Module II: Victims and Offenders

Table of Contents: Victims and Offenders
(31 Pages)

Learning Objectives:

This module will enable a judge to:

- Understand that offenders do not fit any particular profile.
- Recognize the patterns of belief and conduct that drive offenders to sexually assault their partners.
- Understand the typologies of marital rape and the continuum of psychological, physical and sexual abuse.
- Differentiate between sex that is freely consented to and acquiescence from fear to avoid escalating violence.
- Understand the typologies of marital rape and the continuum of psychological, physical and sexual abuse.
- Differentiate between sex that is freely consented to and acquiescence from fear to avoid escalating violence.

Table of Contents

- Who are the Victims?
  - Pregnant Victims: Pregnancy as a Risk Factor
  - Victim Impact
    - Psychological Impact on Victims
    - Post Traumatic Stress Disorder
    - Complex Post Traumatic Stress Disorder
    - Revictimized Victims
    - Physical Impact and Health Consequences
- Self-Test and Answers: Victims
- Reflection Questions: Victims

- Offenders
  - Who are the Offenders?
  - Offenders' Attitudes
    - Wives as Property
    - Sex on Demand as a Duty
    - Rape as Punishment
    - Assertion of Control Over Partner
    - Expression of Anger, Hostility, Sadism or Deviant Sexual Desire
    - Failure to Recognize "Rape"
  - Typologies of Marital Rape
    - Battering Rape
    - Force-Only Rape
    - Acquiescence Out of Fear
    - Obsessive or Sadistic Rape
    - Separation Offending
- What is Consensual?

- Key Points: Victims and Offenders
Module II: Victims and Offenders

Who are the Victims?

Adult Women

Women of every age are raped and sexually abused by their current or former husbands or intimate partners, but most first become victims before the age of 25. African American women experience marital rape slightly more than women of white, Asian or Latin descent. Marital rape and abuse occur with the same frequency regardless of economic class, or urban or rural setting.

"Any woman is a possible object of violence. What differs is not the woman, but the man. If the man is sexually abusive, he will victimize any woman with whom he lives or has lived."


NOTE: With respect to adult, heterosexual males: While there is some literature about the sexual abuse of adult men by adult women, national data document that the vast majority of victims are women and the vast majority of perpetrators are men (Tjaden & Thoennes, Prevalence, Incidence, and Consequences of Violence Against Women, 1998). In researching this web resource, the authors found no cases in which an adult male alleged intimate partner sexual abuse by a female partner.

Same-Sex Victims

Gay and lesbian couples also experience intimate partner sexual abuse. As in heterosexual relationships, “stalking and sexual assault may be significant parts an IPV [intimate partner violence] relationship” in the GLBTQI community. (Fountain & Skolnik, Lesbian, Gay, Bisexual, and Transgender Domestic Violence in the United States in 2006 (PDF 331KB), at 46).

In a study of 162 gay men and 111 lesbians, 52% reported at least one incident of sexual coercion by their same-sex partner (Lisa Waldner-Haugrud & Linda Vaden Gratch, Sexual Coercion in Gay/Lesbian Relationships, 1997, quoted in Michigan Coalition Against Domestic and Sexual Violence, Sexual Assault in Intimate Relationships Fact Sheet, 2002).

Teenagers

Awareness of the high incidence of dating violence within teenage relationships and efforts to address it are recent phenomena. For example, Break the Cycle, an organization dedicated to empowering youth to end domestic violence, calls teen dating violence “an epidemic” affecting one in three teens. Research on the incidence of sexual abuse within violent teen relationships, like the research cited earlier with respect to adult victims, documents significant rates of co-occurrence between physical and sexual violence. The range of sexually abusive behaviors described earlier in this module, from birth control sabotage to rape, are present in violent teen dating relationships as well.

Children

Children are overlooked victims of intimate partner sexual abuse. Children may witness the assaults or be forced to take part in the violent acts, see e.g., State v. B.H. 870 A. 2nd 273 (N.J. 2005). They may be sexually and psychologically abused as a way to punish their mother. For example, the DeKeseredy study Separation/Divorce Sexual Assault (2004) describes a woman who found her husband masturbating to Penthouse in front of her children shortly after she told him she was leaving him (at 237). The harm to children is discussed in Katherine Ford, Children’s Exposure to Intimate Partner Sexual Abuse (PDF 356KB) and Custody and Visitation.
Module II: Victims and Offenders

Pregnant Victims

Pregnancy as a Risk Factor

Pregnancy places women at high risk for both physical and sexual assault. Just as pregnancy is the time when so much physical assault begins, it is also the time when sexual assault often begins (McFarlane, Intimate Partner Sexual Abuse, 2005). One-third of the women in Raquel Kennedy Bergen's sample reported increased physical and sexual abuse during pregnancy and many said the sexual violence began with their pregnancies (BERGEN, WIFE RAPE, 1996).

For women raped while pregnant there was the additional trauma of fearing for their unborn babies' lives.

"It started right before the baby was born. When I was pregnant, the doctor said not to have relations, but he kept wanting it. I had hard pregnancies."

— Delilah, quoted in BERGEN, WIFE RAPE (1996) at 23.

"It happened for the first time when I was 4 months pregnant, and I was scared for the baby."

— Danielle, quoted in BERGEN, WIFE RAPE (1996) at 23.

"Meena's husband used physical force as a form of birth control. She stated, 'My husband beat me every day in my stomach, he kicked me that he don't want me to become pregnant [sic]. Every day he, he did the sex with me [sic], and every next day he'd kick me.'"

— DASGUPTA, BODY EVIDENCE (2007) at 63.

Resources

Articles

• Judith McFarlane, Intimate Partner Sexual Assault Against Women: Frequency, Health Consequences, and Treatment Outcome, VOL. 105 AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS 99 (2005)

Nonperiodical Literature


• Shamita Das Dasgupta, BODY EVIDENCE: INTIMATE VIOLENCE AGAINST SOUTH ASIAN WOMEN IN AMERICA (2007)
Module II: Victims and Offenders

Psychological Impact on Victims

What is the Impact of Intimate Partner Sexual Abuse?

"When you're raped by a stranger, you have to live with a frightening nightmare. When you're raped by your husband, you have to live with your rapist."


The most pernicious myth about intimate partner sexual abuse is that because the couple is accustomed to having consensual sex, forced sex is not as traumatic as stranger rape. The reality is that rape by the person the victim should most be able to trust is profoundly damaging precisely because of the betrayal of trust.

"The destruction of the ability to trust was the most common long-term effect of rape in marriage that our interviewees mentioned. Marital rape constituted for them not only a sexual assault, but a violation of trust and intimacy. The shock experienced by a woman who was sexually brutalized by the man she had loved and trusted above all others did not wane quickly."


The U.S. Department of Justice, Office for Victims of Crime produced a DVD titled VICTIM IMPACT: LISTEN AND LEARN in which victims speak about the impact of crime on their lives. One victim is named Rebel and her segment is titled "Domestic Violence." Rebel is a young white woman whose presentation style is controlled, even when relating her husband’s threats to have her killed, until she speaks about her emotions and the marital rape. She states:

"He was sexually abusive and I think of all of it that was probably the most painful, and still probably the, the hardest to get past. [Y]ou know, when you're in a relationship with somebody that you love and they use sex forcefully, it's devastating, it's demoralizing…

Emotionally, I just, I can't imagine going out on a date again, or getting into a relationship again. I can't imagine being intimate.

I'm afraid that if I put myself out there, it'll happen again."

View Rebel’s Full Statement

Play the video clip of Rebel’s full statement. Two versions are available, Flash and MP4 (compatible with Quicktime). Choose the format that is best for you. Or, if your connection speed is slow, you may prefer to read a transcript of her statement.

Choose one of the following:

Watch the Flash video here

View the MP4
(Quicktime-compatible) video in a new window.

Read the transcript of Rebel's statement (PDF 15KB).

Resources

Nonperiodical Literature

- David Finkelhor, Kersty Yllo, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985)
Module II: Victims and Offenders

Psychological Impact on Victims (cont'd)

The perpetual threat to safety that comes from having to live with one's assailant undermines the woman's emotional and physical health. These women are under constant threat whether asleep or awake. Acute, long-term depression, numbing, anxiety and despair are more prevalent in victims of marital rape than in those of stranger rape or physical assault alone.

"It was very clear to me. He raped me. He ripped off my pajamas, he beat me up... It emotionally hurt worse [than stranger rape]. I mean you can compartmentalize it as stranger rape—you were at the wrong place at the wrong time. You can manage to get over it differently. But here you're at home with your husband, and you don't expect that. I was under constant terror [from then on] even if he didn't do it."

— BERGEN, WIFE RAPE (1996) at 43.

"In addition to the immediate trauma of marital rape, the victims we talked to reported serious long-term effects. Some were still experiencing them five or ten years after they had divorced their husbands. They talked about an inability to trust. They talked about lingering fear and emotional pain. They talked about terrifying flashbacks and nightmares. They talked about apprehensions about men and sexual dysfunctions—problems that kept them from having a social life, or that interfered with subsequent marriages."

— FINKELHOR & YLLO, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985) at 126.

Resources

Nonperiodical Literature

- David Finkelhor, Kersty Yllo, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985)
Module II: Victims and Offenders

Post Traumatic Stress Disorder

Posttraumatic stress disorder is prevalent among victims of marital rape. In a study of 148 abused women seeking orders of protection, 46% of those reporting rape as their most upsetting trauma developed PTSD compared to 20% of those for whom physical attacks were most upsetting (McFarlane & Malecha, Sexual Assault Among Intimates, 2005).

This study’s findings on the harm of intimate partner sexual abuse confirm another study of 62 battered women living in shelters or receiving services. While there was no significant correlation between severity of physical violence and PTSD symptoms, the women who were raped and battered showed notably more PTSD symptoms than those who were battered only (Bennice, The Relative Effects of Intimate Partner Physical and Sexual Violence on Post-Traumatic Stress Disorder Symptomatology, 2003).

Flashbacks, hypervigilance, difficulty eating and sleeping, nightmares, loss of trust, intense fear and suicidal thoughts are all common reactions among victims of marital rape. In one study 22% of sexually assaulted women reported suicide threats or attempts within 90 days of applying for a protection order, compared to 4% of physically-abused only women. Many victims of marital rape self-medicate their psychological trauma with alcohol and drugs (McFarlane & Malecha, Sexual Assault Among Intimates (PDF October, 2005)).

Resources

Articles


Nonperiodical Literature

Judith McFarlane, Ann Malecha, National Institute of Justice, Sexual Assault Among Intimates: Frequency, Consequences and Treatments (October 2005)
Module II: Victims and Offenders

Complex Post Traumatic Stress Syndrome

The greater the frequency and severity of sexual assault, the more symptoms of PTSD victims experience, and these symptoms can continue for years after the violence.

"I got out with my body first, and my mind came later. It's been 2 years and I'm still not sure it's all there."
— BERGEN, WIFE RAPE (1996) at 60.

"[Rhonda] lives in constant terror of her husband's return and has physically structured her environment for protection. She does not leave her house at night, carries a butcher knife at all times, and does not speak into the telephone until the caller is identified."

Statements from victims of intimate partner sexual abuse recount their psychological turmoil and physical injuries, and the way this betrayal by the spouse or partner they trusted has overwhelmed their lives.

"Every time he would rape me, a part of me would die. He has turned my life upside down. I don't think I could ever love or trust another man. My husband was my everything and he betrayed me in such a horrible way. I don't think I could ever be whole again."
— Shunda's story posted on Aphrodite Wounded, a website for survivors of intimate partner sexual abuse.

"[After many, many years] I still to this day have moments of waking in a cold sweat, thinking D is standing over my bed, ready to inflict more harm on me."
— Froggie's story posted on Aphrodite Wounded.

Resources

Nonperiodical Literature


Online

- Aphrodite Wounded, Froggie's story
- Aphrodite Wounded, Shunda's Story
Module II: Victims and Offenders

Revictimized Victims

Intimate partner sexual abuse victims who were raped as children or adolescents suffer especially severe emotional consequences.

"One quarter of the women in this sample said they sometimes performed oral sex on their husbands, although they despised this act, so that the abuse would end quickly. This was particularly difficult for several of the women, who were incest survivors and recalled being forced to engage in fellatio with their assailants when they were children."


"Noelle, who had been raped by an acquaintance when she was a teenager, was particularly traumatized by her husband's attack. She said, 'That's [rape] the worst thing he could have done knowing my background and knowing how I felt about the issue—it's a violation of trust and commitment and the whole bit and compound it with knowing my background, and it was the worst thing he could have done to me.'"


Resources

Nonperiodical Literature

Module II: Victims and Offenders

Physical Impact and Health Consequences

A widespread but mistaken belief about rape is that it always produces severe physical—particularly genital—injuries. In fact, typically there are no visible physical injuries in any type of rape. The external and internal female genital tissue is very elastic. It is designed to be both strong and flexible and to stretch during intercourse without tears or injury in most circumstances. The angle and degree of force used during penetration, the amount of external lubrication used, drugs ingested and some chronic illnesses are all factors in determining the degree of physical injury.

It is important to remember that the absence of injury does not equal consent. A detailed explanation of injury and the typical lack of injury in rape cases and how a forensic sexual assault examination is conducted is available in the transcript of the National Judicial Education Program's DVD Presenting Medical Evidence in an Adult Rape Trial (2002). Click here for DVD transcript (PDF 2.96MB).

With respect to intimate partner sexual abuse specifically, in addition to the profound psychological impact, there are usually long-lasting physical consequences because of the repetitive nature of these assaults. Even what are called “force-only” rapes, in which the batterer uses only instrumental violence and his partner acquiesces to avoid being beaten, see Victims and Offenders, Marital Rape Typologies, below, may result in unwanted pregnancies, sexually transmitted infections, internal injuries and chronic pain. Moreover, “the closer the relationship between rapist and victim, the more violent the sexual assault tends to be” (ANGELA BROWNE, WHEN BATTERED WOMEN KILL, 1987 at 97).

Resources

Nonperiodical Literature

- Angela Browne, WHEN BATTERED WOMEN KILL (1987)

Videos

- National Judicial Education Program, Presenting Medical Evidence in an Adult Rape Trial, VIDEO RESOURCE GUIDE

Presenting Medical Evidence in an Adult Rape Trial, VIDEO RESOURCE GUIDE

| 1 of 1 3/24/2010 11:09 AM |
Module II: Victims and Offenders

Physical Impact and Health Consequences (cont’d)

In what are called "Battering Rape" and "Obsessive and Sadistic Rape," (see Victims and Offenders, Marital Rape Typologies) below, the severity and pattern of injuries inflicted is startling.

Indeed, the violence and brutality in these cases is often far more extreme than in stranger rapes.

The physical impact of intimate partner sexual abuse includes:

- vaginal tearing and internal injuries
- anal tearing and internal injuries
- chronic pain
- sexual dysfunction
- eating and sleeping disorders
- sexually transmitted diseases and infections including HIV/AIDS
- unwanted pregnancy
- miscarriage
- stillbirth
- bruising
- broken bones
- knife wounds
- burns

"In this study of wife rape, women who had been severely battered talked about common injuries, such as black eyes, broken bones, blood clots in their heads, and knife wounds. In a particularly violent incident, Nina described how her partner (who was angered by her pregnancy) dragged her into the woods, where he beat and raped her and then used a knife to slice open her abdomen. While not all of the women in my sample were subjected to such extreme forms of physical violence, about 70% of them experienced battering rapes at some point."

Module II: Victims and Offenders

Self-Test and Answers: Victims

Intimate partner sexual abuse is defined only as "marital rape".

a. True
b. False

American pornography often negatively influences immigrant men and women's view of sexuality and can undermine an immigrant woman's ability to resist her partner's unwanted demands for sex.

a. True
b. False

Batterers often coerce their partners into having sex as a way to apologize for having beaten them.

a. True
b. False

Even if a batterer sexually abuses his partner, he would not sexually abuse his children or sexually abuse their mother in front of them.

a. True
b. False

Studies of intimate partner sexual abuse find co-occurrence with physical violence in what percentage of cases?

a. 5-7%
b. 12-17%
c. 25-30%
d. 45-70%
Module II: Victims and Offenders

Reflection Questions: Victims

Where the reflection question includes multiple questions, please answer one at a time, and click the "Save and See Comment" button for the question you're answering. From the answer page you can click the "Return to Questions" button to go back and answer the other questions, or to modify your answer. Unlike the self-tests, your reflection question answers are saved so that you can come back to them at a later time.

Would you consider the depth of psychological harm in assessing the severity of a perpetrator's conduct?
Module II: Victims and Offenders

Who are the Offenders?

No single profile can describe a perpetrator of sexual assault. Perpetrators may belong to any age group, race, occupation or economic or social status. Although perpetrators can be male or female, statistically the majority of perpetrators are male and the majority of victims are female. In the context of heterosexual domestic violence/sexual assault the perpetrators are virtually all male. Individuals in same-sex relationships also perpetrate intimate partner sexual abuse (Ristock, Relationship Violence in LGBTQ Communities (PDF 1.71MB)).

The perpetrator of intimate partner sexual abuse may be a husband or ex-husband, boyfriend or ex-boyfriend, partner or ex-partner or person with whom the victim has a child in common. In the most recent National Violence Against Women Survey, among all female sexual assault victims, 20.2 percent were raped by a spouse or ex-spouse, 4.3 percent were raped by a current or former cohabiting partner. Among all male victims, 4.1 percent were raped by a spouse or ex-spouse, 3.7 percent were raped by a current or former cohabiting partner (TIADEN &THOENNES, EXTENT, NATURE AND CONSEQUENCES OF RAPE VICTIMIZATION, 2006).

Resources

Articles

- Janice Ristock, Relationship Violence in Lesbian/Gay/Bisexual/Transgender/Queer (LGBTQ) Communities: Moving Beyond a Gender-Based Framework, VIOLENCE AGAINST WOMEN ONLINE RESOURCES (2005)

Nonperiodical Literature

Module II: Victims and Offenders

Who are the Offenders? (cont’d)

A perpetrator of intimate partner sexual violence is not simply a man with an anger problem. He may appear cool and collected in all areas of his life outside of the home. He may even be a community leader, actively volunteering his time for various causes. These types of offenders often escape prosecution because no one can believe them capable of committing such a heinous crime. Two examples that made headlines are:

- Dr. David Hager is the Lexington, Kentucky obstetrician-gynecologist referenced earlier. He was appointed by President George W. Bush to an important position in the Food and Drug Administration. When the doctor began telling church audiences his version of why he divorced, his ex-wife went public about the years of sexual abuse and anal rape she endured during their marriage and why she did not make it known at the time of the divorce. (McGarvey, Dr. Hager’s Family Values, THE NATION (May 30, 2005))

- During the 2007 trial of Mary Winkler for the murder of her husband, a prominent Tennessee pastor, she revealed that he subjected her to years of anal rape and other types of sexual abuse, and that she felt she could not seek help because she could not reveal his conduct to others (Emanuella Grinberg, Pastor’s wife says she shot husband after years of physical, sexual, emotional abuse, COURT TV NEWS (April 17, 2007)). For further discussion of this case see Risk Assessment, The Victim May Kill The Abuser

Resources

Newspapers

- Ayelish McGarvey, Dr. Hager’s Family Values, THE NATION (May 30, 2005)
- Emanuella Grinberg, Pastor’s wife says she shot husband after years of physical, sexual, emotional abuse, COURT TV NEWS (April 17, 2007)
Module II: Victims and Offenders

Wives as Property

Researchers have documented a variety of impulses, attitudes, and rationalizations for intimate partner sexual abuse:

Perpetrators of intimate partner sexual abuse are often described as jealous, domineering individuals who feel a sense of entitlement to have sex with their "property."

"Wanda remembered that her husband told her repeatedly, 'That's my body – my ass, my tits, my body. You gave that to me when you married me and that belongs to me.'"

"Emily recalled that on the night her husband raped her he was saying something like 'I'm his wife and I'm supposed to have sex with him and by law I was his or something like that – his possession.'"

"Pam told me, 'I remember one time he [her husband] told the judge, 'That's my wife, you can't tell me what to do with her.'"


Resources

Nonperiodical Literature

- Robin Givens, GRACE WILL LEAD ME HOME (2007)

Online

- Aphrodite Wounded, Sally's Story
Module II: Victims and Offenders

Sex on Demand as Duty

"After having our daughter I came home from the hospital having spent the first 8 days as a patient. That night my husband had sex with me despite my asking him not to as my stitches still hurt (he managed to burst two of them and I had to have them redone) He was very rough and said that his needs came first. I was his wife and that it was my duty and his right to take me whenever and however he pleased."

— Sally's Story, at Aphrodite Wounded, a website for survivors of intimate partner sexual abuse

"Stop it, Michael! You're drunk and I'm tired.... ‘You don't want to do this?’ he yelled. ‘I'm your husband! What do you mean you don't want to do this?... You're my wife!""

— Robin Givens describing being choked and raped by her then-husband Mike Tyson, in GIVENS, GRACE WILL LEAD ME HOME, 2007 at 279.

Resources

Cases


Articles


- Margaret Abraham, Sexual Abuse in South Asian Immigrant Marriages, Vol. 5 VIOLENCE AGAINST WOMEN 591 (1999)

Nonperiodical Literature

Module II: Victims and Offenders

Rape as Punishment

Punishment

The research into separation/divorce sexual assault reveals that spousal rape is often a "punishment" for the victim's trying to leave the abusive relationship (DeKeseredy, et al., *Separation/Divorce Sexual Assault*, 2003).

"Several of the women in my sample believe that the sexual abuse was their partners' attempt to punish either their loved ones or the women themselves."


Husband rapes wife when he learns of her romantic involvement with another man.

— *State v. Angle*, Not Reported in N.E. 2d, 1999 WL364564 (Ohio App. 9 Dist.).

Resources

**Cases**


**Articles**


**Nonperiodical Literature**

Assertion of Control Over Partner

“The more control he thought he was losing, the worse it got. If I got a good job or I was doing good, he would take it away. He would beat me and force me [to have sex] just to get that control back.”

— Pam, quoted in BERGEN, WIFE RAPE (1996) at 22.

“Zakhia, an immigrant woman from Pakistan, had to work to support her family, including her husband who did not work. He had not abused her in Pakistan but three months after their arrival in the U.S. he began sexually abusing and hitting her, claiming that she was sexually involved at her workplace.”

Module II: Victims and Offenders

Expression of Anger, Hostility, Sadism or Deviant Sexual Desire

Husband who gave no evidence of his interest in bondage and domination before marriage threatens wife and her family with deportation if she does not participate in increasingly painful sexual activities.

— Sorlin v. Sorlin, Not Reported in A.2d, 2003 WL21323583 (Conn. Super.).

CAVEAT: This case contains graphic descriptions of sexual and physical violence. Some of this material is extremely disturbing.

Resources

Articles


Cases

- People v. Johnson, NO. C047560, CAL. APP. UNPUB (Dec. 20, 2005)

Nonperiodical Literature

- Domestic Abuse Intervention Project of Duluth, Minnesota, Theme Six: Sexual Respect CREATING A PROCESS OF CHANGE FOR MEN WHO BATTER; A FACILITATOR'S MANUAL (2003)
Module II: Victims and Offenders

Failure to Recognize "Rape"

"In offender classes...some [men] adhere to the age-old male belief that marriage means 'permission' for the man, even if his partner doesn't want to engage. They view such refusal as unfair or interpret her unwillingness as controlling. Some men will use their partners' resistance to justify their own coercive behavior. However, most men who batter would never define coerced sex as rape.""

— Domestic Abuse Intervention Project of Duluth, Minnesota (PDF 174KB)

As noted earlier, in a study of 229 diverse men in a batterers intervention program, 53% acknowledged engaging at least once in conduct that met the legal definition of rape or sexual assault, but only 8% answered "yes" to the question "Have you ever sexually abused your partner." (Bergen & Bukovec, Men and Intimate Partner Rape, 2006).

Defendant forced wife to have sex at gunpoint and threatened to kill her. When a police officer came to investigate the sexual assault, defendant asked "You mean I can go to jail for having sex with my wife?"


Resources

Cases


Articles

- Domestic Abuse Intervention Program of Duluth, MN, Minnesota Victim's Statement, (2003)
Module II: Victims and Offenders

Self Test and Answers: Offenders

Perpetrators of intimate partner sexual abuse fit a well-defined profile.
- a. True
- b. False

Perpetrators of intimate partner sexual abuse rarely perceive their own conduct as a sexual assault.
- a. True
- b. False

Men who sexually assault their wives often believe that their wives have a "duty" to have sex with them.
- a. True
- b. False

Same-sex partners do not perpetrate sexual violence against one another in intimate relationships.
- a. True
- b. False

Some offenders have so intimidated their partners that intimate partner sexual abuse is perpetrated without immediately preceding violence or threats.
- a. True
- b. False

See Answers
Module II: Victims and Offenders

Reflection Questions: Offenders
Where the reflection question includes multiple questions, please answer one at a time, and click the “Save and See Comment” button for the question you're answering. From the answer page you can click the “Return to Questions” button to go back and answer the other questions, or to modify your answer. Unlike the self-tests, your reflection question answers are saved so that you can come back to them at a later time.

What can judges and others do to more readily identify offenders who may not be overtly physically abusing their partners, but are perpetrating intimate partner sexual abuse through instrumental violence?

When you are listening to a victim of intimate partner sexual abuse give her account on the stand, what questions do you ask yourself? Do you think to yourself, Why doesn’t she just say ‘no’? or Why doesn’t she leave? Would you think to ask, Why doesn’t he leave her alone? Explain the difference between these two questions in light of what you now know about offenders.
Module II: Victims and Offenders

Typologies Of Marital Rape

Two early researchers in the field, Professor David Finkelhor and Kersti Yllo, identified three typologies of marital rape: battering rape, force-only rape, and obsessive, or sadistic rape. (DAVID FINKELHOR & KERSTI YLLO, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985) at 37).

The Three types of Marital Rape:

- Battering Rape
- Force-Only Rape: Acquiescence Out of Fear
- Obsessive or Sadistic Rape

Resources

Nonperiodical Literature

- David Finkelhor, Kersty Yllo, LICENSE TO RAPE: SEXUAL ABUSE OF WIVES (1985)
Module II: Victims and Offenders

Battering Rape

For some women, the sexual violence or rape may follow a physically violent episode where the husband wants to 'make up' and coerces his wife to have sex against her will. For others, the rape may occur during the violence. This is called Battering Rape.

"One time I had the flu and I didn't feel like having sex, but he forced me to anyway. He used his arms and body to pin me down so I couldn't move. With all of the violence that had occurred before – him beating me all the time – I was afraid of him when he told me I better not move. He would be violent – and then he would want to have sex afterward. I didn't want to, but I was afraid not to. After the incident when I had the flu he only had to talk to me, to use verbal force, because I was afraid of him."

— Mrs. Palmer, quoted in Russell, Rape in Marriage (1990) at 94.
Module II: Victims and Offenders

Force-Only Rape

In "Force-Only Rape" husbands use only the amount of force necessary to coerce their wives. This is called "instrumental violence." For example, because these wives know their husbands' capacity for violence, like Mrs. Palmer quoted above, they may be coerced into unwanted sex by just their partners' tone of voice or key words and phrases such as "you have to or else." Repeated battering may not be characteristic of these relationships.

"The women in the force-only category described incidents of sexual abuse devoid of excessive physical violence. However, they talked about their fear of physical violence if they resisted their partners' sexual advances. As Cory told me, 'If I resisted he would beat me up, so I learned not to resist and I just gave in.'"

— BERGEN, WIFE RAPE (1996) at 14

In the case of Dr. David Hager noted earlier, his wife sometimes fought her husband off when he attacked her in her sleep and sometimes tried strategies such as sleeping in other rooms in their home but at times "the most expedient thing was to try to somehow get it [over with]. In order to keep any peace, I had to maintain the illusion of being available to him."

— McGarvey, Dr. Hager’s Family Values (PDF 52KB) (2005) at 5.

In New Mexico...

The term "consent" appears in some statutory language relating to sexual assault crimes, but not in other statutory language. Contrast the crimes of criminal sexual penetration and criminal sexual contact with respect to the consent issue, §30-9-11(A) and §30-9-12(A).

Resources

Nonperiodical Literature


Newspapers

- Ayelish McGarvey, Dr. Hager's Family Values, THE NATION (May 30, 2005)

Articles

- Kathleen C. Basile, Rape by Acquiescence: The Ways in Which Women 'Give in' to Unwanted Sex With Their Husbands, VOL. 5 VIOLENCE AGAINST WOMEN 9 (September 1999)
Module II: Victims and Offenders

Acquiescence Out Of Fear

In an article titled "Rape by Acquiescence," researcher Kathleen C. Basile noted: "These relationships were not usually characterized by physical force, just enough verbal threats to create an environment defined by fear and filled with the tension of wondering what might happen if she did not give in" (Basile, Rape by Acquiescence, 1999 at 1049). One of the women in her sample describes the circumstances of her acquiescence:

"Oh, there was one point that he took out a gun, he had a little pistol, and uh, scared me half to death. I was shaking all over and he was looking for it and I had hidden it. He was looking through all my drawers and threw out everything from, you know, my bras and panties and things were all over the place, and he was looking for his gun. And so, after that episode, I just didn't dare, you know. I would just go through with it [sex], there was no way I was going to say no."

— Ellen, quoted in Basile, Rape by Acquiescence (1999) at 1049.

A striking number of decisions in intimate partner sexual abuse cases are not officially reported. In one such opinion, the court provided a detailed recitation of the facts of a marital rape case which concluded with an act of apparently consensual vaginal intercourse. About this act, the court wrote:

"Although this final act of sexual intercourse was not charged as a rape, Etta testified at trial that she did not consent to this act. Rather, she explained that 'I just wanted the whole thing to be over with. I knew that he wasn't going to kill me then, but I didn't want to be beaten either.'"


This "giving in" is acquiescence out of fear. It is not consent. "Consent induced by fear is no consent at all." (People v. Sanchez, 2004 Cal. App. Unpub. LEXIS 10890, citation omitted.) Forty per cent of Finkelhor and Yllo's sample of women were victims of "force-only rape." Thus, to categorize marital rape only as an extension of domestic violence excludes these women and their experiences. And it is essential to appreciate that these "force-only" rapes are just as psychologically devastating as those that involve battering.

Resources

Cases

- People v. Sanchez, CAL. APP. UNPUB. LEXIS 10890, CITATION OMITTED (2004)
- State v. Aldridge, NOT REPORTED IN S.W.2d, 1999 WL 632299 (TENN.CRIM. APP.) (1999)

Articles

- Kathleen C. Basile, Rape by Acquiescence: The Ways in Which Women 'Give in' to Unwanted Sex With Their Husbands, VOL. 5 VIOLENCE AGAINST WOMEN 9 (September 1999)
Module II: Victims and Offenders

Obsessive or Sadistic Rape

Other women experience extreme assaults involving torture and/or ‘perverse’ sexual acts that are often physically violent. (See, e.g., U.S. v. Marcus, No. 05-CR-457 (ARR), 2007 U.S. Dist. LEXIS 35969 (E.D.N.Y. May 17, 2007); People v. Luna, Not Reported in Cal. Rptr. 2d, 2003 WL 116425 (Cal. App. 2 Dist.); Sorlin v. Sorlin, Not Reported in A.2d, 2003 WL 21323583 (Conn. Super.)) These cases are often defended as "rough sex" (Hanna, Sex Is Not a Sport: Consent and Violence in Criminal Law (PDF 339KB), 2001).

Of the forty women in Professor Raquel Bergen's study, 37% reported that the sexual violence became increasingly injurious over the course of the relationship, as force-only rapes escalated to violent, battering rapes and in some cases to sadistic assaults (BERGEN, WIFE RAPE, 1996 at 17). Some women experienced force-only rapes alternating with battering rapes in which they were beaten before, during and after the sexual assault.

Resources

Cases


Articles

- Cheryl Hanna, Sex is not a Sport: Consent and Violence in Criminal Law, VOL. 42 BOSTON COLLEGE LAW REVIEW 239 (2001)

Nonperiodical Literature

Module II: Victims and Offenders

Separation Offending

Professor Walter DeKeseredy and colleagues explore the research showing that women are at particular risk of sexual assault when they try to leave an abusive relationship. Certain offenders are described as "patriarchal men with patriarchal peer groups."

"[M]any abusive patriarchal men have male friends with similar beliefs and values and these peers reinforce the notion that women's exiting is a threat to a man's masculinity…

[I]f a patriarchal man's peers see him as a failure with women because his partner wants to leave or has left him, he is likely to be ridiculed because he 'can't control his woman.' …[T]he sexual assault committed by men during or after the process of separation/divorce may have much more to do with their need to sustain their status among their peers than either a need to satisfy their sexual desires or a longing to regain a loving relationship."


Resources

Articles

Module II: Victims and Offenders

Continuum of Abuse

Continuum of Psychological, Physical and Sexual Abuse

While Finkelhor and Yllo divided marital rapists into discrete categories, recent research provides an increasingly nuanced understanding of intimate partner sexual abuse. This research reveals that psychological, physical and sexual abuse exist together on a continuum of escalating violence. Indeed, rape is at the extreme end of the physical force continuum.

In three "Continuum" charts in his book, PHYSICAL ABUSERS AND SEXUAL OFFENDERS, Scott Allen Johnson provides exceptional detail on the interconnectedness of these behaviors:

1. **Continuum of Force**: "Over time, the intensity of the violence will increase…..from verbal & psychological abuse to threats, to sexual and physical abuse, even murder."

2. **Continuum of Physical Abuse**: "Over time, the intensity of the violence will increase…..from minor physical & sexual abuse to serious, life-threatening, physical and sexual violence."

3. **Continuum of Sexual Abuse**: "Over time, the intensity of the violence will increase…..from minor sexual abuse, to serious, life-threatening sexual violence."

— SCOTT ALLEN JOHNSON, Continuum of Force, in PHYSICAL ABUSERS AND SEXUAL OFFENDERS (2007) (PDF 222KB)

Resources

**Nonperiodical Literature**

Module II: Victims and Offenders

What is Consensual?

When a Domestic Violence Victim Engages in Sexual Relations with the Abuser: What is Consensual?

It is critical for judges, court-related personnel and mental health professionals such as forensic psychologists who advise the courts to understand what constitutes consent to sex in a domestic violence context.

When a victim of domestic violence engages in sexual relations with the abuser, too often judges, court-related personnel and mental health professionals misconstrue this as “consensual sex,” inconsistent with a claim of domestic violence. In fact, the victim may be doing so in order to placate the abuser and prevent further violence. Failure to recognize the coercive dynamic that typifies intimate partner sexual abuse can have devastating consequences.

In April 2008, a father with a known history of severe mental instability and domestic violence drowned his three children during unsupervised visitation. The children’s mother, a pediatrician, had repeatedly implored the courts for a permanent order of protection and an order denying him access to the children, citing concerns for their safety. The father had threatened to kill the children to punish her for leaving him. One of the judges who denied her petitions pointed to the fact that the mother had sex with the father subsequent to some of the alleged abusive conduct. The court apparently misconstrued her actions as inconsistent with an assertion that the father posed a danger to his family (Linksey & Fuller, Father held without bail in 3 killings, BALTIMORE SUN (April 2, 2008)).

When a woman who is being threatened with the murder of her children acquiesces to her abuser’s sexual demands, it is neither consent nor a romantic moment of reconciliation. She is doing anything she can to calm a very dangerous man.

A court familiar with the dynamic of intimate partner sexual abuse would not view such sexual conduct as inconsistent with a claim of domestic violence. Understanding how to interpret the evidence before the court in cases like this can help prevent such tragic results.

Resources

Newspapers

- Annie Linskey, Nicole Fuller, Father held without bail in 3 killings, BALTIMORE SUN (April 2, 2008)
Module II: Victims and Offenders

Key Points: Victims and Offenders

- **Who are the Victims of Intimate Partner Sexual Abuse?**
  - There is no "victim profile"—women of every race, ethnicity, and socio-economic background may be victims of intimate partner sexual abuse.
  - Intimate partner sexual abuse occurs in both heterosexual and same-sex relationships.
  - Children are often direct or indirect victims of intimate partner sexual abuse. The impact on children must not be overlooked.

- **What is the Impact of Intimate Partner Sexual Abuse?**
  - Rape by an intimate partner is profoundly damaging because of the betrayal of trust.
  - Because the victim lives with the assailant, intimate partner sexual abuses are more likely to be completed and multiple assaults are common.
  - The perpetual threat to safety that comes from having to live with one's assailant undermines the woman's emotional and physical health.
  - Flashbacks, hypervigilance, difficulty eating and sleeping, nightmares, loss of trust, intense fear and suicidal thoughts are all common reactions among victims of intimate partner sexual abuse.
  - The greater the frequency and severity of intimate partner sexual abuse, the more acute are the symptoms of PTSD that victims experience. These symptoms can continue for years after the violence has ended.
  - Typically there are no visible physical injuries in any type of rape.
  - Where there is repeated intimate partner sexual abuse there may be a variety of long-lasting negative health consequences.

- **Who are the Offenders?**
  - There is no "offender profile"—perpetrators may be of any race, ethnicity, occupation or socioeconomic status.
  - Offenders may be highly-respected leaders in the community.
  - Offenders rarely identify their own behavior as sexual assault.
  - Offenders rationalize their abusive behavior with the belief that their wives are their property and sex-on-demand is a wife’s duty.
  - The three typologies of marital rape are
    - force-only rape
    - battering rape
    - obsessive or sadistic rape.
  - In "force-only" rape, the victim complies with sexual demands for fear of the violence if she does not. Acquiescence to secure personal safety is not consent.
  - Offenders are particularly likely to commit intimate partner sexual abuse when the victim tries to leave the abusive relationship.