



## THE NEW DEFINITION OF RAPE: WHEN WOMEN ASSAULT MEN

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### ABSTRACT

*This paper presents an examination of adult male rape by adult females. Case examples are given, as is an analysis of crime statistics and other sources detailing the phenomena and its rarity or prevalence. The relatively new federal definition of rape is also examined as is the implications for the change in the legal field and in society at large. Portions of this article originally appeared in the book *When Women Sexually Abuse Men: The Hidden Side of Rape, Stalking, Harassment, and Sexual Assault* (Praeger, 2013) by Philip W. Cook, with Tammy Hodo, PhD.*

**Keywords:** rape, sexual assault, male victims, female perpetrators

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## RAPE AND TORTURE IN SPOKANE

Prosecuting attorney Jon Love had a problem, and it was not a lack of evidence. In fact, in his years as a prosecutor and on the other side, as a criminal defense attorney, he had never had a rape case in which there was more evidence than this one. There was a ton of forensic evidence from the crime scene and on the victim's body; there was an eyewitness who turned on the accomplice and, a very rare thing in a rape case—there were neighbors who had actually seen abusive behavior by the defendant prior to the actual rape. The defendant was unrepentant and unsympathetic. And there were horrifying pictures of the victim's injuries that would turn the heart of even the coldest juror.

Jon Love should have been the most confident of prosecutors, but he was not. The reason Love was worried the jury would not convict was because the rape victim was a man and the rapist was a woman. As many as five of the original panel of jurors in this medium-sized City, had said in jury seating questioning that they did not believe a rape could be possible or proved.

It was almost enough to make him wish there had not been a rookie cop on duty the night the victim was discovered nearly a year earlier. But, the rookie bent down to actually listen when the man mumbled something about not being able to move fast because of the burns.

The mumbling man was Ron Varga. He was 41 years old, childless, a highway toll booth collector in New Jersey. He had been living for six years with his 36-year-old common-law wife, Diane Eunice Ickhoff. Ron and Diane had become close friends with Theresa Spickler-Bowe, a woman about their age. Diane and Theresa became particularly close, so when Theresa decided to move to Spokane, Washington, Diane told Ron she was leaving him to go with Theresa. He could not convince Diane to stay, so he decided to move to Spokane with her.

From the very beginning, Theresa told them that she would not tolerate them “mooching” on her, and that Ron or Diane had to go to work immediately to pay their share of the rent and expenses. Theresa told Diane that she had to make Ron obey her and “act right,” and that she would help her see that this happened.



Ron went to work for a temporary agency that handled mostly manual labor. The work was tough, especially as he is slight of build (only 130 pounds and five feet, eight inches). Diane is a very petite woman, 115 pounds, while Theresa, though not much taller than Diane's five feet, five inches, was big boned and large, at about 250 pounds. Theresa began a campaign of disparaging anything that Ron did, and she began to train Diane in how to "take care of him." Ron was to sleep on the uncarpeted kitchen floor. At first, he had a sleeping bag, but after a month, he was allowed only blankets. By about the end of the year, he was sleeping only in his underwear or naked, directly on the bare floor. His food intake began to be controlled. When he came home from work, Diane would chain him to her waist. He was not to move unless directed by Theresa or Diane. Any small transgression was a reason for a beating; sometimes, both women jumped on his legs. He was allowed only cold showers. His bathroom privileges were restricted. He was made to wear only a homemade diaper. If he could not hold his urine or bowel movement and soiled his diaper, the women began to burn him for this violation of the "rules." At first, a butter knife was heated up with hot water and applied to his chest. Later, they heated it up on the stove burner and applied it all over his body, including his buttocks. They also heated up a large flat metal spatula and burned him with that.

Ron was made to hold a rake handle over his head for long periods of time as punishment. On at least one occasion, when he could no longer hold it up, Diane and Theresa took it from him and made him bend over, and then rammed the rake handle violently up his anus causing internal lacerations. After one of the rapes with the rake handle (investigators were never sure just how many times it happened) around the first of January, Ron Varga was forced by Diane and Theresa to drink a large quantity of alcohol. He was bleeding from blows around his head. By now, he weighed just 116 pounds. Prosecuting attorney Patti Conally-Walker described him as looking like someone from a concentration camp. In a sense, he was—the gulag of Diane and Theresa. After being force-fed the alcohol, the women ejected him from the apartment. It was late at night and having nowhere to go, he walked a few miles to an alcohol treatment center called First Steps. He fell asleep on a couch. Because First Steps is a drop-in-only center with no sleeping accommodations, visitors are not permitted to sleep there. The staff tried to get him up, but could not rouse him. They called police.

Perhaps for the first time in his life, Ron Varga was lucky that night. A rookie cop happened to be one of the responding officers. The veteran officer paired with the rookie told prosecutors that he probably would not have taken the time that the rookie did. The rookie, though, began to ask Ron questions; he thought he might be injured. Ron was unable to get up off the couch without assistance. He mumbled something about the burns as reason he could not move quickly. The two responding officers took him to the emergency room. Ron had a broken nose, broken ribs, and frostbite, was covered with burns and bruises, and had sustained severe damage to his rectal area. At the eventual trial of Theresa Spickler-Bowe, the doctor who examined Ron in the emergency room was asked by prosecutor Patti Connolly-Walker to diagram, on a body chart, the areas of injury. The head of emergency medicine told the court, “It would be easier to diagram the areas not injured.”

Diane quickly agreed to cooperate with prosecutors to make a case against Theresa. Prosecutors told her they would recommend to the judge an “exceptional” sentence of 12 years for first-degree rape and second-degree assault for cooperating, but if Diane did not plead guilty and cooperate in the case against Theresa, and she was convicted at trial, she could receive a sentence of 20 years. Diane’s sentence hearing was held after Theresa’s trial. Judge Gergory Sybolt, however, did not buy Diane’s tearful story that Theresa made her torture and rape Ron. He ignored the prosecutors’ recommendation for 12 years for both crimes. She was given 10 years and 5 months in prison for first-degree rape and an additional 10 years for second-degree assault.

Diane’s sentencing was in the future, however, and meanwhile, they had her cooperation against Theresa. Theresa Spickler-Bowe vehemently claimed that Diane did everything and that Theresa herself was not much involved. Prosecutors Jon Love and Patti Connolly-Walker began to question potential jurors in June. Love was not worried about the forensic evidence. They had the rake handle with traces of feces and a human hair still on it. They had the horrifying pictures of Ron Varga’s condition and the medical records and doctors’ testimony. They had the chain used to tie him up. Love and Walker’s biggest problems was with the victim and their concern about sexism on the jury. Ron Varga could not remember much. He did not recall details and had apparently blocked nearly everything out. He was not very clear on who had done what and when, except that both women had done things to him. In the back of Love’s mind, however, was the concern about jury



member's belief that a man could never be raped. The women felt that a man could always escape a situation, whereas a woman would not be able to, because of economic circumstances and submissive behavior. Men just are not that way, it does not happen, could not happen, according to their statements.

At trial, though, Love got a big gift from the defense. Theresa testified. She was unbelievable and unsympathetic and clearly of a domineering A-type, as Love hoped he could get her to reveal. The tears flowed, but it did her no good. The evidence was overwhelming and the vote was unanimous for conviction on both counts. Theresa Spickler-Bowe was sentenced in 1997 to 10 years on both counts of first-degree rape and second-degree assault. Because Judge Sypolt refused to accept the plea bargain, Diane and Theresa ended up with the same sentence—20 years in prison. After the verdict, there were a few calls from the national news media and television productions, but as far as Love can determine, nothing came of them. The news media in Spokane gave heavy coverage to the case, and the news media in Seattle covered some developments, such as the arrest and the verdict, but it was mainly ignored by the news media elsewhere—even in the neighboring state of Oregon (Jon Love and Patti Connolly-Walker, personal communication, 2010).

In one sense, this particular case fits the narrow parameters of how male rape by an adult woman could occur as an extremely rare incident, with the use of an object or objects.

## **NOT SO RARE?**

Former prosecutor Love, however, has an entirely different view. He does not think it is that rare at all:

*There have been many cases that I am aware of in [in Seattle where he formerly worked] in which the police suspected and told me that there was something more going on. That while they were investigating a domestic violence case in which the woman had been the primary assaulter they suspected that the man had been sexually abused as well. They would find evidence, feces on a dildo or other object and question the man about it, but he would never admit it. He would hang his head, and just not talk about it. It was difficult enough to get them to admit that they were being physically attacked by a woman, but to get them to say that they were sexually abused as well . . . that's just too emasculating . . . they can't do it (J. Love, personal communication, 2010).*

Love recalls the case of a biker couple.

*I was the public defender for her. I am sorry to say that I did my job and got her off, because the jury believed that he had consented once to rough sex and so when he objected to another time it didn't matter. That was rape, but she wasn't charged with rape, but assault. It happens. Men can be raped, have been raped, we just don't hear about it" (J. Love, personal communication, 2010).*

The late (2011) Patricia Overberg was the former executive director of the Valley Oasis Shelter in Lancaster, California. For many years, it was the only shelter in the United States that accepted male victims of domestic violence. She has little doubt that in intimate partner relationships, men can be, and have been, raped by adult women. Stranger rapes are less common she believes, but it does happen.

*I know of one case for example, a man was hitchhiking in California and he was picked up by two women in a van. They pulled over, held him down, and though he did not want to, stimulated him to an erection, and had sex with him. He didn't want to have sex with them; he was forced to—that's rape (P. Overberg, interview with the author, 2009)*

In the *Archives of Sexual Behavior*, pioneering medical researchers Philip Sarrell, and William H. Masters (1982) flatly state the case for arousal even in terrifying situations—"The belief that it is impossible for males to respond sexually when subjected to sexual molestation by women is contradicted. Previous research indicating that male sexual response can occur in a variety of emotional states, including anger and terror, are corroborated." So, what are the facts? Does it really happen, and how often?

## THE DATA

Prior to 1982, according to Sarrell and Masters (1982), no research had ever been conducted, asking men if they had been the victims of sexual assault by women. We now turn to national crime statistics, and things get a bit murky. According to the 1997 National Crime Victimization Survey (NCVS), 9 percent of the victims of rape and sexual assault are male. These figures do, however, include males who raped other males. Digging a little deeper into the Justice Department survey figures, we find that females committed 2 percent of all single-offender rapes and sexual assaults, and 6 percent of all multiple-offender rapes and sexual assaults. This still does not tell us, though, how many and what percentage were adult female-

to-adult male cases nor how many were female against female. Furthermore, the NCVS, though quite large, at 50,000 households, is much like the census. It is not confidential. It goes to households, not individuals. It asks questions about all types of crime, burglary, and so on.

We can now look to a different kind of crime reporting, from the Bureau of Justice — The National Incident-Based Reporting System (NIBRS). Rather than relying on a narrow group of 8 Index offenses, which are meant to convey the overall crime situation, NIBRS collects information on 57 types of crimes. The Uniform Crime Report (UCR) is a measure of reported crimes by law enforcement agencies; thus, it is quite different from the Justice Department's general population survey. The results were somewhat surprising—About 10 percent of the rapes in the initial three states measured, did not conform to the UCR (U.S. Department of Justice, July, 2000) definition of forcible rape—as the victims were male (8.7% of rapes), the victim and offender were both female (0.8%), or the victim was male and the offender was female (0.2%).

A further analysis of the new system of crime reporting (U.S. Department of Justice, July, 2000), found an increase in the number of males being raped—up to 14 percent of the total instead of just 10 percent—“Nearly all of the offenders in sexual assaults reported to law enforcement were male (96%). Female offenders were most common in assaults against victims under age 6. ... Overall, 6% of the offenders who sexually assaulted juveniles were female compared with just 1% of the female offenders who sexually assaulted adults.”

We can now turn to other types of instruments that measure this type of crime; these include surveys that are confidential and focus on a particular area, rather than all types of crime. About three percent of American men—a total of 2.78 million men—have experienced an attempted or completed rape in their lifetime according to the U. S. Department of Justice, Violence Against Women Survey (2000). In addition, data from the same source indicate that, “Using a definition of rape that includes completed or attempted [emphasis added] forced vaginal, oral and anal sex, the survey found 7.7 percent of surveyed women and 0.3 percent of surveyed men being raped by a current or former intimate partner at some time in their lifetime.” However, this Violence Against Women Survey only measured intimate partner violence, stranger rapes were not measured.

Writing in the journal *Sex Roles: A Journal of Research*, authors Nathan W. Pino and Robert F. Meir (1999) sum up the current thinking on this issue:

*Male victims may experience being raped as even more humiliating than female victims. As with female victims (Adler, 1992; Groth and Burgess, 1980), the emotional trauma experienced by raped males can generate confusion and inhibit reporting. ... Because reports of male rape are statistically rare male victims experience the additional trauma of making it difficult to identify with other male victims. Research has also shown that males are more likely to be victims of multiple assailants, to sustain more physical trauma, and to be held captive longer than female victims (Kaufman et al., 1980). ... As in nonsexual areas of their lives, men are generally expected to defend themselves against threats (Finklehor, 1984, pp. 156–157). ... For these reasons, there may be substantial risk to the male rape victim's self-concept in reporting this crime.*

Another study in this journal by Muehlenhard and Cook (1988) reported that actual physical violence used by women against men to force sexual intercourse was reported half as frequently: Female against Male: 1.4% and male against Female: 2.7%. If this study is accurate, can we safely say that slightly more than 1 percent of men over a lifetime have been raped by a woman?

A University of South Dakota survey of 268 men (Anderson & Johnson, 1998) found that 16 percent reported at least one incident of a forced sexual experience in their lifetime. Men in this study were actually somewhat more likely than women to say they had forced sex while on a date. Ten percent were physically forced to have intercourse with the perpetrator. The study is a little unclear, but the article indicates that these perpetrators were women rather than men. Looking at the numbers, rather than the percentages in the survey, 21 men out of the 268 reported physically forced intercourse. The above-mentioned Muehlenhard and Cook (1998) college survey of 507 males found that 2.2 percent had been the victims of violent sexual physical coercion. Does this mean that somewhere between 2 percent and 10 percent of college-age men have been raped by women? Although nearly 1,000 college-age men were surveyed in these two studies, such a blanket statement seems premature. More research is needed, with specific questions about the type of attack and what kinds of force were used. We do have some confirmation from a much larger survey of nearly 2,500 men with the median age of 40 (Coxell, King, Mezey, & Gordon, 1999). Of these, 3 percent reported having nonconsensual sex as an adult. About half reported that the nonconsensual sex was with a



woman. Since this apparently is the largest survey ever done of adult men about nonconsensual sex and not limited just to college-age respondents, we should take a close look at the results of this study. Since nearly 1.5 percent of the men over a lifetime reported nonconsensual sex with an adult woman, does that mean that they were raped? It depends, once again, on how rape is defined. The researchers listed a number of choices for the respondents, from having their or the perpetrator's genitals touched to even being made to urinate on the perpetrator. Thirty-two men reported nonconsensual adult sex, with women as the perpetrators. Of these, 1 reported anal penetration, and 14 reported being made to have intercourse. To put it another way, this large survey found that, over a lifetime, less than 1 percent of men report forced anal or vaginal intercourse with an adult woman. Interestingly, there was a slightly higher number of men who reported any nonconsensual adult sex if the researcher was a male, even though the actual answers were recorded in private.

Using a strict definition of rape as forced vaginal or anal intercourse, however, the truth is that despite a careful review of the available research, we cannot say with certainty just how often it occurs. A review of Coxell et al. (1999) enables the following speculation: A conservative estimate is that over an average lifetime, at least 1 percent of adult men have been rape victims of adult women. Considering the likelihood of under-reporting either to law enforcement, counselors, or researchers, the percentage could be as high as 5 percent. Given the population in the United States of adult men, this means that approximately 585,000 to 2,929,663 are the victims of vaginal or anal rape by adult women over a lifetime. On an annual basis, between 5,859 and 146,483 adult women rape adult men. This may be a startling figure to some, but notice how rape is defined, as "forced penetration."

## **THE NEW DEFINITION OF RAPE**

Three events took place in 2011 that will likely change the sexual landscape in the United States. Black, Basile, Breiding, Smith, Waters, Merrick, Chen, & Stevens (2010) offer a useful summary of these events. In April the U.S. Department of Education issued a directive to all institutions of higher learning that receive any type of federal funds. "[I]n order for a school's grievance procedures to be consistent with Title IX standards, the school must (emphasis added) use a preponderance of the evidence standard (i.e., it is more likely than not that sexual harassment or violence occurred)." The second event, in October, was even more groundbreaking: the Federal Bureau of Investigation (FBI) changed the definition of what rape

is. The previous definition had been in place for 80 years—“The carnal knowledge of a female forcibly and against her will.” The U.S. Justice Department and the FBI, under the direction of the Uniform Crime Report Subcommittee, has changed that definition to—“Penetration, no matter how slight, (emphasis added) of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim (emphasis added).” The third event occurred in November: the release of the Centers for Disease Control and Prevention, National Intimate Partner and Sexual Violence Survey. This survey also created a new definition of rape by the federal government—not only forced or attempted forced penetration, but also “alcohol/drug facilitated completed penetration.” Thus, the Centers for Disease Control and Prevention (CDC) declared: “Nearly 1 in 5 women (18.3%) and 1 in 71 men (1.4%) in the United States have been raped at some time in their lives, including completed forced penetration, attempted forced penetration, or alcohol/drug facilitated completed penetration.” The report made front-page news across the country and the details, as usual, were left in the dust, with most headlines carrying the news that one in five women have been raped.

## **CRITICISM AND ANALYSIS OF THE CDC SURVEY**

The following contains part of a letter sent and prepared by *Stop Abusive and Violent Environments* (January, 2012) (at the time, I was a board member of this organization, so it was delivered under my signature, but I am no longer with this group) to Dr. Linda C. DeGutis, the Centers for Disease Control director in charge of this survey. Space limitations here prevent presenting the full letter and the complete CDC response. The complete list of questions and responses is contained in our book *When Women Sexually Abuse Men* (Cook & Hodo, 2013). I was surprised and pleased that there was a response at all. The letter contended, “In a time of shrinking social services, it is critical that true victims of rape receive priority for services and support. By defining rape broadly, the publicity surrounding the NISVS may lead to an increase in the number of persons inappropriately claiming to be victims of rape, thus diverting essential services from the real victims.” The SAVE letter contended, In . . . important ways, the NISVS undercounts the number of male victims.



Dr. DeGutis responded on February 12:

*You also raise the issue of potential bias from the wording of the question for men in terms of being “made to” penetrate someone else creating consideration of coercion that does not exist for women. Adding the “made to” language for women has merit [emphasis added] and will be taken into consideration as we refine the instrument for future years of data collection. You also point out that NISVS measure of made to penetrate does not include a measure of unwanted physical stimulation to the point of arousal. This type of abusive sexual contact is captured in NISVS as unwanted sexual contact rather than made to penetrate, but, we continue to consider additions and modifications to further improve on our data collection and may consider [emphasis added] making this kind of victimization more clearly specified.*

It should also be noted that the definition does not include “envelopment” but only “penetration.”

The CDC survey report (Black et al., 2010) contains this statement on page 83: “[W]omen are heavily affected by sexual violence, stalking and intimate partner violence.” The SAVE letter contended that “This statement is one-sided, misleading, and false, since the NISVS demonstrates men are more ‘heavily affected’ by physical violence, coercive violence, and reproductive control than women.” Dr. DeGutis flatly rejected this contention: “The statement that women are more heavily affected by these issues refers to the differences observed in the forms, severity and impact of violence for women and is accurate.” What evidence is there to support the contention that one sex is more heavily affected than the other by violence, either sexual violence or other forms of violence? The variable is the extent, nature, and consequences of such violence, and that is connected more concretely to individual circumstances rather than gender. To put it in another context, did Ron Varga of Spokane suffer less than a woman would have, under the same set of circumstances?

The reader may recall that men were somewhat more revealing about nonconsensual sex experiences in Coxell, A. et al. (1999) when the interviewer was male, compared to female interviewers. Thus, either the CDC was not aware of this research or if aware, chose to ignore it. We will not assume that this is simply a case of verifiable sexism in choosing only female interviewers, despite the hiring bias. There is some evidence to suggest that, in a telephone interview survey, people are more likely to respond and complete a survey if only female



interviewers are used. This is perhaps why the CDC chose only females, and indeed, they indicated this is the reason they chose this methodology. However, answering questions about which soap is used, in a typical marketing survey, is far different and perhaps contraindicated in a survey about sexual behaviors. Despite a number of concerns, the CDC report does provide some interesting data for our subject here in terms of sexual assaults.

Nearly 1 out of 10 women in the United States (9.4% or approximately 11.1 million) has been raped by an intimate partner in her lifetime. More specifically, 6.6 percent of women reported completed forced penetration by an intimate partner, 2.5 percent reported attempted forced penetration, and 3.4 percent reported alcohol or drug-facilitated rape. Approximately one in six women (16.9% or nearly 19 million) has experienced sexual violence other than rape by an intimate partner in her lifetime; this includes sexual coercion (9.8%), unwanted sexual contact (6.4%), and noncontact unwanted sexual experiences (7.8%). In the 12 months prior to taking the survey, 0.6 percent or an estimated 686,000 women in the United States indicated that they were raped by an intimate partner, and 2.3 percent or an estimated 2.7 million women experienced other forms of sexual violence by an intimate partner.

Too few men reported rape by an intimate partner to produce reliable prevalence estimates. Approximately 1 in 12 men in the United States (8.0% or approximately 9 million) has experienced sexual violence other than rape by an intimate partner in his lifetime. This includes being made to penetrate an intimate partner (2.2%), sexual coercion (4.2%), unwanted sexual contact (2.6%), and noncontact unwanted sexual experiences (2.7%). In the 12 months prior to taking the survey, 2.5 percent or nearly 2.8 million men experienced sexual violence other than rape by an intimate partner. To Summarize, one in six women and one in twelve men over a lifetime, experienced sexual violence other than rape. The CDC did not however, differentiate between sexual violence initiated by women and that initiated by men against either sex.

## **THE NEW FBI DEFINITION OF RAPE**

The new definition does not change the law immediately, but it likely will. What it does change immediately is the reporting requirements of the law enforcement agencies that send information to the Justice Department. This information, in turn, is collated by the department and then makes up the annual Uniform Crime Report. The previous definition, “The carnal knowledge of a female forcibly and against her will,” has deficiencies, of course—



male rape by this definition does not exist. What “carnal knowledge” is or is not has been open to legal interpretation by law enforcement agencies and in the courts, which indeed was part of the problem with the old definition. The new definition, “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim,” is much broader. Force is no longer necessary to classify such conduct as rape.

Has she/he had a drink or two of alcohol or used a drug? Then, they are “incapable of consent” even if she/he voluntarily became inebriated.

Los Angeles attorney Marc Angelucci says,

*Think about what the new definition of rape means. Every exploratory hands-on teenager in the back seat of a car or on a sofa in the parents’ basement is now at risk of being branded a rapist. They kiss. His hand touches (“penetration, no matter how slight, of the vagina or anus with any body part”). She does nothing (“without the consent” means he has the burden to get consent; she doesn’t have to express lack of consent). He stops touching. Too late. The hand committed rape and the only question is whether she will press charges. By changing the definition at the FBI data collection level, all jurisdictions will come under pressure to change their underlying statutes to make the crime fit the Federal definition (personal communication, December 11, 2011).*

Angelucci and other attorneys I have contacted remind us that in the FBI definition, the key is “without consent” and alcohol is not even mentioned. This is a huge inversion from “against her will.” “Against her will” indicates a need for her to give some clue that his advances are unwelcome and give her a chance to desist his advances. “Without consent” means that he needs something affirmative from her, and he is a rapist if he does not have that affirmative proof of consent. Does this mean that every sexual event between adults (married or not, as marital rape can also be charged) will now require, as protection against a rape or sexual assault charge, a signed sexual conduct agreement contract?

In an email correspondence, I asked Howard Fradkin, the Director of the leading male sexual victim organization, *MaleSurvivor*, what he thought of the big change; he observed:

*Our major concern is that the definition was limited to females being victims. The new definition definitely makes it possible for the definition to include male rape and sexual*



*assault victims, which is a major step forward....I believe if someone is drunk or drugged, whether by their own choosing or not, in my mind they are not capable of giving consent. I see it as a major shift in government policy and as a strong message to our society that it is time to start protecting people who are unable to protect themselves. And it is time for men and women who are being sexual to be held accountable and responsible for healthy sexual behaviors that respect the rights of the partners and the need to give consent as a part of those experiences (personal communication, December 12, 2011).*

Ken Folowell, President of *MaleSurvivor*, agrees: “Although definitions used for reporting purposes such as this do not limit investigation of sexual assault, it is important to acknowledge the reality that rape victimization and perpetration are not limited by gender. This removal of gender bias from the FBI’s rape definition will help men who have been raped” (personal communication, December 12, 2011).

In January 2012, the Justice Department held a conference call regarding their new definition. Organized in part by that department and also held under the auspices of the White House Council for Women (there was, and still is, no White House Council for Men). In the call which I listened in on (comments or participation by non-invited guests were limited to only email questions), it was proudly noted by several participants that “many victim advocate groups” were solicited for their views on the definition, prior to it being ratified. *MaleSurvivor* must be considered one of the leading anti-rape/sexual assault organizations for men. Dr. Fradkin’s statement is telling: “No one contacted us directly prior to the committee’s report to the director” (personal communication, December 12, 2011). Present on the call however, as an honored guest, and acknowledged by others as a leading instigator of this change was a representative of Feminist Majority. This organization heralded the change with a press release (Tarant, F., January 6, 2012), announcing

*Feminist Majority Foundation Celebrates FBI Approval of New Rape Definition—FBI Director’s Action Follows Extensive Campaign By Women’s Rights Supporters. “Updating the FBI Uniform Crime Report definition of rape is a big win for women,” said Eleanor Smeal, president of Feminist Majority Foundation. ...The White House today announced that FBI Director Robert Mueller has approved the change recommended by several committees of the FBI’s Criminal Justice Information Service.*



## CONSEQUENCES

Werner Kierski (2002) found that it is often the case that psychologists and counselors fail to provide help to either female sexual abusers or male victims:

*The issue is that female perpetrators of violence and their victims seldom receive proper help. Therefore cycles of violence and pain tend to remain unbroken: suffering and pain perpetuate themselves and trauma begets trauma. Organizers of the US based campaign to break the silence around sexual abuse of daughters by their mothers (Making Daughters Safe Again MDSA) say that mothers are capable of the same range of violence, hate and autonomous behavior as other human beings. What is even more consternating is that although 81% of these victims are in therapy, only 3% have sufficient confidence in their psychotherapists to tell them about the abuse. Female sex offenders have lower rates in seeking help than male sex offenders. This again is a reflection of where the profession stands in relation to the problem.*

It is not the focus of this article to deal in detail with the sexual abuse of children by men or women; it should be noted, however, that if we are concerned with the prevention of rape, one study (Petrovich, M. & Templar, D., 1984) found that as many as 60 percent of adult male rapists in the sample had been sexually molested during childhood by females, that in about 70 percent of the cases, the molesting person did so on more than one occasion, and that about 15 percent of male rapists had been molested during childhood by two or more females. Furthermore, this study found that in contrast to male molesters, where the preponderance of cases involved fondling or looking at the victim, female molesters were more than twice as likely as males to engage in actual penetration, cunnilingus, or fellatio.

## THE LAW

Isely and Gehrenbeck-Shim (1997) note that sodomy has been added to some state laws under the rape statute. Sodomy indicates that something, not necessarily a penis, penetrated the male victim's rectum. They report one incident where a male was raped by a woman, and upon calling a rape-crisis hotline and asking for assistance, the counselor told him that males could not be raped and then hung up on him. The incident does show that male rape victims may frequently be mistreated by a system that is used to dealing only with female rape victims. Douglas and Hines (2011) have found that male victims of intimate partner violence are treated harshly by established domestic violence service providers, and many of these are



co-associated with rape-crisis lines as well. Thus, the male victim has very few places to turn to seek help. Help that is not available to males, but is available to women means that encouragement or assistance in reporting to police and prosecutors is less likely to occur.

## **GENDER BIAS IN SENTENCING**

The sentencing disparity when a woman is prosecuted compared to sentences handed down for men is well documented by the Bureau of Justice Statistics and by other analysis. Women receive less prison time than men for all types of crime. The disparity in sentencing increases as the charges become more serious. Typical of such analysis is this one from the journal, *Women in Criminal Justice*:

*Selective chivalry predicts that decision makers extend chivalry disproportionately to white females. Differential discretion suggests that disparity is most likely in informal decisions such as charge reduction rather than in formal decisions at final sentencing. Data for the analysis derived from 9,966 felony theft cases and 18,176 felony assault cases disposed in California. Gender disparity was evident in findings that females with no prior record were more likely than similar males to receive charge reductions, and this enhanced females' chances for probation. (Famworth, M., & Teske, R., 1995)*

This study uses data on offenders convicted of felonies in Chicago, Miami, and Kansas City to address this issue. The authors find no evidence to support the 'gender neutrality' hypothesis. In all three jurisdictions, women face significantly lower odds of incarceration than do men. Spohn & Bichner (2000) reveal that the effect of race is conditioned by gender but the effect of gender, with only one exception, is not conditioned by race; harsher treatment of racial minorities is confined to men but more lenient treatment of women is found for both racial minorities and Whites.”

There is some limited analysis of whether or not gender bias in favor of women also exists when it comes to sexual assaults, which was examined in the journal *Feminist and* extends to criminal sex offenders. Embry & Lyons (2012) conclude that there is significant sentencing bias:

*National Corrections Reporting Program data are used to identify sex offenders for the years 1994 to 2004 and the sentences they received for specific sex offenses. The evil woman hypothesis would assume women are sentenced more harshly, but data show men receive longer sentences for sex offenses than women. Support is provided for the chivalry*



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*hypothesis to explain immediate sentencing disparity.*

## **THE WAR ON MEN**

It may not seem germane at first glance to include here a brief discussion of the use of rape as tactic in war. Certainly, it has been used by combatants against women, but it has also been used against men and while information is difficult to obtain, there is a body of evidence that in warring African nations, currently, more men suffer from rape than do women. For our purposes here, however, it is instructive to note how the international community intentionally and deliberately ignores male rape. The investigative reporting of Will Storr in the UK's Observer and Guardian serves as an instructive guide. Storr (2011) describes his visit to Uganda and other parts of war-torn Africa. He examined the research of Lara Stemple of the University of California's Health and Human Rights Law Project. She found many cases of sexual violence used against males all over the world. She also found systematic and intentional neglect of such victims by NonGovernmental Organizations (NGOs) and international aid groups. Stemple reviewed more than 4,000 organizations that address sexual violence in wartime and found that only 3 percent even mentioned men as a concern of such violence, and even then, only as a small reference. (In Kampala, Uganda, the Refuge Law Project (RLP) British director, is Dr. Chris Dolan).

*Stemple's findings on the failure of aid agencies are no surprise to Dolan. "The organizations working on sexual and gender-based violence don't talk about it," he says. "It's systematically silenced." As part of an attempt to correct this, the RLP produced a documentary in 2010 called Gender Against Men. When it was screened, Dolan says that attempts were made to stop him. "Were these attempts by people in well-known, international aid agencies?" I ask. "Yes," he replies [...] There's a fear among them that this is a zero-sum game; that there's a pre-defined cake and if you start talking about men, you're going to somehow eat a chunk of this cake that's taken them a long time to bake." When I contact Stemple by email, she describes a "constant drum beat that women are the rape victims" and a milieu in which men are treated as a "monolithic perpetrator class. International human rights law leaves out men in nearly all instruments designed to address sexual violence," she continues. "The UN Security Council Resolution 1325 in 2000 treats wartime sexual violence as something that only impacts on women and girls. Ignoring male rape not only neglects men, it also harms women by reinforcing a viewpoint that equates 'female' with 'victim', thus hampering our ability to see women as strong and*

empowered. In the same way, silence about male victims reinforces unhealthy expectations about men and their supposed invulnerability.”

The intentional and deliberate silence enforced by international aid agencies in this area is, unfortunately, no surprise. Stemple’s comments are on point in our particular discussion here of adult female rape of adult men. The neglect of male rape victims in all its various permutations is perhaps particularly pernicious when it comes to prison rape or war rape, but the effects of that neglect are the same when it comes to male victims of female rape and other forms of this type of crime.

The increased willingness of prosecutors in recent years to make cases against adult females who abuse boys may mean that we will see increased prosecutions against adult women for sexual assaults against adult men, though, despite the discussions noted in this paper, a charge of rape is likely to remain rare.

## REFERENCES

Anderson, P. B., & Johnson, C. S. (Eds.). (1998). *Sexually aggressive women: Current perspectives and controversies*. New York, NY: Garland Publishing, Inc.

Black, M. C., Basile, K. C., Breiding, M. J., Smith, S. G., Walters, M. L., Merrick, M. T., Chen, J., & Stevens, M. R. (2010). The national intimate partner and sexual violence survey (NISVS): 2010 summary report. *National Center for Injury Prevention and Control, Centers for Disease Control and Prevention*.

Cook, P. W., & Hodo, T. L. (2013). *When women sexually abuse men: The hidden side of rape, stalking, harassment, and sexual assault*. Santa Barbara, CA: Praeger.

Coxell, A., King, M., Mezey, G., & Gordon, D. (1999). Lifetime prevalence, characteristics, and associated problems of non-consensual sex in men: cross sectional survey. *British Medical Journal* 318, 846–50.

Douglas, E. M., & Hines, D. A. (2011). The helpseeking experiences of men who sustain intimate partner violence: An overlooked population and implications for practice. *Journal of Family Violence* 26 (6): 473–485.

Embry, R., & Lyons Jr., P. (2012). Sex-based sentencing discrepancies between male and female sex offenders. *Feminist Criminology* 7 (2): 146–162.

Famworth, M., & Teske, R. (1995). Gender differences in felony court processing. *Women in Criminal Justice* 6 (2):23–44.

Isely, P. J., & Gehrenbeck-Shim, D. (1997). Sexual assault of men in the community, *Journal of Community Psychology* 25 (2): 159–166.

Kierski, W. (2002). Female violence: can we therapists face up to it? *Counselling and Psychotherapy Journal*, 13 (10), 32–35.

Muehlenhard, C., & Cook, S. (1988). Men’s self-reports of unwanted sexual activity. *Journal of Sex Research*, 24 (1), 58–72.

Pino, N. W., & Meier, R. F. (1999). Gender differences in rape reporting. *Sex Roles: A Journal of Research* 40 (11/12), (1999), 979–990.



Sarrel, P., & Masters, W. (1982). Sexual molestation of men by women. *Archives of Sexual Behavior* 11 (2), 117-131.

Spohn, C., & Bichner, D. (2000). Is preferential treatment of female offenders a thing of the past? A multisite study of gender, race and imprisonment. *Criminal Justice Policy Review* 11 (2):149-184.

Storr, W. (2011, July 17). The rape of men. *The Guardian*. Retrieved from <http://www.guardian.co.uk/society/2011/jul/17/the-rape-of-men>

Tarant, F. (2012, January 6). Feminist Majority Foundation celebrates FBI approval of new rape definition - FBI director's action follows extensive campaign by women's rights supporters. *Feminist Majority Foundation*. Retrieved from <http://feminist.org/news/pressstory.asp?id=13402>

United States Department of Justice, Bureau of Justice Statistics. (February, 1997). *Sex offenses and offenders: An analysis of data on rape and sexual assault*, NCJ-163392. Retrieved from <http://bjs.ojp.usdoj.gov/content/pub/pdf/SOO.PDF>.

United States Department of Justice, Bureau of Justice Statistics. (July, 2000). *Sexual assault of young children as reported to law enforcement*, NCJ 182990. Retrieved from <http://bjs.ojp.usdoj.gov/content/pub/ascii/saycrle.txt>.

United States Department of Justice, Centers for Disease Control and Prevention. (2000). *Nature and consequences of intimate partner violence: Findings from the National Violence Against Women Study*, NCJ 181867. Retrieved from [http://www.cdc.gov/ViolencePrevention/pdf/NISVS\\_Report2010-a.pdf](http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf)

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Former award-winning daily radio and television broadcast journalist **Philip W. Cook** is the author of *Abused Men-The Hidden Side of Domestic Violence* (ABC-Clio Second Edition 2009-Greenwood/Praeger First Edition 1997). He is the author of the 2013 book, *When Women Sexually Abuse Men-The Hidden Side of Rape, Stalking, Harassment and Sexual Assault* with criminologist Tammy Hodo, PhD. He is the co-author of articles in several peer-reviewed journals such as *The Journal for Human Behavior in the Social Environment*, and *The Journal of Elder Abuse*. He has appeared on hundreds of radio stations, and many nationally broadcast television shows, as well as in numerous publications and in both local and national wire services, (Associated Press/Canadian Associated Press) as well as daily newspapers.

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