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

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The United States has seen significant changes in laws related to sexual violence:

- Inclusive definitions of sexual assault
- Repeal of martial rape laws
- Loosened or abolished active resistance requirements
- Enacted rape shield laws

Criminal justice system changes:

- Specialized units
- Multi-disciplinary approach
Medical examinations and forensic evidence in sexual assault cases

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

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

- Can help identify stranger suspects
- Can undercut suspect claims of lack of sexual contact with victim
- Sometimes supports victim’s account of what happened vs. suspect’s (e.g., location of sperm)
- Demonstrates prosecutor’s thoroughness (“CSI” expectation)
Case Attrition Literature

- Weapon use
- Collateral injuries
- Witnesses
- Type of force used
- Victim credibility

- Prompt reporting
- Victim resistance
- Victim-assailant relationship
- Suspect identification
- Strength of evidence
Evidence and Case Attrition

- DNA (mixed findings)
  - Some have found that DNA is associated with case progression (Campbell et al., 2009; Briody, 2002)
  - Others have found that DNA evidence is not associated with case progression (Ingemann-Hansen et al., 2008; McGregor et al., 2002)

- Crime scene evidence
  - Sexual assaults with crime scene evidence are more likely to move forward (Peterson, et al. 2010)
  - Sexual assaults with evidence are associated with longer sentences (McEwen, 2011)
Gap in Literature

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

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

- New England metropolitan prosecutor’s office
  - 2005 to 2011
  - Female victims age 12 or older & male assailants
  - Charging (N=189); Carried Forward (N=80)

- Data sources
  - Prosecutor files
  - Police reports
  - Forensic medical examinations
  - Crime laboratory reports
Sample Characteristics

- **Dependent variables:**
  - Filing of criminal charges (38%)
  - Accepted for prosecution (43%; N=80)

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

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

- **Control Variables**
  - Minority
    - Victim (62%)
    - Suspect (81%)
Does biological evidence predict which cases will be prosecuted and convicted?

<table>
<thead>
<tr>
<th>Evidence Variable</th>
<th>Summary of Results</th>
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<tbody>
<tr>
<td>Semen/sperm</td>
<td>No effect</td>
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<tr>
<td>Saliva</td>
<td>No effect</td>
</tr>
<tr>
<td>Any biological evidence</td>
<td>No effect</td>
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<tr>
<td>DNA match to suspect</td>
<td>Significantly related to…</td>
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<tr>
<td></td>
<td>• Filing criminal charges</td>
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<td></td>
<td>• Carrying cases forward without dismissal</td>
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Findings

<table>
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<tr>
<th></th>
<th>Charged Model</th>
<th>Carried Forward Model</th>
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<tr>
<td></td>
<td>b (β)</td>
<td>S.E.</td>
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<tr>
<td>Intimate partner</td>
<td>1.10 (2.99)*</td>
<td>.55</td>
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<tr>
<td>Suspect arrest record</td>
<td>1.03 (2.81)**</td>
<td>.37</td>
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<tr>
<td>Collateral injury</td>
<td>.46 (1.58)*</td>
<td>.21</td>
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<tr>
<td>Victim physical defense</td>
<td>1.04 (2.84)**</td>
<td>.81</td>
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Lessons

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