
Treatment	
Satisfaction with Police Services	
Explaining Contradictions	
Summary	

PART III: COURTS AND RAPE VICTIMS

	Page
Chapter Six: Prosecutors' Views of Victims	133
The Decisions to Charge: Screening	
Victim's Role in Screening	
Rape Cases and Screening	
The Decision to Dismiss	
Victims as Witnesses	
Victims Role in Plea Bargaining	
Victims at Trial	
Victims' Role in Sentencing	
Summary	
Chapter Seven: Rape Victims' Views of Courts	170
The Preliminaries	
Establishing Probable Cause: the Grand Jury and Preliminary Hearings	
Indictment or Dismissal: After the Grand Jury	
PreTrial Evaluation	
Cross-Pressuring Victims	
Summary	
Chapter Eight: Coping With the Disposition	191
The Plea	
Waiting For Trial: The Postponements	
The Trial	
Reactions to Outcomes	
Victims' Evaluations of Representation	
Sentencing	
The Outcome	
Summary	
Chapter Nine: Measuring Rape Victims' Views of Courts	221
Evaluations of Treatment	
Satisfaction with the Prosecutor	
Summary	

PART IV: CONCLUSION

Chapter Ten: Implications for the Future	235
Future Cooperation with Police and Prosecutors	
Changing Outlooks Toward the Judicial System	
Recommendations for Change	
Summary	
Afterword	267
Appendix I: Questionnaire	298
Bibliography	309
Vita	318

LIST OF TABLES

- 1.1 Victims' Interviewed by Jurisdiction
- 2.1 Index of Crime by Jurisdiction
- 2.2 Rape Rate by Jurisdiction
- 2.3 Crime Index by County and City
- 2.4 Rapes Known to Police
- 2.5 Rape Rates in Maryland
- 2.6 Rape Rates in Virginia and Washington, D. C.
- 2.7 Crimes Cleared
- 2.8 Per Capita Income in Current Dollars by Jurisdiction, 1971-1980
- 2.9 1980 Racial Composition of Washington, D. C. -- Area in Percentages
- 3.1 Initial Contact Between Victim and Assailant
- 3.2 Relationship Between Victim and Assailant
- 3.3 Race of Assailant
- 3.4 Status of Offender
- 3.5 Physical Injuries
- 3.6 Additional Crimes
- 3.7 Age of Rape Victims
- 3.8 Employer of Rape Victims
- 3.9 Work of Rape Victims
- 3.10 Income of Rape Victims
- 3.11 Education of Rape Victims
- 3.12 Marital Status of Rape Victims
- 3.13 Race of Rape Victims
- 3.14 Rape Victims' Prior Contacts with Police
- 3.15 Victims' Reasons for Reporting
- 4.1 Frequency of Police Contact with Rape Victims
- 4.2 Initiator of Contacts Between Rape Victims and Police
- 4.3 Method of Arrest
- 5.1 Victims' Contact by Police and Perceptions of Treatment
- 5.2 Victims' Perceived Influence in Their Case
- 5.3 Victims' Perceived Treatment and Level of Involvement
- 5.4 Victims' Perceived Treatment and Education
- 5.5 Victims' Perceived Treatment and Income
- 5.6 Victims' Perceived Treatment and Attitude Toward Police
- 5.7 Victims' Perceived Treatment and Verdict
- 5.8 Satisfaction with Detectives and Sex of Detective
- 5.9 Satisfaction with Detectives and Arrest Status
- 5.10 Satisfaction with Detectives and Verdict
- 5.11 Satisfaction with Detectives and Victims' Contact by Police
- 5.12 Satisfaction with Detectives and Initiation of Police Contact
- 5.13 Satisfaction with Detectives and Information Provided on Case
- 5.14 Satisfaction with Detectives and Level of Victims' Involvement
- 5.15 Level of Victim Involvement and Education
- 5.16 Level of Victim Involvement and Income

- 5.17 Satisfaction with Detectives and Victims' Race
- 5.18 Satisfaction with Detectives and Education
- 5.19 Satisfaction with Detectives and Income
- 5.20 Index of Attitudes and Satisfaction with Detectives
- 5.21 Index of Attitudes and Victims' Race
- 5.22 Satisfaction with Detectives and Perceived Treatment
- 5.23 Factors Related to Victims' Perceived Treatment by Police
- 5.24 Factors Related to Victims' Satisfaction with Police Services

- 7.1 Victims' Attitudes Toward Punishment

- 8.1 Victims' Reactions to Postponements
- 8.2 Time Elapsed Before Victims Met Prosecutors
- 8.3 Victims' Reactions to Testifying
- 8.4 Relationship with Rapist and Victim
- 8.5 Verdict
- 8.6 Known Sentences of Rapists
- 8.7 Victims' Views of How Defendants Should Have Been Dealt With

- 9.1 Victims' Evaluation of Law Enforcement Officials
- 9.2 Victims' Perceived Treatment
- 9.3 Victims' Perceived Treatment and Evaluation of Prosecutors' Services
- 9.4 Victims' Perceived Treatment and Case Status
- 9.5 Victims' Perceived Treatment and Evaluations of Legal Representation
- 9.6 Victims' Perceived Treatment and Influence in Case
- 9.7 Victims' Perceived Treatment and Information Provided on Case
- 9.8 Victims' Perceived Treatment and Verdict
- 9.9 Satisfaction with Prosecutors and Verdict
- 9.10 Satisfaction with Prosecutors and Perceived Severity of Assault
- 9.11 Satisfaction with Prosecutors and Perceived Quality of Legal Representation
- 9.12 Satisfaction with Prosecutors and Perceived Influence in Case
- 9.13 Satisfaction with Prosecutors and Information Provided on Case
- 9.14 Factors Related to Victims' Perceived Treatment by Prosecutors
- 9.15 Factors Related to Victims' Satisfaction with Prosecutors' Services

- 10.1 Victims' Future Cooperation with Police
- 10.2 Victims' Future Cooperation and Satisfaction with Police
- 10.3 Victims' Future Cooperation and Perceived Treatment by Police
- 10.4 Victims' Future Cooperation and Information Provided on Case
- 10.5 Victims' Future Cooperation and Perceived Influence in Case
- 10.6 Victims' Future Cooperation with Police and Verdict
- 10.7 Victims' Future Cooperation with Police and Race
- 10.8 Victims' Future Cooperation with Police and Income
- 10.9 Victims' Advice on Reporting Crime
- 10.10 Victims' Future Cooperation with Police and Courts
- 10.11 Victims' Future Cooperation with Prosecutors and Satisfaction with Prosecutors
- 10.12 Victims' Future Cooperation with Prosecutors and Information Provided on Case

- 10.13 Victims' Future Cooperation with Prosecutors and Perceived Influence in Case
- 10.14 Victims' Future Cooperation with Prosecutors and Verdict
- 10.15 Victims' Future Cooperation with Prosecutors and Perceived Quality of Representation
- 10.16 Victims' Future Cooperation with Prosecutors and Victim's Race
- 10.17 Victims' Future Cooperation with Prosecutors and Victim's Income
- 10.18 Victims' Future Cooperation with Prosecutors and Perceived Level of Involvement
- 10.19 Victims' Future Cooperation with Prosecutors and Perceived Treatment
- 10.20 Victims' Future Cooperation with Prosecutors and Perceived Severity of Assault
- 10.21 Victims' Attitudes Toward Police and Prosecutors
- 10.22 Victims' Attitudes Toward Police and Perceived Treatment
- 10.23 Victims' Attitudes Toward Police and Satisfaction with Police
- 10.24 Victims' Attitudes Toward Prosecutors and Satisfaction with Prosecutors
- 10.25 Victims' Attitudes Toward Prosecutors and Perceived Treatment by Prosecutors
- 10.26 Victims' Suggestions for Improving the Police
- 10.27 Victims' Suggestions for Improving the Court
- 10.28 Victims' Suggestions for Judicial Reform
- 10.29 Victims' Future Cooperation with Police and Prosecutors
- 10.30 Factors Related to Victims' Future Cooperation with Police
- 10.31 Victims' Attitudes Toward Police and Prosecutors
- 10.32 Factors Related to Victims' Attitudes Toward Police
- 10.33 Factors Related to Victims' Attitudes Toward Prosecutors
- 10.34 Factors Related to Victims' Future Cooperation with Prosecutors

INTRODUCTION: THE INVISIBLE VICTIMS

This is a study of the American criminal justice system from the perspective of victims of rape. Victims are the people behind the crime statistics, the individuals who reveal that crime exists when they report it. Victims provide the justification that allows the state to prosecute criminals. Victims are the key to finding and convicting these criminals, yet they are often the people we know least about.

Volumes have been written on the rights of the accused. The role of prosecutors has been studied, and the decisions of judges have been reported in casebook after casebook. Yet, we rarely consider the impact of crime and legal decisions on the injured party -- the person who brought the case to the state's attention -- the victim of crime.

Once a victim reports a crime, "the state" -- police, prosecutors, judges -- takes over. What actually happened to the victim seems to matter only insofar as it guides law enforcement officials in determining how to classify the particular offense. For the most part, personal costs are otherwise considered irrelevant. The victim's personal involvement in the case is seldom recognized in the judicial process. The state may choose to do nothing about the crime or to "throw the book" at the offender. The case may be brought to trial, plea bargained, or dismissed. Whatever the outcome, whatever the punishment, the decision is not up to the victims. Their opinion is rarely solicited. Instead, what was once a personal, private matter becomes the business of strangers, to be handled mainly as they decide.

The criminal justice system is based on the assumption that, despite this transfer of interest, victims will come forward and cooperate. Although the state brings the case, unless the victim cooperates the state has no case. To function, therefore, the criminal justice system must attract crime victims. In some manner, the system must appear to cater to their interests.

To the extent that victims are represented in the criminal justice system, it is through the prosecutor. As the prosecutor's client is technically the state, not the victim, a belief in victim representation hinges on the idea that the interests of the state and the victim are compatible, if not identical.

To what extent is this assumption correct? To the extent that it is incorrect, who loses? What happens to victims whose interests conflict with the interests of the state as represented by the police or prosecutors?

These are not rhetorical questions. Studies suggest that conflict between the state's and the victim's interest is frequent and real. Prosecutors are more closely aligned with the police, judges, and even defense attorneys than with victims.¹ These actors share similar goals, namely, to minimize the uncertainty of outcomes and dispose of as many cases as fast as time and justice will allow.² To do this, charges are frequently dropped, cases are dismissed, delays are freely granted. Plea bargaining³ becomes the rule, full charges and trial the exception. In this push to dispense justice with minimal time and resources, the interests of the victim are too often sacrificed. As the National District Attorney's Association put it, "Prosecutors are typically too pressed by time, heavy case loads, and crises, to reflect long on the situation of the crime victim."⁴

If prosecutors fail to represent victims' claims, victims have little recourse in the criminal justice process. If their case is screened out, dismissed, or bungled -- that's it. There is seldom a second chance for victims.⁵

Victims' interests have not always been ignored. Centuries ago, managing crime was a private affair. Victims and their families administered justice. According to the Bible, victims could demand "an eye for an eye..."⁶ Over time, however, compensation replaced blood feuds as the primary method for resolving conflicts. Personal crimes had a price tag that was up to the victim and his or her immediate family to determine.

By the late Middle Ages the monarchs began to look at the settlement of criminal disputes as a potential source of revenue. Accordingly, they set themselves up as arbiters between the victim and the offender. In exchange for this "service" they took a piece of the settlement. The monarch's fee was called the "wite."

As the state intruded into financial settlements, it began to regulate punishment. According to Eduard Ziegenhagen,

The imposition of punishment by the state rather than composition to the victim was not accepted without resistance. For example, by the 12th century, the death penalty was applied to murderers who previously had been required to pay the victims' family compensation for their behavior.⁷

As victims lost out when the state was excessively harsh, they also lost out when the state was excessively lenient. By the 14th century kings began to grant or sell pardons to criminals regardless of the seriousness of their crime, regardless of their guilt or innocence. Victims protested that under this system criminals were neither punished nor made to pay the

victim. Often the state reaped the benefits of the victim's injuries while the victim was denied the right to payment and punishment.

By the 18th Century, the American colonial justice mixed victim and state responsibility for crime control. Crime was still seen largely as a private dispute between the victim and the offender. Much like the King in the Middle Ages, however, the state played the role of both facilitator and referee. The victim of crime was required to pay the costs of processing the criminal. Specifically, the victim paid for the justice of the peace to issue the warrant, the constable to make the arrest, and for all trial costs. Only if the victim was successful would he or she be reimbursed for court expenses. In short, while the victim continued to be primarily responsible for initiating criminal complaints, only the state could process and punish.⁸

After the War of Independence, the role of the state in criminal proceedings changed drastically. As Zeigenhagen observes:

Before the Revolutionary War, the primary function of criminal law was to enforce established moral behavior and particular religious practices. But after the war the viewpoint was advanced that the proper function of criminal law was to maintain social order against organized opposition, specifically to protect property and promote the physical security of individuals.⁹

As the role of the American public prosecutor grew in stature, the role of the victim declined. Defining crime, punishing crime, and compensating for crime were now exclusively the state's prerogative. Victims served to justify state intervention against the accused but were themselves denied involvement in the proceedings. Crimes were no longer viewed as private matters but as crimes against the state. The victim's role was limited to the position of state's witness. Victims' attempts to settle criminal disputes privately were punishable by the state as violations of the public welfare and usurpations of the state's authority.

In short, victim's rights were expelled from criminal law and reduced to what they are today. Victims have no status, no standing in court, no right to choose counsel, no right to an appeal, no control over the prosecution of their case, and no voice in its disposition. Once the state takes over, the victim is relegated to the status of "witness," an invisible threat to be brought in only if the plea bargaining process breaks down.¹⁰

The criminal justice system is not structured to pay special attention to the victim; it is oriented toward the accused. Police and court procedures are designed to recognize and protect the rights of the accused and the system's need for efficiency, even if these needs are met at the victim's expense.

What is the effect of this state-controlled, offender-oriented system on the victim of crime? Given the confines of the system, what can be done to make the victim's participation as painless as possible? How effective are existing reforms from the victim's perspective? What is the "victims' perspective" anyway? Are their interests really different from the state's?

The existing literature on victims, though useful, is not directed toward these questions. Instead, victims are studied primarily from an administrative perspective, in terms of how they can best cooperate with the system. The literature includes the following foci: In court management studies victims are analyzed in terms of witness cooperation and other system needs.¹¹ In victimization studies, the who, what, where, and how much of crime are addressed, basically in order to doublecheck FBI figures.¹² In victimology, researchers study the psychological attributes of crime and the degree to which victims contribute to their own

victimization.¹³ In assorted works and publications, the plight of the victim is described in sensational and anecdotal fashion.¹⁴ In psychological literature, the response of rape victims is studied, in particular, as are methods of counseling.¹⁵ Few studies designed to measure needs and services from the victim's perspective are based on actual victim interviews.¹⁶ Instead, victim attitudes are assumed by sympathetic writers¹⁷ or inferred from police or clinical data.¹⁸

In this study an attempt will be made to redress this imbalance and gain new insights into the judicial process by talking with a sample of people directly involved--the victims themselves.

CHAPTER ONE: METHODOLOGY

In this chapter I will explain why the crime of rape was selected as a focus for this study of victims. Next, my efforts to gain cooperation in the Washington area will be outlined as will the goals and design of this research.

WHY STUDY RAPE?

This study will focus on one type of crime victim -- adult women who have been raped. Rape was selected for analysis because it allows for the study of problems which are common to all felony crimes but are particularly severe in cases of rape. For example:

Rising crime rates: Despite federal, state, and local efforts to the contrary, reported rape is increasing. The FBI reports that in 1980, reported rape increased 8 percent over 1979.¹ In 1979 reported rapes increased 13 percent over 1978; 35 percent over 1975.²

Failure to report: Rape is probably the most underreported crime in the United States. It is estimated that at best 50 percent of rapes are reported.³ According to a recent LEAA study, two major reasons for such infrequent reporting are the victim's "fear of treatment by police and prosecutors" and feelings that "nothing can be done."⁴

Dismissal of cases: The impression that "nothing can be done" is confirmed by crime statistics. Forcible rapes are dismissed more often than any other serious crime.⁵ In the District of Columbia in 1977, for example, 36 percent of all rape cases were rejected by the prosecutor at screening.⁶ Twenty-eight percent of the cases that were accepted were

later dismissed by the judge or prosecutor.⁷ Prosecutors cite problems with victim credibility as the main reason for this high dismissal rate. Forcible rapes are more likely to be rejected for these reasons than any other serious crime.⁸

Low conviction rates: The conviction rate for rape is the lowest of the four violent crimes: murder, aggravated assault, robbery, and rape. In 1977, for example, forcible rape defendants were more likely to be acquitted or to have charges against them dismissed than were defendants in all crimes except aggravated assault.⁹ Additionally, according to a 1978 national survey, only 5 percent of reported rapes result in the apprehension of a suspect and in less than 3 percent is there an actual conviction.¹⁰ The main reason for this unusually low conviction rate is that rape victims, more than any other crime victim, are perceived to be "lying" and are therefore required to have others corroborate their testimony.¹¹ A second problem is that trial results indicate that the closer the relationship between the victim and the offender, the lower the conviction rate.¹² District Attorneys, consequently are more reluctant to pursue cases when the victim and the offender are acquainted -- a relationship that exists in at least 26 percent of all rape cases.¹³

Conflict in Interests: Rape provides a useful case study of the cooperation and clash between "victim" and "system" priorities, evident to a degree in all crimes, but particularly acute in rape. For example, a two year LEAA study found prosecutors especially reluctant to pursue rape complaints, because the "dismally low" conviction rates were "not good for one's career."¹⁴ Furthermore, many reforms have been instituted to sooth victim-system relations particularly in rape cases. By focusing on the

crime of rape, one can analyze the effectiveness of these reform measures from the perspective of both the victim and the system.

Rape is especially interesting to study because while similar to other crimes, it is in many ways unique. As the Battelle Institute concluded after their two year study on rape:

In no other crime is the victim's complaint so suspect. In no other crime is it necessary to demonstrate that the victim did not consent to a criminal act. In no other crime is the victim less protected from abusive treatment by medical personnel, police, prosecutors, and defense attorneys.¹⁵

What makes the plight of the rape victim more difficult than that of other crime victims is that she must contend with a unique package of legal and social assumptions. The crime of rape carries with it the baggage of sexual attitudes. While no one would argue that an individual would want to be robbed, burglarized, or mugged, this does not hold true for rape. As Kristin Williams argues, "Perhaps the crucial difference between sexual assault and other crimes is that sexual activity can, under the right circumstances, be desired by most individuals, male or female."¹⁶

Rape is viewed by many to be in the framework of sexual activity and sexual activity is generally associated with pleasure. However, sex implies choice; rape implies force. It is this element of force that transforms rape from the realm of sexual activity to the realm of violence. The problem for rape victims is that others regard rape on a continuum of sexual activity. To the victim of rape, as Burgess and Holmstrom note, "rape is initiated by the assailant; it is not primarily a sexual act, but an act of aggression, power, and violence."¹⁷

Despite the victim's perception of the crime, she must deal with and defend herself against the perception others have of the crime. The terms

of the debate are sexual terms, not terms of violence. The prejudices are sexual although the event is not. Even the resources which exist to aid rape victims often use the language of sexuality. The police force which responds to the event is the "Sex Crimes Unit"; the doctor suggests that the victim see a "sexual therapist"; her husband is confused if not irate because his wife has "been with another man."

Because rape victims must contend with the sexual beliefs and prejudices of others, the standards of proof are higher for the rape victim, the scrutiny more intense, the suspicions more rampant. Burgess and Holmstrom argue that because of this sexual baggage, to compare rape with other crimes is naive, if not wishful thinking.

In no other crime is the victim expected to demonstrate such signs of force and resistance to establish credibility. No one expects a robbery victim to fight. When we recognize that rape is a crime of violence, we then can compare victim behavior to other crimes of violence.¹⁸

The literature on rape is voluminous. By 1977, some 697 books and articles had been written on the subject.¹⁹ Why then select rape as a focus for further research? Because there is little systematic evaluation from the victim's perspective. As researchers Burgess & Holmstrom concluded after two years of research, "Most of the literature on rape...focuses on the person committing the crime, the circumstances of the crime, or the characteristics of the parties involved."²⁰ Many studies assume positions sympathetic to victims and purport to speak for them, but few studies are actually based on victims' accounts of their own experiences. A recent compilation of all rape victim research concluded that, despite the vast material on the subject, "no empirical study of rape victims...involved a systematic interview of the victim, although this procedure is widely accepted as the best form of research."²¹

In short, the victim rarely has a chance to speak for herself. Writings which are based on victim interviews are for the most part merely collections in which victims recount their attack. There is little focused, analytical, or quantitative analysis of such studies.

RESEARCH GOALS

This study will attempt to fill that gap, in part, by evaluating legal and social services from victims' perspectives. This research builds on existing propositions in both the rape and victim literature, tests conflicting theories, and examines new ones. In particular, the study addresses the following questions:

1. What legal and social services are available to crime victims? Are victims aware of these services and, if so, how are such services perceived?
2. What is the role of victims in all stages of the criminal justice system? Given the odds against conviction, why do victims bother to participate? What do they want from the criminal justice system? Do they get what they expect and to the extent that they do not, how does it affect them personally? How do disappointed expectations affect their willingness to cooperate and recommend that others cooperate in the future?
3. Does contact with the system help to make the victim whole or prolong the trauma? What is effect of dismissal, acquittal, dropped charges, or conviction on the victim? Does the outcome of the trial make a difference in a victim's evaluation of the criminal justice system; and to what extent?
4. Over the past ten years, jurisdictions have, in varying degrees revamped and specialized their procedures in sexual assault. Have these reforms made a difference? Are "sex crime" units better than "criminal investigation" units? Are rape victims more comfortable with female police officers and attorneys; does gender really matter? Does prosecutorial organization make a difference in terms of victim satisfaction and, if so, what type is preferred?

The answers to these questions are important for their impact on the victim and the victim's impact on the criminal justice system. Victims' cooperation is essential for crime control. An estimated 87 percent of all crime comes to the attention of law enforcement personnel only because victims report.²² Police depend on them for information. From an administrative perspective, victim cooperation is essential, even though studies have found the main reason for not pressing charges was "to avoid the ordeal of court."²³

Until victim needs are more fully known, reform is only guesswork. As the Montgomery County Police Chief said in reference to this study, "Until such time as we know more about the victim's viewpoint, we can not change our posture in the department."²⁴

RESEARCH DESIGN

This research is based on 100 interviews conducted in 1980 with adult, female rape victims from the metropolitan area of Washington, D.C. Respondents were asked about their contacts with and attitudes toward police, medical, and court personnel in their area as well as their evaluations of the personal costs of rape. How did the rape affect their work, family, friends? The primary purpose of the interview was to have victims evaluate community legal and social services. My goal was to learn how services work from a victim's viewpoint and what factors contribute toward a victim's satisfaction with these services. Why are certain victims pleased with court services, while others are thoroughly dissatisfied? Why are some dissatisfied women willing to cooperate again regardless of their feelings, while others vow never again to cooperate?

In order to answer these questions, my first task was to secure a sample of victims with whom I could consult. Rape victims are a particularly elusive sample. Their identity is protected and private, as it should be. Therefore, one can not identify a population, find a random sample from a street map or phone book, and write a letter requesting interviews. Instead, one is totally dependent on those who know the identities of crime victims for all referrals, specifically -- police, prosecutors and rape crisis counselors.

From September 1979 until December 1979, I talked to police officers, prosecutors, and crisis counselors to discover whether or not they were willing to help. In each jurisdiction and each department, their first concern was for the victim's right to privacy. They were careful to do nothing that would violate the sanctity of their relationship with their client. For my part, I did not want to talk to anyone who would be traumatized by the discussion. I felt the decision should be made by the individual woman, not by myself or anyone else.

To avoid any breach of the victim's privacy, we agreed that in each jurisdiction, a member of the community crisis center, police department, or state's attorney's office would notify rape victims of this study. This was done in one of two ways. In most jurisdictions, a letter I had written was forwarded to the rape victim with a cover letter from the particular agency that explained the agency's relationship to the study. (I also wrote this cover letter.) The other method used was to notify the rape victim either through a telephone call or personal contact. Many counselors preferred the latter method and informed their clients of the study during counseling sessions. Telephone contact was the principle means used by the D.C. Superior Court.

When I first approached criminal justice personnel in these jurisdictions, I asked for thirty referrals from each area. I wanted a sample of at least one hundred, but I figured that not all areas would provide that many names so it would be wise to aim a little high. Having read the literature on victim studies, I was concerned that one hundred might be an unachievable goal. I was a single researcher, and victim referrals are notoriously hard to come by. Others, with more money, staff, time, and clout had failed in their attempts to interview one hundred rape victims.²⁵

It took twelve months but I finally succeeded in completing the 100 interviews. However, agencies varied greatly in the extent to which they followed through on their promise to cooperate. Prince George's County Sexual Assault Unit, for example, immediately agreed, mainly because officials knew me from prior research I had conducted with their center. This cooperation provided me with the same sample as the police department because all rape victims in the county are brought by the police to the center which is located in the county hospital. I also attended group counseling sessions as well as rape trials in the county. In this way, I became a familiar face and earned the cooperation of other victims and members of the State's Attorney's Office.

In Montgomery County, I wrote a letter to the Chief of Police, introducing myself and explaining the purpose of this study. I followed this up by meeting, on two occasions, with both the Chief and the head of the Crimes Against Persons Unit. Both men were extremely interested in the study and willing to cooperate. The expressed cooperation of the Police Chief, of course, had a snowball effect. My approach to the Director of the County Mental Health Department and to the Montgomery County

State's Attorney was much easier with the Police Chief's backing. Both agencies agreed to cooperate.

In the District of Columbia my luck was not so good. My first attempt to talk with the Chief of Police was met with massive red tape. My letters were lost, phone calls not returned, and requests avoided for over a month. Finally, I was denied both a meeting with the Chief, the department's cooperation, and an explanation why. These denials came despite two successful prior meetings with detectives from the Sex Crimes Unit, who had expressed great interest in the purpose of this study and agreed to help.

My next step was to write a letter to the Mayor, complaining that I was refused both an explanation and a hearing from the police department. I failed to understand why they rejected any suggestion of participating, when a border away, the Montgomery and Prince George's County Police departments were willing to cooperate. Given the politics of the relationship between the police department and the Mayor's office, the letter succeeded in getting me a hearing at the police department with the Commander of the Criminal Investigations Division, though not with the Chief himself.

As a result of that conversation, the department expressed enthusiasm for the study and promised limited assistance. The Commander argued that the officers could not solicit respondents for a private study; the D.C. Corporation Counsel had advised them that this would be unacceptable. Though I had previously been told that the department's cooperation would not violate the D.C. Code, it was clear that this was as far as the police were willing to go. I would be permitted to interview Sex

Crimes Detectives, use their statistics, and whatever else I needed, but no rape victims would be referred.

The D.C. Superior Court, unlike the Police Department, was most helpful. In fact, it provided more referrals in a more systematic fashion than in any other jurisdiction. The head of Superior Court Operations notified the Victim-Witness Assistance Unit that it would be responsible for providing me with names of rape victims. A member of the Victim-Witness Unit pulled a list of rape victims from their Prosecutors Management Information System (PROMIS) computer, called all women whose cases were closed in the last two years, and recorded their responses. Using this procedure, I received forty usable referrals in Washington D.C.

The Victim-Witness Assistance Unit also allowed me to look at the case jackets of each woman I interviewed. As a rule these case jackets included police reports on victims and witness testimony as well as prosecutors' evaluations of the state's case. These jackets provided a unique opportunity to compare the victim's impression of the prosecutor with the prosecutor's impression of the victim.

Community crisis centers were most enthusiastic -- with the exception of the Washington D.C. Rape Crisis Center. As the head coordinator explained, the Crisis Center did not have sufficient support staff to contact past clients. No longer staffed for long-term counseling, at that time they had no clients that might be included. They were also undergoing massive budget cuts from the D.C. Government. For all these reasons, despite my best lobbying efforts, only two women were referred by the D.C. Rape Crisis Center.

Fairfax County, Virginia, had to be completely eliminated from the study. The police department refused to cooperate. The crisis center and state's attorneys office promised to cooperate but I never received one referral from either source.

Ultimately, Virginia was underrepresented in the study. The composition of the sample was as follows:

Table 1.1

Victims' Interviewed by Jurisdiction

<u>MARYLAND</u> (41)	<u>DISTRICT OF COLUMBIA</u> (42)	<u>VIRGINIA</u> (17)
Prince Georges County 24	42	Arlington County 8
Montgomery County 17		Alexandria 9

Once I received a pledge of cooperation from a jurisdiction, I did my best to control what was ultimately beyond control; namely, the selection of the sample. First, all referral groups were given the following criteria for selecting victims: The respondent must be female, at least sixteen years old, who has been raped (as opposed to attempted rape or sodomy), and who has finished her involvement with the criminal justice system, if indeed, she ever initiated one.

The reasons for these stipulations were that I wanted the woman to be old enough to understand what had transpired and to be the person toward whom all police and legal attention was directed (as opposed to a mother or guardian as in the rape of a child). I did not want to confuse crimes under the broad heading of sexual assault, as have many researchers

because the criminal justice system responds differently according to the type of sexual crime.²⁶ As my focus was on precisely that response, I had to make sure that the definition of the crime, at least, was held constant.

The victims' involvement with the court process, I stipulated, must be completed for three reasons. First, my interest was in their evaluation of the total process and outcome is a critical variable in that process. Furthermore, I did not want to have to interview the victim twice, once before the trial or plea, and once after. This would have been unwieldy and probably impossible to arrange given the nature of the referrals. The price paid for this decision was that some victims were interviewed well over a year after the assault took place.

Second, I wanted to assure all law enforcement people that I, in no way, intended to intervene in an ongoing case. Also, I did not want to put myself in a position where I could be one of the witnesses summoned to testify about the reactions or statements of the victims regarding their assault.

Third, when this study was in its exploratory stages, the psychiatric nurse who headed the Prince George's County Sexual Assault Unit suggested that victims would be most receptive to speaking about their ordeal when the case was settled. At that time, she suggested, they might want to go over the whole process once more in order to forget it. Talk at that time, she advised, might even be therapeutic. For all these reasons I chose the guidelines just described.

Next, I asked the various referral agencies to notify all the women who met this criteria about the study and to let each woman decide for herself whether or not she wanted to participate. Although I thought it

important that the woman make the decision for herself, I suspect that counselors, officers, and prosecutors screened out those women they thought would either be too traumatized by the discussion or too harsh in their criticism of the system. However, in an effort to counteract these biases I did not rely on any one source for victim referrals. Instead, referrals came from a variety of sources: police, prosecutors, and the staff of rape crisis centers.

I varied the referral sources for two reasons:

First, there is a danger that consciously or not, agencies may select only those victims they believe would give favorable evaluations and screen out the rest. By relying on a number of sources, I hoped the chances of this happening would be reduced and that biases might cancel each other out.

Second, because outcome was an important variable in my study, outcomes must vary. Referrals from the courts, for example, may be unduly optimistic. Courts only come into contact with victims if a suspect is apprehended. Therefore, if I relied exclusively on court referrals, I would be talking to women who at least had the satisfaction of knowing someone was arrested for their assault. In most crimes, this does not happen -- only half of all rapes and 19 percent of all FBI index crimes are cleared by arrest.²⁷ Such referrals allow for an evaluation of the court system but do not represent what usually happens in a rape or any other kind of case. By working with a number of referral agents (specifically police, prosecutors, and rape crisis counselors), I was able to talk with women whose cases ran the gambit of outcomes: no suspect apprehended, case rejected at screening, no grand jury indictment, reduction in charges, conviction, and acquittal.

The biggest problem in contacting victims resulted from using the letters. Rape victims tend to move after the assault, some one-third nationally.²⁸ As a result at least half of my letters were returned, forwarding address unknown. Telephone contacts worked best as many women could still be reached through their work phone number. Personal contacts were persuasive but also required the most effort from the referral agents.

When I received the name of a victim, I contacted her and set up a time and a place (usually my office) for the interview. All victims were assured that responses were anonymous and told the purpose of the study.

The interview combined closed and open-ended questions dealing with the following areas: (See appendix for a copy of the interview schedule)

- I. Victim demographic characteristics
- II. Attitude toward: police, courts, punishment
- III. Prior experience (of victim, family and friends) with criminal justice system (police, courts)
- IV. Crime characteristics
 - A. relationship to offender
 - B. location of assault
 - C. type of force
 - D. race of offender
 - E. date of assault
- V. Post-Assault personal response
 - A. effect of attack on victim's health, lifestyle, etc.
 - B. effect of attack on victim's family and friends
 - C. perceived social response to victim
 - D. evaluation of need for and knowledge of assistance
 - E. evaluation of services received
- VI. Evaluation of police response and services (patrol and detectives)
- VII. Evaluation of medical services

- VIII. Evaluation of court response (prosecutor, victim/witness unit)
- A. extent of victim participation
 - B. effect of delay
 - C. actual v. desired outcome
 - D. effect of court proceedings on victim's recovery, family, job
- IX. Overall evaluation of personnel and services
- A. willingness to participate in the future
 - B. advice to others for cooperation in the future
 - C. policy recommendations based on experience
 - D. change in attitude toward police and courts

Much of the information gained through these interviews was descriptive. My goal in quantitative analysis was to determine what factors contribute toward victims' satisfaction with services. In trying to answer this question, I approached victim satisfaction a number of ways. It was treated as a dependent variable and analyzed as an end in itself (outcome variable), and as a means to an end (an intervening variable), a part of a chain of events, specifically the likelihood that victims would cooperate and advise others to cooperate with the criminal justice system in the future.

To learn what factors contribute toward a victim's satisfaction with the legal system, I ran a number of cross-tabulations. My greatest interest was in the relationship between satisfaction and five particular factors: social class, victim participation, treatment, outcome, and organizational structure. I selected these variables because I thought they had strong potential for explaining victim satisfaction. My hypotheses were as follows:

Social Class: Black and low income victims may actually receive worse treatment than others or, being more hostile to law enforcement, they may perceive of services as worse.²⁹ In contrast, these victims may

be "satisfied" with treatment received because their expectations are so low -- they are used to shabby treatment -- not because they well were treated.³⁰ Race and economic status must then be considered when evaluating what services were actually performed. Additionally, depending on the amount of crime and violence they are used to, victims may define the severity of crime differently and consequently vary in their ability to overcome and deal with their victimization.³¹

Degree of participation: To what extent was the victim informed of and included in decision-making? Was she treated as a participant or as a source of state's evidence? How much input did she have in the processing of her case and what is the effect of that on her assessment of and satisfaction with the criminal justice system?

My hypothesis is that degree of participation is an important predictor of satisfaction: the more a victim is included and informed, the more satisfied she will be with the criminal justice system.

Treatment: Victims who are treated with understanding -- as individuals not as evidence -- are likely to be satisfied with police and prosecutors, regardless of what happens to their assailant. Though victims want their assailant punished, unless they are provided with courteous personal treatment, they may be dissatisfied with police and courts.

Outcome: If, as some studies suggest, what victims ultimately want from the criminal justice system is to see their offender punished,³² clearly outcome should be an important predictor of whether or not victims are satisfied with the system. Following that assumption, satisfied victims should be involved in cases which result in conviction; dissatisfied victims should be involved in cases which result in dismissal or acquittal, or in which the offender is not apprehended.

My hypothesis is that outcome will not be enough to save the criminal justice system from a poor evaluation by the victim if she was excluded from the process, whereas the reverse may be true. If a victim is included in decision-making and informed of developments, she will evaluate the criminal justice system somewhat more highly regardless of outcome. In short, victim participation and treatment are more important predictors of satisfaction than outcome.

Organizational Structure: Victim satisfaction will vary depending on what services are provided, how those services are organized, and how they are integrated with other services in the system. Victims in this study were drawn from four jurisdictions which vary enough in organization, procedures, and services to allow these propositions to be examined.³³ Unfortunately, because so few women were interviewed from each jurisdiction and their degree of involvement within those jurisdictions varied (no arrest, dismissal, plea bargaining, trial), the sample proved too small to statistically test these propositions. Nevertheless, victims' comments about various jurisdictions provide qualitative insights regarding the importance of organizational structure.

The four jurisdictions studied are Prince George's and Montgomery County, Maryland; the District of Columbia; and two smaller communities in Northern Virginia: Arlington and Alexandria. These four jurisdictions can be compared along the following dimensions:

Relevant Law

1. corroboration of force necessary or not necessary
2. specialization by categories of sexual assault or no specialization
3. prior history, "reputation for chastity" admissible or not admissible
4. requirement that fear of force be "reasonable" or no requirement

Police Department

1. sex crimes unit only
2. combined homicide or sex crimes
3. crimes against persons (including all types of assault)

Social Services

1. rape crisis only or all purpose crisis center
2. certified paid counselors or lay volunteers
3. affiliation: mental health dept or independent or emergency room
4. nature of services: crisis intervention, long term or short term; political advocate, referrals only; community education

Medical Response

1. separate facilities for examination following sexual assault
2. special services for sexual assault (female gyn or emergency room intern)
3. free services or patient pays

Court Organization

1. specialization by stage: filing, grand jury
2. specialization by severity of crime
3. specialization particular to sexual assault

Victim/Witness Unit

1. services provided: court companionship or letters only or no contact
2. function: victim assistance or prosecutor assistance -- trouble shooter only

Victim Compensation Program

1. victim compensation program
2. no victim compensation program

Each jurisdiction will be described in greater detail in Chapter II.

In addition to quantitative analysis of these hypotheses, I was interested in learning more generally how the criminal justice system is perceived by victims and how it effects their sense of well-being. By well-being I mean a victim's ability to recover from the assault and resume a

"normal" life. For instance, can a victim be satisfied with the judicial system yet suffer a personal setback from going through it? If so, such a victim although "satisfied" may advise friends and family that the costs of participating are too great for the benefits received, thus intensifying the victim's trauma and perhaps creating future noncooperators.³⁴

More important than the effect of the victim on the system is the effect of the system on the victim. If victims must endanger their personal health to be witnesses, why should they bother cooperating with law enforcement? What is in it for victims? They have no control and little input in the case. Their only potential payoff is the "spiritual satisfaction" that results from those few cases which result in conviction and incarceration. To understand the incentive structure we may consider a financial analogy. If we invested our money the way we ask victims to invest their time, we would all be broke.

Despite my efforts to reduce bias by using varied referral groups, structured interviews, and quantitative analysis, one form of bias remains unavoidable. Are those women who agreed to participate in the study somehow different from those who refused? And if so, how are they different and what does this mean in terms of the findings of the study?

In an attempt to minimize this problem, all referral agencies were asked to state their criteria for contacting victims as well as the reasons given when victims refused to participate. Unfortunately, only one agency complied with this request by systematically recording their contacts and the victim's response.³⁵ Others merely gave me their impression of why it was so difficult to come up with the requisite number of victims from their jurisdiction. The main reason given was that the victim had moved and left

no forwarding address or phone number. Additionally, some groups said they did not contact women they thought would be uncomfortable talking about it. One referral group originally selected only those they considered to be articulate victims. This was soon changed when I discovered their biased method of contacting victims.

I am well aware that, despite my efforts, problems of bias remain. This is not a random sample of the universe of rape victims for metropolitan District of Columbia. However, it is one the largest group of rape victims that have been personally interviewed using a standardized instrument. The study is a good-faith effort to draw a sample of rape victims who met my specifications, were able to be contacted, and willing to participate. It is my sincere hope that their words and reflections on the legal system will shed light on the feelings of others, similarly situated.

CHAPTER TWO: STUDY SITES

In this chapter an overview of the Washington metropolitan areas will be provided. As these jurisdictions differ in crime rates as well as in the economic and racial composition of their residents, descriptions of each jurisdiction are necessary to provide a reference point for all victims' comments. Victims' evaluations of police and prosecutors, for example, will have more meaning when one understands what procedures police and prosecutors employ and how these procedures vary among jurisdictions. Similarly, information on crime rates is relevant to victims' perceptions in that crime rates influence police behavior which in turn influences their treatment of victims. For example, the more exceptional a crime, the more attention police may give to solving it; or the more prevalent a crime the more police may specialize to cope with it. By explaining the environment and procedures in each jurisdiction studied, one may understand what should happen to rape victims when they report a crime and thereby interpret both their complaints and praise for law enforcement services. To provide such information, first, the relative crime rates will be discussed; second, the economic and racial characteristics of Washington residents; and last, legal procedures, medical, and social services available to rape victims.

CRIME

Washington, D.C. is the clear high crime winner among jurisdictions in the region. Maryland is next and Virginia is lowest in rate per 100,000 residents, as Table 2.1 indicates.

TABLE 2.1
Index of Crime by Jurisdiction

	<u>No. of Crimes Known to Police</u>			<u>Rate per 100,000 Residents</u>		
	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
Washington, D.C	50,950	57,530	65,025	Unavail	8,769.8	10,236.4
Maryland	240,858	261,166	277,949	5,813.6	6,294.7	6,630.1
Virginia	209,677	226,656	245,942	4,073.0	4,361.3	4,620.0

*(Source: Uniform Crime Reports, 1978-1980)

Table 2.2 shows that the District of Columbia has the highest crime rate for rape and Virginia the lowest of the states studied.

TABLE 2.2
Rape Rate by Jurisdiction

	<u>No. of Crimes Known to Police</u>			<u>Rate per 100,000 Residents</u>		
	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>
Washington, D.C	447	515	480	Unavail	78.5	75.6
Maryland	1,476	1,636	1,681	35.6	39.4	40.1
Virginia	1,168	1,407	1,458	22.7	27.1	27.4

*(Source: Uniform Crime Reports, 1978-1980)

When comparing crime rates within the Washington metropolitan area only, this order no longer holds true. Although the District of Columbia has the highest volume of crime, as Table 2.3 illustrates, according to a recent study, the likelihood of becoming a victim of a crime is greatest in Alexandria, not Washington, D.C. In Alexandria, a person has a one-in-ten chance of becoming a victim. In the Capital the chance is one-in-twelve. Both figures exceed the national average of one-in-fourteen.¹

TABLE 2.3
Crime Index by County and City

	<u>1980</u>	<u>1979</u>	<u>1978</u>
Washington, D.C.	63,668	56,430	50,950
Alexandria, Va.	9,568	10,002	8,251
Alexandria State Police	22	25	23
Arlington County, Va.	9,560	9875	9,222
Arlington State Police	16	20	27
Montgomery County, Md.	30,111	28,685	24,570
Montgomery State Police	43	204	173
Prince George's County, Md.	42,236	39,710	38,812
Prince George's State Police	1235	1582	1469

*(Source: Uniform Crime Reports, 1978-1980)

The same holds true for the absolute number of rapes reported to the police in each jurisdiction. As summarized in Table 2.4, the District of Columbia has the most rapes, Prince George's County the second most, next Montgomery County, and last Arlington and Alexandria. Referrals of crime victims reflected these differences. The most referrals came from the jurisdiction with the most rapes -- the District of Columbia. The fewest referrals came from the jurisdictions with the least number of rapes reported -- Arlington and Alexandria, Virginia.

TABLE 2.4
Rapes Known to Police

	<u>1980</u>	<u>1979</u>	<u>1978</u>
Washington, D.C.	439	489	447
Alexandria, Va.	62	44	41
Arlington, Va.	56	55	54
Montgomery County, Md.		130	110
Montgomery State Police	144	2	4
Prince George's County, Md.	383	346	316
P.G. State Police	13	14	15

*(Source: Uniform Crime Reports, 1978-1980)

Within the two Maryland counties studied, Table 2.5 shows that Montgomery County is "safer" than Prince George's County. In Virginia, Arlington is "safer" than Alexandria. According to the Alexandria Annual Report, both these areas are safer than Washington, D.C. for crime in general and rape in particular, as Table 2.6 indicates. These figures again contradict a recent investigation of the metropolitan area which found Alexandria to be the highest crime jurisdiction in metropolitan Washington.²

TABLE 2.5
Rape Rates in Maryland

	<u>Population</u>	<u>Crime Rate</u>	<u>Rapes</u>
Montgomery County			
1979	576,776	5,243.1	137
1980	574,093	5,482.3	151
% Change	(-.5)	(+4.6)	(+10.2)
Prince George's County			
1979	663,207	7,401.5	393
1980	657,707	7,870.2	427
% Change	(-.8)	(+6.3)	(+8.7)

*(Source: Maryland Uniform Crime Reports, 1980)

TABLE SIX
1980 Rape Rate in Virginia and Washington, D.C.

	<u>Population</u>	<u>Total Crime per 1,000</u>	<u>Rape per 1,000</u>
Alexandria	103,217	9,568 (92.7)	62 (.6)
Arlington	152,599	9,560 (63.7)	56 (.4)
Washington, D.C.	637,651	79,166 (124.6)	439 (.7)

*(Source: Alexandria 1981 Annual Report)

Within each jurisdiction, crime continues to be an unmanageable problem. According to the Alexandria Police Department, for example while the total index of crime dropped 4.5 percent in 1980, reported rape increased 41 percent over 1979.³

The reverse occurred in Washington, D.C. In fiscal 1980 overall crime increased by 12 percent; reported rapes decreased by five percent.⁴ In Prince George's and Montgomery Counties both overall crime and rape increased. In Montgomery County the crime rate increased by four percent in 1980, rape increased by 10 percent. In Prince George's County, overall crime increased six percent, rape increased nine percent.⁵

As shown in Table 2.7, the percentage of offenses solved by arrest or other means (the clearance rate) declined nationwide. The clearance rate in all study sites declined, except the national clearance rate for rape increased by one percent in 1980. For victims these national figures mean that most reports to the police are in vain, most rapists are never apprehended.

TABLE 2.7
Crimes Cleared

	<u>% Total Crime Cleared</u>	<u>% Rapes Cleared</u>
Washington, D.C.		
1979	24	70
1980	19.8	61.4
%Change	(-4.2)	(-8.6)
Alexandria		
1979	19	Unavailable
1980	14.4	Unavailable
% Change	(-4.6)	Unavailable
Maryland		
1979	22	57
1980	20	54
% Change	(-2)	(-3)
United States		
1979	20	48
1980	19	49
% Change	(-1)	(+1)

*(Source: Uniform Crime Reports and Police Reports, 1979-1980)

Economic Indicators

What is the economic profile of Washington D.C. residents? Residents of the Washington metropolitan area are exceptionally affluent and employed primarily by the federal government. According to the Metropolitan Council on Governments,

"the Washington region, with a per capita income of \$10,259, currently ranks second only to San Francisco area among the nation's largest metropolitan areas. In total personal income, the Washington region ranks among the ten largest metropolitan areas with personal income totaling almost 31 billion dollars."⁶

How do the various study sites compare in terms of income? The data in Table 2.8 show that Montgomery County no longer leads the region in income. In 1979, the last year for which complete figures are available, Arlington County, Virginia had the highest per capita income in the region (\$16,070) followed by the city of Alexandria (\$13,969) and Montgomery County, Maryland (\$13,541).

Residents of suburban Maryland, retained their lead in personal income and accounted for 42 percent of the region's personal income. Suburban Virginia followed with 37 percent and the District lagged behind with 21 percent of the region's personal income. In short, the rape victims' interviewed came from areas which are relatively wealthy compared to the rest of the nation.

TABLE 2.8
Per Capita Income in Current Dollars
by Jurisdiction 1971-1978

	Per Capita Income		Change 1971-78
	<u>1971</u>	<u>1978</u>	<u>%</u>
Washington, SMSA	\$5,337	\$10,259	91
District of Columbia	5,064	9,598	90
Montgomery County	6,457	11,967	85
Prince George's County	4,439	8,501	92
Alexandria	6,012	12,208	103
Arlington County	6,897	14,675	113

Source: County and State Annual reports, 1971-79

Racial Composition

Washington, D.C. has the highest proportion of black residents in the metropolitan area. Black residents comprise 70 percent of the city's 674,000 population, whites comprise the remaining thirty percent.

Prince George's County is home to 665,071 residents, according to the 1980 census report. The county experienced a racial shift between 1970 and 1980 as non-whites moved in and whites moved out. Nonwhites composed 15 percent of the county's population in 1970 and 41 percent in 1980. As Table 2.9 shows, Montgomery County, in contrast, is predominately white as is Alexandria, Virginia. Victims interviewed reflected these figures: 65 percent were white, 35 percent were black.

TABLE 2.9
1980 Racial Composition of Washington D.C. Area in Percentages

	Montgomery County	Prince George's County	Alexandria	Washington D.C.
Non-white	6.5	41	26	70
White	93.5	59	74	30

(Note: Racial composition of Arlington, County was unavailable)

24 percent of non-whites in Alexandria are black, 4 percent are Asian, Spanish, and other races; 37 percent of non-whites in P.G. County are black.

(Source: County and District Annual Reports)

METROPOLITAN WASHINGTON LEGAL PROCEDURES AND RELATED SERVICES

Jurisdictions varied in the degree to which they had modified their sexual assault laws and procedures. Victims were subjected to varying burdens of proof and provided a range of social services as the following descriptions make clear.

DISTRICT OF COLUMBIA

Relevant Law: Information regarding the victim's prior sexual history with anyone other than the defendant may not be introduced at trial. In 1976, the D.C. Court of Appeals struck down the sixty year old requirement that a rape victim's testimony as to force be corroborated. Regardless of how violent the assault or how severe the rape, there is only one charge for rape under the D.C. Code. Rape is defined to apply exclusively to female victims.⁷ A conviction for rape draws a maximum sentence of fifteen years. However, any crime committed with a gun in the District automatically increases the possible sentence to life imprisonment.

Police: The District of Columbia was one of the first jurisdictions in the country to provide specialized police and support services for rape victims. The Metropolitan Police Department established a separate Sex Offense Unit in 1942 to investigate all types of sexual assault. Twenty-four hour coverage is provided by twenty-one specially trained detectives who generally handle the case from the time the incident is reported until the time the case is resolved. These detectives all work out of the central police headquarters located at 300 Indiana Avenue, NW.

Medical Services: D.C. General is the city's only public hospital and, until recently, the only hospital in the city where a rape victim could go for a pelvic examination. Located in a high crime section of the city, next to the city jail in far Northeast, the hospital is the busiest in the city. In 1980 it served an estimated 250-300 emergency room patients daily. The hospital's clientele is primarily the city's poor. Seventy-one percent of all patients come from the most impoverished areas of the District and one-third of all patients have neither insurance nor any other means of payment. Emergency-room staff and public health nurses have worked with the D.C. Medical Society to encourage more hospitals to treat rape victims. But in 1980, D.C. General still handled at least 75 percent of all rape complaints.⁸

The hospital continues to attract most of the city's rape victims for a number of reasons. (1) There is no charge for the examination. (2) Police recommend D.C. General to victims because the staff is experienced in collecting evidence. (3) Other hospitals are still reluctant to get involved in rape cases because the attending physicians do not want to take time to testify in court if they are summoned.

D.C. General operates a program in conjunction with the Metropolitan Police Department, which offers special assistance to victims of sexual assault. Rape victims are separated from other emergency room patients and allowed to wait in a designated area. The victim is then met by a nurse and social worker, and examined by the senior gynecologist on duty.

The District of Columbia also provides a medical follow-up unit in rape cases. All reported rape victims are called by one of two public health nurses within twenty four hours of their reporting. The nurse inquires about health problems, such as venereal disease or pregnancy, and follows-up with a call six weeks later, if she feels one is needed. The follow-up unit also provides referrals for other city services, though no psychiatric assistance or long-term care is offered.

Courts: The District of Columbia Superior Court is organized differently from Maryland and Virginia courts in that the U.S. Attorneys' Office is divided according to stages where others are divided by type of crime. For example, in the District of Columbia prosecutors are assigned to preliminary hearing, grand jury, arraignment, or trial sections. This division of labor is thought to allow for the most efficient use of the prosecutors' time, given the enormous volume of cases which arise in the District. From the victims' standpoint, this also requires that they repeat their story to a string of unfamiliar attorneys rather than relying on just one.

Victim-Witness Assistance Unit: The three men and one woman who staff this unit rarely come into direct contact with victims. Instead, they serve as trouble shooters for the U.S. Attorneys. These 32 felony prosecutors will contact the Victim-Witness Unit if they are having difficulty locating a witness or a defendant. If witnesses flee the state, for example, the Victim-Witness Unit will try to track them down and convince them to come back for trial. Individual attorneys, not the Victim-Witness Assistance Unit provide little or no services to victims. This is understandable as the staff of four has roughly 1000 cases a month to contend with.⁹

Victim-Compensation Programs: There is no victim compensation program in the District of Columbia. Legislation providing for Federal victim compensation has been considered and rejected since 1965.¹⁰

Specialized Support Services: The D.C. Rape Crisis Center was one of the first in the country. Organized in 1972 as a private group, the Center is now part of the D.C. government and serves as a model for many crisis centers which have since formed.

The Center, staffed by two full-time employees, operates a hotline, and when its budget allows, provides short-term counseling for victims. The Center's primary goal is to help victims recover from the trauma of rape, not to prosecute assailants. Many of the Center's clients do not report to the police. As a result of their different perspectives, the D.C. Police and Rape Crisis Center rarely work together, even though both are part of the city government. Due to budget cuts in 1980, the center did

little or no work with rape victims but instead concentrated on providing community education. Although in 1981 the Center was scheduled to have its budget cut in half and its staff reduced to one, heavy lobbying enabled them to fend off the attack and their budget was increased by \$29,00 to its 1981 figure of \$64,000.

The Women's Medical Center also provides services for rape victims. The WMC is a private, nonprofit, medical, counseling, and educational center which provides reproductive health care on a fee basis determined on a sliding scale relative to the patient's income. The Center also provides back-up service to D.C. General Hospital. Most rape victims visit the WMC for venereal disease screening. The Center has three full-time and sixteen part-time staff members. It also employs one part-time counselor to conduct a "mutual-help" clinic for victims of sexual assault. Nonetheless, because its resources are few and its services not well known, in 1979 and 1980 the Center actually counseled few, if any rape victims.

MARYLAND: Prince George's and Montgomery Counties

Relevant Law: In 1976, Maryland passed legislation to provide prosecutors and juries with more flexibility in rape cases. The statute divided sexual assault into six categories depending on the type of contact and degree of force used. Rape was divided into two categories: first and second degree. First degree rape carries a life sentence and is charged when a weapon is used or the victim's life is threatened. Second degree rape carries a twenty year sentence and is charged when force, but no weapon is used.¹¹ As in the District, these rape charges pertain exclusively to female victims. Homosexual rape and acts of sodomy are divided into four degrees and prosecuted under the Sexual Acts statute.

As in the District of Columbia, a victim is not required to corroborate that she was forced to have intercourse. The victim's past sexual history with anyone other than the defendant may not be brought up except in the following circumstances: (1) to determine whether the victim had intercourse immediately preceding the assault (allegedly this information is needed to isolate sperm and blood types); (2) to support the defense claim that the victim had an ulterior motive in filing a rape complaint; (3) to impeach the victim's reputation if the prosecutor first brings up the victim's chastity or sexual inexperience.

As a result of a recent Appellate Court decision, Maryland law now requires that the fear which leads a victim to consent to rape be a "reasonable fear of harm." Absent that "reasonable" fear, the Court will overturn the conviction. This 1979 decision was said to place Maryland among the "least progressive" states in the area of rape law.¹²

Police: Neither Montgomery nor Prince George's County have units assigned exclusively to rape. Instead, in both jurisdictions, rape is grouped with other serious crimes. The Montgomery County police classify rape with homicide, aggravated assault, robbery, kidnapping, and similar offenses in the Crimes Against Persons Unit. In Prince George's County, rape is processed in the Homicide and Sex Crimes Division.

In Montgomery County, a female police officer is required to be present when evidence is collected from a rape victim during the pelvic examination. In Prince George's County, no such gender requirement exists, as all victims are seen immediately by a female counselor from the Sexual Assault Center at the county hospital.

Medical Services: All rape victims in Prince George's County are treated at the County hospital, free of charge. They wait in a separate area, rather than the emergency room, and are accompanied by a crisis counselor who explains what the pelvic examination will entail and informs them of available support services.

Montgomery County rape victims are usually taken to Suburban hospital, a private facility. This is preferred by police officers and crisis workers, because of its proximity to the crisis center and the doctors' reputation for cooperating in rape investigations. Technically, victims have the right to choose any hospital or private doctor in Montgomery County for their examination.

Courts: Unlike the District of Columbia, the State's Attorneys offices in Maryland are not organized by trial stage. Prosecutors are assigned according to the severity of the crime. For example, certain prosecutors specialize in felony prosecutions, others in misdemeanors. These attorneys handle the case from preliminary hearing through the trial stage.

Victim-Witness Assistance Unit: Both Montgomery and Prince George's County have victim-witness units located in the State's Attorneys office. However, the services provided by these units differ greatly.

The Prince George's County unit provides victim companionship as well as up-to-date information on scheduling of court appearances. Four people staff this unit. Their job is to acquaint victims with what the trial proceedings will entail. In some instances, this may include taking victims to watch another trial to prepare for their own.

At the time these interviews were conducted, the Montgomery County Victim-Witness unit did not provide personal services or personal contact with victims. Its responsibility was limited to notifying victims and witnesses of scheduled court dates. No court companionship was provided, although in 1982 reforms were instituted to remedy this.

Victim Compensation Programs: In 1968, Maryland created a new agency to compensate victims of personal crime. Compensation is limited to a maximum award of \$45,000; the average award is \$3,000, making Maryland one of the three most generous states in the country. The problem is that few people apply -- only 5 percent of eligibles in 1974, for example.¹³ Eligibility requirements also are quite strict. To qualify, the victim must first satisfy a minimum loss criteria of \$100 out of pocket expenses, show financial hardship, and report the crime to the police within forty-eight hours after it occurs.

The decision on a victim's claim is made by the Criminal Injuries Compensation Board and administered by the Department of Public Safety and Corrections. If denied compensation, a victim has three chances for appeal. Judicial review is rarely exercised, however, and when it is, the courts usually sustain the board's actions. Maryland encourages victims to use attorneys and provides for their payment out of the compensation award. As a result of this incentive, in 1979 over 90 percent of all claimants were represented by counsel.¹⁴

Specialized Support Services: Both Montgomery and Prince George's Counties offer crisis intervention programs for rape victims. The Community Crisis Center in Montgomery County is part of the Health Department and serves as an all-purpose support agency for battered women, abused children, and other victims of crisis.

The Montgomery County Crisis Center, in its present form¹⁵ is fairly new, as are its contacts with the police. According to official police department policy, when a rape is reported, the police investigator and counselor immediately come together to form a Sexual Assault Assistance Team. The police officer is supposed to contact the Crisis Center while on the way to the hospital with the victim. A counselor meets with the victim at the hospital and informs her of available support services, especially the individual and group counseling programs provided by the Crisis Center.

Of the four jurisdictions, Prince George's County offers the most extensive and integrated legal and social services for rape victims. Police from the Homicide and Sex Crimes Unit work closely with staff at the County Sexual Assault Center. The Sexual Assault Center is, in effect, a regular part of police procedure. All rape victims who report are brought by a police officer to the Center which is located off the emergency room in Prince George's County Hospital. The Center, staffed twenty-four hours a day, offers counseling to women and their families for over a year after the assault.

VIRGINIA: Cities of Arlington and Alexandria

Relevant Law: The seven year effort to reform Virginia's laws on sexual assault resulted in success on February of 1981. Effective July 1981 the law in Virginia was modified to include three categories of sexual assault: (1) rape pertaining to female victims only; (2) forcible sodomy pertaining to males and females; (3) inanimate object sexual penetration pertaining to males and females. Two contact offenses were also added to criminal statutes. "Sexual battery"; formerly prosecuted as simple assault and "aggravated sexual battery," which includes use of a dangerous weapon.¹⁶

Under the new legislation, the state of Virginia no longer has to prove that the victim fought or cried out, although if she did not resist the defense is permitted to argue that she consented. The new statute also forbids the defense from introducing information regarding the victims reputation for chastity. Specific prior sexual acts may be introduced only in the following three circumstances:

- (1) If the victim had a prior sexual relationship with the defendant.
- (2) If the victim had prior sexual relations with someone other than the defendant and that act explains the presence of sperm and other physical evidence of intercourse
- (3) If the prosecutor argues that the victim was a virgin prior to the rape, the defense may introduce evidence to rebut that statement.

Police: The structures of the two police departments in Arlington and Alexandria vary, but in general rape is processed through the Criminal Investigations Division along with homicide, robbery, and other serious

crimes. Arlington has a few officers within their Criminal Investigations Unit who specialize in sex offenses. Alexandria has a single Homicide-Sex Crimes Unit. In Alexandria police officers obtain the victim's statement as soon after the assault as she permits. In Arlington County, investigators allow uniformed officers to take the initial statement from the victim and do not interview her until two or three days after the assault.

Medical Services: In 1976, the Virginia Assembly passed a bill which provided that all victims be compensated for hospital charges related to gathering evidence. Consequently, for most victims there is no charge for their mandatory visit to the hospital, provided the victim agrees to cooperate with the police. Arlington County goes beyond the state plan and covers all medical costs which are not considered as physical evidence. For example, the County pays for X-rays, lab fees, and all prescriptions related to the rape.

Courts: The Commonwealth Attorneys in these communities, unlike the District of Columbia courts, handle a rape complaint from beginning to end. The Virginia Crime Commission stresses that victims have a right to complete consultation with the Commonwealth Attorney before the preliminary hearing and to adequate notice of court dates.

Victim-Witness Assistance Units: Individual attorneys may employ legal assistance to help them prepare cases, but no victim-witness units existed in Arlington and Alexandria at the time this study was conducted.

Victim Compensation Program: Virginia's compensation program was initiated in 1976. Unlike Maryland, Virginia did not create a new agency to administer this program but rather placed the program under the jurisdiction of the state's Industrial Commission.

The procedures for filing compensation claims in Virginia are as follows. Within six months of the assault, the victim must file a short form with the Division of Crime Victim Compensation. The Division then contacts the victim for further information. The detailed statement which results from this contact is later sent to the victim to be verified and signed.

To be eligible for compensation, victims must report to the police within forty-eight hours of the rape and demonstrate financial hardship or an inability to maintain their customary standard of living. Victim compensation in Virginia, as in Maryland, is denied if the victim is related to, lives with, or has had a prior sexual relationship with the offender.

Virginia's program is funded through monies generated through fines and surcharges imposed on convicted felons. The budget is considerably smaller than Maryland's as a result. For example, Virginia's 1979 budget of \$261,000 is paltry compared to Maryland's budget of \$1,603,000. Virginia makes much more effort to publicize its program.¹⁷ The maximum award a victim may receive from the Virginia program is \$10,000.

Unlike Maryland, Virginia does not provide for attorney's fees. The state does provide for two levels of appeal. Within thirty days of the original decision, the victim may appeal to the entire Industrial Commission and next to the state Supreme Court.

Specialized Support Services: Alexandria and Arlington both provide counseling services for rape victims. In these areas, the crisis center's primary goal is to "help victims help themselves."¹⁸

In Alexandria, the crisis intervention program is part of the Commission on the Status of Women. In Arlington, it is part of the Department of Mental Health. Counselors in these centers depend on the police and prosecutors to inform rape victims of the center's services. Police officers are instructed to give victims cards with information on how to contact the crisis center. Because of this method of referral, the crisis centers are brought into the criminal justice system only sporadically -- usually when the police or prosecutors need assistance in encouraging a woman to pursue her case. The result is that the individual centers actually are in contact on the average with seven women a month, some of whom choose not to get involved with the legal system. Most of these counselors never meet their "clients" but confine their discussions to the telephone. Additionally, volunteers from the centers provide educational programs to the community, individual training sessions to police officers at the Northern Virginia Police Academy, and a hotline for crisis assistance.

SUMMARY

The four jurisdictions studied provide services which range in number and quality. Washington, D.C. has the highest crime rate and the most specialized, experienced (if inappropriately named) "Sex Squad." Yet, the District of Columbia felony courts are not staffed to provide services to the city's many crime victims and their sexual assault laws have not been

updated as have statutes in Maryland and Virginia. The District of Columbia police do not have good relations with the city's rape crisis center. Its free hospital is organized to assist rape victims but it is so run down and poorly located that often victims would rather pay elsewhere than go to D.C. General.

Montgomery County, Maryland, and Arlington and Alexandria, Virginia are the most affluent communities studied yet their rape crisis centers operate on shoe-string budgets, particularly in Virginia where only one counselor is paid and volunteers form the backbone of counseling programs. Prince George's County is the the poorest jurisdiction studied, yet its victim-witness unit provides the most extensive services of all jurisdictions in the Washington area and its sexual assault center is most integrated in the criminal justice proceedings. Maryland also boasts the most generous victim compensation program, although few people know of this program and fewer still qualify, unlike Virginia where the program is more modest but also better advertised.

In short, these jurisdictions are diverse in organization, number, and availability of services to rape victims. In subsequent chapters, the rape victims will discuss which procedures actually work best and the extent to which these procedures are adhered to in the processing of rape complaints.

I approach the study of rape victims, not as a separate class, but as a subset of crime victims in general. In chapter III, I will discuss who the victims are, how they define an act as a "crime," and why they decide to report the crime to the police. In chapter IV, I will consider how the police view victims and how victims view the police. In discussing the victims' viewpoint I will draw on the descriptive responses of the rape victims I

interviewed and then, in chapter V, the results of cross-tabulations and correlations of selected variables to understand how rape victims assess public services associated with the criminal justice system. I will repeat this same sequence in discussing victims and courts. In chapter VI, I will review prosecutors' views of victims and in chapter VII, victims' views of prosecutors. In chapter VIII, I will discuss how victims cope with the disposition of their case. In Chapter IX, cross-tabulations and correlations will be examined regarding victims' evaluations of courts. Finally, in Chapter X, I will discuss how victims' evaluations affect their willingness to cooperate and advise others to cooperate with the judicial system in the future. I will also consider how victims' attitudes toward police and courts changed after the crime was committed and how services to crime victims in general and rape victims in particular might be improved.

CHAPTER THREE: CRIME: THE DEFINITION, THE CIRCUMSTANCES, THE VICTIMS

A discussion of crime victims presupposes that one can readily define what is a crime and identify who are its victims. Crime is usually discussed as though it was self-evident, but that is not always the case. "What is a crime," Donald Black writes, "is not merely a matter of fact; it is also an evaluation." A homicide victim, for example, may be easy to identify but for fraud, corruption, or embezzlement, the "crime" and the "victim" are more elusive.¹

Before an individual is labeled a crime victim by law enforcement officials, he or she must answer at least three questions. (1) Is what happened to me a "crime" or merely something I didn't like? (2) Am I the "victim" of this crime? (3) Should I report this crime to the police?

These questions will be addressed in this chapter. First, I will discuss how subjective is the process of labeling an act a crime and explain the circumstances of the crimes committed against the sample of rape victims. Second, I will compare the "typical" profile of crime victims nationally to the characteristics of this sample in particular. Finally, I will explain the reasons why crime victims in general decide to call police and how this sample of rape victims reached their decisions whether to report their assault.

DEFINING CRIME

The definition of crime depends on who does the judging. As Black put it, "what people consider to be crime varies with their location and direction in social space."² The person who does the initial judging is not the police, not the court, but the victim. The law sets the standards but the victim decides whether an act meets those standards.³ To understand how subjective is this labeling imagine this scenario: You have taken your car to be repaired and approved an initial estimate of \$60.00. When you pick up your car the charge is \$125.00. The mechanic explains that the original estimate did not include labor charges, only parts. What has happened? Is this "consumer fraud," or just bad luck to have chosen this mechanic? What will you do -- decide never to go there again, and file a complaint with your local Better Business Bureau, the Consumer Protection Agency, or with the police? Your decision will determine whether what happened to you is transformed from a private disappointment to a public complaint and ultimately a "crime."

The sort of person who will file a complaint for this action differs from one who will shrug it off as bad luck. The choices described above assume that the "victim" is aware of the services offered by the Better Business Bureau and Consumer Protection Agency and then has the confidence and stamina to pursue an established business. Most people would decide to take their lumps and forget it.

As it turns out, many people feel the same way about crime. They can not be bothered to file a formal complaint with the police. Often they just do not think it is serious enough. For example, "beating up an acquaintance" is regarded much less seriously by poorly educated males

than others. As researcher Rossi put it, "The line between manly sport and crime can be thin indeed."⁴

Law and victims may differ as to what is serious enough to be considered a crime. Sellin and Wolfgang in their pioneering study found that the FBI's definition of what is "serious" did not agree with what a representative sample of people judged as "serious." Specifically, respondents considered aggravated assault more serious than robbery while the Uniform Crime Reports suggest the opposite.⁵

"Victimless" crimes are another example of the disparity between what the law and the public consider to be criminal behavior. Gambling, prostitution, certain consensual sexual practices, may be "illegal," but they are rarely so judged by the public. For example, citizens infrequently complain about the existence of a poker game or practicing adult homosexuals. Although these acts may technically be a crime (illegal), in the public's eyes they are to be considered, at worse, lapses in judgment and character (unethical).

A subculture of violence can lead two people of different backgrounds to view the same act differently, one as a crime, one merely as a way of life in the neighborhood.⁶ Black cites an example: "What is assault or theft in one setting is only teaching someone a lesson or borrowing without asking permission in another setting."⁷ Residents of high crime communities may be so accustomed to crime that they are less likely to consider it important enough to call to the attention of the police. They are more tolerant of crime and report "it" less. As a result, figures which purport to measure crime may mislead as to what is actually going on. Consequently, although fewer crimes are committed in the suburbs, police

get involved 50-100 percent more often than when the same crimes are committed in the city.⁸ In general, according to Black, "Acts committed by higher status people against those of lower status...or by organizations against individuals, or between intimates, are less likely to be defined as "crimes."⁹

Differences in the perception of whether or not an act is a crime certainly apply to rape. The same act which is unwanted sex to one person may be rape to another, depending on the individual's definition of rape. For example, some argue there can be rape in marriage; others maintain this is impossible because marriage, by definition, implies consent. Some have an expansive definition of what constitutes rape; others view rape as something that can only happen between strangers. Some believe that force may be inferred from a particular set of circumstances (for example: a woman is thrown behind a car and raped in an alley) others believe that consent is assumed unless force can be proved -- and force must include evidence of bruises, broken bones, or a weapon.

In this study there was no such variation in terms of labeling an act a crime. All the women who were interviewed had decided that their assault was a crime and that the crime was rape. However, the circumstances of the crime differed and affected their reasons for and decisions to report the crime to the police.

THE CIRCUMSTANCES OF THE CRIME

Researchers Burgess and Holmstrom, two experts in the field of rape crisis intervention, divide rapes into two categories: the blitz rape and the confidence rape. The blitz rape "occurs out of the blue without any prior

interaction between assailant and victim. The person is leading a normal everyday life. A split second later, that lifestyle is shattered and that individual is a victim."¹⁰ The confidence rape, in contrast, "is an attack in which the assailant obtains sex under false pretenses by using deceit, betrayal, and often violence. Like the confidence man, he encourages the victim to trust him and then betrays the trust."¹¹

Most of the one-hundred women in this study were victims of a blitz rape, although thirty women either knew the rapist before, or were conned into letting him into their home or going with him to his home or car. Forty percent of the women first encountered the rapist in their own home as Table 3.1 shows. In 57 percent of the cases the rapist forced his way into their home. In a third of these cases the woman allowed the offender to enter her house -- in some instances because she knew the man, in other instances because the man tricked her. For example, some assailants claimed that their car broke down and they wanted to use the telephone. Others maintained that they were lost, still others that they were at the victim's home to look at furniture she had advertised for sale.

TABLE 3.1
Where Initial Contact Occured Between Victim & Assailant

	N
Victim's home	40
Outdoors - Street, etc.	31
Other home	9
Social Gathering	8
Car	6
Business/Building	6
TOTAL	100

Seventeen percent of the women in this sample encountered their assailant under seemingly friendly circumstances on the night of the assault. Eight women met the assailant at a social gathering -- a bar or a party. Seven went to the assailant's home voluntarily, as did two women who were raped in a friend's or family member's home. Two women agreed to go for what they thought would be a social ride in the offender's car. Four other women also first encountered the offender in a car. In two cases the victim was hitchhiking. In two other cases the victim's car broke down and she was "assisted" by the man who would become her rapist.

The second most frequent place where rapists first encountered their victims was outdoors. Thirty-one percent were accosted while walking to their cars, through a park, or on the street. Six percent were accosted in a building while at work or visiting others. One-third of the women were raped someplace other than where they first encountered the rapist the day of the assault. Fourteen were grabbed off the street, thrown into the offender's car, and driven to another place where they were raped. Nine women were dragged to a secluded area near where they were first accosted. Five were taken to the rapists home. Two women were grabbed while walking to their car and forced into it by the assailant. One woman was taken to a nearby stairwell and raped, another brought to a motel. Two others were accosted on their front doorstep and pushed into their house.

Almost three-fourths of the women were able to see their assailant (71%). Of those rapists who prevented their victims from seeing them, three-fourths either wore a mask or placed something over the victims' face. One-fifth of the victims could not see their assailant because it was

too dark and they were warned: "Don't look at my face or I'll have to kill you." One victim was unable to see her assailant because he knocked her unconscious.

Sixty-eight percent of the women in this study did not know their assailant. (Table 3.2) Nineteen women knew him casually -- either from work or from seeing him in their neighborhood. Eleven women were raped by someone they knew quite well, including three women who were raped by a member of their family.

TABLE 3.2
Relationship Between Victim and Assailant

Total stranger	N 68
In neighborhood or fellow worker	19
Friend	8
Relative	3
Don't know	<u>2</u>
TOTAL	100

The rapists in this study were disproportionately black. As shown in Table 3.3, 69 percent were black as compared to 20 percent white and 5 percent hispanic. In the rest of the cases the victim did not know the offender's race because she was unable to see him.

TABLE 3.3
Race of Assailant

Black	N 69
White	20
Hispanic	5
Don't Know	<u>6</u>
TOTAL	100

Many of the assailants were neither new to rape nor to crime in general. (Table 3.4) Seventeen women were raped by men who were out on parole or bail pending trial. Eighteen women were raped by men with previous rape convictions. Two women were raped by offenders who had been convicted but were out pending sentencing. Eight women were raped by a "multiple rapist," that is, a man found to be responsible for a large number of crimes in the community. In sum, 37 women were raped by men with previous felony convictions -- all of whom were legally out of jail.

TABLE 3.4
Status of Offender

	N
Previous convictions	18
On parole or bail	17
Community rapist	8
Free, pending sentencing	<u>2</u>
TOTAL	45

Rapists are violent. Forty percent of those who were raped had a weapon held on them -- in six additional cases a weapon was threatened. Thirty-four women were told by the rapist that he would kill them if they did not cooperate, 26 women were threatened with beatings; 38 were physically controlled, 7 were tied up, 18 smothered or strangled into submission.¹²

Forty percent of the women described themselves as sustaining no physical injuries, as can be seen in Table 3.5, whereas 30 women said they were bruised or cut because they were strangled, beaten into submission or dragged to the scene of the crime. Thirty women described themselves as seriously injured. One woman, a nun, was shot in the jaw at point blank

range, another woman was stabbed in the chest, face, and hands. In both cases the rapist left presuming he had killed his victim.

TABLE 3.5
Physically Injuries

	N
No physical injury	40
Cut or bruised slightly	30
Cut or bruised extensively	24
Became pregnant	3
Broken bones	2
Concussion	1
TOTAL	<u>100</u>

In 29 cases the rapist committed other crimes in addition to rape, such as sodomy and other perverted acts. (Table 3.6) In fourteen cases the victim was raped, robbed, and sodomized. In one case the assailant urinated on the victim after he raped her. (It is likely that these figures underestimate the total amount of sodomy that occurred. The question "Did he commit any additional crimes" many victims may have interpreted as exclusively pertaining to property crimes, or they may have been too embarrassed to discuss deviant sexual acts.) In 36 cases the rapist also stole from the victim.

TABLE 3.6
Additional Crimes

	N
Theft	22
Other sexual crimes	15
Theft & sodomy	14
Urinated on victim	1
Don't know	1
No additional crimes	47
TOTAL	<u>100</u>

WHO ARE THE VICTIMS OF CRIME?

Many more crimes are committed than are reported. Since 1973, the Department of Justice has conducted National Crime Surveys which attempt to measure the true amount of crime. Sixty-thousand households are interviewed twice a year. All members are asked whether they have been victims of rape, robbery, burglary, auto theft, personal or household larceny and if so, to provide details of the crime. Survey results provide a national picture of how much crime occurs and who are its victims.

Nationally, theft claims the most victims (66 percent); rape the least (less than one percent). Victims of crime are disproportionately young, male, black, never married or divorced, lower income residents of large cities.¹³ The rape victims interviewed in this study also fit this profile except that all were female, and most were white. As Table 3.7 indicates, most were in their twenties. Eighty-nine percent of the victims worked outside their homes. Seventy one percent worked fulltime; 18 percent worked part-time. Of those who were employed, most worked in private industry. (Table 3.8) Thirty percent worked for the state or federal government. Table 3.9 illustrates the types of jobs held by victims, slightly more women held professional than clerical jobs. Six women were

waitresses or bartenders, four salespersons, eight office managers, four cleaning ladies, and five commercial artists.

TABLE 3.7
Age of Rape Victims
(n=100)

<u>Under 20</u>	<u>20-25</u>	<u>26-30</u>	<u>31-40</u>	<u>41-50</u>	<u>51-60</u>	<u>60+</u>
8	30	28	26	5	2	1

TABLE 3.8
Employer of Rape Victims

	N
Private Company	42
Federal Government	22
Homemaker	11
Nonprofit	10
State, City, County Government	8
Other	4
Self	3
TOTAL	100

TABLE 3.9
Work of Rape Victims

	N
Professional	31
Clerical	25
Administrative	8
Restaurant	6
Teacher	6
Art	5
Manual	4
Sales	4
No Response	11
TOTAL	100

Most earned middle class incomes as Table 3.10 indicates. Within the high income category, sixteen women had annual family incomes of over \$40,000.

TABLE 3.10
Income of Rape Victims

	N
Under \$9000	26
\$9 - 19,999	45
\$20K Plus	28
Would not Reveal	1
TOTAL	<u>100</u>

As Table 3.11 shows, these rape victims were fairly well educated. Seventy-nine percent had at least a high school degree. Fifty-two percent had some college education. Thirty percent had college degrees. Seventeen women had done some graduate work. All but three of these women received either a J.D., Ph.D., or MD degree.

TABLE 3.11
Education of Rape Victims

	N
Less High School	21
High School Graduate	27
Some College or College Graduate	35
Graduate Work	17
TOTAL	<u>100</u>

Like the "typical" national rape victim, most victims interviewed were single. (Table 3.12) Only 19 were married and living with their husbands. Unlike the national description of rape victims, however, most

victims interviewed for this study were white. Table 3.13 indicates that 65 percent were white, 33 percent black, and 2 percent hispanic, whereas nationally most rape victims are black.

TABLE 3.12
Marital Status of Rape Victims

	N
Single	51
Married	19
Divorced	14
Single (never married) with children	10
Separated	5
Widowed	1
TOTAL	<u>100</u>

TABLE 3.13
Race of Rape Victims

	N
White	65
Black	33
Hispanic	2
TOTAL	<u>100</u>

Eighteen women had some prior knowledge of the legal system. Four women had relatives who were police officers, four others worked in the field of law enforcement. Four women were attorneys, two worked for an attorney, and three were married to attorneys. One woman's father was a local judge. In addition to these 18 women familiar with the legal system, three other women were familiar with the medical system; two were nurses and one a doctor.

Sixty-one rape victims had previous contacts with the police, as summarized in Table 3.14. Nineteen were victims of property crimes,

three were victims of personal crimes. Three women were contacted by the police before as a result of an automobile accident, eight women observed a crime in progress and called the police. Eleven others previously sought help from the police because of domestic violence. Five called the police to complain that their neighbors were disturbing the police, six called because of prowlers, two called when they were bothered by obscene phone calls. Four women were contacted by the police when complaints were turned in about them -- in one case, for example, the rape victim had a record of abusing her child.

TABLE 3.14
Rape Victims' Prior Contact with Police

	N
Victim of property crime	19
Domestic violence	11
Witness to crime	8
Prowlers	6
Disturbing the police	5
Object of complaint	4
Victim of personal crime	3
Auto accident	3
Obscene phone calls	2
No prior contact with police	39
TOTAL	<u>100</u>

These 61 women were asked to evaluate the service they received from the police during these contacts. Sixteen reported they were very satisfied with the police response, 26 were satisfied, 4 described themselves as dissatisfied and 12 as very dissatisfied. Three others said they were neutral -- they had neither positive nor negatives feeling about the police response.

Many women had more than one prior experience with the police. In addition to the contacts just described, 39 women had been victims of crime before: 21 were victims of property crime, 17 victims of personal crime. In sum these victims had experienced 100 incidents of victimization before their rape.

WHO REPORTS CRIME AND WHY?

When an individual decides that a crime has occurred and he or she is the victim of that crime, another decision must be made. "Should I notify the police?" Nationally, more than half of all crime victims do not.¹⁴ Over the past twenty years, researchers have tried to find out why so many people do not report. Answers vary depending on the study, but some generalizations can be made.

Most victims of crime cite a feeling of futility as their reason for not reporting. Others feel the criminal justice system is not appropriate to handle the situation. They comment, "It is a private, not a police matter, and not important enough to report." Some hope to pursue private revenge and forego legal channels. Still others fear reprisal. Many are wary of how they will be treated by police and prosecutors and refuse to get involved.¹⁵

Rape victims, though offering the same reasons for not reporting, are more likely than any other type of crime victim to mention both fear of retaliation and a belief that the incident was a private matter.¹⁶ Embarrassment and shame are also frequently voiced by rape victims.¹⁷

What about those people who do report? Why do they bother? In general, victims of crime report out of civic duty and a desire to have the police catch the criminal.¹⁸ Victims also report to get restitution; insurance money usually is contingent upon reporting. Victims also want the police to know about the crime so they will be protected from the criminal.

Rape victims in this study, as shown in Table 3.15, reported primarily in order to punish the rapist or "show him he can't get away with it" (19%) and to protect other women (13%). Their thoughts were, "If I don't call the police he might rape someone else." Some said it never occurred to them not to call the police (10%) -- it was an automatic reaction. Nine percent said they called because it was their duty as a citizen.

TABLE 3.15
Reasons for Reporting the Crime

	N
Someone else called	22
Punish offender	19
Protect other women or apprehend offender	13
Automatic reaction	10
Duty as citizen	9
Persuaded by someone else	9
Protection	7
Other	5
Injured, needed help	4
Did not report	2
TOTAL	100

In many cases the victim herself did not make the decision to call the police. Someone else -- a family member, witness or friend -- decided for her. As a result, the victim actually dialed the police in only half of the cases. This finding is not surprising. Holmstrom and Burgess explain that victims, in a state of crisis, are so disoriented that they are often unable to make decisions for themselves.¹⁹

Regardless of who called or made the decision, in 79 percent of these cases the crime was reported immediately. In 11 percent, the victim waited between one to four hours before deciding to report the crime. Five victims waited until the next day to report, three waited a week or two, and one victim did not call the police for over a month.

Victims offered several reasons for the delay. Their reasons concerned personal guilt, fear of the judicial process, and a belief that punishment could best be administered without the courts. As three women put it:

I waited two weeks to call because I felt like a criminal the moment the crime was committed. I couldn't take it because of social pressure. You are tainted as a rape victim. You just can't talk about it and get rid of your anger because people look at you differently. It took me two days to decide that I was going to call the police anyway.

I waited two weeks to call because I had heard so much on TV about how badly rape victims are treated. I was trying to think of the whole thing as a bad dream. Reporting would have made it real to me...so I resisted.

I knew the man who raped me. We worked together. So the first thing I did -- I called the head of this union. He said he'd take care of the guy -- that I shouldn't call the police. I believed him. But a month later nothing had happened...so I decided to call the police.

Another victim who finally did call the police described her thoughts immediately after the rapist left.

It was 5:00 in the morning. I was so tired and so lucky to be alive. I thought, 'I can just go to sleep and pretend this never happened. That would be easy. No police asking a lot of questions about my life and friends. No one has to know. I can just take a shower and end it here.' But it didn't work out that way. I kept thinking, 'What would I do if this happened to my daughter?' I'd never forgive myself for not at least trying to put this man away. So I called.

For those who hesitated to call the police there were others who strongly felt the obligation to report. As one woman said, "As long as the victim accedes to the notion that rape is something to be ashamed of, it won't stop. If you don't do anything about it -- that's saying it's OK." Another woman whose daughter was raped by her husband, expressed her anger at women who will not report a rape when the rapist is a family member.

I despise all women who never did anything about it when their daughters were raped. No man is that important that you should stay married to him after what he's done to your child. Husbands rape their children all the time -- but the families just agree to protect the husband instead of the child.

In this study only two victims did not call the police. One woman was too embarrassed and ashamed to report the crime because of the circumstances of the assault. She and her date went to a party where they met two other couples. Shortly after the party began, she was raped by all three men and two women who alternated in holding her down and sodomizing her. She felt unable to tell the police or anyone else the details of the assault. Her date, a prominent D.C. resident, claimed this was just his idea of a party. Consequently, she feared that her rape complaint would not be believed.

The other victim who did not report was neither ashamed nor embarrassed. The circumstances of her assault constitute what the police refer to as a "clean rape." A Washington attorney, she was raped by a

stranger who broke into her home while she and her children were sleeping. There was no question of consent, reputation, or any other potential deterrents to reporting. Instead, she refused to call the police because she felt the criminal justice system was so rotten that getting involved at all was pointless. She did not want to sacrifice her privacy on the slim chance that the offender would be caught and jailed, especially when she believed that jails offer no rehabilitation -- only lessons in criminal activity.

What distinguishes people who report from those who do not? Because this study includes only two nonreporters, it was not possible to analyze the differences between those who report and those who do not. Many other researchers have looked at the problem of reporting, however, with mixed results and conflicting conclusions.

Most scholars agree that the most important predictor of reporting is the characteristic of the crime itself. Serious crimes, those which involve financial loss, injury, and use of a weapon, are more likely to be reported.²⁰ The nature of the incident is also important, with property crimes more likely to be reported than personal crimes because of insurance company requirements.

The importance of personal characteristics as predictors of reporting is much debated. Age is of some significance. Younger people seem less likely to report.²¹ Income is also significant. Some argue that reporting increases according to the income of victims.²²

Victims' decisions on what to do about crime are influenced by their social group.²³ What is defined as serious enough to call the police depends on what behavior one is used to. For example, a resident of an affluent

area might call the police when an individual is spotted carrying a gun; in a high crime neighborhood gun carrying may neither be unusual nor cause for alarm. The act in itself is not worthy of police attention. Only if a shooting occurs might the police be summoned.

Even if individuals view an event as serious enough to warrant police attention, their social background may discourage them from actually calling the police. People living in high crime areas and who are frequent victims also fail to report because the burdens of reporting may be too great.²⁴ They lack the discretionary time needed to pursue a case. They may also fail to report because they do not want anyone else to know where they live; they may be evading bill collectors, welfare inspectors, or jury duty. Consequently, they will be less likely to call the police than others who have less to fear from revealing their names and addresses.

Social background affects how people view the police. Some people regard the police as on "their side" and the answer to law and order, others regard the police as their adversaries -- people who arrest their friends and family, and harass individuals in their neighborhood. Consequently they may be less likely to call the police because to them the police are, in part, the "bad guys."

The racial composition of one's community is also important in relation to reporting. Skogan found that white victims are more likely to report crime in cities where blacks are more likely to be offenders. In his words, "the racial characteristics of the offenders appear to be a powerful predictor of white reporting behavior in twenty-six cities."²⁵

The relationship between the victim and the offender has been examined for its impact on reporting. Again, findings are mixed. Although

most researchers find the relationship to be important others do not.²⁶ Those that find the variable significant argue that the closer the relationship, the less likely the victim is to report. If the offender is of higher social status than the victim, the victim is less likely to report for fear of not being believed.²⁷ Other researchers maintain that personal characteristics are not important.²⁸ It is clear, however, that as the case progresses through the criminal justice system, others evaluate the victim's claim by judging, in part, the characteristics and worth of the victim.

SUMMARY

The definition of who is a "crime victim" is inherently subjective. Crime is a legal concept, but if legal priorities differ from an individual's priorities, that individual is less likely to label an act a crime. People's social background as well as the circumstances of the "event" are major factors in determining what is a "crime." Beating-up an acquaintance may be labeled assault by one individual, a way of life in the neighborhood by another. Forced intercourse with one's husband may be labeled rape by one woman, unwanted sexual advances by another. Black, lower-income, unmarried, male, city residents are most likely to be victims of crime. The police, however, learn of only a fraction of the crimes that are committed because many victims choose not to report. Victims in general and these rape victims in particular report so their assailants will be punished. The victims' characteristics are critical to these preliminary decisions and continue to be important in later stages of the judicial process.

CHAPTER FOUR: POLICE AND VICTIMS

Victims who decide to report the crime will soon meet the police. This chapter will consider the important yet fragile relationship between victims and police. First, I will discuss police discretion in deciding how or whether to proceed with a complaint and the victim's role in these early decisions. Secondly, I will consider, in greater length, victims' views of police at each stage of the investigation.

DISCRETION IN LABELING

Once the victim decides to report, the police must decide to do likewise. Before the police record the charge they must agree with the victim that a crime did occur, that the complainant is a victim of that crime, and that the crime warrants investigation. Police exercise enormous discretion in determining what will or will not be considered a crime. By discretion, I mean, the opportunity to make decisions which are not open to review, for example, to give a warning instead of a ticket, to harass rather than arrest, to trade information for nonenforcement, to "let some little ones go free to catch the big ones."¹

Discussion of the pros and cons of police discretion centers on its effect on the criminal justice organization and the plight of defendants. Advocates of discretion argue that, from a management perspective, it is essential. Full enforcement of the law is impossible, given limited resources, and impractical because it would require officers to spend too much time in court. As Thurman Arnold observed, to deny discretion would resemble "directing a general to attack the enemy on all fronts at once."²

Without discretion, the criminal justice system would be oppressive. In the words of the late Justice Charles Breitel, "If every policeman, every prosecutor, every court, and every postsentence agency performed his or its responsibility in strict accordance with rules of law, precisely and narrowly laid down, the criminal law would be ordered but intolerable."³ Discretion is flexibility by another name. Discretion enables the law to be at once stable and continuous yet dynamic enough to adjust to changing circumstances and community values. Discretion allows the law to be constantly updated without going through the slow process of rewriting legislation.⁴

Discretion can foster compassion in the criminal justice system. Police recognize the stigma associated with arrest and are free to adjust their decision to the particular offender. Arrest may be thought too damaging to the reputation of the offender to be justified. So, for example, first offender shoplifters may go free with a warning; juvenile offenders from "upstanding families" may be turned over to their parents for discipline to protect the family's reputation; or as in one case LaFave reported, a man with no police record, a respectable position in the community, a wife and family, may not be arrested for molesting a child because of the damage to his reputation and family such an arrest might cause.⁵

Critics argue that discretion is inherently unjust because it allows idiosyncratic, disparate treatment of citizens. Like cases produce unlike results. Discretion permits certain people to be singled out for punishment and harassment. The poor and minorities are less likely to have what police consider upstanding families and reputations to protect. Members of these

groups are more frequently and more severely punished for crimes.⁶ Discretion allows latitude to discriminate against these individuals by arresting them, while letting others, guilty of the same act, go free.

Nowhere in the literature on discretion is there discussion of the effect of discretion on victims of crime. How do victims feel when the police agree that a crime has been committed, yet refuse to do anything about it? How do victims feel when police reject their case because they had the bad fortune to be assaulted by someone they knew instead of by a stranger?

The literature does not include answers to these questions. It does indicate that the police decision to pursue a crime is based as much on their evaluation of the victim as their determination of whether the crime occurred. "Checking out the crime," means in large part, sizing up the victim.

To do this, the police look at a number of factors. Chief among them are: (1) the victim's behavior and moral character, (2) the relationship between the victim and the offender, (3) the quality and consistency of the evidence and information they obtain, (4) the characteristics and background of the offender,⁷ (5) the victim's interest in prosecuting, and (6) the seriousness of the crime relative to the community.⁸

Even if they decide that a crime did occur, the police must determine the gravity of the offense. Whether or not to proceed often depends on who the victim is. The law may say an armed robbery is an armed robbery, but to the police the seriousness of the armed robbery depends on whether the victim was a drug pusher, an elderly woman or a priest. The private value system of the officer influences what will be done about the crime.

For example, police regard assault between blacks as "their" way of settling disputes⁹, thus, one not requiring police intervention.

Nowhere is it written what factors police are to take into consideration. Their mandate is to enforce the law; not to enforce the law when the victim and the offender are strangers, and turn the other cheek when they are acquainted; not to pursue cases with enthusiastic witnesses, and disregard cases when the victim is hesitant to press charges; not to intervene when the crime is between blacks and whites, and just "break it up" when only blacks are involved.

Too often, however, these factors influence the case. Police act on their best guess of what might happen to the case in the future, the likelihood of prosecution or conviction.¹⁰ Consequently, crimes between strangers are most likely to elicit a serious response from the police. "The law is more likely to be mobilized when parties are not close" as Black put it.¹¹ When the victim and the offender know each other the police are reluctant to record the crime. They perceive these cases as somehow "stickier." Victims in such cases may change their minds and refuse to press charges, making the police effort a waste of time, energy, and manpower.

For these reasons, the preference of the complainant contributes to the police decision on what to do with a suspect, especially in minor crimes. In his field-observation study, Black found that when complainants told police they wanted the suspect arrested, police did so 75 percent of the time. When complainants did not want their assailants arrested, but police had probable cause for arrest, they arrested suspects only 10 percent of the time.¹² The officer in such a situation is predicting that without the

cooperation of the complainant there will not be enough evidence to convict. So why bother to make the arrest?

LaFave found that assault cases between blacks were the only instances when the victim controlled the arrest decision in serious cases.¹³ In black precincts of Detroit, arrests were not made for carrying knives, robbery of other blacks, or felonious assault upon a spouse or acquaintance, unless the victim insisted on prosecuting.¹⁴ Without such a request, the offense was not judged worthy of an arrest.

Such discretion is exercised regularly. In his field study, Black found that police released half of all the people they suspected of committing a crime, even when they had probable cause to arrest. The police made arrests in only 58 percent of such felony encounters and 44 percent of all misdemeanors.

The boundaries of police discretion are ultimately affected by the department's assessment of what is important to the community. As Wilson noted, police departments have different styles. Some departments may act as "watchmen" and emphasize keeping order over law enforcement; some may devote themselves to providing services for their residents like watching homes while the owner is away; others may be excessively "legal" in style and arrest citizens for even minor infractions. In deciding which priorities and style to adopt, the police must try to mirror community concerns and reflect public opinion. To do otherwise is to exacerbate community-police tensions.¹⁵

Police adjust their enforcement priorities to what they perceive as the standards of the community. Black crime in black neighborhoods is not strongly monitored because police assume blacks have a high tolerance for

anti-social conduct. Police may break up gambling operations in a black neighborhood while overlooking more serious crimes. In a more middle-class neighborhood, it is likely that the reverse would occur. The police adopt double standards. A stabbing is serious in the suburbs, but overlooked in the slums. An act which is an aggravated assault in one area is a family disturbance in another.¹⁶ The tendency of the police to include complaints in official statistics therefore varies considerably from jurisdiction to jurisdiction.

Often police will reject or ignore a citizen complaint. The National Opinion Research Center found that "according to victims, police did not come when called in 25 percent of all cases, and in 25 percent of the cases they did come, they did not treat the offense as a crime. Furthermore, they made an arrest in only 20 percent of the cases they did define as a crime."¹⁷

The upshot of police discretion is that many crimes which occur are either not recorded or labeled "unfounded." This does not necessarily mean that the complainant is a liar, but rather that the complaint could not be verified by evidence; the crime may have occurred but the police could not prove it.

As departments are judged by their ability to clear cases by arrest¹⁸, there is a disincentive to record crimes that are not "solid" cases with "ideal" victims.¹⁹ Complete recording increases the workload and decreases the clearance rate.²⁰ The result is that police are cross-pressured. The data they compile are used both to measure crime in their jurisdiction and to evaluate the performance of their department.²¹ The better kept the statistics, the more cases recorded by the police, the higher the crime rate, the lower the evaluation of the police.

Police may be victims of their own success. Skogan found police departments that record most of the crimes which come to their attention may thereby encourage citizens to report incidents to the police. Honest departmental behavior encourages increased citizen cooperation. A consequence of having this reputation for honesty may be an "inflation" of the crime rate.²²

DISCRETION IN RAPE CASES

Police have great discretion in labeling most crimes but even greater discretion in cases of rape. Discretion in these cases is not simply whether to make an arrest, but how to classify the complaint. Is it rape, simple assault, or a false claim from a scorned lover (to borrow a stereotype)? The answer to this question will vary, depending on how rape is defined, who is the victim, what is her relationship to the offender, and who is judging. The net effect, to quote from the University of Pennsylvania Law Review, is that "Rape and attempted rape are crimes offering police the greatest opportunity to exercise discretion whether or not to 'unfound' a crime."²³

Before deciding to label a complaint "rape," one must know what factors comprise the act. A national survey of patrol officers found that barely half of all police departments can agree on those factors. Fifty-two percent of police departments surveyed, concurred with the FBI's definition, and cited penetration and force as essential elements for a "rape" classification. Twenty-eight percent required that a weapon be present and that victims resist as well.²⁴

A complaint not measuring up to these standards will often be labeled "unfounded." Though the FBI specifically requires that complaints may be unfounded "only if investigation shows that no offense occurred nor was attempted," police departments actually "unfound" rapes for other reasons, such as insufficient evidence, uncooperativeness, or delay in reporting the crime. As a result, it is estimated that nationally, as many as 25 percent of rape complaints are unfounded. In Denver, for example, 25 percent of all rapes were labeled unfounded and 20 percent more were ruled questionable. In that jurisdiction, moreover, police define victims who have had prior sexual relations with the suspect as victims of seduction rather than rape, and complaints raised by such victims are therefore labeled unfounded.²⁵

Use of the term "unfounded" is especially sensitive in cases of rape, because it carries the connotation that the victim is lying. Suspicion of the rape victim has been institutionalized since Lord Hale's infamous comment in 1778, "Rape is an accusation easily made and once made, hard to be proved, and harder to be defended by the party accused, though never so innocent."²⁶ Indeed, results of a national survey of patrol officers indicate that police are particularly suspicious of rape complaints. When 267 officers were asked to estimate the percent of rape complaints in which no real rape occurred, responses ranged as high as 96 percent. Most patrol officers assumed that one report in every four or five was false.²⁷

Victims in certain types of circumstances are more apt to have their complaint accepted by the police than others. In judging the credibility of a rape complaint the police typically consider ten factors whether: (1) violence occurred; (2) the offender was a stranger; (3) more than one

assailant was involved; (4) the victim resisted; (5) the victim reported the crime promptly; (6) weapons were involved; (7) the victim was emotionally upset afterwards; (8) the victim had a reputation for chastity, did not voluntarily participate, and behaved in an acceptable, reputable manner prior to the assault; (9) corroborating witnesses were present and; (10) the victim was white.²⁸ A combination of negative responses to these factors will nullify a victim's complaint. A national survey found patrol officers especially reluctant to believe victims who had been drinking or "petting," had a prior criminal record, delayed reporting, or were either too calm or too hysterical.²⁹

Clearly these factors are quite subjective. The perception of how cooperative or truthful the victim is depends on who is doing the judging. The same complainant, act, and set of circumstances may be investigated in one area, rejected in the next. For example, in New York City, when policewomen instead of policemen interviewed rape victims, the drop in "unfounded" rape cases was dramatic.³⁰ Similarly, in another study in which police labeled 18 percent of all rape complaints as unfounded, social workers who interviewed victims after the rape estimated that less than one percent of those victims had, in fact, made a false report.³¹

Victims who have the best chance of having their case accepted by the police are those whose personal characteristics and crime fit the description of what the police call a "good rape"³² -- that is a complaint with strong evidence and high odds of conviction. Holmstrom and Burgess describe such a perfect case:

All the information checks out, there are police witnesses to the crime, the victim can provide a good description of the assailant, there is supporting medical evidence including sperm and injuries, the story remains completely consistent and unchanging, the victim was forced to accompany the assailant, was previously minding her own business, a virgin, sober, stable emotionally, upset by the rape, did

not know the offender, and the assailant had a prison record and a long list of current charges against him.³³

Even if a complaint is classified as rape, police must decide whether to devote their time to catching the suspect. In making this decision police look at four major factors: (1) Did the victim report promptly? (2) Was there proof of penetration? (3) Was there proof of force? (4) Was there a personal relationship between the victim and the offender? The more swiftly the crime is reported, the more proof is available, the more likely the police will continue to investigate. The closer the relationship between the victim and the offender, the less likely the police will continue to investigate.³⁴

To this list researchers Holmstrom and Burgess add two other factors: (1) What is the quality and consistency of the information the police have obtained? and (2) What are the characteristics of the victim? How did she behave before and during the crime? What is her moral character?³⁵

If the victim's complaint has been accepted as valid, classified as rape, and a suspect identified, the police must then decide whether or not to make an arrest. At this point, three factors which were not very important in the previous decisions, to classify and investigate, become very important in the decision to arrest: (1) How valid is the identification of the suspect? (2) How many witnesses are willing and able to corroborate the victim's claim? (3) Does the suspect have a prior arrest record?³⁶

Most cases never make it to this arrest stage. At best, only half of all reported rapes result in the apprehension of a suspect, according to FBI figures. The failure to apprehend a suspect is not unique to rape cases. In only 19 percent of all FBI index crimes are suspects apprehended. Violent crimes are most likely to be cleared: 72 percent of murders, 59 percent of

aggravated assaults, 49 percent of rapes, and 24 percent of robberies resulted in arrest in 1980. Arrest rates for property crimes are considerably lower -- 18 percent for larceny and left, 14 percent for burglaries, and 14 percent for car theft.³⁸

If a suspect is arrested, the police officer's job is usually done. What happens to the case in court may be of personal interest to officers and at times they may have to testify, but their competence is evaluated by the proportion of cases cleared, not by convictions. Malcolm Feeley describes the police perspective on arrests and adjudication:

Arrest is typically described as the first stage in the criminal process, as the beginning of an effort to resolve the dispute and render a verdict. But for the police, arrest is often a convenient way of avoiding or ending trouble. They see it as a means to separate people who are quarreling before any 'real' trouble begins. In such instances, adjudication is little more than a bookkeeping ritual, a formality necessary to terminate a problem which for all practical purposes has already been resolved.³⁹

Though arrest may be the last step for police, for victims arrest is the first step toward punishing their assailant. As police and victims differ in their outlook toward arrest so they differ in their views on many aspects of police investigation. Having discussed how police judge victims, I will now consider how victims judge the police and police procedures.

VICTIMS' VIEWS OF THE POLICE: CONFLICT AT THE CRIME SCENE

The relationship between the police and the victim is vital. Ironically, it is jeopardized at the outset by a conflict between the goals of the police and the needs of the victim. Police rarely take rape victims at face value, and victims tend to have highly ambiguous views of the police. To understand this conflict, consider the patrol officer. The patrol officer is especially important, because he or she is usually the first law enforcement person the victim meets after she calls the police. Yet, the

timing and nature of the patrol officer's initial investigation make it unlikely that the victim and the officer will get along.

The patrol officer's job is to catch the criminal. To do this, the officer needs to secure the evidence and get a description of the suspect as soon as possible. To do this, the officer needs a coherent, articulate victim, capable of providing a thorough description of the suspect.⁴⁰

What the officer finds is usually quite different from the model witness. The victim is typically frightened and bewildered after the rape. She is experiencing feelings of denial, rage, disbelief, and terror. She needs comfort and reassurance. Instead, she is confronted by an officer who won't let her shower, change clothes, or even go to the bathroom alone - all because he has to "secure the crime scene." To the victim, "preserving the evidence" seems to come at the expense of her privacy, dignity, and comfort.⁴¹

One woman described the police officer's reaction when he learned she had taken a shower and changed clothes as soon as the rapist left. "They were furious with me. They acted like I was stupid or something -- like I had ruined their case. I didn't know there were rules on how to behave in a rape."

From the victim's perspective, the way she is treated by the police is extremely important because the police officer's behavior can either reduce or intensify her immediate trauma. The police meet the victim at a time when she is extremely vulnerable. Their reactions, sympathetic or otherwise, have a great impact on how the victim reacts to the assault and she regards her own involvement in the crime.

From the system's perspective, the victim's evaluation of the police is important because it sets the tone for the rest of the investigation. Their rapport often determines whether or not there will be a case and if so how good the case will be.⁴² If the victim is treated poorly by the patrol officer, she may decide not to cooperate or press charges. She may refuse to make a formal statement, look at mugshots, or give information which the police must have in order to catch the suspect. If the victim refuses to cooperate, the state has no case. Conversely, if a good relationship is established between the victim and the police officer, a better case can be made. The officer may elicit effective descriptions and statements from the victim and encourage her to stick with the case even if it drags on for months.

CONFLICT IN QUESTIONING

These conflicts increase as the investigation proceeds. In their effort to obtain information, police are likely to ask questions which offend victims in one of three ways. Offensive questions may be (1) suspicious or callous, (2) second guesses, or (3) inappropriately timed.

Suspicious or Callous Questioning

The first hazard is a function of the inherent differences in perspective between police and victims. As Eleanor Chelimsky explains:

Police are trained to be suspicious of statements made by complainants so their time is not wasted on frivolous or false complaints. The problem is that police officers have had great difficulty in establishing the tenuous line between proper investigation and unnecessary aggressiveness.⁴³

A lie detector, of course, represents the most extreme form of distrust. Because of the unique burden of proof rape victims face, such tests have often been administered to victims. Lie detectors were not a major

problem in this study as only six women were required to take this test. As one would expect, all were very upset.

Distrust of victim's statements was pervasive, nonetheless. Distrust usually took the form of unwarranted police comments. Mary provides a graphic example of one patrol officer's words: "He said to me, 'Most women either want it, or invent it, or ask for it. Nine times out of ten the rape never really happened.'" Chris was similarly angry when her patrol officer commented: "You and I both know there is no such thing as rape between a boyfriend and a girlfriend."

Patti was particularly furious that police were suspicious of her complaint given the circumstances preceding her assault. She was the resident manager of her apartment building. A man visited her apartment, ostensibly inquiring about housing in the building. After they talked for a while he tried to rape her. Her screams drove him away and she called the police. She was able to identify him from mugshots. The police knew who he was and where he lived. Two nights later she called the detective to find out whether he had been arrested. Although the detective was not in, later that night she found out the answer for herself. The man crawled in through her basement window and finished what he had started earlier: he raped her. When the police responded to her call this second time, the officer's first comment was, "Are you sure this really happened?"

Jean's case was similar. A white woman, she was raped by a black man the same night she broke up with her boyfriend who was a married police officer. Because she also worked in law enforcement, she expected to receive exceptionally good treatment from the department. What happened was quite the opposite. When she reported the crime to the police they did not believe her. Instead, they argued that she had invited

the man into her apartment as a way to humiliate and get back at her boyfriend. She was asked unusually detailed questions about her encounter with the rapist and her sex life in general. Her responses were tape recorded and subsequently played back for her boyfriend, despite the patrol officer's promise to her that the tapes would remain confidential. Furthermore, the officer who responded to her call tried to solicit her while they were on the way to the police station.

Sharon spoke for other women who were asked suspicious questions when she summed up how the police investigation affected her: "They made me feel like I was in the wrong, like I was the criminal."

Second Guesses

Victims frequently complained that before, during, and after the rape their behavior was second-guessed by the police. What had they done to cause the rape? Such questions are offensive because they implicitly shift the blame. Eleanor Chelimsky explains the police motivation for asking such questions:

Victims are, in fact, living reproaches to police claims of being competent ensurers of the public weal. In consequence, they often respond to the victim aggressively, making them feel... responsible for the crime of which they are in fact victims.⁴⁴

Such comments and questions are especially painful because they compound the guilt that victims impose upon themselves as they try to answer the question, "Why me?" To answer, victims relive the crime in an attempt to find some logic or order in their assault, some action that they could have or should have done differently to avoid the crime. Victims question their own behavior: "If only I'd put bars on my windows." "If only I'd walked down a different street." "If only I had asked someone to walk me to my car...this wouldn't have happened." While the victim is feeling guilty and

blaming herself, it is especially destructive to have police officers confirm these feelings with their own line of victim-blaming questions such as: "What were you doing out alone at that time of night, anyway?" "What did you expect living in that lousy neighborhood?" One patrol officer told a victim in this study, "That's what you get for living in D.C."⁴⁵

If the officer supports the victim, her adjustment period is considerably easier. Victims reported feeling much relieved when police officers said, for example, "It's not your fault. You did the right thing not putting up a fight. You're alive and that's what matters."

Unfortunately, more victims in this study felt they were second-guessed than supported. Angela and Louise offered examples of moralistic lines of questioning. Angela was assaulted while walking home from a disco at 2AM. The police officer who responded to her call repeatedly asked, "Why were you out so late? You should know better. I hope you learned something from this rape." To which she replied, "Is this supposed to be a lesson or a rape?"

Louise was raped in her home while her child slept upstairs. Because she was afraid her daughter might awaken and be harmed, she asked the rapist if he would be willing to go outside in her yard rather than rape her in the house.

When the police arrived they just kept saying, 'Why didn't you fight him?' I said, 'because my daughter was in there sleeping and I didn't want anything to happen to her.' They said, 'Well, you know, this isn't going to look good.' So what am I supposed to do -- play hero and risk her life and mine? They weren't there. How the hell do they know what I should do -- nobody raped them!

Susan describes a similar reaction to such second-guesses.

The patrol officer kept saying to me: 'You were bigger than him. Why didn't you resist? Why didn't you do this, why didn't you do that?' They made it sound like I had walked down there and asked for it. Meanwhile, I had jumped through a window naked and run down the street screaming -- just to escape from the guy. What more did they want?

Such questioning of the victim's behavior may be to sound out the victim and to calculate how strong the states' case really is: Did this crime really happen and, if so, how willing is the victim to press charges? Will she stand up under pressure? If not, police efforts to catch the suspect may be better directed toward a stronger complainant. From the victim's point of view, however, such questions are insensitive and hypocritical. As Jean put it, "The police manuals and lectures on rape tell the woman not to fight. You'll just get hurt if you do. But the first question you're asked after you've been raped is: 'Why didn't you fight?' They should make up their minds."

Inappropriately Timed Questions

It is not just what questions victims were asked that bothered them but when these questions are asked. Police need information at a time when victims may not want to provide it. This clash can take many forms. As a D.C. woman summarized it, "They asked me too many questions, too soon."

Two rape victims describe their objections to police timing of the interview. A Virginia woman explained:

I was in the hospital for over four hours. Finally I got home at six in the morning. I was exhausted and in pain from where he had beaten me. No sooner did I get home than the police arrived and wanted to take another statement. I needed to sleep. It was bad enough that I'd already been through my story a few times at the hospital where other people overheard but then they had to follow me home! My head hurt so much I couldn't even bend down. I found it real hard to talk, never mind write a statement. But they needed the information and they said it couldn't wait.

Another woman's comment highlights the danger of pushing the victim to talk before she is ready.

I wanted to go home from the hospital, but the police insisted that I write out a statement first. I wasn't up to it. So I left out a lot so I could get home quickly.

A second conflict was voiced by women who objected to ill-timed, if perhaps, well-intentioned comments from police on the relative severity of the crime. Specifically, victims objected to police officers' efforts to minimize the seriousness of the rape. Janice, for example, recalls that, "All the way to the hospital the officer told me this story about all the drastic things he had done to this man who exposed himself to (the officer's) daughter. It really upset me hearing that story." Victims were similarly upset by police officers who related gruesome cases and suggested to certain victims that by comparison, they had nothing to complain about. "You got off easy," one detective said, "I've seen girls whose sides were split apart." Said the victim: "Here I am sitting in an emergency room of a hospital, my life has been threatened, I've been beaten and raped and this guy is telling that I'm lucky?"

This practice is called "minimization" and is one of four defense mechanisms that victims themselves sometimes employ to help get over the assault.⁴⁶ At this early stage, however, such attempts to minimize the crime -- especially attempts by other people -- are not well received.

A third set of "inappropriately timed" comments involves pressure from the police not to press charges. This may at first appear contrary to expectations. Yet police do not want to waste their time on a case that is likely to be dropped because the victim changed her mind and signed off. Neither do they want to record a crime that they will be unable to "clear" because of an uncooperative witness. To combat this, police often "lay it on the line" in speaking about the likely success of a victim's case against the assailant should he be apprehended. Once the odds are presented to the victim, she may decide to drop charges.

Five women describe how this process worked.

Charlene: I had a prior record myself so the police pressured me to drop charges even though they caught the guy right away. They said that even though they believed me, nobody else would because of my record. Besides I know nobody cares about a black on black rape in D.C. It's no big deal. Nobody gives a damn unless a white woman is raped.

Betty: I signed off immediately. All the way to the hospital, the patrol officer kept saying to me, 'Do you realize how serious this charge is? Do you realize you could ruin a man's life with this accusation? I'd advise you to drop charges because it's going to be gruesome for you to go through this and there is no way you are going to win.'

Chris: The detective said if I was lucky they wouldn't catch him because I would be on trial, not him. He said they'd ask me a lot of questions about my sex life. That shouldn't have anything to do with it but it put a scare in me. I couldn't handle that from no lawyer or jury so I dropped out.

Sarah: The detective interviewed me in her car right outside the place where it happened. While I was telling her what happened she kept interrupting me and saying 'Are you sure you want to press charges?' I know why she asked those questions - cause I got high with the guy before hand but that didn't mean I was asking to be raped.

The problem with this initial sizing up is that frequently the victims regret their decision to withdraw after they have had some time to think it over. By that time it is too late. A Washington woman explains how she felt:

The officer had no business questioning me about what I wanted to do with the case right away. I was in shock, sitting in a lousy emergency room in a hospital, with him telling me all the bullshit and nasty questions I'd have to go through. I was in no condition to make a decision but he made it sound like I'd have to walk through hell so I signed a piece of paper he put in front of me. The next day I called him to find out what was going on in the case. I found out I had signed a piece of paper withdrawing my complaint. I screamed and cried and tried to explain that I didn't know what I was doing right after the rape and I did want to prosecute. But he said, 'now it is too late' and I'd have no chance since I had once agreed to drop the case. I just wish he had given me some time to think it over instead of asking me right away. I'll never forgive myself.

A fourth ill-timed inquiry arises from the police practice of driving the victim around to find both the assailant and the location where the assault occurred. To police this practice is important because chances of catching the suspect are greatest immediately following the crime. To victims this practice is both frightening and insensitive to their immediate needs -- medical attention, a shower, and some rest.

Victims described the ride-around.

It was a nightmare. Here I had just been raped and I was riding around with a bunch of cops in a nasty section of town while these guys were jeering and staring at us. The policeman kept saying, "Do you see him? Does he look like the guy?" All I knew was that I wanted to get away from there and be someplace safe. It almost did me in.

Another woman described her horror when the ride-around was successful.

We were driving around this horrible neighborhood when I saw the guy. The police cut him off with their car, ran after him, and threw him on the hood of the car so his face was pressed against the outside of the windshield. He was screaming at the cops and me. I was terrified. I had agreed to go ride-around with them but I never expected them to handle it like that.

Police comments during these ride-arounds also troubled some victims who objected to certain officer's "bloodthirsty and racist" comments. One victim said:

They seemed so ruthless and prejudiced. They were out for blood because a black man had raped a white woman. They wanted to hang somebody and it was my job to help them do it. I felt terrible. They took me riding around in these black neighborhoods looking for the guy. They said, 'None of those mugshots down at headquarters will help. They all look alike.' I was appalled.

A Montgomery County woman felt the same way.

They were most interested in getting the guy because he was a black man who raped a white woman. They said things when we were driving around that really upset me. Their prejudice was shocking. I was afraid to go to trial because I was afraid of the furor of the black community.

Not all victims objected to the racist comments of police officers. In fact, some victims shared these opinions. A Virginia woman declared, "No one ever questioned whether I had provoked the rape because I hate niggers and everyone knows it. What white woman in her right mind would ever touch a nigger? I knew the police were going to do a good job because they were extra pissed off the rapist was black."

A major reason for ride-arounds is to find the exact place where the crime occurred. This is necessary to ensure that the appropriate police department takes over the investigation. This determination is not as easy as it may seem. Often victims were unable to say where the rape took place, because they were driven around by the rapist for some time before the crime took place. Given the geography of metropolitan Washington, bordered by two states and intersected by national parks, jurisdiction is sometimes difficult to determine. The difference between one side of the street and the other may be the difference between Maryland and the District of Columbia.

Mary was caught in the middle of such a jurisdictional battle when all she could tell police was that she was raped in a grassy area.

The police kept me waiting in the patrol car for over four hours. They kept asking, 'why did I need to call anyone to be with me? Who did I want to call?' I just didn't want to be alone any more in that police car with officers from D.C., Park Police, and Maryland fighting each other about who gets the case. Finally, I got up and started walking away. They came after me and I said, 'Just because I don't have a bullet in me doesn't mean I don't need medical attention. Take me to the hospital now!' It was so wrong to be fighting over jurisdiction before they even considered me.

Victims were concerned with where they were interviewed as well as when they were interviewed. Many had strong feelings against going to police headquarters and a few refused to do so. As Jill said, "They wanted me to go to the police station and give my statement. I said, 'I'm not going to any police station. I'm not the criminal - so why should I? You can come to me instead.' So they did because I insisted."

Many officers did this for the victim without being asked. Victims mentioned how much they appreciated it when officers came to their home because they felt more comfortable and safe talking to the police there.

Victims who did go to the police station found it unsettling. The District of Columbia police station was especially frightening. Renee described her reaction to downtown headquarters:

I had to wait in a dirty room papered with wanted posters. The only other person in the room was a 13 year old girl who had been raped. She said to me, 'You down here to get your money back too?' It turned out the only reason she was there was because she wanted the \$13.00 the guy who raped her had taken. The rape was no big deal. It was nerve-wracking!

Laurie felt the same about the D.C. police station. "It felt like I was on an assembly line. All the wanted posters and the scary people hanging around. Every time I had to go down there I thought about dropping out it was so traumatic."

An Alexandria woman was alarmed when she learned that the police station was in a bad area of town. She met with resistance from the police when she insisted that her husband accompany her to headquarters. She was even more alarmed when the police officer suggested to her husband that he take a walk outside while she was being interviewed. She became hysterical because she feared for his life. The police officer ridiculed her, saying her reaction was irrational and her fear misplaced.

CONFLICT IN FOLLOW-UP

Often as a result of suspicious, second-guessed, or ill-timed questions, victims begin to feel that the police are interested in them only if they are able to continue supplying the police with leads in the case. As the investigation progresses, these negative feelings intensify because contacts with police drop off. When victims compare the attention they initially received from the police to the later number of contacts, the earlier stages look good. In the beginning, at least, the police were doing something about the crime, even if that something included asking uncomfortable questions. At later stages, as tangible signs of attention became less frequent, victims wondered if police had forgotten their case.

Most women in this study (68 percent) reported that after two initial visits they rarely, if ever heard from the police again. (Table 4.1) Thirty-five said they heard from the police in the beginning then not at all; 12 said

they heard from the police only when they called themselves; 8 said the police called only to get more information from the victim -- never to provide information. After the initial visit, 11 said they never heard from the police again. Even those who reported adequate contacts with the police felt that, for the most part, these contacts were due to their own initiative.

TABLE 4.1
Frequency of Police Contacts with Rape Victims

	<u>N</u>
Only at the beginning	35
A couple of times a week	16
Once a week	10
Every two weeks	5
Only when victim called	12
Once a month	1
Only when police needed victim	8
None	<u>11</u>
TOTAL	98

TABLE 4.2
Initiator of Contacts Between Rape Victims and Police

	<u>N</u>
Victim	46
Police	22
Both	11
Others	4
No contact	<u>15</u>
TOTAL	98

Victims used police contacts to measure police interest in their cases. As contacts decreased, they reasoned, so did the police efforts to find their assailants. This was not necessarily true. Often the police were still trying to find the suspect, but because they no longer called the victim, she assumed they dropped her case. Because of poor

communication, victims frequently felt that once police sized up their ability to provide evidence they discarded all victims who were not sufficiently helpful.

"After I identified the guy at lineup," Polly observed, "I never heard from the police or anyone else again. I had cooperated with them so I expected some feedback but once they got what they needed out of me they dumped me."

"As soon as the detective realized that I couldn't identify the guy," Diana commented, "I wasn't worth his time. He said, 'Oh well, we'll get the guy the next time.' It made me feel terrible - like it would be my fault that another woman was to be raped because I couldn't give a good enough description."

Anne described what happened to her case after she picked the wrong man at lineup. "My case diminished in importance as soon as the police saw that they couldn't get the guy. They acted impatient when I would call to ask if anyone had been arrested. After I made the wrong ID, I knew I was worthless to them as a witness."

Turnover in Officers

A related and persistent complaint of victims was having more than one officer assigned to their case. Whereas victims preferred to work with one officer exclusively, frequently just the opposite happened. A victim would talk with one officer the night of the assault, another at police headquarters, another at lineup, and still another at the later stages of the investigation.

Turnover unsettled victims for a number of reasons. First, it required victims to repeat the details of the crime to another stranger. Second, it prevented victims from knowing an officer long enough to feel comfortable with him or her. Third, turnover made it very difficult for victims to get answers to the two questions which were most central in their minds: "Has the rapist been caught?" and "Is he free on bail?" Victims reported that when they called the police station to find out, they frequently discovered "their" officer had either been transferred to another section or over to the "graveyard" shift where they were extremely difficult to reach. Instead of getting answers, they were told, "someone will get back to you as soon as your case is reassigned."

Victims objected to reassignment even though many understood the administrative reasons for such turnover. Patti put it succinctly: "I poured my heart out to one man and then another took over and I had to start all over again. There were too many players. It was like they were passing me around." "When I'd call to speak to my detective," Helen remembers, "each time I'd find out he was no longer on the case. The guy on the phone would yell, 'Hey, whose got the Smith rape?' It was awful. I felt like I was being auctioned off to the lowest bidder." Joan recounts her feelings: "It isn't right to make a person repeat what happened so many times. The first night I had to tell the story twice to two different people. The next day I had to talk to two more people. It was a story I didn't want to tell at all -- certainly not four times in two days."

VICTIMS' ROLE IN ARREST

Victims frequently thought the police were not doing anything about their case because of fall off in contacts and high turnover in detectives assigned to their case. Arrest figures indicate, however, that police were not idle. Seventy-five out of the 98 reported rapes in this study resulted in arrest. Police were unsuccessful in catching the criminal in perhaps 18 cases. The remaining cases were either dropped because the victim signed off or the outcome was unknown because the police never got back to the victim. This seventy-five percent clearance rate is unusually high because many of my referrals came from the courts. Nationally, only 49 percent of reported rapes result in arrest.

Many arrests (28%) were made within 48 hours of the crime. An additional 12 percent were made within two weeks, 3 percent within one month; 11 percent six months to a year after the crime. The remaining respondents did not know when the arrest had been made, only that it had occurred.

The victim was the principal lead in many arrests. Table 4.3 shows that twenty-seven percent of arrests were made because the victim knew the name or address of the assailant, in two cases the victim helped the police entrap the suspect by arranging to meet with the rapist at a time when unbeknownst to him, the police were there. In three cases the victim identified the assailant while riding around in a police cruiser. Frequently the offender gave himself away. Twenty-four percent of arrests were made when the assailant was picked up on another charge. In eight cases physical evidence such as license plate numbers or fingerprints led to the rapist's arrest. Thirteen percent were caught at the crime scene. Four victims had no idea how their offender was apprehended.

TABLE 4.3
Method of Arrest
(n=75 arrests)

	<u>%</u>
Victim knew suspect's name or address	27
Suspect picked up on another charge	24
Suspect caught at crime scene	13
Physical evidence	12
Victim identified suspect from mugshot or line up.	9
Victim rode through neighborhood with police	4
Suspect turned himself in	3
Victim and police trapped suspect	3
Don't know	5

Identifying the Suspect: The Lineup

In nine percent of the cases an arrest was made when the victim identified the assailant through "mugshots" or a lineup. More than half of the women in this study (n=58) looked at mugshots, and 40 percent succeeded in identifying their assailant.

Lineups were used less frequently than mugshots with a somewhat higher level of success. Thirty-one women attended a lineup. Of these, 21 (68%) were able to make a positive identification. Women experienced considerable trauma at these lineups. Eighty-six percent described their experience as terrible. "It was awful," a D.C. woman recalled,

It was a huge dark room, not at all intimate like the places I had been before where there would be just me and a few other policemen talking. There were about nine to ten strangers in there. I wondered who they were and what they were doing there. The U.S. Attorney told me to watch every word I said because every word would be used against me if there was a trial. I was afraid if I mumbled something it would blow the case or put away the wrong man. The scariest part was wondering who all these people were in the lineup. I was really concerned about making the wrong move. Would I nail the

wrong person or let the right person get off?

This woman actually did make the "wrong move." Although she identified the man that both she and the police thought committed the crime, she did so in a way that was used against her later. Her method was to identify the suspect by process of elimination. She moved from right to left, "no, that's not him, that's not him..." until she narrowed it down to two people, then she picked. The defense attacked the victim's identification, the major evidence against the defendant. As a result the charges were dropped.

The atmosphere of the lineup room intimidated women. So did their proximity to people who, as one woman said, "You knew were guilty of something." Those conducting the lineup usually explained to the victim that the men in the lineup would be unable to see her. Nevertheless, the atmosphere was frightening and slip-ups did occur. One Washington woman, for instance, was given the wrong room number for the lineup. She wound up in the suspect's room where men were preparing to take their place in the lineup. In Montgomery County, one woman had to go through a lineup in reverse. "The police made me wear a ski mask while I looked at the guys so they couldn't see me. It was awful. I felt like the criminal."

Some women requested that the police officer assigned to their case accompany them into the lineup room; others asked if a friend could go with them. All requests were denied. "It was wrenching," one woman recounts.

I had come to trust the detectives and look at them as my friends. I was so nervous waiting in the hall for my turn to be called at lineup. When I was called, it never occurred to me that they wouldn't allow the detective to come with me. I felt so alone and frightened

and angry --like they were playing with my emotions and didn't care about how the whole process affected me. It seemed the least they could do since I had spent over an hour waiting for the stupid thing to begin.

Even when police succeeded in making an arrest, tension between victims and police did not end. Victims were pleased at the outcome yet irritated because they were excluded from the case. An arrest did not overcome many victims' feelings that they were treated as evidence, not as people with a personal stake in the case.

Patty's assailant was caught but she still felt displeased with the police. "They dropped me after they caught him. He had raped so many other women they didn't need me. I called them to find out what was happening with the case but because they had so many other witnesses, I was irrelevant. I still don't know what happened to him."

Janice added:

The police never even had the decency to call me when he was arrested. I heard about it one night when I was listening to the radio. I was petrified. I didn't know if he was free on bail or what. I had repeatedly asked the police to call me if they found him because I was so scared he was going to come back and get me but the police didn't give a damn. They got their man and that's all that mattered.

SUMMARY

As the preceding sections have illustrated, the relationship between the victim and the police is critical yet strained by conflicts in priorities and differences in perspective. For the police to do their job -- catch the criminal -- the victim must often undergo uncomfortable questioning. As the case progresses, victims hear from the police less frequently and seem to lose further control over what was once "their case." The net effect is that, even if police arrest a suspect, victims feel used by the police. They

feel important to the police only to the extent that they are able to provide good information and leads on the case. Once the information stopped, once victims had nothing more to say, they were no longer of use to the police and the contacts stopped. Consequently, victims felt mistreated, as if they were little more than a piece of evidence, a "bloody shirt," a way to "catch the bastard." Two victims summed up their feelings:

"I was treated like an object, a set of keys. The police weren't concerned with me at all. They only cared about catching the guy."

"I was treated like a number. The detective drove me to the hospital, asked me some questions, then left me alone. All they wanted from me was information. After they got it, I didn't matter."

Clearly, victims had no shortage of complaints about the police. Did each complaint translate into dissatisfaction with police? In the next section, I will look at the relationship between the specific complaints of rape victims and their overall satisfaction with police services. In so doing, I will compare what is known about how citizens in general evaluate the police with how these 100 rape victims evaluated their local police.

CHAPTER FIVE: VICTIMS' VIEWS OF THE POLICE

Did specific complaints about the police affect victims' overall satisfaction with the law enforcement system? What factors were related to victims' evaluations of police services and their treatment? In this section, the rape victims' ratings of police services will be considered in light of what we know about citizens' evaluations of police in general and how this might affect the evaluations of these 100 rape victims.

Scholars have analyzed citizens' satisfaction with the police by asking community residents to evaluate their local police forces. Survey responses reveal that satisfaction with the police is related to at least eight variables, some of them demographic:

(1) Response Time. The longer the police take to respond to a call, the less satisfied the caller.¹

(2) Follow-up. If police follow up the initial investigation, the complainant is more satisfied; if an arrest is made the complainant is more satisfied.²

(3) Level of Information. The more police explain what they are doing in an investigation, the more satisfied the complainant.³

(4) Time Passage. As time passes, complainants' evaluation of the police decline because of how they perceive the police as handling their case.⁴

(5) Type of Crime. The more serious the crime, the more satisfied the complainant (because police are more likely to follow-up and expend effort investigating serious crimes.)⁵

(6) Race. Blacks tend to be less satisfied with police services and to have more negative attitudes toward the police.⁶

(7) Marital status. Married complainants are more satisfied than unmarried complainants.⁷

(8) Education. The higher the education, the more favorable are attitudes toward police.⁸

Applying these propositions to this study⁹ we would expect that these 100 victims would be more satisfied with police performance than the "average victim" because most possess characteristics related to police satisfaction, again some of them demographic.

(1) Response Time. In almost all cases, the police responded promptly to the complaint. Eighty-three percent of the rape victims said the police arrived in less than 15 minutes. Only six women reported waiting longer than 15 minutes and only two women reported waiting longer than one-half hour.

(2) Follow-up. The clearance rate in this study is unusually high. Seventy-five percent of all reported rapes resulted in an arrest -- a rate 50 percent higher than the national average. As previously noted, this high clearance rate is, in part, a product of the referral method. Logically, the courts only come into contact with victims whose assailants have been caught.

(3) Type of Crime. All the women in this study were victims of rape, an offense second only to murder in its severity. These victims are more likely to receive police attention than victims of lesser offenses.

(4) Bias. It is possible that agencies were inclined to refer victims whom they believed were satisfied with the agencies services. To the extent that this happened, respondents evaluations will be more positive than if a truly "random" sample were drawn.

(5) Race. Sixty-five percent of all respondents were white; 35 percent were minorities most likely to display anti-police attitudes. Thirty-two percent were black and three percent were hispanic.

(6) Education. Seventy-nine percent of women interviewed had at least a high school degree; 52 percent had some college background, 17 percent had a graduate degree -- a well-educated sample.

(7) Marital Status. Only 19 percent of respondents were married. This is the only variable which would suggest that respondents would be more dissatisfied than not.

EVALUATIONS OF POLICE TREATMENT

The data are consistent with previous studies of citizens and police but contradict earlier comments made by rape victims. Each woman was asked, "How do you think you were treated? With a great deal of understanding, with understanding, with indifference, with disrespect or insult?" Responses indicate that even though they criticized aspects of their treatment, victims rated police services favorably. Fifty percent thought the patrol officers treated them with some degree of understanding; seventy percent felt this way about detectives.

Patrol officers consistently received lower ratings than detectives. In part, this was because victims did not spend much time with any one patrol officer and so were not able to develop a personal relationship. Victims also described patrol officers as untrained, inexperienced, and unconcerned with their plight. Patrol officers merely busied themselves until the detective in charge took over. Why then did half of victims say they were treated with understanding? The answer is largely because their expectations of how they would be treated were so low. Victims hoped that, at best, patrol officers would be civil and not ask questions to suggest they had somehow enticed the rapist. If that expectation was realized, victims were more likely to evaluate the police favorably.

Victims' main contacts in police departments were with detectives. Victims spent more time with detectives' than any other person in the criminal justice system. Victims were most critical yet most satisfied with detectives services. Laura, for example, felt she was treated with understanding by her detective and explained why. "He made sure I brought a change of clothes with me to the hospital. He talked with my boyfriend

about what some of my reactions might be. When he called me at work he never left a message that the police called, he would just say, 'Ask her to call Mr. __.' I really appreciated that because I didn't want everyone at work to know what had happened."

Myra praised her detective's sensitivity. "He was supportive throughout. When we went back to the scene of the crime the next day, he came with me even though by then someone else had been assigned to my case. He said, 'You might be upset seeing that place again so I thought you'd like a familiar face with you when you went.'"

Karen felt the detectives were careful to set the appropriate limits for a personal yet professional relationship.

I developed a rapport with the two detectives. I felt very close to them. It was an interesting study in psychology. They let you get close but not too close. They respected what I was going through. When they were interviewing me they said, 'It's your ballgame. You can stop talking whenever you want to ...take a walk, go have a sandwich, you call the shots.' They were very kind but it was clear they didn't want me to get too close to them especially at a time when I was so vulnerable."

Many women mentioned the extra care that detectives took to make them feel safe. Detectives sometimes assigned patrol officers to circle a victim's home more frequently following the assault. Three victims reported that when the police came to see them in the hospital they brought flowers. Other women reported that officers called them just to see how they were doing. Sharon sums up the feelings of these women: "The detective was my knight in shining armor."

Victims' assessments of how well they were treated were related to how frequently they heard from the police. As Table 5.1 indicates, all women who heard from the police "a lot" felt they were treated with

understanding, yet so did 63% who heard rarely. This accounted for 16 percent of variance in victims' determinations of how they were treated.

TABLE 5.1
Victims' Perceptions of Treatment and Contact with Police
(n=98)

<u>Perceived Treatment</u>	Contact with Police	
	Rare (n=67) %	Frequent (n=31) %
Disrespectful	13	0
Indifferent	24	0
Understanding	63	100

Chi square = 15.53 With 2 d.f. Significance = 0.0004*
Pearson's R = -0.39 Significance = 0.00* Missing = 2

Victims were more likely to feel they were treated with understanding when they were consulted about their case. Table 5.2 shows that almost ninety percent of the women who were given some voice in their case felt they were treated with understanding by the detective, as compared to 64 percent of those who were given no say in their case. Victims' evaluations of treatment by police were significantly related to the amount of influence victims had in their case. This relationship accounted for eight percent of the variance in victims' evaluations of how they were treated.

TABLE 5.2
Victims' Perceived Treatment and Influence in Case
(n=98)

<u>Perceived Treatment</u>	Influence in Case	
	None (n=59) %	Some (n=39) %
Disrespectful	14	3
Indifferent	22	8
Understanding	64	89

Chi square = 8.07 With 2 d.f. Significance = 0.02*
Pearson's R = 0.29 Significance = 0.002* Missing = 2

To measure the relative amount of involvement victims had with the police, I constructed an index from each victims response to six questions. These questions dealt with victims' assessments of how frequently they heard from the police, how much the police followed up on their case, and how informed they were kept on developments such as the arrest and bail decisions. My hypothesis was that the cumulative effect of these factors would be related to victims' evaluations of how they were treated by the police. The results, although statistically significant, indicate that level of involvement as constructed explains little of the variance in victims' evaluations of treatment. Table 5.3 summarizes the results. Most victims felt they were insufficiently involved in their case, nevertheless 70 percent felt they were treated with understanding as did 81 percent of those who were highly involved in the case.

TABLE 5.3
Perceived Treatment and Level of Victim Involvement
(n=98)

<u>Perceived Treatment</u>	Level of Victim Involvement	
	Low (n=61) %	High (n=37) %
Disrespectful	15	0
Indifferent	15	19
Understanding	70	81

Chi square = 6.05 With 2 d.f. Significance = 0.05*
 Pearson's R = 0.16 Significance = 0.05* Missing = 2

Demographic variables did not have much to do with how women felt they were treated by police. Seventy-five percent of white women felt they were treated with understanding; seventy-four percent of black and hispanic women felt this way, too. As seen in Table 5.4, education was not strongly related to evaluations of police treatment. Those with only a high school degree were slightly more likely than other groups to state that they were treated with understanding. Seventy - eight percent of those with high school degrees felt they were treated with understanding as compared to 75 percent of those with graduate degrees and 74 percent of those with college degrees.

TABLE 5.4
Victims' Perceived Treatment and Education
(n=100)

<u>Perceived Treatment</u>	Education			
	Less Than High School (n=20) %	High School (n=27) %	Some College or Grad. (n=35) %	Grad. Work (n=16) %
Disrespectful	10	7	12	6
Indifference	20	15	14	19
Understanding	71	78	74	75

Chi square = 0.89 With 6 d.f. Not significant at .05
Pearson's R = -0.02 Not significant at .05 Missing = 2

High school dropouts were least likely to think they were treated with understanding but the difference was marginal -- 71 percent still thought they were treated with understanding.

Income was also of slight importance as Table 5.5 illustrates. Eighty-two percent of women in middle income brackets felt they were treated with understanding. Seventy percent of those earning over \$20,000 a year and 68 percent of those earning under \$9,000 a year felt they were treated with understanding.

TABLE 5.5
Victims' Perceived Treatment and Income
(n=97)

<u>Perceived Treatment</u>	Income		
	Under \$9,000 (n=26) %	\$9,000 - 19,999 (n=44) %	\$20K Plus (n=27) %
Disrespectful	19	7	4
Indifferent	11	11	26
Understanding	69	82	70

Chi square = 7.08 With 4 d.f. Not significant at 0.5
Pearson's R = -0.06 Not significant at 0.5 Missing = 3

Table 5.6 indicates that victims' attitudes toward police were not significantly related to their evaluations of how they were treated. Slightly more victims had anti-police attitudes yet forty-eight percent of those rape victims felt they were treated with understanding had anti-police attitudes. Fifty-six percent of those who felt they were treated with indifference had anti-police attitudes. Sixty-two percent of those who felt they were treated disrespectfully had anti-police attitudes.

TABLE 5.6
Victims' Perceived Treatment and Attitude Toward Police
(n=98)

<u>Perceived Treatment</u>	Attitude Toward Police	
	Anti-Police (n=50) %	Pro-Police (n=48) %
Disrespectful	62	37
Indifferent	56	44
Understanding	48	52

Chi square - 1.19 With 2 d.f. Not significant at .55
Pearson's R = .09 Not significant at .05

Rape victims' evaluations of how they were treated did not depend on the outcome of their case. Treatment and verdict were separate issues in victims' minds. Victims did not feel they were treated well just because their assailant was convicted. As Table 5.7 illustrates, the relationship between these two variables was not statistically significant. In seventy percent of the cases where the assailant was acquitted or case dismissed, victims, nevertheless, felt they were treated with understanding by the police. More women in this group were satisfied than women whose assailants plead or were convicted of charges less than rape.

TABLE 5.7
Perceived Treatment and Verdict
(n=68)

<u>Perceived Treatment</u>	Verdict		
	Not Guilty or Dismissed (n=30) %	Guilty of Less Than Rape (n=11) %	Guilty of Rape (n=27) %
Disrespectful	10	0	4
Indifferent	20	36	4
Understanding	70	64	93

Chi square = 8.64 With 2 d.f. Not significant at .07
Pearson's R = .24 Significance = .02*

Objections to Treatment

As these tables make clear, although criticisms of the police were common, negative ratings were rare. The influence of these negative ratings, however, extends far beyond their numbers. Much like the evening news, it is usually the bad news, the horror stories that are reported to others. The impact of negative evaluations is significant because these stories are most likely to be repeated and contribute toward a popular impression that police are abusive to rape victims.

Twenty-one percent of those interviewed said the patrol officer treated them with indifference, doing his job without concern for them personally; sixteen percent felt this way about the detective. Candy's comments illustrate why some victims felt they were treated with indifference:

Police should have a better attitude toward victims. They should treat you like a person instead of an inanimate object. They only thing they seemed to be concerned about was whether or not the guy had done this before. They were more interested in what he stole than that he raped me. They never thought of me as an individual.

Melba's detective exemplified indifference. "When my case was about ready to go to trial," she said,

"all the witnesses were called to the U.S. attorney's office for a pre-trial conference. We were all sitting around a long table when the female detective who had driven me to the hospital and taken my statement the night of the rape says to everyone, 'When's the victim gonna get here so we can get started?'"

Some women felt that police indifference was more malicious than benign. Twenty percent of respondents said the detective was disrespectful or insulting; five percent felt this way about the patrol officer. Diane explains why she felt the detective was insulting, "He was fascinated with deviate sex. He kept asking me; 'Did he do this? Did he do that? When was your last period?' He just couldn't stop coming up with suggestions for perverted thing the guy might have done to me."

Mary Anne echoed Diane's sentiments: "The detective focused on the sexual aspects and overlooked all the beatings. And that is what was so traumatizing to me -- I was sure I was going to die. But he just kept on with all the sexual questions." Stella was similarly bothered by the detective's emphasis on sexual deviance. "The guy forced me to perform oral sex on him," she explained, "the police officer's questions dealt with, 'Have you ever done that before? Did you like it?' What did that have to do with anything? I was embarrassed and furious at that line of questioning."

It is worth speculating whether some questions which women described as inappropriate or offensive would have been more tolerable if the police had asked them differently and explained why they were asking them. For instance, the question -- "Have you had sex in the last 48 hours?" -- was mentioned by many women as offensive and unnecessarily

intrusive. It may well be intrusive but it is intrusive for a purpose. In order to establish the sperm type of the rapist, doctors must know whether or not other sperm may be present. The need unexplained, victims took offense.

SATISFACTION WITH POLICE SERVICES

In addition to evaluating how they are treated, victims were asked "How would you evaluate police services? Were you very satisfied, satisfied, dissatisfied, very dissatisfied?" Despite their previously mentioned objections, victims were usually satisfied with police services. Seventy-eight percent were satisfied with the way detectives handled their cases while 59 percent were satisfied with the way patrol officers handled their cases. In short, although most women complained about particulars, most women were satisfied in general.

Why were some women satisfied while others were not? What factors are related to satisfaction? To find out, cross-tabulations were run between satisfaction and the following variables:

(1) Gender of the Officer. Most women worked with either male detectives or male and female detective teams. Gender, however, made little or no difference in victims' assessments of police. Eighty-eight percent of those who dealt with a patrol officer and 72 percent of those who dealt with a detective did not care whether the officer was male or female. Of those women who expressed a preference, 69 percent wanted a female detective while 30 percent wanted a male detective. Of those who expressed a preference about the gender of the patrol officer, 88 percent preferred to work with a female officer, 12 percent preferred to work with a male officer.

Three women who preferred to work with a male police officer explained why. "Women are the worst critics. I would never want to work with a female cop. She would have said, 'Come on now, didn't you lead him on?'"

"I wanted to be protected. I wanted someone to walk in my door and say, 'Don't worry. We're not going to let him come back and hurt you again.' Only a man could make me feel that I was safe."

"It was much better having a male detective. He negated my feelings that all men are bad."

Interestingly enough, some of the women who requested and received a female officer to work with were disappointed. They felt their women detectives were unemotional, unsympathetic and excessively business-like -- perhaps to prove they were no different from the men in the department.

Because only two women dealt with female patrol officers, it was not possible to perform any meaningful analysis of the relationship between gender and satisfaction with patrol officers. However, enough women had contact with female detectives to permit such analysis. Although the results were not statistically significant, they suggest that women were more likely to be satisfied with male than female detectives. As shown in Table 5.8, eighty-four percent of those with male detectives were satisfied with police services whereas only 65 percent of those with female detectives were satisfied. Women who worked with male-female detective teams were most enthusiastic about detectives' services. These teams provided the protection victims associated with a man and the compassion victims associated with a woman. Consequently they were the very popular.

TABLE 5.8
Satisfaction with Detective and Sex of Detective
(n=97)

<u>Satisfaction with Detectives</u>	Sex of Detective		
	Male (n=58) %	Female (n=20) %	Male and Female (n=19) %
Dissatisfied	16	35	16
Satisfied	84	65	84

Chi square = 8.22 With 6 d.f. Not significant at .05

(2) Outcomes. Table 5.9 shows that arrest was significantly related to victims overall satisfaction with detective services. Of those women whose assailants were arrested, 85 percent were satisfied. When no arrest was made only 59 percent were satisfied. Put another way, only 13 percent of women whose assailants were arrested were dissatisfied whereas 41 percent of the women were dissatisfied when their assailants were not apprehended.

TABLE 5.9
Satisfaction with Detectives and Arrest Status
(n=98)

<u>Satisfaction with Detectives</u>	Arrest Status			
	Suspect Arrested (n=75) %	Victim With- drew Complaint (n=4) %	No suspect Arrested (n=17) %	Don't Know (n=2) %
Dissatisfied	13	25	41	100
Satisfied	85	75	57	0

Chi square = 14.85 With 6 d.f. Significance = .02*

As for bail, victims did not appear to hold police responsible for the decision on pretrial release. There was little difference between those whose assailants were released on bail and those whose assailants were not released. Eighty-two percent of the women whose assailants were released were satisfied with the police; ninety-five percent of the women whose assailants were not released on bail were also satisfied.

Being informed of the bail decision also had little impact on victims' evaluation of police services. In those cases where the assailant was arrested, 45 percent went free on bail. When the offender received bail, 62 percent of the victims were not told their assailant was free. These victims had to find out for themselves, either by seeing him on the street or being told by a friend. Nevertheless, this did not affect victims' satisfaction with the police. Eighty percent of the women who were not informed that their assailant was freed on bail were, nevertheless, satisfied with police services.

Although victims did not hold police responsible when their assailants were released on bail, they clearly were not pleased with this outcome. Of

the 34 women who knew that their assailant was free on bail, 32 percent described themselves as "furious" and 59 percent described themselves as "scared." Other women had no reaction to the news, because they expected it or had no opinion.

Table 5.10 shows that the relationship between the verdict and satisfaction with detectives was statistically significant. As one might expect, women whose assailants were found not guilty or whose cases were dismissed were most dissatisfied. Ninety percent of the rape victims who were dissatisfied with detectives had their case either dismissed or end in acquittal.

Final disposition did not appear to be a significant factor in victims' evaluations of police services. One might expect that victims would be more satisfied when their assailants were convicted on more serious charges. In fact, 96 percent of those women whose assailants were convicted of rape were satisfied with the police. Surprisingly, 70 percent of those whose assailants were found not guilty or cases were dismissed, also were satisfied. The data in Table 5.10 shows that 36 percent of the women who were satisfied with police services nevertheless had their assailant go free. This relationship refutes the idea that victims' primary motivation is revenge. Victims' interests and defendants' punishment are separate, yet related issues. Victims do not evaluate police services strictly in terms of what police do to defendants. They are concerned with what police do for victims. Courteous treatment is essential to victim satisfaction, regardless of whether the defendant is punished.

TABLE 5.10
Satisfaction with Detectives and Verdict
(n=68)

<u>Satisfaction with Detectives</u>	Verdict		
	Not Guilty, Dismissed, or Hung Jury (n=30) %	Guilty of less than Rape (n=11) %	Guilty of Rape (n=27) %
Dissatisfied	90	0	10
Satisfied	36	19	45

Chi square = 10.12 With 3 d.f. Significance = 0.02*
Pearson's R = 0.34 Significance = .002 Missing = 25 (No arrest made)

(3) Level of information, number of contacts. As reported in Table 5.11, the frequency with which victims heard from the police affected their satisfaction with the police. Women who heard from police officers at least every two weeks were almost five times as likely to be satisfied as those who rarely heard from the police.¹⁰ Ninety-four percent of the women who heard from the police frequently were satisfied, whereas 73 percent of the women who rarely heard from the police were satisfied. This factor explained almost 6 percent of the variance in satisfaction with detectives.

TABLE 5.11
Victims' Satisfaction with Detective and Contacts by Police
(n=98)

<u>Satisfaction with Detective</u>	Contacts by Police	
	<u>Rarely (n=67)</u> %	<u>Frequently (n=31)</u> %
Dissatisfied	27	6
Satisfied	73	94

Chi square = 4.25 With 1 d.f. Significance = 0.04*
Pearson's R = -0.24 Significance = 0.01* Missing = 2

Who initiated the contacts was not as important as whether or not contacts were made. Forty-seven rape victims initiated contacts themselves; twenty-two women said most contacts were initiated by the police. The highest percentage of satisfied victims were those who described contacts as equally initiated by themselves and the police. As Table 5.12 points out, 91 percent of these women were satisfied. The next most satisfied group were those who said the police initiated most of the contacts, 82 percent of these women were satisfied with police services. Surprisingly, 60 percent of those women who said they had no contacts with the police after their report were also satisfied with police services.

TABLE 5.12
Satisfaction with Detectives and Initiator of Police Contact
(n=98)

<u>Satisfaction With Detective</u>	<u>Victim (n=46)</u> %	<u>Police (n=22)</u> %	<u>Both (n=11)</u> %	<u>No Contacts (n=15)</u> %	<u>Others Initiated (n=4)</u> %
Dissatisfied	20	18	9	40	0
Satisfied	80	82	91	60	100

Chi square = 6.66 With 3 d.f. Not significant at 0.05

Victims' assessments of how well they were kept informed of developments in their cases were also related to their overall satisfaction with police services. As shown in Table 5.13, slightly more women felt they were inadequately informed than adequately informed (52% v. 48%). However, 93 percent of those who felt they were adequately informed of developments in their case were satisfied with police services as compared to 69 percent of those who felt they were not informed at all. Eighty-three percent of those who were dissatisfied with detectives' services felt they were not informed at all. The victim's assessment of how well she was informed accounted for 9 percent of the variance in satisfaction.

TABLE 5.13
Satisfaction with Detectives and
Information Provided to Victims
(n=95)

<u>Satisfaction with Detectives</u>	Information Provided to Victims	
	<u>None (n=46)</u> %	<u>Adequate (n=49)</u> %
Dissatisfied	31	6
Satisfied	69	93

Chi square = 7.47 With 1 d.f. Significance = 0.01*
Pearson's R = 0.31 Significance = 0.001* Missing = 5

(4) Extent of involvement with police. My hypothesis was the more involved, the more satisfied the victim. The more police did to catch the suspect and keep the victim informed of what they were doing, the more satisfied the victim would be. Table 5.14 summarizes the results which indicate no great predictive power for this variable. Eighty-one of those women who were highly involved with the police were satisfied; as were 79 percent of those victims who did not feel involved in their case.

TABLE 5.14
Level of Victim Involvement
(n=98)

<u>Satisfaction with Detectives</u>	<u>Low (n=61)</u> %	<u>High (n=37)</u> %
	Dissatisfied	21
Satisfied	79	81

Chi square = 0.001 With 1 d.f. Not significant at 0.05
Pearson's R = 0.03 Not significant at 0.05 Missing = 2

Which victims were most likely to feel involved in their case? Blacks reported less involvement with the police than whites. Seventy-one percent of blacks felt they received low levels of information as compared to only 42 percent of whites.

With the exception of the most well educated segment -- those who had done some graduate work -- most victims felt excluded from their case, as shown in Table 5.15. High school dropouts were least involved -- 70 percent of this group scored low levels of involvement. High school dropouts heard less from the police, had less police follow-up, and received less information on the status of their case.

TABLE 5.15
Level of Victim Involvement and Education
(n=98)

Level of Victim Involvement	Education			
	Less than H.S. (n=20) %	H.S. (n=22) %	Some College or Grad. (n=35) %	Grad. Work (n=16) %
Low Involvement	70	59	69	44
High Involvement	30	41	31	56

Chi square = 3.54 With 3 d.f. Not significant at 0.05
Pearson's R = 0.11 Not significant at 0.05 Missing = 2

Income was the only variable significantly related to levels of involvement. Eighty-one percent of those who earned under \$9,000 a year reported low levels of involvement in their case. The comparable figure was 52 percent for those earning between \$9,000 and \$19,000 and 59 percent for those earning over \$20,000 a year, as Table 5.16 shows.

TABLE 5.16
Level of Victim Involvement and Income
(n=97)

<u>Level of Victim Involvement</u>	Income		
	<u>Under \$9,000 (n=26) %</u>	<u>\$9,000- \$19,000 (n=44) %</u>	<u>\$20K Plus (n=27) %</u>
Low	81	52	59
High	19	48	41

Chi square = 5.73 With 2 d.f. Significance = 0.05*
Pearson's R = 0.16 Significance = 0.05* Missing = 3

(5) Race. Although the relationship between race and satisfaction with police services was not statistically significant, as is evident in Table 5.17, white women were more likely to be satisfied with police services than black women.

TABLE 5.17
Satisfaction with Detectives and Victim's Race
(n=98)

<u>Satisfaction With Detectives</u>	Victims' Race		
	<u>White (n=65) %</u>	<u>Black (n=33) %</u>	<u>Hispanic (n=1) %</u>
Dissatisfied	16	30	0
Satisfied	84	70	100

Chi square = 3.15 With 2 d.f. Not significant at 0.05
Pearson's R = 0.14 Not significant at .05 Missing = 2

(6) Education. Table 5.18 shows that the relationship between education and victim satisfaction was not statistically significant, although as education increased so did the percentage of women who were satisfied with police services. Eighty-seven percent of women with a graduate degree were satisfied as were 80 percent of those with some college education, 78 percent of those with a high school degree and 75 percent of those with less than a college degree.

TABLE 5.18
Satisfaction with Detectives and Victims' Education
(n=98)

<u>Satisfaction With Detectives</u>	Education			
	Less than H.S. <u>(n=20)</u> %	H.S. <u>(n=27)</u> %	Some College or Grad. <u>(n=37)</u> %	Grad. Work <u>(n=16)</u> %
Dissatisfied	25	22	20	13
Satisfied	75	78	80	87

Chi square = 0.93 With 3 d.f. Not significant at 0.05
Pearson's R = 0.09 Not significant at 0.05 Missing = 2

(7) Income. The higher the income the more satisfied the victim, although as Table 5.19 demonstrates, this relationship was not statistically significant. Eighty-five percent of those who earned over \$20,000 a year were satisfied as were 82 percent of those who earned from \$9,000-19,000 and 73 percent of those who earned under \$9,000 a year.

TABLE 5.19
Satisfaction with Detectives and Victims' Income
(n=97)

<u>Satisfaction With Detectives</u>	Income		
	Under \$9,000 (n=26) %	\$9,000- 19,000 (n=44) %	\$20K Plus (n=27) %
Dissatisfied	30	18	15
Satisfied	73	82	85

Chi square = 1.33 With 2 d.f. Not significant at 0.05
Pearson's R = 0.11 Not significant at 0.05 Missing = 3

(8) Attitude Toward Police. Individually, none of the questions about victim's attitudes toward the police were significantly related to their overall satisfaction with police services. For all eight questions asked, however, those respondents with favorable attitudes toward the police were also more likely to be satisfied with police services.¹¹ The reverse was also true.

To find out whether attitudes toward the police had any additional effect on satisfaction with the police, I constructed an attitude index composed of answers to eight separate questions dealing with local police. I then collapsed these responses into pro and anti-police attitudes. The findings were as follows:

Table 5.20 illustrates that seventy percent of the women who were dissatisfied with police services had anti-police attitudes; 46 percent of those who were satisfied with police services had anti-police attitudes.

TABLE 5.20
Index of Attitudes and Satisfaction with Police Services
(n=98)

<u>Index of Attitudes</u>	Satisfaction with Police Services	
	Dissatisfied (n=20) %	Satisfied (n=78) %
Anti-Police	70	46
Pro-Police	30	54

Chi square = 2.7 With 1 d.f. Not significance at .05
Pearson's R = .20 Significance = .02*

Why did some women have positive attitudes toward the police while others had very negative attitudes? To find out, I looked at three factors; race, income and education. The findings were as follows: overall attitudes toward police were significantly associated with the race of the respondent (Table 5.20). Sixty-six percent of nonwhites had anti-police attitudes as compared to 43 percent of whites.

TABLE 5.21
Index of Attitudes and Victims' Race
(n=100)

<u>Index of Attitudes</u>	Victims' Race	
	White (n=65) %	Non-White (n=35) %
Anti-Police	43	66
Pro-Police	60	34

Chi square = 3.8 With 1 d.f. Significance = .05*

As income increased, so did pro-police attitudes. Sixty-two percent of those in low income categories were anti-police as compared to 53 percent of those in middle income categories and 38 percent of those in high income categories. This factor was significant at .05 level and explained four percent of variance in attitudes toward police.

The relationship between education and attitudes toward police, though not statistically significant, displayed a clear trend. The less education the more negative the attitudes toward police. For example, 57 percent of those with less than a high school degree displayed anti-police attitudes as compared to 47 percent of those who had done some graduate work.

In short, although those with anti-police attitudes were most likely to be dissatisfied and feel they were not treated properly, the relationships were not clear. Almost half of the satisfied victims had anti-police attitudes. Also, many victims who were ostensibly dissatisfied with their treatment nevertheless gave favorable overall ratings of police services.

(9) Perceived Treatment. Victims' evaluations of how they were treated were most strongly related to how satisfied they were with services. Victims' assessments of treatment explained 48 percent of the variance in satisfaction with detectives. As shown in Table 5.22, treatment was more strongly related to satisfaction than outcome. Verdict explained nine of the percent variance in satisfaction with detectives, whereas treatment explained 48 percent. This lends support to my original hypothesis that victims are more concerned with how they are treated than what happens to their assailant. Victims whose assailants are apprehended and convicted may be unhappy regardless of this outcome, if they feel they were mistreated.

TABLE 5.22
Satisfaction with Detectives and Perceived Treatment
(n=98)

<u>Satisfaction With Detective</u>	Perceived Treatment		
	Disrespect <u>(n=9)</u> %	Indifference <u>(n=16)</u> %	Understanding <u>(n=73)</u> %
Dissatisfied	100	44	6
Satisfied	0	56	94

Chi square = 50.48 With 2 d.f. Significance = 0.0000*
Pearson's R = 0.69 Significance = 0.0000*

I tested to see if verdict was synonymous with evaluations of satisfaction or treatment. When controlling for verdict the correlation between satisfaction and treatment was still a healthy .68 and accounted for 46 percent of the variance in satisfaction. Verdict, in short, was neither as significant or as important as how the victim was treated.

EXPLAINING CONTRADICTIONS

Why were women so overwhelmingly satisfied with general police performance, yet so willing to complain about particulars -- how they were treated, how much information they were given, what procedures were employed, and what happened to their rapists? Judging from comments made during the interviews, my interpretation is that this seeming disparity results because victims' expectations of how they would be treated were initially so low. Many victims thought they would be asked a host of personal questions about their previous sexual history and lifestyle. They anticipated such shoddy treatment in large part because of television they

had seen such as "Cry Rape," a 1970's movie which depicts a rape victim being humiliated by police, court officials, and friends. For example, the victim in the movie, though in her early 40's, was asked on the stand about a sexual encounter that occurred the night of her high school graduation. Many victims thought this was the way rape victims were treated and were relieved when such questions were not asked. Other victims expected that nothing would be done about their complaint. When an arrest was made, they were pleasantly surprised.

To illustrate, Stella was never called when her suspect was arrested and heard nothing from any law enforcement officer from the day she reported the crime until the day she got a phone call from the state's attorney's office telling her of the trial date. Police knew who the rapist was and where he lived as soon as the crime was reported. (He had given the victim his business card!) Yet, they did not arrest him for four days. While he was out on bail, he called Stella repeatedly and threatened her life. In spite of these developments, she gave police the highest evaluations. "I didn't expect anything from the police," she said, "They are so overworked -- I was just pleased they caught him."

Neva also gave the police high ratings despite seemingly "bad" treatment. She did not hear from the police for three months following her assault. But when they did finally come by, they brought flowers. She commented, "My husband was a policeman and I realize how busy they are. I am nobody and yet they tried to help me. I will always be grateful."

Polly is another woman who was satisfied with treatment that appeared to be poor. She was asked questions which were offensive and unnecessarily personal (did she have orgasms, did she enjoy the rape?), her

property was never returned, and she was never told what was done about her complaint. Even so, she gave the best possible ratings to the police who objectively did little or nothing for her.

This happened frequently in the interviews. Victims would tell me about all their objections and then surprise me by giving great evaluations of services. Many women presumed the police would not take their claim seriously; consequently when they were given any attention by the police, they were pleased. Because many victims got more attention than they expected, they gave evaluations which were, in my opinion, often excessively favorable.

SUMMARY

Victims' assessments of how they were treated by police were more favorable if they were provided with information, consulted, and included in their case. As Table 5.23 summarizes, verdict was also statistically significant.

TABLE 5.23
Factors Related to Victims' Perceived Treatment by Police

	<u>Chi square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with services	*50.4	.7	*48.0%
Informed of case developments	*15.8	.8	*16.0%
Consulted about case	8.1	.6	8.4%
Verdict	8.6	.4	5.7%
Included in decisions	6.1	.3	2.6%
Frequently heard from police	*15.5	1.	n,s

All factors were significant at .05 unless otherwise noted
*Significant at .001

Neither gender of the police officer nor the victims' income, education nor relationship to the offender was significantly related to their evaluation of police services or treatment.

TABLE 5.24
Factors Related to Victims' Satisfaction
with Police Services

	<u>Chi Square</u>	<u>Gamma</u>	<u>r²</u>
Treatment by police	*50.4	.9	*48.0%
Verdict	10.1	.6	11.5%
Informed of case developments	7.4	.7	9.0%
Frequent contact with police	4.2	.7	5.7%
Arrest made	14.8	.6	inap
Attitude toward police	2.7	.5	4.0%
Included in decisions	3.1	.5	4.0%

All factors were significant at .05 unless otherwise noted
*Significant at .001

Victims' evaluations of police services were most strongly related to how they were treated personally by the police. As Table 5.24 shows, this factor explained 48 percent of the variance in satisfaction. When controlling for verdict, treatment still explained 38 percent of the variance in satisfaction. Satisfaction with services was also related to the amount of information police provided on the case, the frequency of contacts by the police (the worse the attitude, the lower the evaluation), and outcome (was the rapist arrested, convicted?) In all cases, the rule was: the more the victim was involved in the case, the more she was satisfied with the police.

CHAPTER SIX: PROSECUTORS' VIEWS OF VICTIMS

After the police arrest a suspect, the next decision is up to the prosecutor. He or she must decide whether, when, and with what to charge the accused. In this chapter, I will discuss the extent to which prosecutors consider victims as they make these decisions. I will first describe the screening process, including the roles that victims in general and rape victims in particular play at this stage. After briefly discussing post-screening dismissals, I will focus on how prosecutors regard victims in their role as state's witnesses. Four stages thus will be analyzed: pretrial preparation, plea bargaining, trial, and sentencing.

THE DECISIONS TO CHARGE: SCREENING

After the police arrest a suspect, the next decision is up to the prosecutor. He or she must decide whether, when, and with what to charge the accused. This decision largely depends on the prior behavior of both the police and the victim in the case. Prosecutors may either approve or overrule the police decision that the crime was worthy of an investigation and arrest. By refusing to accept and file charges in a case, the prosecutor ends the suspect's involvement with the criminal justice system and in the process, greatly irritates the police department.

Prosecutor screening, as McDonald observed, "is the second guessing of the arrest decision."¹ Prosecutors look at the evidence police present to them and predict whether or not the case is "strong" enough to justify investing their time and resources. They ask: did the police reach the scene of the crime quickly enough to secure quality evidence? How

tangible is the evidence they were able to recover? Were they able to locate and obtain the cooperation of key witnesses?²

Frequently the answers to these questions result in the prosecutor's decision not to accept the case and to file charges. In 1930, the first national commission on crime, the Wickersham Commission, found that over half of all felonies were dismissed after arrest but before disposition by plea or trial. These figures are substantially the same today.³

In Washington, D.C., for example, over 60 percent of all "crimes" are dismissed before they come to trial. In effect, the prosecutor is saying to the police officer, "Just because your case is good enough for arrest, doesn't mean it is good enough for the court."⁴ The effect of screening decisions is to create tension between prosecutors and police.

Some case attrition is not as invidious as it may at first seem. Legally, police and prosecutors have different standards of proof which guide their decisions. Police success is measured by clearance rates; prosecutors' success is measured by conviction rates. Because the prosecutors' principle objective is conviction, they naturally filter out those cases that will not meet the high standards required for that outcome. This is true over the globe. To arrest, police need only probable cause; to convict prosecutors need proof of guilt "beyond a reasonable doubt." What is required of the court is more strict than what is required of the police. Another problem is that cases are screened out for reasons other than insufficient evidence. Frequently, cases that could result in conviction are eliminated because the prosecutor has "more important" cases to deal with. Clearly, this creates friction between the police and prosecutors' office.⁵

The decision to charge was reluctantly, and fairly recently, surrendered to the prosecutor. Prior to this the police had control over the screening decision. Police had learned to expect some kind of review of arrests before proceeding with a case, but the question was who should review: the police department, the clerk of the court, the magistrate, the prosecutor? In 1930, the Wickersham Commission made clear that organizational efficiency demanded someone central assume responsibility for screening cases. However, the Commission stopped short of endorsing the prosecutor as the logical candidate for this function, arguing that the division of labor between the police, prosecutor, and judge should remain clear. The question remained: who should be responsible for the screening decision?

Forty years later the answer to that question became clear. The American Bar Association's Committee on Standards Relating to the Prosecution Function, the President's Commission on Law Enforcement and the Administration of Justice, and various crime commissions all chose the prosecutor. In the words of the ABA, "Whatever may have been feasible under conditions of the past, modern conditions require that the authority to commence criminal proceedings be vested in a professional, trained, responsible public official, namely, the prosecutor."⁶

It is no wonder that the court associations endorsed the prosecutors' authority to charge. Widespread screening of cases and plea bargaining are an effective way to cope with a real problem of court overload. Screening allows prosecutors to accept those cases with the best odds of conviction, and dispose of the rest. Screening also allows prosecutors to drop cases that probably would result in conviction but are not as important for the court's attention as other pressing cases.⁷

Prosecutors have lost no time in exercising this authority and discretion. Rejection by screening occurs frequently. In the District of Columbia in 1974, for example, 21 percent of all arrests, and 28 percent of arrests for violent crime were rejected by the prosecutor at screening. This practice occurs nationwide. In 1977, 36 percent of all arrests in Los Angeles, 42 percent of all arrests in New Orleans, and 20 percent of all arrests in Salt Lake City were rejected outright by prosecutors.⁸

Discretion to prosecute invites the same abuses as discretion to arrest. Prosecutors, like police, are more inclined to pursue cases where crime is the exception and "turn the other cheek" where crime is the rule. They tend to enforce certain crimes selectively in "bad areas" while overlooking these crimes in other areas. Studies have found district attorneys lenient in prosecuting assault and sex offenses in minority-group communities, but rigid in enforcing gambling restrictions in those same communities. The effect is to violate rights to equal protection. Some groups are not protected because the prosecutor assumes they are used to a certain level of violence, so "crime is no big deal." Other groups may receive more attention than they care to while their neighbors, a community away, engage in the same behavior and are not bothered by law enforcement.

Discretion not to accept a case is often invoked when prosecutors either feel the offense, although illegal, is too trivial to be worth the court's time, or when they feel another method of resolving the conflict is more appropriate. Diversion programs, for example, allow prosecutors to drop charges if they think it more appropriate for the defendant to participate in a rehabilitation program. The threat of conviction can encourage the defendants' participation in such programs.

VICTIMS' ROLE IN SCREENING

What role does the victim play in decisions to charge? The Prosecutor's Management Information System (PROMIS) offers data on this question. PROMIS is a computer-based case management information system which operates in the District of Columbia and roughly 50 state and local jurisdictions. Because Maryland and Virginia do not use PROMIS, figures are unavailable for these states. However, in the District of Columbia and other jurisdictions, PROMIS records up to 250 pieces of information about each case from the time the arrest is presented to the prosecutor until it reaches formal disposition.¹⁰ Included are the reasons prosecutors give for rejecting or accepting cases. Prosecutor responses to PROMIS show that victims play a crucial role in this pre-trial stage. Their role is more passive than active. Victims opinions are not solicited but their characteristics and behavior are scrutinized by prosecutors in deciding whether or not to proceed with the case. Witness problems, including failure to appear, reluctance to testify, and lack of credibility, are the primary reasons why violent crimes are dismissed.¹¹

The victim's behavior at the time of the crime also affects the prosecutor's decision to charge. Prosecutors ask two questions dealing with the victim's behavior. Did the victim provoke the assailant in any way? Did the victim participate in the crime in any way? If the answer to either of these questions is "yes," the victim's case is more than twice as likely to be screened out than if the answer is "no." The reasoning is twofold. First, victims who provoke or participate in a crime will not be good witnesses. Second, to the extent that the victim brings about the crime, the offender

is less responsible. The responsibility of the offender decreases as the responsibility of the victim increases.¹²

Prosecutors must also consider the background of the victim. What they find will determine, in large part, whether or not they will proceed. Prosecutors scrutinize victims' backgrounds and how it reflects on their ability to be good evidence. If victims are disreputable, their testimony will be likewise. Without a credible key witness, conviction is unlikely. Therefore why proceed with the case?

Under this logic, certain kinds of victims will usually have their cases dropped at screening. For example, the lower the prestige of the victim the more likely the case will be dismissed.¹³ Property disputes among low-status people are likely to be ignored while violent crimes involving low-status offenders and high-status victims are taken more seriously. On occasion, a high-status victim's opinion on charging is even solicited.

Similarly, victims who "abuse" alcohol, use drugs, have a prior arrest record, or are unemployed are likely to have their cases screened out. The very young and old are more likely to have their cases accepted. In sexual assault cases, for example, victims under thirteen will more often have their cases accepted while victims between the age of thirteen and seventeen will more often have their cases rejected at screening.¹⁴

Female victims in general have the greatest chance of having their cases rejected at screening, dismissed before trial, and end in acquittal. The explanation for this is not prejudice against females but rather that, with the exception of rape, men are usually the victims of more serious crimes, involving defendant's with prior records. Both factors increase the probability of conviction, and therefore make the case a better investment of prosecutorial time.¹⁵

Cases most likely to be dropped at an early stage are those in which the victim and the offender are acquainted. In assaults, for example, this relationship exists 54 percent of the time in the District of Columbia, 56 percent of the time in Indianapolis, and 69 percent of the time in New York.¹⁶ Generally speaking, as Kristin Williams studies point out the closer the relationship between the victim and the offender, the more likely the case will be dropped. The rate of rejection at screening and later stages is highest when the crime involves spouses or when a prior romantic involvement exists between the victim and the defendant. Crimes involving strangers, on the other hand, are much more likely to survive screening and result in conviction.

The types of cases and victims just described are screened out, not because the prosecutor believes no crime occurred, or that the suspect did not commit it, but because the prosecutor thinks that further down the line, victims with these characteristics will not be good witnesses. The prosecutor is anticipating how the judge and the jury will perceive the victim, and how strong a case the state will have in light of the victim's background and the evidence. Drug users, or victims with prior records, for example, may not stand up well in court. Victims who know their assailant may reconcile their differences and change their mind about testifying. If this happens, the police and prosecutors' time and money have been wasted. To prevent such waste, these cases are dropped at the outset.

In trying to anticipate a victim's behavior and strength as a witness, the prosecutor may guess wrongly. Cannavele, in his study of witness cooperation, found that many prosecutors labeled as "uncooperative" witnesses who actually lacked information about when to show up and what to do.¹⁷

Aside from having their characteristics examined, victims have little to do with the decision to file charges. What input they do have is mostly negative. If the victim refuses to press charges, the state has the authority to prosecute the victim for failing to cooperate. This threat is rarely implemented, however. Usually, if victims do not want to prosecute, the state's attorneys will honor their wish, not because they believe the victims are entitled to make that important decision, but because without a cooperative victim, they have no case.

On the other hand, if the victim passes the "characteristics test" and wants to prosecute, the state's attorney is not obliged to honor this request. If the prosecutor decides to drop the case, the victim has no redress. The state's decision is binding. In short, as Neubauer put it, "a victim's requests are honored only when the victim declines prosecution."¹⁸

Prosecutors defend this position by arguing that it would be improper to allow the victim's demands to influence the state's decision on what to do with a case. A detached professional, not an emotional victim, is needed to evaluate the merits of a case. If prosecutors based their decisions to charge on what the victim wanted, it would introduce, in the words of one prosecutor, "inaccurate and unsupported ideas and the possibility of revenge into the criminal justice system."¹⁹ If the victim's opinion determined whether or not cases were prosecuted, "criminal courts would be used as a forum for personal vendettas and family fights."²⁰

In addition to examining the evidence and the characteristics of the victim, the prosecutor weighs two other factors in his decision to charge: (1) who is the defendant and (2) how well known is the crime? If the suspect has a prior record, especially for serious crimes, the prosecutor

may file charges even if the chances for conviction are slim. On the other hand, if the suspect has no prior record and the evidence is scanty, the prosecutor is unlikely to proceed given the low probability of conviction.²¹ In addition, prosecutors are apt to go after suspects in a case that has received a great deal of publicity, regardless of the chances for conviction. Publicity usually arises either because an important victim is involved or the crime is particularly heinous. In these cases, public reaction compels the prosecutor to take action. Of course, as the following comment from a prosecutor illustrates, what is heinous is a relative judgment:

"If a little girl, walking home from the grocery store is pulled into the bushes and indecent liberties taken, this is more disturbing to the public's conscience than when the father of the girl takes indecent liberties with her at home."²²

RAPE CASES AND SCREENING

How does the crime of rape compare to other felonies in terms of screening decisions? With the exception of aggravated assault, rapes are more likely than any serious crime to be rejected at screening. The chances of conviction are usually slim. Given the nature of the crime, witnesses are essential to prove the case yet hard to come by. This problem coupled with the general suspicion of rape complaints, results in prosecutors frequently refusing to file charges.²³

To illustrate, thirty-six percent of forcible rapes were rejected at screening in the District of Columbia in 1977. The figures are even higher in other areas -- 60 percent in New Orleans and 67 percent in Los Angeles -- far greater than for violent crimes in general. Difficulties with

witnesses are the main reason rape cases are rejected at screening. The problem is not that victims refuse to prosecute -- forcible rapes are least likely to be dropped for this reason. The most frequent problem is "witness credibility" -- a justification made more in forcible rape cases than in any other crime.²⁴

In the District of Columbia, the second most frequent reason prosecutors give for dropping rape cases is "insufficient evidence." This explanation is offered in 29 percent of all rejected cases. Next to burglary, forcible rapes are most likely to be dismissed on these grounds, which is not surprising. The elements needed to prove rape are more extensive than in other crimes.²⁵

Screening is not only the stage where prosecutors are most influenced by who the victim is; it is also the stage where the prosecutors' decision to charge is absolute and immune from review as well as damage suits.²⁶ The result is, to quote a local state's attorney, is that "No one, not even the Governor of Maryland, can make me take a case that I don't want to take."

Thus screening is a power that is not only unchecked, it is invisible. The National Advisory Commission on Criminal Justice, addressing this problem, endorsed screening "only when neither diversion nor conviction is desirable."²⁷ In those instances, the Commission endorsed screening as an effective way to weed out weak cases but recommended that prosecutors develop explicit guidelines for screening. The Commission's recommendations mentioned victims only once. They suggested that "improper motives of the complainant are grounds to drop a case."

Whatever the remedy, it is clear than something must be done to control discretion in screening. The present system says to criminals, "If

you select as your victim a black, lower-income, female, with a prior arrest record, whom you know -- you have little fear from courts." The message is that certain victims may be assaulted, raped, or robbed with impunity.²⁸

THE DECISION TO DISMISS

Even if a case is accepted at screening, there is still no guarantee that it will be prosecuted. There remains a good chance it will then be dismissed. The rate at which cases are dismissed or "nolled" after filing is 35 percent in the District of Columbia, 56 percent in Rhode Island. A quarter of these dismissals in the District occurred at the trial stage.²⁹

The reasons for dismissal are many: (1) In some cases, it is easier to dismiss charges later than earlier. Dismissal may allow prosecutors to avoid the discomfort of overruling police officers. In the District of Columbia, for instance, later dismissals allow prosecutors to circumvent the Case Review Section of the police department, which screens cases before they are submitted to the prosecutor and re-evaluates rejected cases for possible resubmittal. Not only is dismissal easier on police-prosecutor relations, it is technically simpler to drop a case later than reintroduce it after premature dismissal.³⁰

(2) The offender may have been offered and completed a diversion program in return for the state's agreement to drop charges. A recent, well-publicized example of this is the treatment of Representative Robert Bauman (R, Md.) agreed to undergo in exchange for the government's promise to drop charges of sexual solicitation. In Washington, D.C., such diversion programs account for over a quarter of all dismissals.³¹

(3) Witnesses may disappear, change their mind, settle their dispute privately, or fail to identify the suspect at a lineup.

(4) The prosecutor may find out which judge will be on the case, size up the chances of conviction with a lenient presiding judge, and decide to dismiss the case.³²

(5) The major reasons for post-filing dismissals are problems with evidence and witnesses. In 1977, witness problems accounted for 28 percent of all dismissals and nolle in the District of Columbia. Evidence problems accounted for 26 percent.³³

The specific nature of the witness problem varied. In Washington, D.C., 53 percent were dropped because the witness signed off and withdrew the complaint. In other areas such as Detroit and Los Angeles, witness no-shows accounted for many dismissals after filing -- 62 and 32 percent of dismissals, respectively. Within the category of evidence problems, insufficient testimonial evidence accounted for 56 percent of dismissals in Washington, D.C. Lack of evidentiary merit and lack of sufficient connection between the defendant and the offense accounted for many other dismissals nationwide.³⁴

Whatever the combination of reasons, most cases never make it past the preliminary stages of the criminal justice system. Even if a case manages to survive this filtering process, the charges that remain may have little to do with the events reported by the victim and investigated by the police. In Seattle, Washington, for example, about 70 percent of all felonies are reduced to misdemeanors after the preliminary hearing. In Chicago, over half of all felonies are reduced or dismissed before trial.³⁵

The cumulative effect of these decisions and layers of discretion is that the most common fate of an arrest for a serious crime is dismissal. Between 50 and 75 percent of all felony arrests are either refused prosecution or dismissed before trial.³⁶ From the victims' perspective, most reports to the police are in vain. Suspects are frequently not apprehended and even if they are, they stand a good chance of escaping prosecution and punishment.

VICTIMS AS WITNESSES

What about the "fortunate" victims whose cases survive the filtering process? What is their role in the minority of cases that continue to be prosecuted? Ostensibly their responsibility is to be the state's lead witness, but in the words of Herbert Maisch, "The victim is but part of the evidence among other parts of evidence and but a witness among other witnesses."³⁷

Although victims' complaints set the wheels in motion, victims have no formal status which recognizes their unique role and personal interest in the processing of cases. McDonald described it succinctly: "Their role seems much like that of the expectant father in the hospital at delivery time: necessary for things to have gotten underway in the past, but at the moment rather superfluous and mildly bothersome."³⁸

As state's witnesses, victims must be willing to make a major investment of their time, energy, and often money. A 1975 survey of victims and witnesses in Milwaukee, for example, found that the most frequent complaints of witnesses were loss of time and income.³⁹

Delay is the plight of the state's witness. Pressing charges promises to be very time consuming. Frequent trips to the courthouse and long waiting periods upon arrival are commonplace. Postponements are the rule, because they are used as a strategy by the defense to discourage state's witnesses from continuing to cooperate in the case. The defense attorney's logic is that after a number of postponements, victims and witnesses will decide that the deferred reward of punishment is not worth the immediate penalty of delay.⁴⁰

The defense is not solely responsible for delay. The state also bears responsibility. Some researchers have found that the liberal continuance policy of courts, rather than case crunch or limited staff is the most important cause of delay.⁴¹ Continuances buy time for both the defense and the prosecution. The delays which result are substantial. For example, a 1979 study found that the time from arrest to post-indictment disposition in felony crimes varied from 102 days in New Orleans to 204 days in the District of Columbia and 725 days in Rhode Island. Homicide and rape took longer to process than other felonies.⁴²

The victim is expected to persevere regardless of how long the case drags on. As Ziegenhagen put the point:

The scheduling of deposition, motion hearings, and trials in which the witness is expected to participate is based upon the presumption that the victim has an incentive to appear equally as great as that of court personnel and the offender.⁴³

To the extent this assumption is incorrect, the system pays a price. The immediate result is that cases are defaulted because witnesses do not appear to testify. In Detroit, for example, of the cases dropped due to witness problems, 62 percent were dismissed because the witnesses failed to appear.⁴⁴

Another cost is that witnesses' opinions of the court deteriorate as the number of postponements increase.⁴⁵ Contrary to other institutions, the more contact witnesses have with the court system, the lower their evaluation. Observers of court proceedings have more favorable evaluations than do participants.⁴⁶ In short, "familiarity breeds contempt."

These negative evaluations may have long-term effects. Having once experienced delay, intimidation, and financial loss, witnesses may be reluctant to participate in the court system again. As an editorial in the San Francisco Examiner noted, "It is unreasonable and self-defeating to expect that citizens, no matter how dedicated, will automatically keep subjecting themselves to personal loss and inconvenience in the name of justice."⁴⁷

Negative assessments may be contagious. As the National Advisory Commission observed: "Witness problems contribute to an undercurrent of popular dissatisfaction that is undermining the public's respect for the American court system."⁴⁸ As with any consumer complaint, when one person has a bad experience, whether it is with a restaurant or a movie, the story spreads. Others avoid the same restaurant, skip the movie. The same holds true for the court system. The lack of enthusiasm displayed by most citizens upon receiving a notice for jury duty and the creative reasons offered for being excused from service, are common examples of the citizenry's reluctance to participate in the court system.

Why is this witness problem so extensive? To find out, the role of the complaining witness will be traced from this post-indictment stage through sentencing, beginning with the second most frequent outcome in a criminal case -- the plea bargain.

VICTIMS' ROLE IN PLEA BARGAINING

Plea bargaining is one of the most pervasive methods used to resolve conflicts. Figures on plea bargaining vary from city to city and from state to federal courts. National estimates indicate that between 83 to 90 percent of all cases are plea bargained. If a victim's case remains after attrition, he or she will most likely resort to plea bargaining to settle the dispute or conflict.⁴⁹

The impact and role of the victim in plea bargaining is rarely considered. Alan Alschuler, for example, in his work on plea bargaining lists the victim's opinion as an "extraneous factor."⁵⁰ Most writings consider plea bargaining only from the state's and the defendant's perspective.

Discussion of plea bargaining primarily focuses on whether or not it is a necessary evil. Part one of the debate is a cost-benefit analysis which weighs the benefit of plea bargaining as a way for courts to cope with case-overload versus the danger of plea bargaining as a procedure which threatens to turn the courts into assembly lines. Part two of the debate concerns whether plea bargaining favors defendants by enabling them to serve less time, penalizes defendants by coercing them to give up their constitutional rights associated with jury trial and self-incrimination, or both.⁵¹

A recent study of robbery, larceny, and assault in thirteen cities refutes the argument that plea bargaining results in more lenient sentences. Except for robbery, defendants received about the same sentences as those who went to trial. The reason was that prosecutors

anticipated plea bargaining and routinely overcharged at the outset. When they agreed to reduce charges during negotiations, defendants did not gain anything. They were back with the charges that should have been instituted originally. Negotiation, the author concluded, tends to result in defendants pleading guilty to the top charge in the case.⁵²

The same study also showed that many defendants who copped a plea would probably have been acquitted had they gone to trial, suggesting that, at times, plea bargaining may be highly effective in crime control. In short, plea bargaining ensures that some time will be served and, from the state's perspective, some time is better than no time served.

Many decry the practice of overcharging in particular and plea bargaining in general. Among other faults plea bargaining is said to sully the seemingly "just" nature of the criminal justice system and embroil the court in a charade. To quote Albert Reiss:

The defendants are told to plea to matters that falsely state the nature of their violation of the law. The defendants, defense counsel, and the prosecutor deny in response to a necessary query from the judge that their has been a prior bargain, and the judge accepts the plea of guilty with full awareness that a bargain that has been denied has been struck.⁵³

The Supreme Court has ruled on that. As long as the plea is voluntary and intelligent, a plea bargain will be accepted. In the words of Chief Justice Burger, "Plea bargaining is an essential component of the administration of justice...properly administered it is to be encouraged."⁵⁴ Furthermore, as Thomas Church points out, plea bargaining does not deprive defendants of choices. The defendant may opt for a jury trial and be represented by counsel at all times. Plea bargaining, properly administered, is a free choice for the defendant and his counsel to consider and accept or reject as they wish.⁵⁵

Not all jurisdictions endorse plea bargaining. Alaska outlawed plea bargaining in 1975. Six years later, the criminal justice system has not come to a halt. Defendants who go to trial still receive slightly higher sentences than those who plead guilty, but trials have only increased modestly, and defendants continue to plead guilty at about the same rate as before 1975.⁵⁶

In most jurisdictions in the United States, plea bargaining remains a favorite of criminal justice personnel because it is manageable, predictable, and inexpensive. The average total savings for the fourteen jurisdictions which use the Prosecutor's Management Information System was \$1,980 per case.⁵⁷ Plea bargaining is an asset because it offers no surprises. Guilt is assumed. The sentence and charge may be negotiated, but the guilt is certain. Prosecutors prefer this to a trial situation where they may lay odds that the state will win, but the decision is ultimately out of their control.

Prosecutors also favor plea bargaining because, as McDonald writes, "it assures the prosecutor of a politically beneficial rate of conviction; it provides a way to obtain convictions in cases that might have been lost at trial because of inherently weak evidence, sloppy police work, incompetent prosecutors, and biased or unpredictable juries."⁵⁸

Prosecutors' decisions whether and what to offer in a plea are influenced by their assessment of how good a witness the victim will be as well as the strength of the evidence, the prior record of the assailant, the severity of the crime.⁵⁹ The victims' role in this assessment is once again passive rather than active. With few exceptions, which will be discussed later, their opinions of pleadings are not solicited. Instead, as was the case

with prior screening, their characteristics are scrutinized and sized up in terms of how they will influence the strength of the state's case.

At best, victims as witnesses may be informed of plea bargaining arrangements after the fact; they are rarely consulted. As a result, "bargains" are often anathema to the victim, though they serve the state's interest well. For example, persons who have been burglarized, raped at gunpoint, and sodomized -- may object to a plea to breaking and entering and attempted rape -- but that is all they can do. Ultimately, it is not their decision. Some prosecutors may consult victims out of courtesy and personal concern, but this is rare and legally unnecessary. The state, not the victim, is considered to be the injured party.

The victim's role in plea bargaining is restricted to an invisible threat. If the prosecutor knows the complainant is an articulate individual, not easily rattled, who will make a good courtroom appearance, he or she will use this as leverage against the defense. In such a case the prosecutor does not have to grant major concessions to the defense because the state is less afraid of a trial outcome. Knowing that the state's key witness is strong, the defense may anticipate that the jury will also perceive the complainant favorably and his client poorly. The defense attorney may then advise the defendant to plead guilty rather than risk trial.⁶⁰

The irony of such a situation is that the better a witness the victim is, the less likely she or he will ever be called upon to perform this function. The mere threat of a strong complaining witness is often sufficient to induce plea bargaining. The strong witness may rarely have an opportunity to testify in trial. The case will be resolved before this stage, in part, because of the witness' "strength."

The reverse is also true. A prosecutor is most likely to bargain those cases where the evidence is weak or questionable. If prosecutors know they are dealing with a "problem" witness, they are likely to try to negotiate a plea rather than chance a trial. The logic is that it is better for the defendant to serve some time than no time. The defense attorney, on the other hand, will feel no compulsion to plea unless a generous offer is made. Knowing that the state's key witness is shaky gives the defense a major card to play.

To avoid this, victims as witnesses are picked quite selectively. To illustrate, consider the following situation. One man has assaulted twelve women. When apprehended, he agrees to plea guilty to some of the rapes if the state agrees not to prosecute him for the others. The prosecutor must then decide which of the twelve cases to select. His decision will depend in part on who the victim is in each case and how much evidence she has. Is she credible, employed, articulate, visibly bruised? If not, the prosecutor may drop her case and choose to prosecute the other's instead. The upshot is that if defendants are fortunate enough to select as their victims individuals who are likely to be poor witnesses, they may well escape punishment for that crime.

As a rule, prosecutors' discretion regarding when and what to offer as a plea is immune from external review. In theory, checks exist in the states attorney's office and, ultimately the ballot box. However, the elected head of each prosecutor's office rarely scrutinizes the day-to-day decisions of the attorneys under his command, except in highly publicized cases or when training new prosecutors.⁶¹ As to the electorate's control, although the Attorney General may be elected, the visibility of

prosecutorial and judicial discretion as an issue is particularly low. Conviction rates, not pleas or sentences, are used to measure the prosecutor's success or failure. They can easily be calculated in such a way as to yield maximum political mileage.⁶²

Judicial review over plea bargaining decisions has met with little success. Judge John Sirica, of Watergate fame, once presided over a case in which the defendant had arranged for a friend to rape and murder his wife. The U. S. Attorney offered the defendant a plea to second-degree murder which the defense accepted. Judge Sirica refused to accept the bargain, arguing that the public interest would not tolerate a mere "tap on the wrist" in return for such a ruthless crime.⁶³ The Court of Appeals reversed. The Court held that a plea may be rejected only if it is: "(a) inherently unfair to the defendant; (b) an abuse of the prosecutor's discretion; or (c) interferes with the judge's sentencing prerogative without any overriding prosecutorial interest." In short, judges may intervene only when prosecutors abuse their discretion -- and such abuse will be defined primarily from the defendant's perspective.

Despite their legal right to autonomy, some court systems are experimenting with programs which allow victims to take part in plea negotiations. For example, in Multnomah County, Oregon attorneys are required to solicit the opinion of each victim of a personal crime regarding plea bargaining, pretrial release, and sentencing.⁶⁴ Similarly, in Palm Beach, Florida, a member of the Victim-Witness Aid Center reviews the defendant's background with the victim, discusses potential pleas and suggests an appropriate sentence. This information, along with recommendations of the investigating officer, is then sent to the

prosecutor. Prosecutors are more likely to take these suggestions to heart, however, when victims offer tangible legal reasons for their opinions, such as the prior record of the defendant. Vengeance alone is a rationale unlikely to persuade the prosecutor.⁶⁵

A 1979 field experiment in Dade County, Florida, structured the pre-trial settlement conference so that plea negotiations took place in front of the judge, victim, defendant, and arresting officer. Attendance by lay people was not mandatory and the victims, although consulted, were not given the power to veto decisions. The results indicated that the victims did not routinely demand the prosecutor "throw the book" at the offender, but rather agreed to what the two attorneys negotiated.⁶⁶

In Pima County, Arizona, a defendant can not be admitted to the county diversion program without the victim's approval. Since the program began in 1973, less than five percent of victims have vetoed their offender's participation in this program.⁶⁷ A study of rape victims reached similar conclusions. Retribution was not the victim's primary desire.⁶⁸

These studies suggests that victim participation does no harm. Even so, victim participation in plea bargaining remains unpopular. First of all, a victim who is willing to compromise contradicts what prosecutor's assume will be a victim's response. Most prosecutors continue to argue that victims should be excluded from deliberations because vengeance, not justice is their first concern.

Secondly, plea bargaining attracts prosecutors because only two attorneys are involved; therefore, cases can be disposed of swiftly. For victims to sit in on plea negotiations, major scheduling problems would have to be overcome. The process might be more time consuming, an

outcome particularly distasteful to prosecutor's contending with large case loads.

VICTIMS AT TRIAL

Few cases make it to the trial stage. Trial rates are about the same now as they were in 1930 during the days of the Wickersham Commission. Personal crimes go to trial more than property crimes, but nationally the rate of trial per crime is still under ten percent and even lower in the District of Columbia -- eight percent.⁶⁹

When a case does proceed to trial, defendants accused of violent crimes will usually demand a trial by jury. In Washington, D.C. 98 percent of all trials are by jury. Juries are the audience most crime victims must contend with at trial.⁷⁰

The victim at this stage is plagued by continuing problems of delay as well as the embarrassment of retelling to a group of strangers an incident most would rather forget. Unlike the defendant, however, victims have no right to silence. Regardless of how personal the questions, absent a sustained objection from the prosecutor, they must answer what they are asked.

Objection is rarely forthcoming. Were a prosecutor to argue that the victim need not answer a question, he would run a risk that the jury might interpret such an objection as "Ah-hah, the victim has something to hide." The judge or jury might conclude that the state was withholding evidence and the state's case would be jeopardized.

By the time a case reaches the trial stage, the victim's role is minimal. Studies show that victims have little effect on outcome.

Williams, in her analysis of all violent crimes during a one year period in Washington, D.C., concluded: "The further a case proceeded, the less impact the victim appeared to have. The decision at trial as to the defendant's guilt or innocence did not appear to be influenced by the characteristics or behavior of the victim."⁷¹

The explanation offered for this is that victims whose cases survive to the trial stage are expected to be uniformly cooperative. Victims who might be a "problem" or unconvincing in front of a jury will most likely have their cases dismissed or plead before this point.

Rape Victims on Trial

In rape cases, some researchers disagree with the general rule that victims are irrelevant to trial disposition. They argue that, to the contrary, in rape cases the victim's character, rather than the criminal assault often becomes the focus of the trial." Harry Kalven and Hans Zeisel's study of 106 rape cases supports this conclusion. Their analysis suggested that the victim's behavior is a critical factor in the jury's determination of the defendant's guilt. In their words:

The law recognizes only one issue in rape cases other than the fact of intercourse: whether there was consent at the moment of intercourse. The jury...does not limit itself to this one issue. It goes on to weigh the woman's conduct in the prior history of the affair. It closely, and often harshly, scrutinizes the female complainant and is moved to be lenient with the defendant whenever there are suggestions of contributory behavior on her part. The jury chooses to redefine rape in terms of its notions of the victim's assumption of risk. Where they perceive an assumption of risk, the jury will frequently find the defendant guilty of a lesser crime. It is thus saying not that the defendant has done nothing, rather that what he has done does not deserve the distinct opprobrium of rape.⁷²

Intense jury scrutiny is not the only unpleasantness rape victims must endure at trial. The rape victim faces an especially difficult encounter as

she approaches the jury with her testimony. Not only is rape very personal, it is also very difficult to prove. Victims must fight a host of sexist assumptions which are embodied in the law as well as the defendant's allegations, the jury's suspicions, and possible judge's bias. Once again the victim must face the gauntlet already run with police and prosecutors. Depending on the state, victims may have to contend with the following: (1) a defense which introduces their prior sexual life as a justification for rape; (2) an attack on their credibility; (3) an argument that they provoked or precipitated the assault; (4) a demand that they present a corroborating witness; (5) a requirement that they demonstrate that their fear of the assailant was "reasonable."

(1) Prior sexual behavior. The admission of evidence regarding a rape victim's prior sexual behavior has received much criticism and in many jurisdictions has been struck down. Victims suffer much abuse in those states which continue to admit this testimony as evidence. The defense strategy is to argue that though there was intercourse, the victim consented; therefore the act was not rape. The logic which allows the leap from prior sexual background to a consent defense is that if a woman has said "yes" once she has said "yes" to all circumstances. A woman who has pre-marital sex, in some jurisdictions, forfeits her right to say "no" to rape.

(2) Credibility. Another form of attack is to question the complainant's credibility. What is difficult to prove may also be difficult to disprove, the defense will argue. Only a fraction of all rape cases are ever prosecuted. About half of all rape victims refuse to report the crime, in large part because they fear police and prosecutor's responses to their complaint.⁷³ Only half of all suspects, at best, are apprehended.

Furthermore, as previously discussed, police and prosecutors dispose of almost a third of rape cases at the outset. The cases that remain are subjected to a rigorous scrutiny of both evidence and victim credibility. In light of these facts, it is patently false to claim that "rape is a charge easily made and difficult to disprove"; rather, the opposite is true.

Such attacks on the victim's credibility are not only untrue but unnecessary. Studies show that jurors are likely to favor defendants over victims.⁷⁴ Moreover, it is the function of the jury to determine the veracity of the victim's complaint and the right of the judge to set aside a verdict on the grounds of insufficient evidence.⁷⁵ The effect of the Hale instruction is to prejudice the case, not to contribute to the impartiality of the proceedings.

(3) Victim provocation. This defense springs from what sociologists refer to as "just world" theory.⁷⁶ This theory states that the world is basically a just place. People who get in trouble, fall on bad times, do evil things, or become victims, find themselves in these situations because in some way they asked for it. In a just world, these victims have broken some basic rule and, in one way or another, are paying for it.

When applied to criminal justice, this theory suggests that, to the extent the victim is responsible for bringing on her own assault, the defendant is less responsible. Certain types of tight or scanty clothing, "fast" lifestyles, choices of friends, methods of entertainment, and so on, may lead the victim into trouble and will be considered mitigating factors in determining the defendant's responsibility. For example, it is this logic that allowed the Wisconsin judge (since turned out of office) to declare that a rape of a young woman wearing blue jeans was a natural male response to the victim's attire.

Unfortunately, this type of attitude is not limited to one judge. A 1974 study of Philadelphia judges revealed that their orientation in trying rape cases was to focus on the behavior of the victim, rather than the actions of the defendant. Judges categorized victims into three basic types: (a) the genuine victim -- one who is involved in a stranger-to-stranger rape; (b) the asking-for-it victim -- one who for example, meets her assailant in a bar; (c) the vindictive victim -- one who makes up the event just to get even with a man.⁷⁷

The bottom line of the "she-asked-for-it" approach to crime is, as Medea and Thompson observe, "The woman is placed in an impossible situation. She is responsible for her actions, his actions, his interpretations of her actions, in short for everything that could possibly give him an excuse to lose control."⁷⁸

(4) Corroboration requirement. Another hurdle rape victims must overcome in many jurisdictions is corroboration. This mandates that the victim's complaint about forced intercourse be supported by another source. The requirement, Gless argues, is necessary so that the case is not reduced to "the victim's after-the-fact report of her self-perceived attitude toward the act. Without a corroboration requirement, cases can become swearing contests between victim and the defendant, leaving the judge and jury no rational way to resolve the conflict."⁷⁹

(5) Reasonable fear requirement. This last rule facing rape victims is new to the state of Maryland. It resulted from a case in 1979 in which a woman testified that she was raped, although she did not cry out and the defendant did not strike her. (He did take her car keys) The Maryland Court of Appeals overturned the conviction and ruled that the victim's fear

in such a situation was not reasonable. Therefore, her argument that she submitted through fear was invalid. She was not raped according to the standards of Maryland law.⁸⁰

The result of these five requirements is to discourage rape victims from pressing charges, to make their role as a witness at trial most uncomfortable, and to benefit the defendant unnecessarily. Such "protections" as Lord Hale instructions and corroboration requirements assume that women press rape charges carelessly and that without these requirements defendants would fall prey to women's unfair allegations. There is no support for these assumptions: the evidence that does exist suggests the contrary.

Defendants benefit from the many obstacles foisted upon the victim. Because the odds against conviction are so great, a high proportion of defendants accused of rape choose to take their case to trial, rather than "to cop a plea." In Washington, D.C., for example, 33 percent of all rape cases go to trial, a rate of trial higher than any other felony and more than three times the average felony rate.⁸¹ One reason for this comparatively high rate of trial is unusual burdens of proof rape victims must encounter in court, burdens which considerably improve the defendant's chance of acquittal.

VICTIMS' ROLE IN SENTENCING

Sentencing may be the stage which is most important to crime victims for it is precisely at this point that the defendant's punishment is decided.⁸² For many victims, the sentencing decision is the reason why they bothered to cooperate in the first place: to seek retribution, to see

their assailant punished. Ironically, while sentencing may be most important to the victim, it occurs at a time when the victim is least important to the state. The victim's crucial role as provider of evidence and information is no longer needed. The defendant has already been convicted. The state has won.

Participation by the victim at sentencing is subject entirely to the whim of the prosecutor or defense attorney. Jurisdictions experiment and circumstances arise where the state's may allow the victim to participate, but this is rare. Studies on sentencing, while voluminous, do not focus on this clash between victims and states priorities. Instead, attention focuses on the tremendous discretion judges employ in sentencing. Court-watchers note that like crimes produce unlike results and try to figure out why. Was the judge prejudiced? Does sentencing disparity depend on the severity of the crime, the prior record of the defendant, the characteristics of the victim?

A discussion of these variables takes for granted that judges consider extra-legal factors in their sentencing decisions. Scholars have found that a defendant's race and ethnicity as well as a judge's social background, workload, tenure in office and penal philosophy are factors which influence sentencing. Indeed, some investigators argue that the key question about sentencing is "who is the judge," not "what are the facts?" As Gaudet concluded:

Sentences are unevenly and capriciously applied as the primary influence upon sentences is the personality of the judge...in terms of his social background, education, religion, expressive temperament, and social attitudes.⁸³

In this realm of extra-legal considerations, what role does the victim play? Generally, if victims are considered at all their influence is of one of three types. (1) Their characteristics and behavior are scrutinized to determine the credibility of their complaint and the extent to which they "got what they deserved." Once again, they are "sized up." (2) Their participation is used as a bargaining chip by prosecutors or defense attorneys to either increase or reduce the defendants' sentence, or win approval of plea bargains. (3) Their opinion, in a very few experimental programs, is solicited to determine the appropriate sentence for the offender. In the following pages, these three types of participation will be explained in greater detail.

(1) Sizing up the victim. This first form of victim influence falls under what scholars call "ascription theory."⁸⁴ Simply put this means that the more responsible the victim is for inviting the crime, the less responsible the defendant is for committing the crime, and therefore the less severely the defendant will be punished. By looking at the victim's physical and demographic characteristics, judges, jurors, and probation officers draw conclusions about the extent to which the victim was to blame for the crime.

The victim's responsibility in precipitating or provoking a crime is often viewed as a function of personal characteristics. Studies have found, for example, that both the status and attractiveness of victims affect sentencing. Victims who are black, low income, with prior criminal records, often find their offenders sentenced to less time than the assailants of upper-class, "respectable" victims.⁸⁵ Similarly, studies indicate that "jurors" as well as probation officers recommend harsher

penalties when attractive women are raped than when unattractive women are raped.⁸⁶

(2) Victims as Bargaining Chips. Although victims rarely play an active role in sentencing, at times it is in the interests of the prosecutor or defense attorney to include them. Prosecutors are more likely to include victims in sentencing if they want to (a) make sure the offender receives a stiff sentence; (b) deflect criticism of a plea bargain; (c) get rid of minor crimes which are creating a backlog.

(a) The stiff-sentence motivation. Prosecutors are not always interested in obtaining a stiff-sentence for the defendant. Conviction is their primary goal and their measurement of success. Sentencing is secondary. However, in cases involving habitual criminals or particularly heinous crimes, the prosecutor may take a personal interest in the sentencing decision.

To obtain a stiff-sentence for the defendant, prosecutors may use the victim. They may ask the victim to appear or testify at sentencing, write a letter to the sentencing judge, or talk to the parole and probation department. The reasoning behind this strategy is that, as a general rule, when judges, jurors, or other court officials actually see the victim of crime, their sympathies are aroused. As a result, they are more likely to recommend a harsh sentence.

Plea bargaining presents a special problem for the prosecutor who wants the defendant severely punished. Plea bargaining guarantees that the victim can not appeal to the sympathies of the judge or jury. The victim is never seen but exists in name only. Furthermore, plea bargains which involve charge reductions disguise the true crimes for which the

offender is responsible. An individual who actually raped twelve women may come before the court as guilty of only four rapes. How is the prosecutor to let the judge know that this individual is, in fact, much more dangerous than the four crimes suggest?

One way is to have the four victims testify at sentencing. This happened in the case just described. Each of the four women testified about the impact the rape had on her life. One woman's husband left her, another lost her job, another was unable to resume sexual relations, all were severely depressed and extremely frightened. The strategy worked. The rapist was sentenced to 120 years -- an above average sentence for committing four rapes.

(b) Deflecting criticism of plea bargains. This strategy is especially popular in highly publicized cases. The logic is much like the cliché, "the best defense is a good offense." The prosecutor anticipates that observers will disapprove of a bargain and heads off the attack by getting the victim or the family of the victim to go on record as favoring the negotiation. For example, when the Los Angeles District Attorney agreed to plea bargain with Sirhan Sirhan, he wrote to the Kennedy family asking their opinion on what the sentence should be. Similarly, in a case that McDonald reports, "When the state's attorney in Chicago was faced with having to plea bargain in a 'cop killer' case, he first held meetings with relatives of the deceased officer, his fellow officers, and businessmen in the neighborhood."⁸⁷

(c) Dropping minor crimes. As previously discussed, an effective way to deal with the problem of too many cases and too few prosecutors is to get rid of minor crimes. One way to do this is to persuade the victim to

drop criminal charges and settle the dispute outside of the criminal justice system. Another way is to convince the victim to allow the offender to enter a diversion program. If the victim agrees, the state drops the charges against the offender providing that he does not recidivate within a prescribed period of time. Most diversion programs require the victim's consent; therefore prosecutors must include victims in order to have their caseload reduced.

(3)Experimental programs. In some jurisdictions, the selective or discretionary approach to including victims is rejected in favor of programs which institutionalize their participation in sentencing. In Florida, for example, the Palm Beach County Victim Witness Aid Center solicits victims' opinions about plea bargaining and appropriate sentences, and conveys the information to the probation board. The Center also notifies victims of the sentencing date so that they may attend if they wish. In Vermont and Arizona, the courts have approved both the judges' and probation officers' right to consider the victims' opinion before recommending a sentence.⁸⁸

In Maryland a new program began in 1979 which was the first of its kind in federal courts.⁸⁹ This program does not rely on the discretion of the prosecutor as to whether or not the victims' opinion is considered, but rather ensures that "a neutral source -- the probation officer will serve to bring home more graphically what happened to the victim."⁹⁰ Probation officers prepare a "victim impact" statement, focusing on the financial, physical, and psychological effects of crime on the victim.

Not surprisingly, defense attorneys criticize victim impact statements as inflammatory. They argue that it unfairly prejudices the

judge against the defendant. For instance, one survey respondent in Montgomery County took great pains to prepare a victim impact statement to be considered at sentencing. At sentencing, the defense argued that the judge should dismiss himself from the case because, having read the victim's statement, he was no longer impartial. The motion was rejected. However, much to the victim's great anguish and dismay, the judge's reason for rejecting the the motion was that, although he had read the statement, he did not take it seriously.

Defense attorneys are not alone in their opposing victims' participation in sentencing decisions. Many judges and prosecutors agree that victims' influence at this stage is inappropriate. A recent case in Montgomery County, Maryland provides a vivid example. A convicted felon, while out on parole, raped the wife of his employer at knifepoint. After his arrest he tried to have the complainant killed with rat poison and then electrocuted to prevent her from testifying against him. At sentencing the prosecutor introduced a victim-impact statement into evidence, noting that "the victim had suffered severe psychological damage, was afraid to leave her house, had lost weight, and feared for her life."

The judge refused to consider the victim impact statement on grounds that, because it was presented by the prosecutor, rather than directly by the victim, it was hearsay and therefore inadmissible. The Montgomery County Journal commented, "Judges are always getting letters from ministers, neighbors, and friends in support of defendants about to be sentenced. Why not give at least the victim the same consideration?"

The defendant could have received two life sentences for his offenses. Instead, the judge sentenced him to eight years and as the editorial went on to say, "with time off for good behavior, paroles and other unknowns, he could be pounding on the lady's bedroom door in not too many months."⁹¹

It is not always the state which benefits when victims' opinions are considered at sentencing. At times the defense may argue that victims be included while the state argues that they be excluded. To illustrate, imagine a case in which a burglary victim only wants his belongings returned, not the burglar jailed. Or consider a case in which the victim does not want the offender jailed because she wants him to pay for the damages he caused and such restitution is impossible with the defendant behind bars. Or consider a situation in which the victim feels great sympathy for the offender and is adamantly opposed to having him jailed. In any one of these scenarios, the defense attorneys might want the victims to testify at sentencing in order to persuade the judge to recommend an alternative to incarceration. The prosecutors in these instances might want to keep the victims away from sentencing officials, especially if their goal was to put these offenders away, not to recompense the victims.

Neither the defense attorney nor the prosecutor has any obligation or responsibility to consider victims. The court is not accountable to victims, even though their reporting started the criminal justice system moving in the first place. As Doreen McBarnet noted, "The ideological principles underlying criminal law create a legal structure in which the victim has no special relationship with the prosecutor and no special protection from the defense, but stands in a position of vulnerability and isolation in the

court."⁹² At best the victim is a "judicial consultant", to be included or excluded as others see fit.⁹³

SUMMARY

In this chapter prosecutors' perspectives of victims were analyzed at each stage of the court process. Their decisions on whether and how to prosecute a crime are largely based on the characteristics and behavior of the victim. Prosecutors are guided by time constraints and cases with "disreputable" victims are regarded as bad investments of the courts time because they are least likely to result in convictions. Victims of crime are not uniformly protected by the courts. Lower income, black, unemployed victims who know their assailants are least likely to have their cases accepted and prosecuted. The state's resources are reserved for those victims who are most likely to favorably impress jurors. Consequently, if victims do not meet with prosecutor standards of "good" witnesses, their case will be dropped, even though a crime clearly was committed.

If a case is not dismissed before arraignment, and the state continues to press charges, it will probably be plea bargained. The victims role in plea bargaining is to act as a bargaining chip. Articulate victims encourage the defense to cooperate with the prosecutor; inarticulate victims have the opposite effect.

Victims' impact is greatest in the pretrial stages. At trial, victims are expected to be uniformly strong witnesses. Rape victims are likely to endure more rigorous trials than most crime victims, because attacks on their credibility and reputation are central to the consent defense. At sentencing, victims are rarely considered by prosecutors. When they are included, it is usually to elicit sympathy from the judge or jury and induce a harsh sentence for the defendant, though, at times victims who do not want their assailant punished may be coopted by the defense at sentencing.

CHAPTER SEVEN: VICTIMS' VIEWS OF THE COURTS

Prosecutors' decisions whether to reject, plea, try, or dismiss a case are based, in part, on their assessments of how well the victim will serve the states' needs. Specifically, prosecutors consider how effective victims will be as witnesses and how likely they are to obtain a conviction. It is less clear how these discretionary decisions affect victims and, whether victims believe the state serves their interests. In this chapter, victims' perspectives of the preliminary court stages will be examined. Their evaluations of probable-cause hearings, especially grand juries, will be discussed. Next, their response to prosecutors' interviews and reactions to dismissals will be examined. In particular I will consider how victims are purposely cross-pressured by prosecutors, family, friends, and their own ambivalence toward punishment to drop their complaint or accept prosecutors' decisions to dismiss the case.

THE PRELIMINARIES

Most rape victims never made a conscious decision to press charges against their assailant. Many knew they wanted him punished, but had never thought out just what that would entail. Usually, there was no time for such deliberation and many were unaware of what involvement would be required. Once the crime was reported, the matter was largely out of their hands. Victims were necessary to provide leads and evidence but after the suspect was apprehended, prosecutors made all decisions about what, if anything, to do. As was outlined in the Chapter Six, prosecutors interviewed victims to assess the state's options and consider the following

questions. Is this case strong enough to warrant full prosecution? Can the victim convince a jury that a suspect is guilty? Does she have "events" in her background which the defense could dredge up to damage or ruin the state's case? Should the state offer a plea to a lesser offense?

Seventy percent of the women in this study had some contact with the court system as a result of their rape. Most of these women had no idea what they were in for when they "agreed to press charges." They did not understand how much time it would take, how often they would have to testify, how many attorneys they would have to deal with, or how long the case would drag on.

Yet, many were not strangers to the court. Thirty-eight percent had been involved with the courts before. Four had been jurors, nine defendants, six involved in divorce or child custody battles, 13 had been witnesses. In general, their experiences left them in no rush to cooperate with the courts again. The majority (54%) had bad impressions of the court system as a result of their previous experience. More than a third felt positive toward the courts after their prior contact and 16 percent were neutral.

Prior experience with courts left victims with bad memories but not much else. They learned little about how the judicial process worked, and were consequently unprepared for what they would undergo as their rape case progressed. Some retained the "Perry Mason" image of trial. They assumed the police would catch the suspect, he would be immediately brought to trial, and truth would triumph. Others feared they would be ripped apart on the stand by a vicious defense attorneys, just like rape victims on television. Few were prepared for what really happens to most

rape cases: the case drags on and in the end the charges are either dismissed or reduced in plea negotiations.

The extent to which rape victims were involved with the courts varied greatly from case to case. Some women only met the prosecutor once and never heard from him again. Others only testified for the grand jury while still others saw the case through preliminary hearings, trial, sentencing and appeals. Regardless of how extensive or limited their contact with court officials, victims shared similar impressions of the court system and a confusion as to their role in its development.

ESTABLISHING PROBABLE CAUSE: THE GRAND JURY AND PRELIMINARY HEARINGS

Seventy women met with the prosecutor: 50 percent did so within a month of the defendant's arrest; 21 percent within one to three months and 18 percent within four to nine months after the defendant's arrest.¹ In these early stages of the judicial process, victims were bothered by a lack of information. A few said they were frightened to come home and learn they had been subpoenaed, because they did not understand what a subpoena was. Kate explains how she felt about receiving her subpoena.

I had been told I wouldn't have to testify and I came home and there it was waiting for me. It scared me half to death. I was mad they never had the decency to call me and explain. It was a time when I was practically scared of my own shadow. That subpoena didn't help any.

Others were angry when they understood what their role in the case would be. Said Marsha and Anne:

It killed me when I got the subpoena saying "District of Columbia Court v. ____." He didn't do shit to the District of Columbia. What he has done to the individual is swept under the rug.

I didn't know I was only a witness for the state until I got the subpoena which said State v. Smith. That's not what happened. Until I saw that subpoena I thought it was me against him.

Fifty-three percent of the women who met with the prosecutor had to testify at a probable cause hearing -- 84 percent before the grand jury and 16 percent at a preliminary hearing. The grand jury received especially mixed reviews.

Half of those who testified at the grand jury said they were nervous but that it was not as bad as expected, especially when the prosecutor read their testimony to the grand jurors and spared them telling the details of their assault. Even so, this was awkward and uncomfortable. As one woman commented "It was like a warped poetry reading."

Women explained that the grand jury experience was "terrible" for two main reasons: (1) the prosecutor had not prepared them to testify; (2) the grand jurors were completely disinterested in their case. The figures confirm the first objection. Fifty-one percent of victims met the prosecutor for the first time right before they went in to testify. The prosecutors tried to allay their fears by saying that the grand jury was "no big deal," because only the state's side of the evidence would be presented. Though that information calmed a quarter of the women, for most the information came too late to be reassuring. Forty-nine percent thought they were not prepared to give testimony. Furthermore, to many the difference between the grand jury and the trial remained unclear.² In both cases, they would have to tell to a group of strangers what had happened to them; in both cases they would be forced to remember something they would rather forget (or risk watching the defendant go free), in both cases their privacy would be sacrificed.

(2) Victims were also troubled by what appeared to be lack of interest on the part of the grand jurors. Grand jurors may sit for six weeks and hear a dozen cases a day. Such information was rarely provided to victims and even when it was, offered little comfort. Many women complained that the grand jurors did not pay attention to their testimony and furthermore, were stupid, racist, and inept. Inattentiveness was the most frequently voiced objection. Victims who agreed to endure the personal trauma of testifying, were unnerved to learn such testimony bored the grand jury.

It was all very intimidating and humiliating, (Eileen recalled.) The grand jury is literally sitting above you. They are bored to tears, yawning, burping, and chewing gum. It is disgusting. I would much rather have had a one way mirror when I was telling them what happened so that I didn't have to see how little they cared and see them staring back at me. They didn't give a damn about me or my case.

Another woman described her hurt when she realized that jurors had fallen asleep during her testimony.

Here I am crying and pouring my heart out and I look up and these bastards -- my fellow citizens -- are bored to tears and snoring away. I was almost killed and these people think its a big yawn. I felt like getting up and walking out.

Even when jurors managed to stay awake, they still could not manage to ask intelligent questions. Victims thought the jurors' questions were stupid at best, prejudiced at worst. Mary's grand jury experience provides a good example of why many victims thought grand jurors were "stupid." In her testimony she explained that the rapist had broken into her apartment by standing on top of her van which was parked outside her window in an alley, and then boosting himself through her window. When the grand jurors began to question her, most of their questions dealt with whether she owned the car, how many cars she owned, how much they cost and how she

could afford them. From these questions Mary concluded: "The jury was all black. I was raped by a black guy. They just thought: This rich white bitch with her fancy cars -- why should we care about her?"³

Many white victims of black assailants felt that grand jurors in predominantly black Washington, D.C. automatically sided with the rapist, especially if the victim was a white professional woman. "When I walked in the room and saw a bunch of black faces staring back at me," Jill said, "It freaked me out. I was so uncomfortable. They just thought 'another white woman accusing an innocent black man.' I was ready to bolt."

Victims also objected to the hostile line of questioning grand jurors adopted. Usually victims did not expect such hostile questions because defense attorneys were absent. They were stunned when the jurors acted like defense attorneys. Ann remembered, "They kept asking me, what were you doing out at that time of night anyway? They made it sound like I should be serving time. Like I was the cause of the problem."

Harriet had a similar experience with the grand jury. She was raped when her car broke down and she accepted a ride from a man who stopped to help. "All they kept asking me was, 'If you were really raped, why didn't you fight back?'"

A few victims were startled when the prosecutor began to ask hostile questions when they were on the stand. Helen questioned the prosecutor's behavior, "He was supposed to be my lawyer? I had terrible treatment. He sounded just like the defense attorney. What was I doing there, why didn't I do this, isn't it true that I did that? I finally said to him, "Hey -- suppose it was your wife who was raped?"

INDICTMENT OR DISMISAL: AFTER THE GRAND JURY

Thirty-one of the 75 arrests were dismissed before trial -- seven percent because the grand jury refused to indict. This verdict was understandably difficult for victims to accept. Victims interpreted the grand jury's refusal to indict as just another sign of their racism and stupidity. For example, in Harriet's case discussed above, the grand jurors explained to the prosecutor why they would not indict. "They told the state's attorney they thought this was my way of thanking him for fixing my car."

Others thought they could have "won" if the prosecutor had been willing to take a chance and go to trial. In Vivian's case, although the grand jury voted to indict, the three-vote margin of victory was so small that the prosecutor dropped the case. He explained that if he could barely convince a majority of grand jurors that there was "probable cause" his chances of convicting a jury of guilt "beyond a reasonable doubt" were slim. Vivian objected to his reasoning:

You shouldn't judge each case based on what happens to the one before. I shouldn't have my fate determined by others. Maybe we could have convinced the jury. I needed to take him (the rapist) to court for my own mental health.

Another victim in the same situation pushed for a new grand jury but the state's attorney refused. "They said not enough people on the grand jury believed me, because I wasn't beaten badly enough and a new grand jury wouldn't change that."

Some women never found out what the grand jury decided. After they testified, they heard nothing more about their case. Said Kate:

I was never told the outcome of the grand jury. Here I sat on that stand while those jurors harassed me with stupid questions like 'why did I leave the window open?' and no one calls to tell me what happened. I finally called and the lawyer said, 'there just wasn't enough information to hold him unless he confessed.' He said, 'Don't worry. He'll do it again and we'll get him the next time. It was just another rape to him.' But what about me -- and what about his next victim?⁴

PRE-TRIAL EVALUATION

After the grand jury or preliminary hearing the next step was to wait -- wait to learn whether the case would proceed to trial or be plea bargained, wait to learn whether the rapist would be found insane or fit to stand trial, wait to see when it would all be over.

Of the women whose cases survived the preliminaries, 26 were turned over to a new prosecutor. Many objected to this for the same reason they objected when they were transferred to a new detective. Victims had to start all over with another stranger and once again repeat the details of their assault. The effect of turnover was to depersonalize the victim's involvement with the courts, as two victims explain:

I had so many attorneys, I felt like a cog on an assembly line. Every time I'd call to find out what was going on, I'd find out my lawyer was no longer assigned to my case and someone would get back to me. It was a terrible feeling -- I worried that my case would get lost in the shuffle and no one would do anything about it.

I just wanted one person to deal with. There were too many actors. Too many people to pass the buck and dodge my phone calls.

During this pretrial stage, prosecutors met with victims to see how well they would stand up under potential trial pressure and to assess the strength of the state's case. Although many victims regarded this as a "scare tactic," some appreciated it. "He gave it to me straight," Marty explained, "no frosting on the cake. I knew what to expect so when I got

hit with those nasty questions by the defense. It wasn't so bad. I had been warned."

This hostile line of questioning bothered some victims because it came from the person they initially thought was "their lawyer." Four women discuss their interviews with the prosecutor.

Sue: The D.A. told me that I made a big mistake in the police report when I referred to the rapists' penis. He said I shouldn't have used that word because it made me sound promiscuous. What was I supposed to say -- his dick, his weenie?

Joan: My boss is an attorney so he sat in on all the meetings I had with the D.A. Then the D.A. gets me alone and says 'Why is my employer so involved in this case -- are we having an affair?' I couldn't believe it -- Plus I found out later that he had been checking us out and asking the same questions of people in my office.

Ellen: The D.A. was disgusted with me because I could only identify the guy with 20 percent assurance. He made me go through all the details again and again even though they were already in the police report. He warned me that the case was a long shot and the trial would be hell.

Clara: I waited for months before I heard anything from my lawyer. I was a wreck when I went down to see him. I go into this big room where there are all these people sitting around. Some I recognized, most were strangers. Then the lawyer walks in and says, 'Now Miss ___ tell me what happened that night.' I couldn't believe he wanted me to tell all the details in front of those people. He said they were witnesses for the state but I couldn't do it. He said 'You'd better start talking now because if you can't tell those people you'll never make it through the trial.'

Forty-nine percent of the victims were interviewed only once. However, this was often enough time for either the prosecutor or the victim to decide not to continue with the case. Many victims who were ambivalent about going to court in the first place were quick to drop out once they sensed pressure from the prosecutor to do so. When the decision not to prosecute was mutual, there was little ill will between victims and the prosecutor. Four victims explained why they understood that their case should be dismissed.

The prosecutor said there just wasn't enough evidence to make the charges stick. He said if we took it any further he doubted we would win and that it could be very hard on me to go through the trial. I thought about it and decided he was right so I agreed to drop the case. It wasn't his fault. He did all he could but we just didn't have enough proof to convince a jury. I think he was as disappointed as I was.

The prosecutor told me that because I had a prior record the defense would make it real rough on me. They'd make it look like I let him have sex with me to get money to buy drugs. Plus he told me he couldn't protect me from Frankie and Frankie was saying if he was to get sent up cause of me he'd make big trouble for me and my family. I decided it wasn't worth it -- I did what I could but I was afraid for myself and my baby and it didn't look like we was going to win anyway.

I'd had a real rough time with the grand jury cause I'd spent some time with Eddie before and I let him in my apartment the night he raped me. The lawyer said he believed me but since I knew the man and I'd let him in he said we had no case. So I dropped it.

The D.A. told me 'we couldn't make a case out of this -- you went there voluntarily. There were no weapons.' I was hysterical those guys weren't in jail 36 hours when they were released. But I understood why he (the prosecutor) didn't want to put me through it.

CROSS-PRESSURING VICTIMS

Problems arose when one party wanted to drop the case while the other wanted to continue. Victims, of course, focused on their one case while prosecutors weighed each case against their total workload. Hence, it was usually victims who wanted to continue and prosecutors who wanted to dismiss the case.

When such a conflict occurred, prosecutors sometimes purposely delayed or stalled a case to discourage the victim and wear her down. This tactic, as William MacDonald explains, is called "cooling out" the victim.

If the prosecutor has a case that he believes does not merit prosecution, but he knows the victim will be upset if the case were dismissed or plea bargained, he may delay the case long enough so that either the victim cools down enough to be able to accept a dismissal or the evidence in the case will weaken -- i.e. witnesses memories fade to

the point where the victim can be easily persuaded that the prosecutor 'had' to plea bargain the case to a lesser charge.⁵

Delay is easily arranged -- It is a natural part of the prosecutor's job. As Malcolm Feeley explains:

Attorneys are busy people. New business comes up suddenly, cases last longer than they were expected to, and a host of other uncertainties crop up to make a daily schedule problematic. As a consequence, appointments are frequently cancelled and rescheduled with little or no prior notice, long waits are required in order to receive or transmit a bit of information and meetings frequently take place on the run without full opportunity for explanation.⁶

The effect, whatever the motive, is to wear the victim down. When one considers how many hours victims must spend waiting in a crowded courthouse to speak to an attorney, who is a stranger and often a rude one at that, it is not surprising that many were bitter and dropped out after being stood up or rescheduled one time too many.

Two women describe how and why this "cooling out" worked.

He made me wait for over four hours then he couldn't see me and told me "Come back tomorrow." What about my job? He didn't care -- It wasn't his time that was being wasted -- He was trying to get rid of me. He didn't represent me at all. He tried to discourage me from pressing charges.

After the grand jury we went back to his office and I said 'if you're going to treat me that way I'll take this into my own hands.' He said 'we'll see about that -- I can have you arrested for threatening someone. And you can stop wasting my time if you don't like the way I'm handling this case. You don't have to come here anymore. It's your problem not mine.' So he scheduled me for another appointment. I got there at 8:30 in the morning for a 9 a.m. appointment. All day he came in and went out of his office -- walking right past me and never said a thing to me. Took other people before me. I had nothing to eat all day. By 6:30 he still hadn't talked to me so I just left and that was it. I never heard from him again. (This case was recorded by the prosecutor as dropped due to witness no-shows.)

One reason why prosecutors were able to successfully use delay to discourage victims from continuing with cases was because many victims were already ambivalent about pressing charges. Victims are cross-

pressured by others and unsure themselves whether to pursue the case. These cross-pressures come from at least three internal and two external sources: Internal cross-pressures include the victims' attitude toward punishment, their assailant, and themselves as a victim. External cross-pressures come from friends, family, and court officials (as has been previously discussed).

Victims' Attitudes Toward Punishment

Many victims do not want the rapist to go free, but are not sure how they feel about the rapist being imprisoned. They realize that if the state wins the case their assailant will go to jail and, as much as they want "their side" to win, they are horrified at what goes on in prisons and feel responsible for putting the criminal in such a "hellhole."

They regard prisons as places where people are punished, not rehabilitated. Prisons confine criminals but also allow them to become better criminals and hate society more. They recognize that eventually their rapist will get out of prison, more angry and hateful than when he went in. And they fear that when released, he will come back to punish the person who put him in. They fear the next time their assailant will kill them.

As Table 7.1 illustrates, victims feel ambivalent about punishment. Seventy-two percent believed that punishment sets an example for other potential offenders. A bare majority (52 percent) believed that punishment deters crime. Slightly more (60 percent) agreed that "the best way to protect society from criminals is to lock them up." Others thought punishment should vary with the criminals background. First-time or

misdemeanor offenders should be rehabilitated first, but repeat offenders should be locked up.

TABLE 7.1
Victims' Attitudes Toward Punishment
(n=100)

	Strongly Agree %	Agree %	Disagree %	Strongly Disagree %	Depends %	Don't Know %	Both %
The best way to prevent crime is to make sure offenders are punished so that an example is set for other potential offenders.	25	47	20	2	3	3	0
If an individual offender receives a stiff penalty for a crime, he will be less likely to commit another offense.	10	42	33	4	9	2	0
The best way to protect society from criminals is to lock them up.	20	40	22	3	7	3	1%
It makes more sense to give criminals social and psychiatric help than to punish them.	4	30	15	7	16	0	28

The statement that drew the most mixed reactions was: "It makes more sense to give criminals social and psychiatric help than to punish them." Thirty-four percent agreed with this statement, however, twenty-eight percent would not accept such a dichotomy and insisted that criminals be confined while they received social and psychiatric help.

In short, responses demonstrate that victims were surprisingly temperate in their feelings toward crime and punishment. One might have

assumed a different response from victims of such a brutal crime as rape. Most victims were ambivalent about solutions to crime in general, and exhibited a surprising lack of vengeance.⁷ This confusion about punishment made victims particularly susceptible to such cross-pressures.

Attitudes Toward Assailants

Victims are not only ambivalent toward punishment in general but many were ambivalent toward their assailant in particular. In some cases, to be sure, victims felt no compassion for their assailant, as Barbara's comment illustrates: "Once I was raped, whatever 1960's liberalism I had, left me. The idea that crime is a product of social disease -- that dissolved. He was not a maniac. He was purposive, he meant to do what he did and he'd do it again."

Instead of forgiveness, one might speculate that victims would want revenge. This expectation was the operating principle for the criminal justice system of old, when responsibility for "righting the wrong" belonged exclusively to victims and their families. Much to this researcher's surprise, many women in this study clung to their "liberal" beliefs and rejected vengeance in favor of counseling and compassion for their assailant.

Sympathetic comments were not unusual. As Wilma said, "Society depresses me. This is the way men think they have to prove their manhood. I feel terrible that he's going to jail -- he'll be raped himself. Besides, there are too many black men in jail already."

Joanne, a white suburban woman raped by a black man, was vehement in her compassion for her assailant: "Society has to pay a price for what they've done to blacks for over 100 years. When you treat people as animals that's how they behave. It's a reasonable reaction."

Diane's words were equally extreme: "I wouldn't want to see my worst enemy in the prison system. We must find out what causes crime. My rapist just wanted to offend the white man's woman. I was just his way to strike back. Prison would be pointless for him. He was punished before the crime was committed by being black in our society." The following comment came from a woman whose assailant cut her with a butcher knife -- requiring two operations and plastic surgery to correct the scars. "I couldn't bear to see him in jail. He was just as much a victim as I was. He was a victim of society." This woman refused to press charges but changed her mind when her detective convinced her that this was not a "good kid gone bad" but a repeat offender. (She subsequently married the detective).

Attitudes Toward Self

The victims' feelings of sympathy for assailants were usually connected to their own concerns that in some way they were responsible for the crime. As discussed earlier, in an attempt to answer, "why me?" they frequently blame themselves. They felt guilty for not putting the bars on the windows, not moving to a safer neighborhood, not realizing that this person they allowed to enter their apartment actually meant to harm them, not knowing better than to take a ride from a stranger. The more they blamed themselves, the less they blamed the rapist.

Millie's comment best illustrates this sentiment. She felt so badly about her own poor judgement that she withdrew her complaint: "I had invited him into my apartment. Even though he did rape me, I didn't want to be responsible for ruining his life."

In addition to blaming themselves, victims sometimes minimized what happened to them in an attempt to cope with the crime.⁸ Victims want to stop thinking about the rape, yet pending court dates made that impossible. By minimizing the crime, victims justified their desires to end the case and their memories of the crime. They reflected: "It wasn't that bad. I could have been murdered." "He could have hurt my children." "I've seen other women who were raped and they were much worse off than I am." "I should just be grateful I'm alright and leave it at that." Ellen put it succinctly: "I'm alive and yes I've been raped but punishing him won't change that or anything. I just want to forget about it."

Furthermore, the more time that passed the more time victims had to reconsider "is this really worth it?" As prosecutors and defense counsel well know, victims' enthusiasm to press charges wanes as the case drags on.⁹

Victims may also be reluctant to proceed, because they are afraid something in their background will surface and further embarrass them. For example, the three lesbian women in this study were concerned with how they would be treated on the witness stand. Similarly, those with prior arrest records, a history of drug abuse, "illegitimate children," or clandestine extra-marital affairs thought twice about pressing charges. One woman who frequents single bars was worried that the defense would turn this against her but decided: If I feel like walking into a room stark naked that's my business. It doesn't mean I'm asking to be raped. Women have the right to say 'no'.

External: Pressure From Friends and Family

Rape victims were troubled when friends and family members pressured them to drop charges. Friends tried to persuade victims with one of three messages: (1) We don't want to have anything to do with the police; (2) How could you turn him (the rapist) into the police after all the years you've known him?; (3) We don't need the police. We will punish the rapist privately.

(1) **Avoiding the Police.** Some families had prior run-ins with the police and did not want to do anything that would bring attention to them, including reporting a rape. Because of welfare, drugs, or general distrust of the police, families often pressured victims to avoid going through the courts. Deborah, for example, called the police when she was raped. After the rapist was caught and the preliminary hearings began, her family began to pressure her to drop charges out of allegiance to her brother.

"He spent half his life in trouble with the law. He's doing time and my parents, they don't want nothing to do with the courts that put him there. My momma said 'why you want to go bringing the law around this house again asking a lot of questions when nothing is gonna come of it? Besides, you're alive ain't ya?'"

Other victims said that cooperating with the police and prosecutors went against everything they had been taught. "I was brought up to obey the law but I knew that the D.C. police and lawyers are just like the Mafia. Unless you're somebody special ain't no reason to help them cause they got no reason to help you."

In some cases women were persuaded by their families that pressing charges would make the rape public and humiliate the family. This happened most frequently in cases of black-on-white rape. White husbands in particular felt ashamed their wife had been "with" a black.

(2) Turning in a friend. When a woman was raped by a "friend" often others turned against her for calling the police. In some cases friends believed the suspect, not the victim. In other cases, friends believed the victim was raped but thought "she was asking for it." Still others regarded her calling in the police as "ratting" on a friend. All these reactions served to intensify victims guilt, self-blame, and isolation. Two women described how they felt when their "friends" betrayed them.

Pam was raped by a "friend" who was a green beret in Vietnam. Her friends encouraged her to drop charges, arguing that "he was just a little crazy since Vietnam. He didn't mean to hurt you." When she insisted on pressing charges, her friends rallied around her assailant and turned against her. At her trial, her "boyfriend" even perjured himself to protect the rapist, explaining to her afterwards that he "just couldn't see Henry go to jail for one little mistake."

Barbara's feelings were similar to Pam's. She was raped by her next door neighbor's son. Her best friend was his sister. After she agreed to press charges, her neighbors wouldn't speak to her. "I was supposed to be a bridesmaid in his sister's wedding. After Lionel raped me she said I couldn't even come to the wedding. It hurt me real bad."

Pressure is most severe on those who were raped by a family member. A Washington, D.C. woman described how her family reacted when she pressed charges against her brother-in-law.

My family came down real hard on me for calling the police. My sister kept saying 'Why you going to lock my husband up? Whose gonna take care of my babies?' Plus nobody on the block wanted to have anything to do with me. Nobody wanted to testify for me at trial. I couldn't take it no more.

(3) Handling it privately. Victims who knew their rapists were sometimes pressured to let their friends or family "take care of it" instead of going through the courts. Motivations varied. In some cases friends wanted the rapist spared the public embarrassment and punishment of the court. In other cases friends and family members wanted to punish the rapist themselves and thought the courts were too slow and uncertain in their punishment to be trusted with the job.

Ronda, for example, waited over a month to call the police because she thought the rapist would be punished by a fellow employee. She later learned that he had raped many other women who had also been silenced with the same promise of private retaliation. She called the police, however, by then a month had passed and her case was considerably weakened.

Luella was also encouraged not to press charges. Her father was a great believer in vigilante justice and was furious when she insisted on seeing the case through the courts. "He kept saying I'd made a big mistake -- I should have had him beat up or killed."

All these influences: pressure from others, self-blame, fear of putting someone in jail, and desire to forget the assault, made it easier for victims to be talked out of pressing charges. When those mixed messages were coupled with mistreatment, lack of support from the prosecutor, and the passage of too much time, some victims decided pursuing the case further was just "not worth it."

External: Support and Pressure From Officials

These relations between victims and law enforcement officials have but one counter-pressure worthy of note. By the time the case has gone

through the preliminaries, police, as a rule, are uniformly supportive of the victim. They devoted their time to catch the suspect and therefore have a vested interest in seeing the case carried through. Although the officer's duty is fulfilled once the arrest is cleared, many officers want the suspect "put away."

Police often appeal to a victim's civic duty or sympathy in encouraging her to continue with the case at a time when she is otherwise running out of enthusiasm for prosecution.¹⁰ Many women reported that detectives kept in touch with them during the long months that passed between the crime and disposition. The officers buoyed their spirits and became comrades, often driving them to court appointments. Victims felt an allegiance with the officers. Unless their original officer had been transferred, the detectives were usually the people victims knew the longest. Both police and victims shared their status as "state's witness" and had to endure the interviews, delays, and other inconveniences. Some victims continued with their case only because they couldn't "let the detective down."

SUMMARY

The preliminary stages serve to weed out cases and ensure the state's time will be spent only on cases with good chances of conviction. The victims' evaluations of these preliminary stages are complex. Women frequently criticized grand jurors as inattentive, callous, and seemingly bored by their plight. Often victims heard nothing about their case after the probable cause hearings. Those whose cases were dismissed, were, for the most part, distressed. The more time passed, the less enthusiastic

victims were about pressing charges. Victims wanted something done to their assailant, but they also wanted to put the crime behind them, and move on with their life. While their case was pending, that was impossible. This ambivalence increased with time and made them susceptible to pressure from friends, family, prosecutors, and police. Their internal confusion, combined with external cross-pressures, frequently resulted in victims dropping out of the system or moving ahead with great emotional trauma and trepidation.

CHAPTER EIGHT: COPING WITH THE DISPOSITION

If a victim's character and case survive preliminary screening, probable cause hearings, and dismissals, her case will most likely be plea bargained; only a few will go to trial. In this chapter, victim's reactions to plea bargains and trials will be described.

THE PLEA

Plea bargaining reduces victims' already limited role in cases. The state does not need them as witnesses, so victims are rarely consulted or told the outcome of the plea. Eighty percent of the women whose cases were plea bargained were never consulted during negotiations. Though some were pleased they did not have to testify at trial, most objected to being excluded from decisions about the punishment of the men who raped them.

Such exclusion greatly troubled victims because in the judicial process as in the crime, they had no control. Though the crime happened to them, they were irrelevant in plea bargaining. A few women described how they felt:

It makes me furious that no one ever consulted me about the plea bargain. They told me when it was all over like I had nothing to do with the case. He got 12 and a half years. He'll be out in three and a half which is what bothers me the most.

Ellen was particularly angry that she was excluded from plea negotiations. She agreed to have her phone wiretapped when her assailant called irregularly to ask for dates. The wiretap continued for six months as did the phone calls. Three times, at the police officer's urging, she set up a

meeting with the suspect who "wanted her to be his girlfriend." The first two meetings fell through but on the third try, Ellen actually met the rapist. The police hid on the floor of her car and arrested him when he arrived in the prearranged parking lot. The capture and events leading up to it were very traumatic for Ellen -- traumatic to endure six months of being wiretapped, traumatic to agree to see the man who raped her again, traumatic to have the police officer arrest the man in her presence while he screamed, "I'll get you for this!"

Ellen's husband left her (for good) during this period. She said he could not stand the constant reminder that she had been raped or hearing her talk to the rapist on the phone. After Ellen devoted six months of her energy and emotion to catching the assailant, she was warmly thanked and that was it. The assailant had committed so many other crimes that the prosecutor offered to drop six rape charges. The defendant immediately pled guilty, Ellen never got to testify -- there was no trial. She commented: "I am annoyed at their protective measures. They shut me out of the court process, never told me what happened to him or when he was sentenced."

Victims' reactions to plea bargains varied depending on how much they understood about the negotiations and what type of plea was offered. Cynthia, for example, knew that her case would be plea bargained, but she did not understand that there would be no trial. She described her reactions:

I was anxious for over four months. I wondered why nobody called me, I worried that I would forget all the details and ruin the case. I couldn't understand what was taking so long. Then I finally found out that because he pled there wasn't going to be a trial. They'd never explained that to me. I was worried for nothing.

Victims found it easier to accept pleas that offered reduced sentences rather than reduced charges. A reduced sentence fulfilled two concerns. The victim did not have to testify; the defendant got a jail term. Thirty-five percent of the women whose cases were plea bargained endorsed the plea for these two reasons. When charges were reduced, on the other hand, frequently the rape charge was dropped. This angered victims because as one woman put it: "A plea is like pretending the rape didn't happen."

Denise was infuriated when she learned the prosecutor planned to drop the rape charge if the defendant pleaded guilty to a series of burglaries and robberies he had also committed. She let the prosecutor know her feelings. As she told the story:

I let him have it. I said: Are you telling me that after all I've gone through you're going to drop the charges? Do you know what an effect this has had on my life? Do you know what it's like to have two kids knowing that there are guys out there who do this, that there is a man out there who knows where I live? Do you know what it's like to walk down the street and want to break into a run when someone is behind you? You've lost something that can't be replaced. You've lost your freedom. They can return your property but they can't return your sense of security. I wake up at night scared. I can't enjoy myself. I used to love to go out. Now when the clock strikes 11 I get scared. All this has happened to me and now you're going to pretend it didn't happen -- that he only robbed a few people. It's a lie. He raped me and he should pay for it.

A Washington, D.C. woman described what happened when she told the prosecutor she was against the plea bargain.

The week before the trial the D.A. said he was thinking about plea bargaining and would I go for simple assault or attempted rape. I asked if I had any say and he said "no." I let my feelings be known -- I was against it. The D.A. stood me up for my next appointment. When we met the next time I said, 'that's not what happened.' He raped me. The prosecutor said, 'I know that but it would back up the courts and besides, unpleasant things would be said about the incident like how I had smoked a joint with him beforehand.'

Charges were often reduced when multiple rapists were caught. A man who committed 12 rapes, for example, was charged by a Maryland prosecutor with only four. Most women whose cases were dropped were never notified by the prosecutor. Patti was one of these women. When the police department called her about this study, it was the first time she had heard from any law enforcement official since she appeared before the grand jury.

I found out that he had raped so many other women that I was irrelevant because the others could provide a better I.D. When I got the phone call from the police asking if I wanted to be in this study, I was terrified. I was afraid they were calling to tell me he was out. That was silly. No one ever told me how long he would be in. I still don't know what sentence he got."

Like other victims whose cases were dropped, Patti was unnecessary. She had served the state's needs and provided leverage the prosecutor needed to induce the defendant to plead guilty. She and others were the threats waiting in the wings, ready to go the trial, if the defendant did not cooperate.

It is logical that these victims would be unhappy with plea bargains, but even women whose cases were prosecuted regretted that others' cases were left behind. Tina was one of the four women whose case was prosecuted. Still, she was displeased with the outcome.

We had no decision to make. We were not included at all. We were not allowed to do anything. And we had it good. What about the other women whose cases were dropped? It was like saying, 'forget about your rape.' I think about those other women all the time. What right does the criminal justice system have to do that? I was lucky -- I was kidnapped and so cut up that I was included.

Of victims whose cases were plea bargained, thirty percent were "furious" because the defendant committed many more crimes than he was charged with. One of these women talked about her feelings:

The state's attorney did his job but he was basically greedy and lazy. They just wanted to get the guy -- they should have charged him with all 11 counts. There was no need to cut a deal, he confessed to everything.

Other women were angry because guilty pleas denied them a chance to go to trial, put the crime on record, and as one women explained, "let the world know what an animal this man was." They needed the closure a trial provided in order to put the crime behind them. Fifteen percent felt that because this closure was denied, their mental health suffered.

As bad as these victims felt, there were others who knew nothing at all about the disposition of their case. From court records in some instances, I knew that their assailant had been apprehended, indicted, and plead guilty but many victims had only pieces of the story. Polly complained: "I called once or twice to get information on what had happened to him. The prosecutor said it was personal and I would have to hire a private lawyer to call for me. They wouldn't tell me what happened to him but it happened to me." "After the grand jury I got a notice in the mail of the trial date," Kate recalled, "but I heard nothing. I was never told that he was indicted, and if he was tried, I don't know if he is loose, free or what. The whole system is rotten."

WAITING FOR TRIAL: THE POSTPONEMENTS

If a victim's case is not plea bargained as a rule her case will take longer to be resolved. The pretrial process is characterized by postponements and delay. In this study 60 percent of all cases that proceeded past the indictment stage were postponed. Twenty-one percent of the cases were postponed once; 16 percent twice and 23 percent three or more times. These postponement figures underestimate the amount of time victims had to wait before their trial was over. Some cases that were not officially postponed, nevertheless, took over a year to resolve.

Of those women whose cases were postponed, 36 percent were given what they considered to be adequate warning. Twenty-seven percent said they were told only the day of the scheduled trial and 12 percent were told two to three days before trial. Twenty-four percent said it varied, sometimes they were given advance notice, sometimes they were not.

Eighty-eight percent were told why their case was continued, although explanation did not make postponement easy to bear. Delay in court delayed victims' recovery. As Table 8.1 indicates, thirty-nine percent were very upset by postponements because they "wanted to get the trial over with." In fact, many victims cited this period as the most difficult to endure. "The worse part was waiting for the trial to come up," Anne explained. "Knowing that I would have to see him again and remember everything. Your life is on hold until it's over." Victims wanted and needed to forget about the crime, but as long as the trial loomed ahead this was impossible. They feared if any details slipped their mind rapists would go free. One Virginia woman put it clearly: "Everybody tells you from the date it happens to forget about it, but you can't while the case is

still pending." One out of four women were "devastated" by postponements because they were emotionally ready or "psyched" for the trial and consequently deflated when the case was continued.

TABLE 8.1
Victims' Reactions to Postponements
(n=33)

Terrible because I denied closure	<u>39</u>
Devastated	24
Furious because unfair	15
Contemptuous of the judicial process	9
Angry because upset schedule	6
Disappointed	6

In addition to the emotional trauma brought on by remembering the details of the crime, delay made chaos out of victims' efforts to restore order to their lives. At a time when victims were desperately trying to re-establish control, the courts granted delays with little or no regard for the impact such postponements had on victims. Maureen's case, for example, was delayed five times. For over a year, she rescheduled all family trips and vacations because, just as she would prepare to leave, she would invariably learn from the State's Attorney that the case had been rescheduled. Postponements are routine in the judicial process, yet the fourth postponement was particularly upsetting to Maureen.

Her father, an attorney, was scheduled to fly from Oregon to be with her for the trial. She called the court to ensure that this time the trial would take place. Each day she was assured that everything was on schedule. With this promise, her father flew to Maryland.

The day of the trial, as they waited in court, they learned the case would be postponed for the fifth time. Maureen was livid. Her father went to see the judge and register his disgust at how his daughter had been treated. The expense her father incurred was matched only by the emotional expense Maureen incurred from yet another postponement. The explanation for this postponement further infuriated Maureen and her father. The judge postponed the trial date because he had to make a speech in Virginia.

Victims were routinely inconvenienced by postponements. They missed work, hired babysitters, used their vacation time to wait in the courthouse, and struggled to arrange transportation -- all in vain when trial dates were cancelled and rescheduled.

Delays were destructive to victims in part because of what they implied about their importance relative to the defendant. Most delays were granted at the request of the defense -- because psychiatrists needed more time to examine defendants, defense attorneys needed more time to confer with their clients, or to be sure they were paid before their client was jailed. If victims wanted to reschedule the case because it conflicted with their work, job, or family vacation, a double standard was invoked and the request denied. For example, one woman asked for a postponement because the original trial date coincided with the District of Columbia bar exam. Her request was denied. The second trial date again coincided with the bar examination and she risked losing her job if she did not pass. Her request for a postponement was again denied. To her, as to other victims, the message was clear: the courts care only about defendants, not victims. As she remarked:

Why do criminals have more rights than victims? They get to choose counsel and have these continuances while the victim -- who broke no laws -- gets run through the hoop. You are stuck with the lawyer they give you, you are left out of what's going on, and then they don't have the decency to tell you what they've done about the case because it's between them and the defendant and they don't want to violate his privacy. What about mine?

Delay indicated that in the hierarchy of the judicial process victims occupy the lowest rung. As sociologist Barry Schwartz noted in his study of delay, the least powerful wait the most. Powerful clients do not wait. Judges do not wait, people wait for judges. Prosecutors do not wait for victims, victims wait for prosecutors. Delay in the courts is intentional. Court cases, like airline reservations, are deliberately overbooked so that resources are not wasted. "Control of the docket," Schwartz writes, "is an essential property of power. Even the docket in a criminal court is compiled with the idea of overscheduling. Everyone is told to get there by 9:30 even though their cases may not be called until the afternoon or the next week."¹

The general effect of delay is that victims are discouraged from pursuing their case and the defense position is strengthened as state's witnesses drop out and memories fade. The emotional costs are such that in this study, because of postponements 24 percent of the women considered withdrawing their complaint.

THE TRIAL

Those victims whose cases are not plea bargained, nolle, or dismissed, prepared for trial. In this study, 40 percent were prepared for trial, eventually thirty cases went to trial and 30 women testified. To prepare for testimony, as Table 8.2 indicates, almost half the victims met with the prosecutor at least a month before the scheduled trial date.

TABLE 8.2
Time Elapsed Before Victim Met With Prosecutor
(n=40 trial preparations)

	<u>Trial Preparations</u>
	%
A month or more	47
Two weeks	27
A few days	18
The day of testimony	8

Half of those women who met the trial prosecutor were interviewed only once; 27 percent were interviewed twice; 13 percent three times and 10 percent four or five times. The trial prosecutors that victims came into contact with were overwhelmingly male (92%). To most women (88%) the gender of the prosecutor did not matter. Those that had a preference split evenly as to whether a male or female attorney was preferred. Almost all the women whose cases went to trial felt they had been adequately prepared by the prosecutor. Only 13 percent felt the prosecutor had not spent enough time on their case.

Women split in their assessments of what it was like to testify at trial. Over a third felt they were on trial, not the defendant. Table 8.3 shows that thirty-percent, however, found the experience was not as traumatic as they expected. Although they were nervous, as they put it, "it wasn't bad."

TABLE 8.3
Victims' Reactions to Testifying
(n=30)

	%
Terrible, defense attorney made me look guilty	37
Terrible, I broke down on the stand	3
Very nervous to talk publicly	20
Nervous, but not bad	30
Great, I finally got my day in court	3

As a rule, victims' assessment of testifying at trial varied with the type of defense employed. Two defenses were used at trial. (1) she consented, (2) mistaken identity. Victims who were subjected to the first type of defense felt much worse about testifying than those subjected to the second.

(1) LIVING THE HORROR STORIES

Thirty-seven percent of the women who testified described the trial as "terrible" because their reputation was attacked. The defense strategy was to argue that the victim had willingly engaged in sex with the defendant and changed her story later.

A recently published guide for defense attorneys entitled, "Admit the Act and Win the Criminal Case" best describes this strategy, which proved so grueling for rape victims. The following excerpt is from the publisher's flyer advertising the book:

Yes, your client committed the act, but it was consensual. You'll see how to handle the delicate situation of the crying complainant. Show that hers are not the tears of a ruthlessly violated victim, but rather the tears of guilt and shame for herself -- and how to do it without being a bully ... The worse the crime, the better the strategy works.²

Defense attorneys who use this strategy portray victims' normal trust in others as their way of "asking for it." Four short sketches from my sample exemplify this line of argument.

(a) Monica lived with her brother Ralph. Three friends of Ralph's came over to buy some marijuana. Although Ralph had none he suggested that Monica could take one of his friends, Larry, to a place where he could buy drugs. Monica agreed and the two set off in Larry's car. They bought the dope, got high, and were on their way back to Ralph's house when Larry asked if they could quickly stop by his house so he could pick up some money. Monica agreed, went inside with Larry, and was raped. The defense argued that her behavior indicated consent; therefore the act was not rape.

(b) Pat worked for an escort service. One night her date took her to his apartment for cocktails, tied her up and raped her. She escaped by throwing herself off the balcony of his second story apartment building. The police arrested him immediately. The man explained that Pat was tied up because she was "into kinky sex." The defense attorney argued that Pat was once removed from a hooker and there was no rape -- just consensual sex.

(c) Jane met a man in a bar. They spent much of the night there dancing and talking. He seemed a normal, nice man, she recalled. After midnight he suggested they clear their heads and take a walk outside. As

they sat by a nearby stream talking peacably, he began to be abusive and tell Jane that if she did not cooperate with him he would kill her. When she continued to refuse to have sex with him he began alternately to strangle and rape her. At trial, defense argued the "strangling" was just "aggressive foreplay" and the sex was consensual.

(d) Shelly is a lesbian. She accepted a ride from a mechanic who was fixing her car. She agreed to smoke a joint with him, after which he raped her. At trial, the defense attorney argued that because she was an admitted sexual deviate this encounter with the station attendant was not rape but just another deviate act.

All four of these women were particularly bitter toward the court system because of these personal attacks they were subjected to at trial.

(2) MISTAKEN IDENTITY

The second type of defense was less a personal attack on the victim than an effort to make the jury doubt the victim's identification of her assailant. Having established an alibi for the defendant at the time the rape was committed, the defense then argued that the victim did not have time to observe the suspect adequately, or that she was so understandably panicked she was unable to get a really good, "rational look" at him. Defense attorneys who used this tactic were usually most respectful toward the victim in their questioning. They did not contest that the victim was raped, but rather, who raped her.

Trial delays allowed defense attorneys to attack the victim's memory. For example, a defense attorney in Montgomery County succeeded in planting reasonable doubt in the minds of the jurors when he

argued that an emotional rape victim's year-and-a-half-old memory was not enough to justly convict the defendant. Kathy's case was delayed over a year and a half. She and her husband were so angry about delays that they went to the newspaper with their story. Whether through coincidence or media pressure, Kathy's trial was finally held eight weeks after an article on her case appeared. By this time, the defense attorney had another weapon in his arsenal. He first established how few specifics of everyday life Kathy was able to remember from a year and a half ago. Then after questioning her about the assault, he asked if Kathy could not remember the other details of her life from a year and a half ago, how could she remember the details of the assault so well, especially when she only saw the suspect for a minute at a time when she was especially frightened? How could she be so sure this was the man who raped her? The jury agreed and acquitted him of Kathy's rape and sodomy. "I would not give two cents to anyone associated with the courts," Kathy cried. Her husband agreed "I should have killed him a year and a half ago."

REACTION TO TRIAL OUTCOME

Of the 30 trials in which victims testified, most resulted in conviction. This is not surprising because cases least likely to result in conviction were either dropped or plead at earlier stages. In 16 cases the defendant was found guilty of rape, in nine cases not guilty on all counts, in two cases not guilty of rape but guilty of other crimes. In two other cases, the jury hung on all charges. In one case the defendant was found guilty of other charges, but the jury hung on the rape charge.

The data also suggest that victims' relationship with their assailants influenced the outcome of the case. As Table 8.4 shows, women who did not know their assailant were most likely to have their case result in conviction.³ Most women who knew their assailants saw them go free.

TABLE 8.4
Relationship with Rapist and Verdict

<u>Relationship with rapist</u>	Verdict			
	<u>Not Guilty, Case Dismissed</u> %	<u>Guilty of Less Than Rape</u> %	<u>Guilty of Rape</u> %	<u>Don't know Verdict</u> %
Stranger (n=51)	30	12	47	12
Casual Acquaintance (n=15)	60	27	13	--
Close Friend (n=7)	57	14	14	14
Relative (n=2)	100	--	--	--

Acquittal

As one might expect, when assailants were found not guilty of rape, most victims were bitterly disappointed. Many reserved the brunt of their hostility for the jury. White women frequently felt their assailant got off solely because of black jurors' prejudice against whites and sympathy for black defendants. After analyzing their cases and interviewing Washington, D.C. prosecutors, it seems their sentiments are well-founded. In the District of Columbia it is almost impossible to convict a black man for raping a white woman.

The U.S. Attorney's office has tried a number of different strategies in an effort to overcome what they acknowledge is anti-white prejudice on the part of predominantly black juries. They have appointed black female and male U.S. attorneys to try these cases in an attempt to dilute some of the black jurors' racial allegiance with the defendant and to turn some of it to the state's advantage. So far they feel these attempts have proved unsuccessful.

Eleanor's case provides a graphic illustration of the effects of such racial divisions among jurors. The assailant broke into her apartment by crashing through the sliding glass door. While holding a knife to her throat, he raped her, stole her money and credit cards. Neighbors heard her glass break and summoned the police who caught him as he tried to leave through the fire escape. Eleanor's credit cards were in his pocket when he was arrested. She was immediately taken to the hospital and examined. All the tests checked out -- sperm, hair types, etc. The jury at the trial consisted of 11 blacks and one white male. They agreed the defendant was in her apartment, stole her money and credit cards, had a knife and had intercourse with her. However, they convicted him only of the lesser crimes of breaking and entering and theft. All 11 black members of the jury voted to acquit on the rape charge. The one white juror held out for conviction and the result was a hung jury, a mistrial on the rape charge. The prosecutor decided not to retry the case.

Eleanor was devastated at the outcome. "It was a clear case of discrimination. Here I am a white lawyer from a fancy law firm and here he is this poor black kid. They felt sorry for him, not me. But to me it was like saying 'you're a liar.'"

Coincidentally, the white "hold-out" juror was a friend of the author. After the trial he discussed what had transpired as the jury deliberated over the case. Eleanor's assessment was accurate. The discussion in the jury room was both sexist and racist. For example, a black female juror surmised, "That young woman hadn't had sex in six weeks. Don't tell me when that nice looking black man came through her door she wasn't interested." Jurors also dismissed the knife: "A knife doesn't make it a rape. I've seen plenty of knives and they don't scare me. Besides he didn't cut her did he?"

Eleanor was not alone in feeling that juries in Washington, D.C. were prejudiced against white rape victims of black assailants. The verdict in Lois' case was also not guilty on the rape charge. She states her opinion of the trial: "A retrial is in order because the trial was entirely racial. With 11 black jurors, a black judge, a black defense attorney and a black defendant, I didn't have a chance."

Other victims complained of the jury's stupidity and insensitivity. For example, Karen's assailant was found not guilty. After the trial in Prince George's County she was riding the shuttle bus back to the court parking lot. The jury was on the same bus. "One of the jurors came up to me and said 'I'm sorry but there wasn't enough evidence.' I said, 'What do you want, my body lying dead in the woods?'"

Still others complained that, as with grand jurors, jurors at trial were bored when they gave testimony and seemed to pay no attention. "Here I am pouring my guts out after waiting over a year to get a chance -- one chance to see him locked up -- and these people aren't even paying attention. They just want to go home."

Victims' impressions that jurors were not paying attention or did not understand is supported by a recent federal study which found that the average juror understands only about half the legal instructions which are intended to guide their deliberations.⁴ Many verdicts reflect jurors' misunderstanding about their role, the facts of the case, and what the law requires. The authors refer to these as "lawless verdicts" and recommend that jury instructions be rewritten in simple comprehensible English. The victims in this study had other ideas. They suggested we: (1) abolish juries altogether, (2) allow only attorneys or "really smart people" to serve on juries, (3) place the jury behind one way glass so that victims do not have to see their faces, or (4) have jurors that represent the victim as well as the defendant -- in short, eliminate the possibility of white victims of black assailants facing an all black jury.

Hostility Toward The Courts

Victims were disgusted with court procedures, such as continuances, which enabled rapists to go free. They reasoned that their assailant was free because of the inherent injustices of the system which favors the criminal over the victim. Anne's case provides an extreme example of this perceived imbalance. She was pistol whipped, raped, sodomized, thrown in the Potomac River, and left for dead by her assailant. Her case dragged on for over six years. Finally after two mistrials, he pled guilty to attempted rape. She summed up her attitude toward the judicial process: "The rapist escaped justice with the help of the court."

Victims were especially upset when they were excluded from jury selection and trial proceedings while defendants were allowed to attend all

deliberations. Eighty percent of the women whose cases went to trial singled out this practice as "unfair to victims." For some, this issue was paramount, "My biggest objection is that I was excluded from the trial," June commented. "The State's Attorney had promised me I could at least be present during jury selection but I wasn't allowed in even for that. I felt betrayed and shut out. Since I became a witness I have no rights."

Such exclusion from trial proceedings sent a message to victims: "This is the state's case, not yours. We will call you only when, and if, we need you." Victims perceived this exclusion as yet another situation in which they were not in control. First the crime, then the investigation, then the charging decision, then the decision if and when the case should come to trial - all were beyond their control. Finally, at trial, victims were not even allowed in the court room to witness proceedings with which they were intimately and emotionally involved because the law did not recognize their special interests.

Instead, while the trial was in progress victims waited in hallways outside the courtroom or in witness rooms if such facilities were provided. As they waited many worried that their reputations and testimony would be attacked by the defense and that they would not be able to defend themselves and consult with the prosecutor, unlike the defendant who had constant access to his attorney. The fate of their assailants was being determined while victims "cooled their heels" in the hallways without any right to attend such critical proceedings.

A third (34%) of victims complained that they waited too long in uncomfortable accommodations. Waiting in hallways was especially difficult, because it made contact with the defendant's friends possible. One victims'

experience illustrates this problem.

I'm sitting in the hallway with my brother. I'm neurotic because nobody is allowed to tell me what's going on in the trial. Meanwhile, his (the defendant's) wife and sister are glaring at me and every once in a while they scream, "How could you do this to my husband/brother?" I was trying to keep my brother from killing them. It was a nightmare.

Twenty-eight percent of the women who went to court were exposed to threatening persons. Even those who waited in separate witness rooms rather than hallways were at times pressured when such rooms failed to distinguish between state and defense witnesses. As a result, some victims were sequestered with defendant's friends and family and consequently were intimidated. For example, a Maryland woman waited in a "witness room" with three "hells-angels" who were witnesses for the defense. One threatened her. "If Buddy does time, remember I know where you live and I'm gonna come and cut your throat and your mothers', too." Victims who were properly separated from defense witnesses were rarely threatened but complained because they were isolated and cut off from others. They had no information about the trial and were unable to relax or think about anything else while the trial was in progress. As a result, their wait was a time of loneliness and dread.

In sum, victims felt because they were excluded from trial they were denied the closure they needed to get over the crime. For peace of mind, they needed to see the defendant found guilty and led off in handcuffs so they could be sure that, at last, their ordeal was over. When that finality was denied, many victims were distressed. Sharon's views were shared by almost half (47%) of the women interviewed.

Because I wasn't even present during the trial, it's like it never happened to me. I felt I wasn't even a part of it. I'd like to know what evidence they used against the guy but since I wasn't even allowed in the courtroom I don't know. All I know is that they took my dresser drawer as evidence a year ago and they still haven't returned it.

VICTIMS EVALUATION OF REPRESENTATION

Most victims (60%) thought they were "adequately" represented by prosecutors, though 38 percent thought the prosecutor did a "bad job." The problem of poor representation, however, extends beyond this 38 percent. Many who felt adequately represented explained that the representation was adequate only given the confines of the system. They expected worse service from prosecutors than from private counsel. "I didn't even consider how well the prosecutor was representing my interest," Judith explained, "because I considered it his case. He was not my attorney. He was the state's." Kathleen added, "The attitude of the criminal justice system is "sure-sure" they don't represent your interests, they sympathize with your interests."

Rape victims were divided in their personal feelings about prosecutors. When asked, "How did you feel about the prosecutor?", thirty-eight percent said they felt comfortable with him or her. Twenty-four percent had no strong feelings one way or another and described their attitude as "neutral." The remaining 38 percent felt uncomfortable with the prosecutor either because they did not like the attorney (19%) or because they felt the prosecutor was disinterested in their case and did a perfunctory job.

Marion explained why she felt uncomfortable:

The thing that made me feel best was when people would let me talk instead of always putting words in my mouth. The more the State's Attorney talked, the less comfortable I felt. He told us just before he entered the plea, 'You girls really should be more careful you know.' I thought, 'It's not like I was dragged into the bushes or anything -- I was home for God's sake!' Then he started to tell me all these gory stories about 'rape victims he has known.' The implication was I'm complaining about a mere rape.

Victims were annoyed to learn that even if they were dissatisfied with their prosecutor, they would not be reassigned. At a discussion group with rape victims and a Maryland State's Attorney, a woman asked him, "What happens if I don't like the attorney assigned to my case?" The state's attorney responded candidly, "That's tough. You are stuck with him." Many victims regarded this as another example of the imbalance in the judicial process. A Maryland woman expressed her cynicism. "If you have enough money you can get off. The defendant just hires himself some fancy pants lawyer and I get stuck with the guy they assigned me."

To make sure they were represented, some victims hired private counsel. In this study, 16 percent of the women whose cases resulted in arrest, hired a private attorney. Their reasons varied. Some hired private counsel to ensure that their case would be prosecuted, others to protect their reputation, still others to prepare for civil suits regarding the rape. Marty explained why she hired an attorney -- because immediately she disliked the state's attorney assigned to her case.

"I was sitting in this office being interviewed when the defense attorney walks by and the U.S. Attorney yells, "Hey, Harry, I've got the Smith rape here -- Any questions you want to ask her?" I refused to deal with him after that and I hired my own attorney to deal with him and handle it."

Others hired private counsel to provide them with information on the status of their case -- information they did not receive from the prosecutor. This type of private prosecution is called "reconnoitering."⁵ The victim pays an attorney to monitor the status of her case, make sure the public prosecutor is protecting her interests, and prepare her for cross examination. For example, when she had no word on her case for over four months, the head of a well-known Washington, D. C. interest group had her association's general counsel contact the Mayor's office and the U. S. Attorney's office to find out what, if anything, was being done. She learned that her case had been plea bargained, and because she was not needed she was never notified of the disposition.

This reconnoitering arrangement is relatively novel for individual victims, but more commonplace for institutional victims. As McDonald reports, such practices are frequent among businesses in Chicago, Philadelphia and Washington, D. C. "In Washington, D. C.," he writes, "an organization of merchants hired a full time person to serve as 'liason' with the courts. His purpose is to see that cases of interest to his sponsors are being 'properly' disposed of."⁶

For a number of reasons prosecutors usually resented private counsel. (1) Prosecutors feared that two lawyers arrayed against the defendant would induce sympathy for the defendant.⁷ (2) Prosecutors under time constraints do not want to add yet another player to a bargaining table already crowded with the prosecutor, defense attorney, and defendant. (3) Prosecutors believe they are capable of representing both the victim and state. (4) Prosecutors assume that victims' attorneys will be motivated solely by vengeance and therefore complicate

deliberations--in short, prevent plea bargaining. (5) Prosecutors think that victims' interests should be limited to the interests of "the state" and a separate role for victims is inappropriate.

Prosecutors manifest their resentment of private counsel in many ways. McDonald reports that, "a former public prosecutor used to get up and walk out of court after the jury had been impaneled in cases where there was a private prosecutor."⁸ A Washington, D. C. woman provided a similar example.

Her assailant was freed on bail. Her private attorney learned that the defendant was neither living nor working where he claimed in his petition for pre-trial release. The attorney documented that the defendant was employed as a numbers runner and had a prior record for beating his wife. He sent these documents to the U. S. attorney in charge of the case and was told, "It's none of your damn business." From his client's perspective, of course this was relevant information. She was most concerned that the defendant would again harm her while out on bail. However, the clash in priorities was resolved in favor of the state's interests. Indeed, there was no question

Despite these conflicts between private counsel and prosecutors, those women who hired an attorney recommended that other victims of rape do the same. Additionally, seven women who did not retain private counsel said that if they were victims again, they would. Patti pledged, "If there is ever a next time, I wouldn't open my mouth until I had a private attorney, even though I think a lot of clutter in the legal system is because there are too many lawyers. But if the police misunderstand me at least my lawyer will be there to straighten it out." A Maryland woman explained

her reasons clearly. "I'd have to hire an attorney. This time I had no representation at all."

SENTENCING

The prosecutor's job is basically done when the jury trial or plea negotiation is final. Success is measured by conviction not length of incarceration. To victims, however, the defendant's punishment is critical. How long will the defendant be locked up? How long will they be safe from his potential reprisal? This determination is made during the sentencing stage. Unfortunately for most victims, as they were excluded from plea negotiations and trial so they were excluded from sentencing. Only half of the women whose assailants were either convicted or found guilty were notified of the sentencing date. Twenty percent had no idea what sentence their offender received. Ten women specifically asked the prosecutor to let them know when the assailant would be sentenced so they could attend. Of these, half went to court to watch the defendant sentenced. Three women wrote letters which were submitted to the judge by the probation and parole department, and included in their pre-sentence investigation report.

The prosecutor asked two women to testify at sentencing so that the judge would realize that the defendant was more dangerous than the plea bargain suggested and compensate by imposing a stiff sentence. At sentencing, the following exchange occurred. The defense attorney protested that the victim's statements were highly sensational and then put the defendant on the stand to plead for leniency. "I'm too small. Please don't put me in jail. I would be sexually abused. Those guys would rape

me." At this point one of the victims stood up in the court and yelled, "What do you think you did to us?"

Many women whose cases were plea bargained especially wanted to be present at sentencing because it was their only opportunity to see for themselves that the defendant had in fact been caught, found guilty and headed for jail. Without this the process seemed unreal. A tangible wrong had been done to them yet there were only "intangible words" -- promises of punishment to go by. They needed to see for themselves that it was true, to hear the judge deliver the sentence, and lock up their assailant. When they were not told of the sentencing date, to some victims it seemed yet another insult from the criminal justice system, yet another example of how little their interests were considered by the court bureaucracy.

For example, Ellen repeatedly stressed to the police and prosecutor how important it was that she attend sentencing. She felt angry and betrayed when her request was ignored and she learned of the rapist's sentence two weeks after the fact. "For that, I will never forgive or trust those people (police, prosecutors, and victim-witness units)." Her exclusion had serious personal consequences. The rape still haunts her and she believes it would have been much easier to cope with if only she had been allowed the finality the sentencing date would have provided. She rejected the prosecutor's explanations.

The prosecutor told me he didn't call because he didn't think it would be good for me to be there. They weren't so concerned about me for the six months I was their pigeon -- waiting for phone calls from him. They weren't so concerned about me when my marriage started to fall apart from the tension kept up by his constant phone calls. As soon as they got what they needed from me -- the arrest -- they didn't care about me. I am so annoyed at their protective measures. They shut me out of the court process saying it would be too tough for me. Baloney -- they just forgot to call, then made up an excuse afterwards.

Ellen was not alone in feeling bitter when shut out of the sentencing process. A Washington, D. C., woman felt similarly:

We weren't even allowed in the courtroom on the day of sentencing. The defendant's friends and family had taken up the whole room. Also, all the other women who had been raped by him were there and we all wanted to walk into the courtroom together in a show of solidarity but they even denied us that simple request.

THE OUTCOME

What finally happened to their assailants? As Table 8.5 illustrates, of those arrested, 40 percent were found not guilty or their case was dismissed.

TABLE 8.5

Verdict

No arrest	N 25
Case dismissed	19
Not guilty, all counts	9
Hung jury, all counts	2
Guilty of rape	16
Plea to first degree rape	11
Not guilty of rape, guilty of lesser crimes	2
Plea to less than rape	8
Hung jury on rape charge, guilty of lesser crimes	1
Guilty-don't know final charges	4
Don't know	3
TOTAL	<u>100</u>

Only 33 women had their assailants convicted and knew their sentence. In these cases one-fourth received life sentences, others varied from probation to more than 40 years. (Table 8.6) Most of these women (61%) felt the sentence was appropriate. While 40 percent felt the sentence was too lenient, no one thought it was too harsh.

TABLE 8.6
Known Sentences of Rapists
(n=33)

	%
Life	30
10-25 years	21
1-10 years	18
Probation	9
More than 40 years	9
25-40 years	6
Less than a year	6

All those who reported their crime expressed an opinion of how the defendant should have been dealt with. Most were surprisingly sympathetic under the circumstances, as Table 8.7 illustrates. Fourteen percent thought the offender should not be jailed but should instead get psychiatric help and private counseling. Eleven percent thought that their assailant should be incarcerated to ensure that he receive psychiatric help -- not because they wanted to punish him. Three women thought their rapist should be castrated; seven wanted him put to death; three did not know what to do with him -- they felt ambivalent because they did not think jails were the answer but they wanted to make sure he would not come back and hurt them again. Four had no opinion; 16 were in favor of life imprisonment; 32 percent thought he should have received a longer sentence.

TABLE 8.7
Victims' Views of How Defendants Should
Have Been Dealt With
(n=98)

	<u>%</u>
More jail time than judge recommended	32
Psychiatric help only	14
Life imprisonment	16
Serve time and get help	11
Satisfied with judge's sentence	9
Death	7
Castration	3
Don't know - feel guilty about going to jail	3
No opinion	4

SUMMARY

In this chapter, victims' evaluations of plea bargains, trials, actual case dispositions and their recommendations were discussed. As their responses make clear, victims are not bloodthirsty. They seem no more or less vengeful than the general public and surprisingly compassionate for individuals who have survived a life-threatening experience.

Victims primarily objected to being excluded from case dispositions. Victims were excluded from plea negotiations and many were not told the outcome of the plea. Those victims who knew of plea negotiations objected more when charges rather than sentences were reduced. Victims objected when the rape charge was dropped because they especially wanted the defendant held liable for that crime. Victims who went to trial were usually forbidden to attend all proceedings other than their own testimony. For many victims, however, the trial was not as bad as they expected. Those who objected to the trial generally did so when the defense argued consent and attacked their victims' reputations and

credibility. When mistaken identity was the defense strategy, victims found the trial more bearable, though they resented it when delay was used to impeach their testimony.

In sum, victims wanted to be informed and participate in proceedings, not to "throw the book" at their assailants. Victims resented it when they were excluded and treated as irrelevant to the state's case, in short -- treated as "victims" with no control over the case or their lives.

CHAPTER NINE: VICTIMS' VIEWS OF COURTS

As the previous two chapters have outlined, victims frequently complained about the judicial system. Did these complaints translate into negative evaluations of the prosecutor in particular, and the court system in general? Were victims' evaluations of prosecutors similar to their evaluations of police? That is, in spite of their particular complaints were most victims satisfied?

The answer is generally "yes." Although many victims complained about the judicial system most evaluated prosecutors' services and treatment favorably. Prosecutors, however, were consistently rated lower than detectives and patrol officers in terms of the services they provided and the treatment they gave to rape victims, as Table 9.1 shows.

TABLE 9.1
Victims' Evaluation of Law Enforcement Officials

<u>Evaluation</u>	Patrol Officer (n=78) %	Detective (n=89) %	Prosecutor (n=70) %
Dissatisfied	24	20	31
Satisfied	76	80	69

Victims were least satisfied with prosecutors, most satisfied with detectives. Sixty-nine percent of victims were satisfied with prosecutors as opposed to 80 percent who were satisfied with detectives and 76 percent who were satisfied with patrol officers.

The same was true for victims' evaluations of how they were treated. Fifty-nine percent of victims felt prosecutors treated them with understanding. Seventy-four percent felt this way about their detectives and 64 percent felt this way about patrol officers as Table 9.2 illustrates.

TABLE 9.2
Victims' Perceived Treatment

<u>Victims' Perceived Treatment</u>	<u>Patrol Officer (n=78) %</u>	<u>Detective (n=98) %</u>	<u>Prosecutor (n=69) %</u>
Disrespectful	9	9	16
Indifferent	27	16	25
Understanding	64	74	59

Why were some victims satisfied with prosecutors while others were not? Why did some victims feel well treated while others felt poorly treated by prosecutors? To what extent are these factors related?

VICTIMS' EVALUATIONS OF TREATMENT

The most important factor in predicting treatment by the prosecutor was the victim's satisfaction with the prosecutor. Table 9.3 shows that eighty-five percent of the women who were satisfied with services also felt they were treated with understanding. Forty-six percent of the women who were dissatisfied with the prosecutor also felt they were treated with indifference. All the women who felt they were treated with disrespect or insult were dissatisfied with the prosecutor. The factor explained 64 percent of the variance in satisfaction and still explained 58 of the variance when controlling for verdict.

TABLE 9.3
Victims' Perceived Treatment and
Evaluation of Prosecutors' Services
(n=69)

Victims' Perceived Treatment	Evaluation of Prosecutors' Services	
	Dissatisfied (n=22) %	Satisfied (n=47) %
Disrespectful	50	0
Indifferent	46	15
Understanding	5	85

Chi square = 45.55 With 2 d.f. Significance = 0.00*
Pearson's R = 0.81 Significance = 0.00* Missing = 31

Treatment was also related to whether or not a victim's case went to trial and she testified. Women who testified were most likely to feel they were treated well by the prosecutor. Rape victims are especially subject to personal attacks at trial, therefore this finding may seem surprising. The explanation is not that victims enjoyed the process of testifying but that prosecutors spent more time preparing victims who testified. This extra attention explains the relationship between testifying and favorably perceiving prosecutors' treatment. Table 9.4 further indicates that when their cases were dismissed, 50 percent of the women felt they were treated with understanding, 31 percent felt they were treated with indifference and 19 percent felt they were treated with disrespect.

TABLE 9.4
Victims' Perceived Treatment and Case Status
(n=67)

Victims' Perceived Treatment	Case Status			
	Victim Testified at Trial (n=30) %	Victim Withdrew Complaint (n=4) %	Case Dismissed or Plea Bargained (n=32) %	Victim did not Testify at Trial (n=1) %
Disrespectful	3	25	19	100
Indifferent	17	50	31	0
Understanding	80	25	50	0

Chi square = 15.33 With 6 d.f. Significance = 0.01*

The victim's assessment of how she was represented by the prosecutor was strongly related to her evaluation of how she was treated. Eighty-five percent of those who felt they were adequately represented were satisfied with how they were treated while those who felt they were poorly represented split in their evaluations of treatment. Thirty-seven percent thought the prosecutor treated them with indifference, 37 percent with disrespect and 26 percent with understanding, as Table 9.5 shows. This finding indicates that victims clearly judged prosecutors, in part, as they would private counsel -- the better representation provided, the more favorable the "client's" evaluation.

TABLE 9.5
Victims' Perceived Treatment and
Victims' Evaluations of Legal Representation
(n=67)

<u>Victims' Perceived Treatment</u>	Evaluations of Legal Representation	
	Poor (n=27) %	Adequate (n=40) %
Disrespectful	37	3
Indifferent	37	13
Understanding	26	85

Chi square = 25.239 With 2 d.f. Significance = 0.000
Pearson's R = 0.614 Significance = 0.000 Missing = 33

Other findings also suggest that some victims regarded themselves as "clients" -- to be consulted, informed, and included in "their case." As Table 9.6 illustrates, although most victims felt they had no voice in their case, those who did were more likely to feel they were treated well by the prosecutor.

TABLE 9.6
Victims' Perceived Treatment and
Victims' Influence in Case
(n=69)

<u>Victims' Perceived Treatment</u>	Influence in Case	
	None (n=40) %	Adequate (n=29) %
Disrespectful	25	3
Indifferent	33	14
Understanding	42	83

Chi square = 11.87 With 2 d.f. Significance = 0.002*
Pearson's R = 0.41 Significance = 0.0002* Missing = 31

Similarly, Table 9.7 shows that victims who were kept informed about their case were most likely to favorably evaluate prosecutors treatment. Of those who felt adequately informed, three out of four felt they were treated with understanding.

TABLE 9.7
Victims' Perceived Treatment and
Information Provided on Case
(n=68)

<u>Victims'</u> <u>Perceived Treatment</u>	Information Provided on Case	
	None (n=33) %	Adequate (n=35) %
Disrespectful	24	6
Indifferent	33	17
Understanding	42	77

Chi square = 9.14 With 2 d.f. Significance = 0.01*
Pearson's R = 0.37 Significance = 0.001* Missing = 32

Education was not significantly related to victims' evaluations of how they were treated. Women who attended graduate school, for example, split evenly in their assessments of how they were treated. One third felt they were treated with understanding, one-third with indifference, one third with disrespect or insult. High school graduates gave the most favorable evaluations of prosecutors. Seventy-nine percent of this group felt they were treated with understanding. Middle-income victims were most likely to give favorable ratings of prosecutors. Sixty-six percent of middle income women felt they were treated with understanding as compared to 60 percent of high income women and 52 percent of low income women who felt this way.

TABLE 9.8
Victims' Perceived Treatment and Verdict
(n=64)

Victims' Perceived Treatment	Verdict		
	Not Guilty Dismissed, or Hung Jury (n=29) %	Guilty of less than Rape (n=11) %	Guilty of Rape (n=24) %
Disrespectful	14	36	0
Indifferent	35	27	17
Understanding	52	36	83

Chi square = 13.09 With 4 d.f. Significance = 0.01*
Pearson's R = -0.29 Significance = 0.01* Missing = 36

Victims' assessments of their treatment by prosecutors were significantly related to the verdict in the case but explained only 8 percent of variance. Although victims were more pleased when their assailants were convicted of rape, as Table 9.8 indicates, when their assailants went free, 52 percent nevertheless felt they were treated with understanding by the prosecutor. In short, victims did not feel they were well treated simply because their assailant was convicted. Instead, victims judged their treatment by the extent to which their interests were considered in deliberations.

SATISFACTION WITH PROSECUTOR'S SERVICES

What factors accounted for the variation between women who were satisfied with prosecutors' services and those who were not? Table 9.9 shows that case verdict explained the same eight percent of the variance in satisfaction as it did variance in treatment. Of those whose assailants

were convicted of rape, 92 percent were satisfied with prosecutors' services as were sixty-two percent of those whose offenders went free.

TABLE 9.9
Victims' Satisfaction with Prosecutors and Verdict
(n=65)

Victims' Satisfaction with Prosecutor	Verdict		
	Not Guilty, Dismissed, or Hung Jury (n=29) %	Guilty of less than Rape (n=11) %	Guilty of Rape (n=25) %
Dissatisfied	38	55	8
Satisfied	62	45	92

Chi square = 9.92 With 2 d.f. Not significant at 0.05
Pearson's R = -0.29 Not significant at 0.05 Missing = 35

Although victims' evaluations of the severity of their assault were not significantly related to their satisfaction with prosecutors, the more serious the victim judged her rape, the more satisfied she was with the prosecutor, as Table 9.10 illustrates.

TABLE 9.10
Victims' Satisfaction with Prosecutor and
Perceived Severity of Assault
(n=70)

Victims' Satisfaction with Prosecutor	Perceived Severity of Assault		
	Least Serious (n=26) %	Serious (n=13) %	Most Serious (n=31) %
Dissatisfied	39	31	26
Satisfied	61	69	74

Chi square = 1.05 With 2 d.f. Not significant at 0.05
Pearson's R = 0.10 Not significant at 0.05 Missing = 30

Satisfaction was related to a victim's judgement of how well the prosecutor represented her interests. As Table 9.11 shows, representation explained 47 percent of variance in victims' satisfaction with services as it explained 36 percent of variance in their evaluations of treatment. This finding indicates that victims' evaluations of prosecutors strongly depended on how prosecutors represented their personal interests. Although the victim is not legally the prosecutor's client, most victims, nevertheless, judged prosecutors as if they were on retainer.

TABLE 9.11
Satisfaction with Prosecutors and
Perceived Quality of Legal Representation
(n=68)

<u>Victims' Satisfaction with Prosecutors</u>	Perceived Quality of Legal Representation	
	Poor (n=27) %	Adequate (n=41) %
Dissatisfied	70	5
Satisfied	30	95

Chi square = 33.42 Significance = 0.000*
Pearson's R = 0.6936 Significance = 0.000* Missing = 32

As shown in Table 9.12, victims' influence in case proceedings also affected their evaluations of prosecutors' services and explained 16 percent of variance in satisfaction, although many women who had no say in their case were satisfied with the prosecutor.

TABLE 9.12
Victims' Satisfaction with Prosecutors and
Victims' Perceived Influence in Case
(n=70)

<u>Victims' Satisfaction with Prosecutors</u>	Perceived Influence in Case	
	None (n=70) %	Adequate (n=30) %
Dissatisfied	48	10
Satisfied	52	90

Chi square = 9.51 With 1 d.f. Significance = 0.002*
Pearson's R = 0.40 Significance = 0.003* Missing = 30

Victims who were kept informed of developments in their case were more likely to be satisfied with prosecutors services as Table 9.13 summarizes. This explained 18 percent of variance in satisfaction. Of those who were not informed about their case, fifty-two percent were dissatisfied. Eighty-nine percent of those who kept informed were satisfied with prosecutors.

TABLE 9.13
Victims' Satisfaction with Prosecutors and
Information Provided in Case
(n=69)

<u>Victims' Satisfaction with Prosecutors</u>	<u>None (n=33) %</u>	<u>Adequate (n=36) %</u>
Dissatisfied	52	11
Satisfied	48	89

Chi square = 11.44 With 1 d.f. Significance = 0.0007*
Pearson's R = 0.44 Significance = 0.0001* Missing = 31

Satisfaction with the prosecutor was not significantly related to satisfaction with the police, nor was it related to the duration of the case. Income was not significantly related to satisfaction with prosecutors although lower income women were less satisfied with prosecutors than middle or high income women. Similarly, education was unrelated to satisfaction, although women with graduate education and women with less than high school education were least satisfied. High school graduates and women with some college background were most satisfied with prosecutors. In short, demographic characteristics explained little about victims' opinions of prosecutors' services. Those variables which measured

victims' involvement in the case -- representation, influence, information -- far surpassed verdict in explanatory power and clearly weighed heavily in victims' evaluations of prosecutor's services indicating that retribution is not a victim's primary concern in the criminal justice system.

SUMMARY

What factors were related to victims' evaluations of prosecutors? Table 9.14 summarizes the results. Though more women were displeased with prosecutors than with patrol officers or detectives, significant factors were, for the most part, the same. The more the victim was included and informed, the more favorable her evaluation. Representation was especially important. Victims who felt the prosecutor represented their interests adequately (59%) were most likely to say they were well treated. Treatment ratings were also related to whether or not a victim's case went to trial and she testified. Women who testified at trial were most likely to think they were treated with understanding by the prosecutor, probably because the prosecutors were likely to spend more time preparing those individuals to testify.

TABLE 9.14
Factors Related to Victims' Assessment of
Treatment by Prosecutors

	<u>Chi Square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with prosecutors' services	45.5	.98	64%
Representation	25.2	.86	37%
Influence	11.8	.70	16%
Informed of case developments	9.1	.60	14%
Testified at trial	*15.3	.50	inap.*
Verdict	13.1	.40	8%*

All factors were significant at .001 unless otherwise noted.

* Significant at .05

As was the case with evaluations of the police, the most important predictor of satisfaction with prosecutors' services was victims' assessments of how they were treated. As Table 9.15 indicates, treatment explained 64 percent of the variance in satisfaction and 58 percent of the variance when verdict was controlled. Satisfaction was also related to victims' assessments of how well they were represented. Again, the rule was: the more frequently victims heard from the prosecutor and were consulted about the case, the more satisfied they were with services.

TABLE 9.15
Factors Related to Victims' Satisfaction with
Prosecutors Services

	<u>Chi square</u>	<u>Gamma</u>	<u>r*</u>
Treatment by prosecutor	45.5	.98	64%
Representation	33.4	.90	48%
Informed of case developments	11.4	.80	19%
Influence	*9.5	.80	16%
Verdict	*10.0	.50	8%*

All factors were significant at .001 unless otherwise noted.
* Significant at .05

Partial correlations make it clear that verdict and treatment evaluations are independent factors. When verdict was controlled for, treatment still explained 38 percent of variance in satisfaction with police and 58 percent of variance in satisfaction with prosecutors. This indicates that victims did not evaluate their treatment or services by thinking back on what ultimately happened to their case. In short, victims did not reason that "my assailant was convicted so I will evaluate services and treatment favorably."

These findings suggest that how victims are treated is more important than if offenders are punished. In short, retribution is not the sole concern of victims. Verdict explained less than 12 percent of victims' satisfaction with police and 8 percent of victims satisfaction with prosecutors. Victims are clearly interested in seeing their assailants convicted, but conviction is not enough. Their satisfaction depends most on being treated courteously, as well as being included, and informed of case developments.

CHAPTER TEN: IMPLICATIONS FOR THE FUTURE

Aside from feeling sorry for these women who were raped, what conclusions result from this study? What are the policy implications of these victims' statements? Would these women cooperate with police or courts in the future? What advice would they give to other women who were raped? What suggestions would they make to improve the criminal justice system for other crime victims? These questions will be considered in this chapter.

FUTURE COOPERATION WITH POLICE AND PROSECUTORS

First, if they had to do it again, would these rape victims cooperate with the police? Why or why not?

Seventy-nine percent of rape victims said they would cooperate with the police in the future. Even women who were dissatisfied with how they were treated by the police were, for the most part, willing to call the police should they ever again be the victim of a crime. As Table 10.1 shows, only seven women said they would never again cooperate with the police. Fourteen women said they would cooperate only under certain circumstances, for example, if they knew that the rapist was a repeat offender.

TABLE 10.1
Victims' Future Cooperation with Police
(n=100)

No	7
Yes	79
Maybe, depending on the circumstances	14

Although there was little variation in victims' willingness to cooperate with police in the future, cross-tabulations revealed that what limited variance existed was related to a number of factors:

(1) Satisfaction with prosecutors' services. As seen in Table 10.2, victims who were satisfied with prosecutors' services were most willing to cooperate with police in the future.

TABLE 10.2
Victims' Future Cooperation and Satisfaction with Police
(n=98)

<u>Victims' Future Cooperation with Police</u>	Satisfaction with Police	
	Dissatisfied <u>(n=20)</u> %	Satisfied <u>(n=78)</u> %
No	20	3
Maybe	15	13
Yes	65	87

Chi square = 8.72 With 2 d.f. Significance = 0.01*
Pearson's R = -0.27 Significance = 0.003* Missing = 2

(2) Treatment: The better victims felt they were treated by the police, the more likely they were to cooperate in the future, as Table 10.3 illustrates.

TABLE 10.3
Victims' Future Cooperation with Police and
Perceived Treatment
(n=98)

<u>Victims' Future Cooperation with Police</u>	Perceived Treatment		
	Disrespectful (n=9) %	Indifferent (n=16) %	Understanding (n=73) %
No	22	12	3
Maybe	22	12	12
Yes	56	75	85

Chi square = 7.77 With 4 d.f. Not significant at 0.05
Pearson's R = -0.26 Significance = 0.005* Missing = 2

(3) Information: The data in Table 10.4 indicates that victims who were kept informed on the status of their case were most likely to cooperate with the police in the future.

TABLE 10.4
Victims' Future Cooperation with Police and
Information Provided on Case
(n=95)

<u>Victims' Future Cooperation with Police</u>	Information Provided on Case	
	None (n=49)	Adequate (n=46)
No	12	0
Maybe	10	13
Yes	78	87

Chi square = 6.05 With 2 d.f. Significance = 0.05*
Pearson's R = 0.19 Significance = 0.03* Missing = 5

(4) Influence: The amount of say victims had in a case was not strongly related to their plans for future cooperation. In fact, Table 10.5 shows that 76 percent of those who felt they had no voice in the disposition of their case would, nevertheless, participate in the future.

TABLE 10.5
Victims' Future Cooperation with Police and
Victims' Perceived Influence in Case
(n=98)

<u>Victims' Future Cooperation with Police</u>	Perceived Influence	
	<u>None (n=59) %</u>	<u>Adequate (n=39) %</u>
No	10	0
Maybe	14	13
Yes	76	87

Chi square = 4.32 With 2 d.f. Not significant at 0.05
Pearson's R = 0.18 Significance = 0.03* Missing = 2

(5) Verdict: Verdict was not strongly related to cooperation with police in the future. Women whose assailants were convicted of rape were most willing to cooperate in the future but the differences were slight. Ninety-three percent of those whose offenders were convicted were willing to cooperate as were 77 percent of those whose offenders were either acquitted or cases dismissed, as seen in Table 10.6.

TABLE 10.6
Victims' Future Cooperation with Police and Verdict
(n=68)

<u>Victims' Future Cooperation with Police</u>	Verdict		
	Dismissed, Guilty or Hung Jury (n=30) %	Guilty of less than Rape (n=11) %	Guilty of Rape (n=27) %
No	13	0	0
Maybe	10	18	7
Yes	77	82	93

Chi square = 6.34 With 4 d.f. Not significant at 0.05
Pearson's R = 0.25 Significance = 0.02* Missing = 32

(6) Number of contacts: Victims who heard from the police frequently were most likely to cooperate in the future. Seventy-five percent of those who rarely heard from the police were also willing to cooperate again.

(7) Race and incomes: Both race and income were related to victims future cooperation with the police. Tables 10.7 and 10.8 show that whites were most likely to cooperate in the future, as were middle and high income women.

TABLE 10.7
Victims' Future Cooperation with Police and Victims' Race
(n=100)

<u>Victims' Future Cooperation with Police</u>	Victims' Race		
	<u>White (n=65)</u>	<u>Black (n=33)</u>	<u>Non-white (n=2)</u>
	%	%	%
No	1	15	50
Maybe	14	15	0
Yes	85	70	50

Chi square = 12.33 With 4 d.f. Significance = 0.02*

TABLE 10.8
Victims' Future Cooperation with Police and Victims' Income
(n=99)

<u>Victims' Future Cooperation with Police</u>	Victims' Income		
	<u>Under \$9,000</u>	<u>\$9,000- \$19,000</u>	<u>20K Plus</u>
	%	%	%
No	19	2	4
Maybe	19	13	11
Yes	61	84	80

Chi square = 9.48 With 4 d.f. Significance = 0.05*
Pearson's R = 0.25 Significance = 0.007* Missing = 1

(8) Severity of assault: Victims' evaluations of the severity of their assault were not statistically related to future cooperation with the police. Women who judged their rape most seriously were also most likely to cooperate in the future.

Second, would these women advise other rape victims to call the police? The answer is overwhelmingly "yes". Table 10.9 summarizes victim's responses. All but three women said they would advise others to

call the police. The primary reasons why victims believed the police should be called was because "if you don't call it might happen to someone else" and "it is the only way that crime can be stopped."

TABLE 10.9
Victims' Advice on Reporting a Crime

	N
Yes, if you don't call it might happen to someone else	22
Yes, it is the only way to stop rape	22
Maybe, it depends on the circumstances	18
Yes, call even though nothing will probably happen	16
Yes, call it's your duty	7
Other	7
Yes, show them they can't get away with that	3
No -- don't call	3
Don't know	2
TOTAL	<u>100</u>

Eighteen women qualified their recommendation. Some said victims should not call unless they were accompanied to the police station by a rape crisis counselor or a private attorney. Others said victims should call only if the assailant was a stranger; otherwise, it was pointless. Still others believed that victims should call the police only if they were able to positively identify their assailant. Some women felt that, regardless of how unpleasant it was to the victim, it was important to report all crimes to the police because as Marianne put it, "It brings the system closer to refinement -- It's part of the learning process for citizens and the police." In another woman's words:

The only way things are going to get better for rape victims is if each one of us who is raped demands to be treated with respect. If we all drop out nothing will change -- the rapists will rape and the police and prosecutors will continue to be insensitive to the victims' perspective. We owe it to each other as women to change that, even if it means some personal discomfort.

Third, would rape victims be willing to cooperate with the courts in the future? Victims were not quite as willing to cooperate with prosecutors in the future as they were with police. (Table 10.10) Seventy-two percent said they would cooperate with the court as compared to 79 percent who said they would cooperate with the police. Twelve women said they would never again cooperate with a prosecutor, six said they would cooperate only if the assailant was a stranger and they were sure they could identify the suspect. Others were not sure what they would do.

TABLE 10.10
Victims' Future Cooperation with Police and Courts
(n=100)

<u>Victims' Future Cooperation with Police</u>	<u>Police</u>	<u>Courts</u>
No	7	12
Maybe	14	16
Yes	79	72

Why were some women willing to cooperate with prosecutors while others were not? For many, the answer was in the outcome. "I'd never cooperate again," Denise said "because the verdict was too lenient. I'm not sure it was worth it -- all the time and trauma it cost me and it didn't amount to much." Andrea fumed, "What's the point? He got off. The cops and lawyers don't think about you as a person only the case itself and what they can get out of you. I wouldn't have anything to do with the cops or the courts."

For most women, the decision had more to do with how they were treated than what happened to their assailant. Sally's assailant was convicted, yet she feels bitter toward the judicial system.

I wouldn't go through it again. I was treated like a nonentity. I was trying to be a good citizen. I would have gone through it if only they'd treated me as a person, included me, consulted me. But the U.S. attorney took the case and moved me right out of the picture. He didn't even ask me my opinion. He told me what he had decided. I felt like the criminal, like I was cluttering the picture with this rape. I'd never go through that again. I would rather die than do it. If I am ever raped again, I hope he kills me.

Others said they would not cooperate because of how they were treated by prosecutors and pressured by friends and family. Penny explained:

I'd never cooperate again. My family and friends turned against me because they knew him. Then the prosecutor said he agreed to plead guilty but they never told me the plea wasn't to rape. They never told me he wouldn't serve any time. No one ever told me what was going on. If it happened again, I wouldn't bother with the criminal justice system. I'd get a gun and take care of it myself.

To further understand why some women were willing to cooperate while others were not, the following variables were cross-tabulated with responses on future cooperation.

1) Satisfaction with services: Fifty percent of the women who were dissatisfied with prosecutors' services nevertheless said they would cooperate in the future. Table 10.11 shows that one-third of the women who were dissatisfied said they would not cooperate in the future and 18 percent of these women said their decision would depend on the circumstances of the crime. As expected, 85 percent of the women who were satisfied with prosecutors services said they would cooperate again.

TABLE 10.11
Victims' Future Cooperation with Prosecutors and
Satisfaction with Prosecutors
(n=70)

<u>Victims' Future Cooperation with Prosecutors</u>	Satisfaction with Prosecutors	
	Dissatisfied (n=48) %	Satisfied (n=22) %
No	32	4
Maybe	18	10
Yes	50	85

Chi square = 12.2 With 2 d.f. Significance = .002*
Pearson's R = .42 Significance = 0.00*

2) Level of information: This factor had little to do with victims' decisions on future cooperation. Table 10.12 indicates that although Pearson's r was significant, eighty percent of those who were informed said they would cooperate in the future versus 72 percent of those who described themselves as "not informed at all."

TABLE 10.12
Victims' Future Cooperation with Prosecutors and
Information on Case
(n=95)

<u>Victims' Future Cooperation with Prosecutors</u>	Information Provided on Case	
	None (n=46) %	Adequate (n=49) %
No	18	4
Maybe	11	15
Yes	71	80

Chi square = 4.75 With 2 d.f. Not significant at .05
Pearson's R = .17 Significance = .05* Missing = 5

3) Influence: The amount of influence victims believed they had in the disposition of their case was not significantly related to their plans for future cooperation. As Table 10.13 shows, eighty-two percent of those who felt they were adequately considered in case proceedings planned to cooperate in the future as did 68 percent of those who had little or no say in the disposition of their case.

TABLE 10.13
Victims' Future Cooperation with Prosecutors and
Victims' Perceived Influence in Case
(n=98)

<u>Victims' Future Cooperation with Prosecutors</u>	Perceived Influence in Case	
	<u>None (n=59) %</u>	<u>Adequate (n=39) %</u>
No	14	8
Maybe	19	10
Yes	68	82

Chi square = 2.44 With 2 d.f. Not significant at .05
Pearson's R = .15 Not significant at .05 Missing = 2

4) Verdict: Table 10.14 indicates there was a minimal relationship between the verdict in a case and the victim's decision to cooperate in the future. The relationship that did exist was in the expected direction. Eighty-nine percent of those whose assailants were convicted pledged to cooperate in the future, as did 73 percent of those whose assailants were either found or plead guilty to less than rape, and 67 percent of those whose assailants were either found not guilty or case dismissed.

TABLE 10.14
Victims' Future Cooperation with Prosecutors and Verdict
(n=68)

<u>Victims' Future Cooperation with Prosecutors</u>	Verdict		
	<u>Not Guilty (n=30)</u> %	<u>Guilty of less than Rape (n=11)</u> %	<u>Guilty of Rape (n=27)</u> %
No	20	9	4
Maybe	13	18	7
Yes	67	73	89

Chi square = 5.1 with 5 d.f. Not significant at .05
Pearson's R = .26 Significance = .01* Missing = 32

5) Representation: As seen in Table 10.15, fifty-six percent of those who thought they were badly represented would cooperate with the prosecutor in the future as opposed to 88 percent of those who thought they had adequate representation. This factor explained only seven percent of the variance in cooperation.

TABLE 10.15
Victims' Future Cooperation with Prosecutors and
Perceived Quality of Representation
(n=70)

<u>Victims' Future Cooperation with Prosecutors</u>	Perceived Quality of Representation	
	Negative (n=27) %	Positive (n=43) %
No	30	2
Maybe	15	9
Yes	56	88

Chi square = 12.4 With 2 d.f. Significance = .002*
Pearson's R = .42 Significance = .002* Missing = 30

6) Race: Race was significantly related to willingness to cooperate. Twenty-six percent of blacks would not cooperate with the prosecutor in the future; only 5 percent of whites felt this way as Table 10.16 illustrates.

TABLE 10.16
Victims' Future Cooperation with Prosecutors and
Victims' Race
(n=100)

<u>Victims' Future Cooperation with Prosecutors</u>	Victims' Race	
	White (n=65) %	Non-White (n=35) %
No	4	25
Maybe	16	14
Yes	78	60

Chi square = 9.62 With 2 d.f. Significance .05

7) Income: Table 10.17 shows that higher income women were slightly more willing to cooperate than middle income women (79% to 78%). Women who earned under \$9,000 a year were least likely to cooperate (54%).

TABLE 10.17
Victims' Future Cooperation with Prosecutors and
Victim's Income
(n=99)

<u>Victims' Future Cooperation with Prosecutors</u>	Victims' Income		
	<u>Under \$9,000 (n=26) %</u>	<u>\$9,000 \$19,000 (n=45) %</u>	<u>\$20K Plus (n=28) %</u>
No	31	4	7
Maybe	15	18	14
Yes	54	78	79

Chi square = 11.93 With 4 d.f. Significance = .01*
Pearson's R = .25 Significance = .005* Missing = 1

8) Involvement: The extent to which victims felt involved in their case was not significantly related to their willingness to cooperate with the courts in the future. Half the victims who refused to cooperate with the prosecutors felt they were highly involved in their rape case. Table 10.18 indicates that of the women who were willing to cooperate with courts in the future, 52 percent felt highly involved in their case, 48 percent felt left out.

TABLE 10.18
Victims' Future Cooperation with Prosecutors and
Victims' Perceived Level of Involvement
(n=79)

<u>Victims' Future Cooperation with Prosecutors</u>	Victims' Perceived Level of Involvement	
	<u>Low %</u>	<u>High %</u>
No (n=10)	50	50
Maybe (n=11)	27	73
Yes (n=58)	48	52

Chi square = 1.74 With 2 d.f. Not significant at .05.
Pearson's R = .0408 Not significant at .05.

(9) Treatment: Victims' treatment by prosecutors affected their decisions whether to cooperate with the courts in the future. Eighty-five percent of the women who felt they were treated with understanding planned to cooperate with the courts in the future. Interestingly, 45 percent of the women who felt they were treated with disrespect or insult by the prosecutors nevertheless planned to cooperate in the future, as shown in Table 10.19.

TABLE 10.19
Victims' Future Cooperation with Prosecutors and
Perceived Treatment
(n=69)

<u>Victims' Future Cooperation with Prosecutors</u>	Victims' Perceived Treatment		
	<u>Disrespectful (n=11) %</u>	<u>Indifferent (n=17) %</u>	<u>Understanding (n=41) %</u>
No	36	12	7
Maybe	18	18	7
Yes	45	71	85

Chi square = 9.14 With 4 d.f. Significance = 0.05*
Pearson's R = -0.32 Significance = 0.004* Missing = 31

(10) Severity of Assault: Though the relationship was not statistically significant, women who considered their assault to be most serious in terms of its impact on their lives were most likely to cooperate with the courts in the future. Women who downgraded the seriousness of their assault (1-4 on a ten point scale) were least likely to cooperate with courts in the future although, as Table 10.20 shows, 57 percent of this group was also willing to participate in the future. In short, the more seriously women regarded their assault the more willing they were to participate in the future.

TABLE 10.20
Victims' Future Cooperation with Prosecutors and
Perceived Severity of Assault
(n=100)

<u>Victims' Future Cooperation with Prosecutors</u>	Perceived Severity of Assault		
	(1-4) Not Very Serious (n=21)	(5-9) Serious (n=40)	(10) Very Serious (n=39)
	<u>%</u>	<u>%</u>	<u>%</u>
No	14	12	10
Maybe	29	15	10
Yes	57	72	80

Chi square = 4.05 With 4 d.f. Not significant at 0.05
Pearson's R = 0.11 Not significant at 0.05

CHANGE IN OUTLOOK TOWARD JUDICIAL SYSTEM

What effect did contacts with police and courts have on the victim's overall evaluations of these agencies? Did their opinions improve, stay the same, or get worse?

Half the victims opinions toward police and courts did not change as Table 10.21 shows.

TABLE 10.21
Victims' Attitudes Toward Police and Prosecutors

	<u>Worse</u> %	<u>Same</u> %	<u>Better</u> %
Police (n=98)	16	50	34
Prosecutors (n=93)	34	49	16

If they had a good opinion before, they had a good opinion after. The reverse was also true -- as Carol's comment highlights:

I was cynical about the court system before and I'm still cynical. My case was exceptional. How many times are all four suspects apprehended and how many times does the defendant get four life sentences? I was lucky but I know my case was the exception, not the rule.

If victims' opinions changed toward the police it was generally for the better. If their opinions changed toward the courts it was generally for the worse. As Madge explains:

My impression of the courts is worse. It's just not worth it. I went through fear, hell, and torment waiting for the trial. I was terrified at the thought of seeing him while I waited for trial, the whole time I was remembering everything yet wanting to forget it. I said to the State's Attorney afterward: Did I go through this for him to get sent for psychiatric work? He should get the electric chair.

Despite this last comment, verdict was not central to victims attitudes toward police and courts. As previous chapters have indicated, victims were more concerned with how they were treated than whether their assailant was punished. Jane expressed it best:

I feel worse toward the courts even though they caught him because they should have let me participate. It happened to me. I wish they would have had the decency to let me say something and I'm furious that they didn't.

Analysis supports Jane's position. Victims' opinions of the police were strongly related to how they were treated and explained 31 percent of the variance in their ratings of police. Table 10.22 indicates that forty-four percent of those who were treated with understanding said their opinion of the police improved, 51 percent of those women said their opinion stayed the same, and six percent said their opinion declined, nonetheless.

TABLE 10.22
Victims' Attitudes Toward Police and
Victims' Perceived Treatment
(n=98)

<u>Victims' Attitudes Toward Police</u>	Perceived Treatment		
	Disrespectful (n=9)	Indifferent (n=16)	Understanding (n=73)
	%	%	%
Worse	89	25	5
Same	11	69	51
Better	0	6	44

Chi square = 47.72 With 4 d.f. Significance = 0.0001*
Pearson's R = 0.57 Significance = 0.0001* Missing = 2

Victims' satisfaction with police services was also related to their opinion toward police and explained 25 percent of variance. Most women (53 percent) who were satisfied with police said their opinion stayed the same. Forty-one percent said their attitude improved. Of those whose opinion of the police deteriorated, 69 percent were dissatisfied with police services as shown in Table 10.23.

TABLE 10.23
Victims' Attitudes Toward Police and Satisfaction with Police
(n=98)

<u>Victims' Attitudes Toward Police</u>	Satisfaction with Police	
	Dissatisfied (n=20)	Satisfied (n=78)
	%	%
Worse	55	6
Same	40	53
Better	5	41

Chi square = 29.66 With 2 d.f. Significance = 0.0001*
Pearson's R = 0.50 Significance = 0.0001* Missing = 2

Victims' opinions of the courts were also related to how they were treated and how they perceived prosecutor's services. Satisfaction with services explained slightly more variance than treatment by prosecutors. (26 percent v. 21 percent) Seventy-three percent of women who were dissatisfied with prosecutors' services said their opinions of the courts declined, as summarized in Table 10.24. Similarly, Table 10.25 shows that most women (42 percent) who felt they were treated with understanding had no change in their opinions of the courts. Thirty-four percent of these women said their attitude improved and 24 percent said it declined.

TABLE 10.24
Victims' Attitudes Towards Prosecutors and
Satisfaction with Prosecutors
(n=69)

<u>Victims' Attitudes Toward Prosecutors</u>	Satisfaction with Prosecutors	
	Dissatisfied (n=32) %	Satisfied (n=47) %
Worse	73	21
Same	27	49
Better	0	30

Chi square = 18.75 With 2 d.f. Significance = 0.0001*
Pearson's R = 0.51 Significance = 0.00* Missing = 31

TABLE 10.25
Victims' Attitudes Toward Prosecutors
and Perceived Treatment
(n=68)

<u>Victims' Attitudes Toward Prosecutors</u>	Perceived Treatment		
	<u>Disrespectful (n=11)</u> %	<u>Indifferent (n=16)</u> %	<u>Understanding (n=41)</u> %
Worse	73	50	24
Same	27	50	42
Better	0	0	34

Chi square = 16.097 With 4 d.f. Significance = 0.0029*
Pearson's R = 0.46 Significance = 0.000* Missing = 32

RECOMMENDATIONS FOR CHANGE

Improving Police Services

Table 10.26 displays victims ideas for reform. Sixty-three percent of the women who came into contact with the police had suggestions for what the police might have done differently to improve their services to victims.

TABLE 10.26
Victims' Suggestions for Improving the Police
(n=62)

Information	<u>24</u>
Educate police to victims' emotional reactions	15
Police should pursue the case more	11
Police should not "dump" victim	5
Police should not delay before taking victims' statement	5
Police should not use victims as bait to catch criminal	2
Women police officers should be utilized	2
Other	37

The most common suggestion was that police provide victims with information about the status of their case. Victims especially wanted to know if their assailant had been arrested. If so, was he in jail or free on bail? If not, were the police still looking for him? Victims also wanted police officers to be more sensitive to their emotional needs after the crime.

A third of the victims offered other suggestions for improving police services. Some blamed the police for their rape and argued that if police did their job, crime would not occur. They recommended that more police be put on duty to prevent crime. They advocated more street protection, especially for single and divorced women. One woman suggested that specialized police forces such as the District of Columbia "Sex Squad" change their name. As she put it, "Rape has nothing to do with sex. Their very name displays an insensitivity to the crime. It is revolting." Another concrete suggestion was that police officers tape victims' statements. This would alleviate many victim's problems: She would not have to continually repeat the details of the crime: She would not have to write her statement - an act that is required at a time when most victims can not think clearly, let alone write coherently. She would not have to worry about forgetting all the details of the crime. She could explain the entire crime once, put it on tape, and review it before the trial.

A number of victims complained about the way police answered their call. "I had specifically asked for them to be low-key," Diane recalled, "yet they approached in a blaze of squad cars. It embarrassed me. I had wanted to keep it private but of course the whole neighborhood knew then." Typically many squad cars answered the call and some victims were

bothered that no one person assumed command but instead, victims had to talk with a number of officers before the detective took over. They objected to the presence of so many officers. "There were too many gawking police," Melanie stressed, "meanwhile the guy is getting away. They should have been out trying to find the rapist instead of wasting their time staring at me."

A few victims complained that the police took too long to arrive. One woman locked her door after the rapist left her apartment. She called 911 and much to her dismay the rapist came back and stood outside her door begging her to go out with him on a date sometime. The police never arrived so she went to the phone again. The rapist heard her dialing and left. When the police finally arrived 15 minutes after the first call, he was gone. He was never apprehended.

One suggestion was voiced by a number of black women who lived in low income areas. Their advice: "Get the cops to stop picking people up for gambling and little stuff and get them to go after the people who push drugs and do violence." Victims also objected to being categorized. As Pat said,

The police should provide more individualized treatment. They didn't want to give me time to call my employer. They said, "It's not important," but it was important to me that I let him know I wouldn't be coming in for work. I didn't want to let him down. But the police kept saying, "You have more important things to worry about," and wouldn't let me call until I insisted.

Improving the Court System

Victims were particularly eager to offer reforms for the court system. Of these women who come into contact with the courts, 53 offered at least one suggestion, 31 offered two, and 20 offered no suggestion.

TABLE 10.27
Victims Suggestions for Improving the Courts
(n=84)

	%
Pay more attention to victims' opinions	21
Better scheduling	18
Prosecutor should represent and defend victim	14
Prepare case better	12
Provide victims with more information	12
Improve juries	9
Other	13

As Table 10.27 illustrates, the most frequent suggestion was that prosecutors pay more attention to the victims' perspective and recognize their personal interest in the case by including them in decision making.

Melba explained why she offered this suggestion:

What the offender has done to the individual is swept under the rug. The only reason they took my case to begin with was because he had done it before and had a record and because of what he might do to "society." What about me? What did they do to help me? Nothing, they locked me up in a hospital!

(This comment was made by a woman who was a hospital employee. While at work she began screaming when she was alone in an elevator with a man who resembled her assailant. When her screams became uncontrollable she was taken to the psychiatric ward in the hospital for observation. During her hospital stay her daughter was legally removed from her custody.)

Irene shared Melba's belief that the courts exclude victims from participation. She so resented the way she was treated that she refused to cooperate with the prosecutors. As she put it, "I wasn't willing to be used as evidence and so they threatened to arrest me for not showing up at trial. They didn't give a damn about my feelings about the case, what effect the trial would have on me -- they wanted me to be there regardless of the personal cost."

A related complaint, voiced by 12 percent of victims, was that victims should be informed at all times on the status of their case. Others suggested that trial dates be set with some concern for victims' schedules. Victims especially wanted delays in the judicial process to be reduced because of the personal toll of such delays. Twenty-six percent of the women were bothered by poor representation from the prosecutor. They suggested that either the prosecutor better consider victims' perspectives or victims be entitled to new counsel. Juries were also targeted in victims' recommendations. Victims were dismayed at the poor quality of jurors and they suggested that smarter, less prejudiced individuals serve or that juries be abolished altogether and only the judge decide guilt or innocence.

Suggestions for Overall Reform

Victims were asked, "If you could change anything to improve social and legal services for crime victims, what would you suggest?" Their responses are summarized in Table 10.28. All but six women responded to this question, many offered more than one suggestion. Most suggestions were again directed toward increasing the status of the victim and humanizing the judicial process. One-fourth of the women recommended

that their personal stake in the case be recognized by including victims in deliberations. Twenty-eight women wanted more information from police, courts, and hospitals about the status of their case. Others advocated more consideration of the severity of the crime, the victims' personal needs and legal rights.

TABLE 10.28
Victims' Suggestions for Judicial Reform
(n=157)

	<u>%</u>
Educate police, prosecutors, and hospitals to be more aware of victims' needs	29
Treat victims as people, not as evidence, and include them in deliberations	24
Give victims more information on developments in the case	18
Provide information on victims' services -- such as self-defense for women, community education on rape	11
Make court stop revolving door	9
Take the victim and the crime seriously	6
Allow victims to have private counsel	4
Other	29

Seventeen women called for more information on victim services, including self-defense classes for women, community education programs on rape, and publicity about rape crisis centers, victim-witness units, and victim compensation programs -- programs which few victims were aware of before our interview. For example, 75 percent of the women who lived in states with victim compensation statutes had never heard of such programs. Fifty-seven percent of victims were unaware that they could sue their offender or a third party, although twelve women did sue; seven sued their landlord; three their assailant; two sued their employer. Of those who were in contact with the prosecutors' offices, 72 percent said

they had no contact with victim-witness units. The 28 percent who were contacted by victim-witness units gave them favorable evaluations. Sixty-five percent of these women said that victim-witness units provided them with information about developments in the case and generally made it easier for them to go through with the case; 35 percent said victim-witness units had no effect on their experience in court.

Most victims had their own particular grievance with legal and social services. Twenty-seven percent of their suggestions involved changes in hospital procedures and rape crisis centers, two topics that were not developed in this manuscript but will be in future writings.

Regarding changes in the legal system, victims recommended that the courts move faster, defendants be held in jail pending their trial, more street protection be provided to women, rape laws be changed to de-emphasize the sexual aspect of the assault, and victims be allowed to attend trial proceedings, not relegated to a witness room or hallway. Some victims thought that changes would be pointless unless the causes of rape were uprooted -- sex discrimination and poverty. Others thought the burden to change rested with the victims, and that women could prevent rape if they were more careful. A few women responded that if they could change anything they would, "deny that it ever happened."

SUMMARY

If they had to make the decision again, most women would cooperate with the police and courts in the future. Even women who were dissatisfied with how they were treated were, for the most part, willing to cooperate should they ever again be a victim of crime as shown in Table 10.29.

TABLE 10.29
Victims' Future Cooperation with Police and Prosecutors
(n=100)

	<u>No</u> %	<u>Maybe</u> %	<u>Yes</u> %
Police	7	14	79
Courts	12	16	72

Although there was little variation in victims' willingness to cooperate with the police in the future, cross-tabulations revealed that the limited variance was related to a number of factors. Those who were white, satisfied, well-treated, frequently contacted by police and prosecutors, and included in the case, were most likely to say they would cooperate with the police in the future, though as Table 10.30 shows, none of these factors had great explanatory power. Verdict had little to do with the victims decision to cooperate in the future. Ninety-three percent of those whose offenders were convicted were willing to cooperate as were 77 percent of those whose offenders were either acquitted or cases dismissed.

TABLE 10.30
Factors Related to Victims' Future Cooperation with Police

	<u>Chi square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with police services	8.7	.5	7.0%
Frequency of contacts	5.3	.7	5.3%
Treatment by detectives	7.7	.5	6.2%
Influence in case	4.3	.4	3.2%
Race (of victim)	12.3	.5	inap.

All factors were significant at .05 or better.

Table 10.31 shows that half the victims' opinions toward police and courts did not change. If victims' opinions changed toward police they generally improved. If their opinions changed toward the courts they generally declined.

TABLE 10.31
Victims' Attitudes Toward Police and Prosecutors

	<u>Got Worse</u>	<u>Stayed Same</u>	<u>Improved</u>
	%	%	%
Police (n=98)	16	50	33
Prosecutors (n=93)	34	49	15

The primary reason that victims' opinions declined toward courts was because they felt excluded from their case. Victims' opinions of police were strongly related to how they were treated and explained 31 percent of change in attitude toward the police, 21 percent of their change in attitude toward the prosecutor. Tables 10.32 and 10.33 indicate that victims' satisfaction with police and prosecutor services also affected their attitude toward those agents, explaining 24 and 26 percent of their attitude change toward police and prosecutors respectively. These relationships varied in the expected direction. Most people who were dissatisfied and poorly treated said their opinion deteriorated, those who were satisfied with services and well treated were most likely to say their opinion did not change, but when it did change it usually improved.

TABLE 10.32
Factors Related to Victims' Attitudes Toward Police

	<u>Chi Square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with police services	29.6	.8	24%
Treatment by police	47.7	.9	31%

All factors were significant at .001

TABLE 10.33
Factors Related to Victims' Attitudes Toward Prosecutors

	<u>Chi Square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with prosecutor services	18.75	.8	26%
Treatment by prosecutor	*16.09	.7	21%

All factors were significant at .0001 unless otherwise noted*
Significant at .05

Victims who were well-treated and satisfied with court services were most willing to cooperate, however, 32 percent of those who were thoroughly dissatisfied with prosecutors nevertheless said they would cooperate in the future. Table 10.34 shows that among other factors their cooperation was significantly related to how well prosecutors represented their interests, a factor which explained 17 percent of variance. Verdict was not significantly related to victims future cooperation with prosecutors. Although women whose assailants were convicted were most likely to cooperate, (88 percent), women whose assailants were acquitted also planned to cooperate with courts in the future (67 percent).

TABLE 10.34
Factors Related to Victims' Future Cooperation
with Prosecutors

	<u>Chi square</u>	<u>Gamma</u>	<u>r²</u>
Satisfaction with services	12.2	.7	.17%
Representation by prosecutor	12.4	.7	*.17%
Treatment by prosecutor	9.1	.5	10%
Income	11.9	.4	6%
Informed of case developments	4.7	.3	3%

All factors were significant at .05 unless otherwise noted.

*Significant at .001.

Victims were not only willing to cooperate in the future, even those few who were dissatisfied and themselves unwilling to cooperate joined in advising other potential victims to report crime to the police and press charges. Their reasons dealt with prevention. "If you don't call it might happen to someone else," and, "it is the only way crime can be stopped."

Most victims offered recommendations to improve police (n=62) and courts (n=53) in particular and the judicial process in general (n=94). The most common cries were for more compassion and personal treatment from police officers. Victims remarked that while they recognized officers had many cases to handle, they felt the officers did not seem sufficiently concerned with the victim's one case and trauma. Another common request was that officers keep victims informed of case developments, for example, was the offender arrested; if so was he freed on bail?

The most frequent suggestions for court reform were that prosecutors pay more attention to the victims' concerns by soliciting their opinion, providing information on case developments and considering their interests when scheduling cases. Victims clearly felt they deserved to have their personal interests in the case better presented and represented by counsel.

In general, suggestions for overall changes in judicial response were designed to increase victims' standing in the legal and social system, specifically, to give victims more information on the case and community services, to allow victims increased representation through private counsel, and to encourage police and prosecutors to recognize victims' stake in judicial process and treat them as individuals, not as evidence.

AFTERWORD

Most studies on victims seek ways to better manage those select victims whose cooperation the state needs to win its case. The purpose of such studies is primarily to assist the state, not victims. Once an arrest is made, in most instances, the state has no incentive to consider victims' concerns. Cases are usually dismissed or plea bargained. Victims are not needed, therefore, they are rarely consulted or informed of case developments.

For most victims, their lowly status in the judicial process comes as a surprise. They quickly realize that victims have no standing in court, no right to counsel, no control over the prosecution of "their case," and no voice in its disposition. They do not expect much from the judicial system, yet emerge from this experience distressed that the judicial process is more concerned with defendants and administrative issues than with victims.

Though victims want something done to the defendant, they are not bloodthirsty. Their primary concern is with how they are treated, not what punishment the defendant incurs. Victims want to be informed, represented, included, consulted, and well treated by police and prosecutors. Process, not product, explains most of victims' satisfaction with police and courts.

Despite their many criticisms of the judicial response, victims evaluated police and prosecutors favorably. Even those who were dissatisfied with services and poorly treated, for the most part, were willing to cooperate and advise others to cooperate with law enforcement in the future. They too recognized the judicial process as the "only game in

town." Not to play is to allow criminals to go free. Participation, victims hoped, would lead to changes: crime would be deterred and victims' status improved.

In sum, findings indicate that victims' sole concern is not retribution and thereby refute prosecutors' arguments that to include victims in judicial decision-making would lead to a breakdown of plea bargaining and a return to a primitive system of vengeance.

Although the personal trauma which results from crime can not be erased, the judicial process can ensure that victims will not be subjected to further senseless attacks. By treating victims as people, not as evidence, common courtesies may be extended which will lighten their burden as they pass through the judicial process. Victim-impact statements, mandatory notification of case disposition, victim-witness units, rape crisis centers all help -- as would an attitude of support, not second-guesses from society.

Since I began this study in 1979, the issue of victims' rights has moved from relative obscurity to become a central issue in legislative and judicial debates. In 1982, the Maryland legislature passed a bill which promotes the use of victim-impact statements in state courts. The District of Columbia joined thirty other states and established a victim compensation program, and the California legislature approved a Victim's Bill of Rights. In 1980, the Supreme Court ruled on the issue of victim's third-party civil suits.¹

A federal Omnibus Victims' Protection Act is currently pending before the United States Senate and House Judiciary Committees.² The bill would allow for victim-impact statements in federal courts, establish federal guidelines for fair treatment of crime victims, waive sovereign immunity to permit victims to sue the federal government in cases of gross

negligence, and forbid criminals from profiting financially from the sale of their exploits.

Such reforms are welcome, if long overdue. For these programs to be effective, however, they must be promoted and advertised, unlike current victim compensation programs which few victims know about and fewer still qualify for. Reforms, if they are truly for victims, rather than for state's convenience, should not be restricted to those select victims the prosecution needs to testify at trial. All crime victims have a right to know what they are getting into when they agree to press charges. All crime victims have a right to a simple, understandable, explanation of the steps of the judicial process (although this proposal was rejected by the Maryland legislature in 1981 as too controversial).

Most reforms which victims in this study offered would be easy to institute. Victims could be informed of case developments by victim-witness units and volunteers who in many local jurisdictions already monitor the courts. Victims could be consulted about their case without the court system grinding to a halt. As studies have shown, victim participation would not infect the judicial process with hatred and revenge.³ Prosecutors overnight could correct one source of victims' distress by not requiring victims to "state your name and present address" when they take the stand. This question has no legal relevance to the case if the victim has moved since the assault and in one brief moment, it destroys the safety and privacy of her new home.

To do something for victims is not the same as doing something to defendants. Capital punishment may ease society's fear that a person will hurt them, but punishment alone does little for the victims and frequently

is not their wish. Victims still must recover from their assault, learn to live with the knowledge that they have been violated and cope with their own problems, as well as the attitudes of family, friends, and strangers. They must recover from the lost paycheck, the stolen car, the broken leg, the dead loved one. Punishing the defendant is a step but alone does little to assist victims resume their life. To equate punishment of defendants with helping victims cheapens victims' concerns and disguises the extent of their injury. Furthermore, the price of ignoring victims is potentially a breakdown in the criminal justice system. An estimated eighty-seven percent of all crime comes to the attention of police only because victims report.⁴ If they decide that reporting the crime is not worth the headache of cooperating, citizen's discontent with the courts will increase and the crime rate we have today will seem insignificant compared to what the future may bring. We must expand our notion of due process to include the rights of victims. Why else should they cooperate? The odds of arrest are slim, the odds of conviction are even slimmer.

Victims' status and satisfaction with the judicial process may be improved by instituting reforms which expand their involvement and recognize that crime involves more than the state and the defendant. Surely, the least the judicial process can promise is to do no more harm. The least we can do is to guarantee victims that when they cooperate with law enforcement they will be treated with the dignity they deserve.

FOOTNOTES -- INTRODUCTION

¹ Jack Kress, "Role of the Victim in Sentencing", paper presented at 2d International Symposium on Victimology, Boston, 1976, p.3 and "Progress and Prosecution," The Annals of the American Academy of Political and Social Science, no. 423 (1976), pp. 99-116.

² See Abraham Blumberg, Criminal Justice (Chicago: Quadrangle Press, 1967); and "The Practice of Law as a Confidence Game," Law and Society Review 1, (1967) 5: Malcolm Feeley, "Two Models of the Criminal Justice System: An Organizational Perspective," Law and Society Review 7 (1973) 407: Herbert Jacob, "Criminal Courts as Organizational Phenomena," paper prepared for the Conference on the Sociology of Judicial Proceedings, September 24-9, 1973; Herbert Packer, "Two Models of the Criminal Justice Process," University of Pennsylvania Law Review 113 (1964): Jerome Skolnick, Justice Without Trial (New York: John Wiley, 1966) and "Social Control in the Adversary System" Journal of Conflict Resolution 11 (1967): 52

³ Plea bargaining has been described as the exchange of leniency for self-conviction. (Albert Alschuler, "Plea Bargaining and Its History," Law and Society Review, 13 (Winter, 1979): 213. In return for the defendant's plea of guilty, the state either recommends a reduced sentence or reduces the number of charges it files against the defendant.

⁴ NDAA document (undated) pertaining to the solicitation of proposals regarding evaluations of the Commission of Victim Witness Assistance, quoted in Improving Witness Cooperation (U.S. Department of Justice, Law Enforcement Assistance Administration, National Institute of Law Enforcement and Criminal Justice, August 1976) p. 5.

⁵ See U.S. v. DiFrancesco 449 US 117 (1980) in which the Supreme Court held statutes that allow prosecutors to appeal criminal sentences do not violate the Fifth Amendment.

⁶ References to victim compensation exist in the Old Testament, the Code of Hammurabi, and the Iliad.

⁷ Eduard A. Zeigenhagen, Victims, Crime, and Social Control (New York: Praeger Publishers, 1977) p. 65.

⁸ Edward Zeigenhagen. Victims, Crime, and Social Control (New York: Praeger, 1977) p. 65; see also C. F. Jeffrey, "The Development of Crime in Early English Society," Journal of Criminal Law, Criminology, and Police Science, no. 47 (1957), pp. 647-666.

⁹ Zeigenhagen, Victims, Crime, and Social Control, p. 67.

¹⁰ U.S. Department of Justice, LEAA, Victims and Witnesses: Their Experiences With Crime and the Criminal Justice System, Executive Summary (GPO, Oct. 1977) pps. IV, 12.

¹¹ Frank Cannavale, Witness Cooperation, Institute for Law and Social Research (Lexington, Mass.: D.C. Heath, 1975). W.A. Hamilton and C.R. Work, "The Prosecutor's Role in the Urban Court System: The Case for Management Consciousness," Journal of Criminal Law and Criminology 64: (1973): pp. 183-189. U.S. Department of Justice, Improving Witness Cooperation, National Institute of Law Enforcement and Criminal Justice (Washington D.C., 1976).

¹² President's Commission on Law Enforcement and Administration of Justice, The Challenge of Crime in a Free Society (Washington, D.C.: U.S. Government Printing Office, 1967). P.H. Ennis, Criminal Victimization in the United States, Field Survey 11, a report of a National Survey, President's Commission on Law Enforcement and Administration of Justice (Washington, D.C.: U.S. Government Printing Office, 1967).

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⁵² See W.M. Rhodes, Plea Bargaining: Who Gains? Who Loses?, (Washington, D.C.: Institute for Law and Social Research, 1978).

⁵³ Albert Reiss, Jr., "Discretionary Justice in the United States," in Atkins and Pogrebin, The Invisible Justice System, p. 56.

⁵⁴ Santobello v. New York, 404 US 257 (1971).

⁵⁵ Thomas Church, "In Defense of Bargain Justice," Law and Society Review, 13 (Winter, 1979): 509-526.

⁵⁶ Michael Rubinstein and Teresa White, "Alaska's Ban on Plea Bargaining," Law and Society Review 13 (Winter, 1979): 367-384.

⁵⁷ Brosi, Cross-City Comparison, p. 57.

⁵⁸ McDonald in Prosecutor's Domain, p. 38.

⁵⁹ Michael R. Gottfredson, Don M. Gottfredson, Decision making in Criminal Justice: Toward the Rational Exercise of Discretion (Mass.: Ballinger Publishing Company, 1980), p. 145-170.

⁶⁰ See William McDonald, "Notes of the Victim's Role in the Prosecutorial and Dispositional Stages of the American Criminal Justice Process," paper presented at the 2d International Symposium of Victimization, Boston, 1976, pp. 25-30.

⁶¹ Feeley, Process is the Punishment, p. 18.

⁶² See Institute for Law and Social Research, Expanding the Perspective of Crime Data: Performance Implications for Policy Makers (Washington, D.C., 1977).

⁶³ U.S. v. Ammidown, 497 f. 2d 615 (D.C. Cir. 1973), cited in Burton Atkins and Mark Pogrebin, The Invisible Justice System, p. 5.

- 64 Zeigenhagen, Victims, Crime and Social Control, p. 100.
- 65 Ibid., pp. 104-106.
- 66 Anne Heinz, Wayne Kerstetter, "PreTrial Settlement Conference: Evaluation of a Reform in Plea Bargaining," Law and Society Review 13, (1979): 349-366; and PreTrial Settlement Conference: An Evaluation (U.S. Department of Justice, August, 1979).
- 67 Most offenses involve property crimes and exclude repeat offenders were excluded from participation, see Zeigenhagen, Victims, Crime and Social Control pp. 91-141 for information on other victim reforms.
- 68 G.L.A. Smale and H.L.P. Spickenheuer, "Feelings of Guilt and the Need for Retaliation in Victims of Serious Crimes Against Property and Persons," Victimology, 4 (1979), pp. 75-85.
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- 70 Ibid., pp. 18-49.
- 71 Williams, The Role of the Victim, p. 33.
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- 73 L. Brodyga, M. Gates, S. Singer, M. Tucker, and R. White, Rape and Its Victims: A Report for Citizens Health Facilities, and Criminal Justice Agencies.
- 74 National Institute of Law Enforcement and Criminal Justice, Law Enforcement Assistance Administration (LEAA), U.S. Dept. of Justice, Washington, D.C.: U.S. Government Printing Office, Nov. 1975.
- 75 Forcible Rape, p. 124.
- 76 M.J. Lerner, "Observers' Evaluation of a Victim: Justice, Guilt and Verdictal Perception," Journal of Personality and Social Psychology, 20: 127-135 ---(1971b). "All the World Loathes a Loser," Psychology Today, (June): 51-54, 66. M.J. Lerner and C.H. Simmons, "Observers' Reactions to the Innocent Victim: Compassion or Rejection," Journal of Personality and Social Psychology, 4: 203-210. M.J. Lerner and G. Matthews, "Reactions to Suffering of Others Under Conditions of Indirect Responsibility," Journal of Personality and Social Psychology, 5: 319-325.
- 77 Carol Bohmer, "Judicial Attitudes Toward Rape Victims," Judicature 57 (Feb., 1974), p. 303-307.

78 A Medea and K. Thompson, Against Rape: A Survival Manual for Women; How to Cope With Rape Physically and Emotionally (New York: Farrar, Straus and Giroux, 1974), p.

79 Alan G. Gless, "Nebraska's Corroboration Rule," Nebraska Law Review 54 (1975), pp. 93-110.

80 Rusk v. Md. - Md. Appellate Court, 1979.

81 Brosi, Cross-City Comparison, p. 145.

82 P.H. Ennis, "Criminal Victimization in the United States," a report of a research study submitted to the President's Commission on Law Enforcement and the Administration of Justice, Field Survey 11, (Washington, D.C.: Government Printing Office, 1967). Hugh D. Barlow, "Crime Victims and the Sentencing Process," paper presented at the second International Symposium on Victimology, Boston, 1976, p. 4. Steven Schafer, Introduction to Criminology (Reston, Va.: Reston Publishing, 1976), p. 163. in Zeigenhagen, Victims, Crime, and Social Control.

83 F. Gaudet, "The Sentencing Behavior of the Judge," in V.C. Brandon and S.B. Kutash, eds., Encyclopedia of Criminology (New York: Philosophical Library, 1949). In McDonald, Criminal Justice and the Victim, p. 216.

84 Vidmar and Miller review the ascription of responsibility in their article, "Social Psychological Processes Underlying Attitudes Toward Legal Punishment," Law and Society Review, 14 (Spring 1980); 565-602.

86 B. Thornton, "Effect of Rape Victims Attractiveness in a Jury Simulation," Personality and Social Psychology Bulletin 3, 4 (Autumn 1977): 666-669.

87 William F. McDonald, The Role of the Victim in America in Randy E. Barnett, John Hagel III, Assessing the Criminal Restitution, Retribution and the Legal Process (New York: Ballinger Publishing Co., 1977).

88 Zeigenhagen, Victims, Crime, and Social Control, p. 114.

89 In 1982 the Maryland legislature also endorsed the use of Victim-Impact statements in their state courts.

90 The Washington Post, 9 June 1979.

91 He was tried separately for solicitation to commit murder and sentenced to 23 years by another judge.

⁹⁰ McBarnet, Doreen. "Victim in the Witness Box - Confronting the Stereotype," Paper presented at the 2nd International Symposium on Victimology, Boston, 1976. p. 5 - quoted in Zeigenhagen p. 79.

⁹¹ Zeigenhagen. Victims, Crime and Social Control, p. 81 quoting Hugh Barlow.

FOOTNOTES -- CHAPTER SEVEN

¹ Six women could not answer this question either because they did not know when the defendant was arrested or they could not remember the timing of their meeting with the prosecutor.

² To many victims the difference remains unclear. Even after they have gone through the process, a dozen victims still had trouble distinguishing grand jury from trial when interviewed for this study.

³ Because Washington, D. C. is 70 percent black, grand juries are also primarily black.

⁴ The victims' memories of this early stage were foggy at times. A few women who, according to court records, did testify before the grand jury or preliminary hearing, were still unable to distinguish that hearing from a trial. Others remembered testifying but insisted that no suspect had ever been arrested - one woman said she was never told if the grand jury indicted but yet remembered the case going to trial. Some of these interviews were not included in the final sample of 100.

⁵ William F. McDonald, "The Role of the Victim in America," in Assessing the Criminal: Restitution, Retribution and the Legal Process, Randy E. Barnett and John Hagel III, eds. (Cambridge, Mass.: Ballinger Publishing Company, 1977), p. 303.

⁶ Malcolm Feeley, The Process is the Punishment (New York: Russell Sage Foundation, 1979), p. 32.

⁷ This finding parallels those of Smale and Spickenheuer, "Feelings of Guilt and the Need for Retaliation in Victims of Serious Crimes Against Property and Persons," Victimology 4 (1979): 17-25 and, Wayne Kerstetter and Anne Heinz, "Pretrial Settlement Conference: Evaluations of a Reform in Plea Bargaining," Law and Society Review 13 (Winter 1979): 349-366.

⁸ Researchers Holmstrom and Burgess described such minimization as a healthy psychological defense for coping with crime in Rape: Crisis and Recovery (Bowie, Md.: Robert J. Brady Co, 1979), p. 37.

⁹ Holmstrom & Burgess, The Victim of Rape: Institutional Reactions, (New York: John Wiley and Sons, 1978), pp. 59-60.

¹⁰ *Ibid.*, p. 126.

¹¹ Holmstrom & Burgess discuss three kinds of pressure to go through court. Police appeal to the victims civic duty and sympathies. If that fails, there is always pressure. This is used sparingly since rape cases are difficult enough with cooperative witnesses, uncooperative witnesses further diminish chances for success. The police however may threaten to arrest the victim for obstructing justice if she refuses. (p. 125).

FOOTNOTES - CHAPTER EIGHT

¹ Barry Schwartz, "Waiting, Exchange, and Power: The Distribution of Time in Social Systems" American Journal of Sociology, 79 (January 1974): 867 as quoted in Lynda C. Holmstrom & Ann Burgess, Victims of Rape: Institutional Reactions (NY: John Wiley, 1978), pp. 126-128.

² David Cohen, Admit the Act and Win the Criminal Case, (Executive Reports Corp., Englewood Cliffs: NJ, 1979).

³ This finding is shared by Kristin Williams studies including The Role of the Victim in the Prosecution of Violent Crime (Washington, D.C.: Institute for Law and Social Research, 1978) and The Prosecution of Sexual Assaults (Washington, D.C.: Institute for Law and Social Research, 1978).

⁴ See Department of Justice News Release, June 1, 1981 concerning NIG research project, "Making Jury Instructions Understandable" conducted by the University of Nebraska's Psychology Department.

⁵ William F. McDonald, "Notes on the Victim's Role in the Prosecutorial and Dispositional Stages of the American Criminal Justice Process." paper delivered at the Second International Symposium on Victimology (Boston: September, 1976), pp. 5-7.

⁶ Ibid, p. 6.

⁷ Ibid, p. 4.

⁸ Ibid, p. 3A.

FOOTNOTES -- AFTERWORD

¹ Martinez v. California 444 U.S. 277 (1980).

² The U.S. Senate passed the Victims' Omnibus Bill on Tuesday, September 14, the same day as the President's Task Force on Victims of Crime in Washington, D.C. held hearings.

³ Heinz and Kerstetter, Pretrial Settlement Conference: An Evaluation (Washington, D.C.: National Institute of Law Enforcement and Criminal Justice, 1979) also found that victims were not unreasonable and vengeful toward their assailants.

⁴ R.O. Hawkins, "Who Called the Cops?: Decisions to Report Criminal Victimization," Law and Society Review (Spring, 1973): 427-444.

APPENDIX ONE
VICTIM QUESTIONNAIRE

A. Let me start out by asking you some general background questions.

1. What do you usually do - work full-time, part-time, go to school or what?
 - a. (If works at all ask) Who do you work for? (Probe for category as federal gov't, private business, non-profit, etc.)
 - b. What type of work do you do? (Probe for category as clerical, prof/semi-prof, etc.)
2. Would you look at this carefully and tell me in which general group your total family income falls (1979 as base). Please give me the letter of the category.
3. What was the last grade you completed in school?
4. What is your marital status?
5. In what year were you born?

B. Now I'd like to ask you some questions about your feelings toward different people in the criminal justice system.

1. First, I'd like to ask you some questions which deal with people's feelings about the police. Would you please look at this card and indicate your opinion on each of these statements.

Card I

Options: Strongly agree, Agree, Disagree, Strongly disagree, Don't know, no opinion.

1. People who know the ropes and have money to afford good lawyers don't really have anything to worry about from the police.
2. Generally speaking, all people are treated the same by the police regardless of race or color.
3. People who are willing to take on the tough job of being a policeman deserve a lot more thanks and respect than they get from the public.
4. Police spend most of their time going after people who do little things wrong and ignore most of the really bad things that go on.

5. There are just a few policemen who are responsible for the bad publicity that the police department gets.
 6. The way you are treated by the police depends pretty much on who you are and who you know.
 7. People in my neighborhood are not treated as well by the police as people living in other sections of the city/county.
 8. Local police are dedicated to helping crime victims.
2. Now I am going to read several statements to you. Tell me how you feel about the statement. Do you strongly agree, just agree, disagree or what? (Probe for responses of strongly agree, agree, disagree, or strongly disagree.)
- a. When a crime victim reports to the police, she loses control over her case and becomes just a piece of "state's evidence."
 - b. The best way to prevent crime is to make sure offenders are punished so that an example is set for other potential offenders.
 - c. If an individual offender receives a stiff penalty for a crime, he will be less likely to commit another offense.
 - d. The best way to protect society from criminals is to lock them up.
 - e. It makes more sense to give criminals social and psychiatric help than to punish them.
 - f. Local judges and prosecutors are truly concerned with the problems of crime victims.
- C. I'd like to get a better idea about the kinds of experiences you have had with the legal system.
1. Have you ever called the police for help?
 - a. (If yes) Can you tell me about it?
 - b. How did you feel about the way they handled the situation? (Probe: very satisfied, satisfied, dissatisfied, very dissatisfied)
 2. Were you ever involved in any other situation in which you were a crime victim?
 - a. Can you tell me about it?

- b. Overall, what was your reaction to that experience with the legal system. Would you say it was negative, positive or what? (Probe for categories: very negative, somewhat negative, somewhat positive, or very positive)
 - 3. Have you or anyone close to you ever been a defendant in a case?
 - a. Can you tell me about it?
 - b. Overall, what was your reaction to that experience with the legal system? Would you say it was negative, positive, or what? (Probe for categories: 2b)
 - 4. Did you ever go to court to be a witness?
 - a. Can you tell me about it?
 - b. Overall, what was your reaction to that experience with the legal system? Would you say it was negative, positive, or what? (Probe for categories: 2b)
 - 5. Have you ever served on a jury?
 - a. In what type of case?
 - b. Overall, what was your reaction to that experience with the legal system? Would you say negative, positive, or what? (Probe for categories: 2b)
- D. Now let's turn to your particular case. What happened - can you tell me about it?
- 1. Where were you when the contact occurred?
 - 2. When did the assault occur? (Month, time of day)
 - 3. How were you restrained?
 - 4. Did he/they conceal his identity?
 - 5. Were you injured in additional ways?
 - 6. Did you know or were you acquainted with the offender(s) prior to the assault?
 - a. (If yes) How were you acquainted?
 - 7. Did he/they commit any additional crimes (as burglary, robbery, mugging, etc.)?

Race of defendant:

Race of victim:

- E. 1. What was the biggest problem you experienced as a result of the assault itself? (apart from any police or court contacts)
- a. Did you get any help in dealing with it?
 - b. What kind of help was this? (legal, psychological, financial, etc.)
 - c. Where did you go to get this help?
2. If private doctor mentioned: How useful was this in meeting your needs? (Probe: very useful, useful, not very useful, not useful at all)
3. In what way was this useful/not useful?
4. How much do you estimate this has cost you?
5. Did you ever contact the (area) crisis center? If yes, ask:
- a. How did you hear about the center?
 - b. How useful were they in meeting your needs? (Probe as above)
 - c. In what way were they useful/not useful?
6. If knew about the center but did not contact, ask: What made you decide not to contact the center?
7. (If didn't get help) Did you know of any help available for this problem?
- a. (If yes, ask): What kept you from getting this help?
8. Did you have any other problems as a result of the crime itself? How serious of a problem was this for you? (Options: very serious, not too serious, not serious at all)
- a. Did you lose time from normal activities? (housework, school, job etc.)
 - b. Did you lose money?
 1. About how much?
 - c. Did you experience mental or emotional suffering?
 - d. Did you have problems with your family?
 - e. Did you have problems with your friends or neighbors?
 - f. Was your property lost or damaged?
 - g. Did you lifestyle change - for example, were you afraid to go out alone?
 - h. Did you have to take medication?
 - i. Did you decide to move?
 - j. Did you experience any other problems? What were these problems?
9. As a result of your assault has anyone close to you experienced problems?
- a. Who was this?
 - b. What kinds of problems did they experience?
 - c. How serious would you say they were? (Probe: very serious, serious, not very serious, not serious at all)

10. Did they get any help in dealing with these problems?
 - a. What kind of help was this? (Probe: legal, psychological, financial, etc.)
 - b. Where did they get this help?
 - c. Do you know if this service was useful to them or not? (Probe: very useful, useful, not too useful, or not useful at all)
 - d. Do you know what this service cost?
 - e. (If didn't get help) Did they know of any help available for this problem? (If yes, ask g)
 - g. What kept them from getting this help?
11. Were your friends supportive or not? (Probe: very supportive, supportive, not very supportive, not supportive at all)
12. Was your family supportive or not? (Probe: as above)

F. Post-Assault Response Police Response

1. Who was the first person or agency you told about the assault?
 - a. (If police not mentioned ask) As far as you know, did the incident ever become known to the police? (If yes, go to b. If no, go to 7)
 - b. What was your primary reason for reporting to the police?
2. How soon after the rape was it reported to the police?
3. How long did it take for the police to arrive after you called?
4. Can you tell me what happened when the patrol officer arrived?
 - a. How many were there?
 - b. Were they male or female?
 - c. Would you have preferred a male or female officer or doesn't it matter?
 - d. What kind of questions did the patrol officer ask you?
 - e. Did the patrol officer suggest that you go somewhere for medical treatment?
 - f. Did they accompany you to a medical facility?
5. Overall, how do you feel that you were treated by the patrol officer? (Probe: with a great deal of understanding, with understanding, with indifference, with disrespect or insult)
6. Overall, how satisfied were you with the patrol officers handling of the case? (Probe: very satisfied, satisfied, dissatisfied, very dissatisfied)

Victim called police

Friend called police

Other called police

7. What was your primary reason for not reporting to the police?
 - a. What were some of your other reasons?

G. The Medical Response

1. Where did you receive medical tests or treatment?
2. (If hospital) How much time elapsed between the time you arrived and the time you received attention?
3. What was present during your examination?
4. Did anyone explain to you what the exam would be like and why certain things would be done?
5. Were you given information of VD and pregnancy?
6. Overall, how do you feel that you were treated by the hospital staff? With a great deal of understanding, with understanding, with professional indifference, with disrespect or insult?
7. Overall, how do you feel about the care you received at the hospital? Very satisfied, satisfied, dissatisfied, or what? (Probe to include very dissatisfied)
8. How much did the hospital/doctor cost you?
9. Do you have any suggestions for how staff could improve their services to rape victims? Is there anything they could have done differently to make things easier for you?

H. The Detectives Response

1. When did you first meet the detective(s)?
 - a. How many were there?
 - b. Were they male or female?
 - c. Would you have preferred a male or female detective or didn't it matter?
 - d. What kinds of questions did the detective ask you?
 - e. Where did this interview occur?
 1. Was it conducted in a private room?
 2. Were other people able to overhear your conversation?
 - f. How much time passed between your initial contact with the police and your interview with the detective?
2. After your initial meeting with the detective, when was your next contact?
 - a. Did you go down to the station to look at mug shots?
 1. If yes, were you able to identify the assailant?
 - b. Did you appear for a line-up?
 1. What was that like for you?

3. How frequently did you hear from police regarding developments in your case?
4. Overall, who would you say initiated most of the contacts between you and the police?
5. Did you take a polygraph?
(Montgomery County only): Were you hypnotized?
6. Do you know if someone was arrested for the assault?
 - a. How long after your assault was the suspect arrested?
 - b. How did the arrest come about?
7. Was he set free on bail or on his own?
 - a. How did you feel about that?
 - b. Did anyone ask your opinion on bail?
8. Do you feel that the detective conducted a thorough investigation of your case?
9. Overall, how do you feel you were treated by the detective? With a great deal of understanding, with understanding, with professional indifference, with disrespect or insult?
10. Overall, how do you feel about the detectives handling of your case? Very satisfied, satisfied, dissatisfied, very dissatisfied?
11. Do you have any suggestions for how patrol officers or detectives can improve their treatment of rape victims? Is there anything they could have done differently to make things easier on you?

I. The Courts

1. When was the first time you heard from or met the prosecutor?
2. Did you have to testify at the grand jury or preliminary hearing?
(If no, go to 3a)
 - a. (If yes) How long before the grand jury/preliminary hearing did you meet with the prosecutor?
 - b. What was the grand jury/preliminary hearing like for you?
 - c. Was the grand jury prosecutor male or female?
 - d. Would you have preferred a male or female attorney or didn't it matter?
 - e. Do you think this prosecutor was prepared and had prepared you for testimony?
 - f. Was the defendant charged with rape? What else?

3. When did you meet the trial prosecutor? (D.C. only)
 - a. How long before the originally scheduled trial was this?
 - b. How many times were you interviewed?
 - c. For how long?
 - d. Was the prosecutor male or female?
 - e. Would you have preferred a male or female prosecutor or didn't it matter?
4. What was the interview like for you?
 - a. How did you feel about the prosecutor?
 - b. Do you think the prosecutor thoroughly explored and developed your case?
5. Were you kept informed about developments in your case?
 - a. By whom?
 - b. About how frequently were you contacted?
 - c. Who initiated most of the contacts?
 - d. Was the prosecutor accessible - did he return your calls?
6. Was your case ever postponed or continued?
 - a. How many times?
 - b. Were you given adequate notice?
 - c. Were these postponements explained?
 - d. How did you feel about the explanations?
7. Did the case go to trial? (If not, ask below)
 - a. What was the reason?
 - b. How did you feel about the explanation?
 - c. (If plea) Were you consulted during plea negotiations?
8. Did you eventually testify in trial?
 - a. What was that like for you?
 - b. Do you feel the prosecutor prepared you well enough for testimony?
9. What was the outcome of the trial?
10. What was the sentence?
 - a. How did you find out: Who told you?
 - b. Were you notified of the sentencing date?
 - c. Did you attend sentencing?
 - d. Do you feel the sentence was appropriate, too lenient, too harsh, or what?
11. How do you feel the defendant should have been dealt with?
12. Have you initiated any civil suits regarding this assault? (Please explain)

13. Do you think the victim/witness assistance unit had any effect on your coming to court?
 - a. How useful were they to you?
 - b. How well do you think they represented your interests? (Probe as below)
 14. How well do you think the prosecutor represented your interests? (Probe: very well, adequately, not very well, not at all)
 15. Overall, how do you feel that you were treated by the prosecutor? (Probe: with a great deal of understanding, with understanding, with indifference, with disrespect or insult)
 16. Overall, how do you feel about the prosecutor's handling of the case? (Probe: very satisfied, satisfied, dissatisfied, very dissatisfied)
 17. Do you have any suggestions for how the prosecutor could improve his treatment of rape victims? Is there anything she/he could have done differently to make things easier on you?
- J.
1. Because you served as a witness you are familiar with some of the conveniences and inconveniences that a person experiences. What would you say was the biggest problem for you associated with your being a witness?
 2. Did you have any other problems as a result of being a witness? For example: (Options: very serious, serious, not too serious, not serious)
 - a. Did you have a difficult time finding the correct building or room?
 - b. Did you have any problems getting transportation?
 - c. Did you have any problem finding a place to park your car?
 - d. Did you have to spend money for transportation and parking?
 - e. Did you need a babysitter - or have to find a way to take care of your children?
 - f. Did you spend a long time waiting?
 - g. Were you exposed to threatening or upsetting persons?
 - h. Did you lose time from your normal activities? How much time?
 - i. Did you suffer a loss of income? How much?
 - j. Anything else? (specify)
 - k. How were the waiting conditions?
 3. Did you obtain or receive any help in dealing with these problems?
 - 1-yes (go to a)
 - 2-no (go to e)
 - a. What kind of help was this?
 - b. Where did you go to get this help?
 - c. Was this service useful or not? (Probe: Very useful, useful, not too useful, not useful at all)
 - d. What did this service cost?

- e. Did you know of any help available for this problem?
(yes, go to f)
 - f. What kept you from getting this help?
4. (If not mentioned, ask:) Are you familiar with the state/district victim compensation program?
- a. Did anyone help you to file for victim compensation?
 - b. Did you try to collect from this program? (If not, why)
 - c. Were you successful in collecting from this program?
- K. Finishing up now, I'd like to ask you some questions about your feelings toward different people that were involved in your case.
1. Please look at this card and indicate your opinion of the people listed in terms of their effort, effectiveness, attention to your needs, and ability to keep you informed on the developments in your case. (Rate Police, Detectives, Crisis Center, Prosecutor, Victim-Witness Unit, and Hospital Staff in terms of Effort, Effectiveness, Attention to your needs, and Provide information -- Options: excellent, good, fair, poor)
 2. Of the people mentioned, who did you feel closest to?
 3. Who do you feel best represented your interests?
 4. Who did you have the most contact with?
 5. Who do you think took your opinions most seriously?
 6. How much input do you think you had in your case? (Probe: a great deal, a fair amount, little, none)
 7. How well informed do you think you were about developments in your case? (Probe: very well informed, fairly well informed, not very well informed, not informed at all)
 8. Based on your experience in this case, would you be willing to cooperate in the future with the:
 - a. Police
 - b. Prosecutor
 - c. Victim/Witness Unit
 Why/why not?
 9. If someone come up to you and said, "I've been raped. What should I do -- should I report to the police or not?" What would you advise them and why?
 10. If someone you knew said, "What should I do? Should I go get some counseling at the area crisis center (or a private doctor)" what would you advise them and why?

11. Has your opinion of the police improved, stayed the same, or gotten worse as a result of this experience? (If stayed the same, what was your opinion before?)
12. Has your opinion of the court system improved, stayed the same, or gotten worse as a result of this experience? (If stayed the same, what was your opinion before?)
13. On a scale of 1 to 10, how would you rate the seriousness of your assault and its impact on your life?
14. Looking back on your experience as a crime victim, if you could make one change designed to improve social and legal services for crime victims, what would it be?
15. Finally, is there anything you'd like to add that I may not have brought up in our discussion?

This interview schedule combines questions from P. E. Smith & R. O. Hawkins, "Victimization, Types of Citizen - Police Contacts and Attitudes Toward Police." Law and Society Review 8 (1973): 135-152, P. H. Ennis, Criminal Victimization in the United States (Field Survey II. A Report of a National Survey, President's Commission on Law Enforcement and Administration of Justice, 1967. Richard Khudten, Wisconsin Study of Victims in the Administration of Justice. National Institute of Law Enforcement and Criminal Justice (1976).

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