NCCD Center for Girls and Young Women

Testimony of
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For the Hearing on
"Rape in the United States:
The Chronic Failure to Report and Investigate Rape Cases"

Before
SENATE COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIME AND DRUGS

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Mr. Chairman and distinguished members of the Committee, thank you for inviting the NCCD Center for Girls and Young Women to testify at this important and timely hearing on police response to victims of rape.

In 2006, the National Council on Crime and Delinquency (NCCD) headquartered in Oakland, California with divisions in Wisconsin and Florida, celebrated its 100 year history in promoting effective, humane, fair, and economically sound solutions to criminal justice problems. Located in Jacksonville, Florida, the NCCD Center for Girls and Young Women is guided by the courageous life experiences of girls caught up in the juvenile justice and child welfare systems. We are the passionate voice for activism to ensure equitable, human, and gender-appropriate responses to improve outcomes for girls and young women. Our work focuses on advocacy, systems reform, research, assessment services, staff training, evaluation and the development and implementation of innovative programming and services.

One Young Woman's Story

Gabbie was the daughter of a migrant family living in a remote area in Florida. At age 14, a man came through her bedroom window, threatened her, took her out of the house and raped her.

Left alone in the field, she found her way back home and told her mother. Immediately her mother reported the rape to the local police. The police officer asked Gabbie "What did you do to provoke this?" The trauma that Gabbie suffered and her feelings of shame were magnified by the treatment she received by the police officer.

The officer took a statement and although they kept the case open, little effort was made to find the assailant. Gabbie was not referred to the local sexual assault treatment services or to any counseling program for support. She was simply sent home with her mother.

She was terrified to sleep in her bedroom. For months she slept with her mother. She would not leave the house and was afraid to go to school. As a result of missing school, she was charged with truancy.

After a couple of months, her mother sent her back to her room to sleep. When everyone went to bed, Gabbie would get up and sleep in the hallway on the floor outside of her mother's bedroom. She simply refused to go to school or out of the house.

Several months passed and she was raped again. The man returned to her home and entered through her bedroom window. Again, he threatened her and took her out of the house and raped her in the nearby fields. Another police report was made and this time she was referred to a local day treatment and educational program for girls.

She shared that she could not go to school because "he knows what I look like" and "I don't know who he is." "He could be looking at me and I don't know what he even looks like."

Gabbie is the marginalized population – daughter of a poor, minority, migrant family. She was living in substandard housing and her family was making a living picking vegetables in the fields in southwest Florida. Gabbie was fortunate to have a mother who reached out on her own to get help for her daughter. The family stopped going to the police because when they reported the crimes, it was Gabbie who was treated as the criminal.

The staff shared that Gabbie was the classic case of post traumatic stress disorder. She was afraid of being alone—or going out into the community. She had panic attacks and was often depressed and hopeless. In the safe environment of the small all girls' school, Gabbie found a safe place to heal. The tragedy of Gabbie's story is two fold: the trauma that she endured – not once but twice – and the failure of law enforcement to protect her.

"He knows what I look like" and "I don't know who he is." "He could be looking at me and I don't know what he even looks like."

Who does rape affect?

Fact: Nearly 18% of women will experience a rape or attempted rape in their lifetime.[1] That's one in six women (who are wives, partners, daughters, granddaughters, nieces, sisters, friends). Rape is a violent crime that does not discriminate. Young girls and women are all vulnerable to rape regardless of socioeconomic status, race/ethnicity. Survivors of sexual assault—homeless or housed, poor or wealthy—live with shame and fear.[2]

Fact: More than half of rape victims are raped before their 18th birthday. Girls ages 16-19 are 4 times more likely than the general population to be victims of rape, attempted rape, or sexual assault.[3] Early victimization can make women more vulnerable to sexual re-victimization (twice as likely to report being raped as adults).[4]

Fact: In public schools across the country, there were over 4,000 incidents of rape or sexual assault in one year.[5] Young victims of violence experience obstacles to seeking help including distrust of adults, knowledge of resources, pressure from peers or parents.

Fact: One in six women in college report sexual assault on campus. Alcohol played a role According to the National College Health Assessment, 2% of female college students reported non consensual sexual penetration in the past 12 months.[6]

For college students, the trauma of assault can be compounded by a lack of support from their college. Many times there will be no disciplinary action taken against the assailant who is able to graduate. Many times, victims will drop out of school. One in three completed rapes take place on campus, either in the victim's dorm/residence, another's residence, or in a fraternity.

Fact: Intimate/Acquaintance/Stranger
Approximately 80% of rape and sexual assaults are committed by someone known to the victim. Approximately **19%** of rape victims are raped by their husbands or boyfriends, **29%** by an acquaintance, and **16%** by a relative.[7]

Fact: For every 100 rape cases reported to law enforcement, 33 are referred to prosecutors, 16 are charged and moved into the court system, and about 12 end up in successful conviction.[8]

Marginalized Groups

There is not enough research from the missing voices/experiences of highly marginalized and vulnerable victims including immigrants, rural area survivors, LGBTQ victims, survivors with disabilities, homeless, women living in prisons/institutions, and women in the military[9] to grasp the severity of disillusionment with the criminal justice system's response.

Rape of women in prison Approximately 200,000 women are incarcerated in the United States (in federal, state, local and immigration detention settings). Women make up about 10 percent of the total prison population. In 2004, Amnesty International reported a total of 2,298 allegations of staff sexual misconduct against both male and female inmates were made. Over half of these cases reported involved women as victims. This is especially troubling since women make up 10 percent of the prison population, yet comprise over 50% of the reported sexual misconduct cases. Studies suggest that the prevalence may be higher since many women did not report sexual misconduct and assault. It can vary from institution to institution, but in the worst prison facilities in the United States, one in four female inmates are sexually abused in prison.[11]

"I am 7 months pregnant [and] I got pregnant here during a sexual assault. I have been sexually assaulted here numerous times! The jailers here are the ones doing it!"

The power dynamics in prison, detention centers and youthful offender programs severely disadvantage the women and girls. They are often at the mercy of the guards and correctional staff. Staff have unlimited access to the living environment, including where they sleep and where they bathe. Likewise, access to outside support is generally limited and in some cases non-existent. This imbalance of power creates a climate for sexual assault and victimization. Sexual abuse in prison can range from forcible rape to the trading of sex for certain privileges. Some may argue that trading sex for privileges is consensual, but the power disparity makes the idea of "consent" implausible. In fact, all 50 states have laws that make any sexual contact between inmates and correctional officers illegal, "consensual" or not.

Prostitute rape is rarely reported, investigated, prosecuted or taken seriously. In one study of 130 prostitutes in San Francisco, 68% reported having been raped since entering prostitution, with the majority of them experiencing rape several times.[12] The majority of prostitutes report childhood histories of sexual abuse and experiencing long-term trauma.

Another marginalized group are ***homeless women*** who are more likely to experience violent sexual assaults. Forty-three percent of homeless women report sexual abuse in childhood and 63% reporting intimate partner violence in adulthood.[13] Thirteen percent of homeless women reported having been raped in *the past 12 months* and half of these were raped at least twice.[14] In addition to social alienation and isolation, homeless women face even greater barriers and access to resources including legal, mental health, and medical services.[15]

Impact of Rape on Her Life

The statistics do not tell the complete story. We know that sexual violence actually happens a lot more often than it is reported. Many survivors do not report the sexual violence for various reasons, including fear of future violence, fear of not being believed, social stigma and personal shame.

Rape is one of the most severe of all traumas, causing multiple short and long-term negative consequences and outcomes for women.[16] PTSD is the most common mental health problem[17] and the majority of women report fear and/or anxiety (73-82%).[18] Other common mental health problems include suicidal ideation, depression, emotional detachment, sleeping problems and substance use.[19] Moreover, women who experience rape are at an increased likelihood of repeated sexual victimization.[20] In addition to psychological problems, there are also physical manifestations of rape. In fact, women who have been raped, have poorer health outcomes.[21] Typical physical symptoms following rape may include abdominal pain, sleeping problems, sexual symptoms and problems, such as pain during intercourse, gastrointestinal symptoms, and urinary pain.[22] In sum, there are a host of both psychological and physical problems that plague female survivors of rape and while these problems subside over time, research shows that many have a long-lasting impact and may continue or resurface for years.[23]

Women and girls who are survivors of sexual violence while incarcerated endure serious psychological, physical, and spiritual trauma. If this trauma is not addressed, the survivor may develop long-term mental health issues, including post-traumatic stress disorder, depression, suicidal behaviors, and substance abuse issues. Research shows that rape is a shared crisis that negatively impacts not only women, but their loved ones: their partners, parents, friends and children.[25] The overwhelming majority of survivors of rape disclose to family and friends (59-91%)[26] as opposed to formal agencies (2-20%).[27] Given that women often talk to their loved ones about rape and that this disclosure creates significant stress on family and friends who may not be equipped to handle the trauma, the impact of rape has far-reaching implications.

> *"Getting raped destroys you from the inside out, and it takes a part of you and puts it where you can't reach it."*[24]
>
> Quote from a survivor of sexual violence while incarcerated

Research has documented that rape has a damaging effect on women's relationships with their partners.[28] For example, as a response to rape, women often reach out to their male partners for protection and to reaffirm their desirability.[29] It is common for male partners, though, to report that survivors experience difficulties surrounding sexual desire and functioning, which women may have a tendency to minimize.[30] While women often describe their male partners as supportive, the male partners themselves, typically do not see themselves as being supportive enough which stems from not knowing how to be helpful and from communication difficulties.[31]

Miscommunication and other communication problems occur with partners, parents and friends and can last for at least the first year after the rape.[32] Loved ones are often afraid to say the wrong thing or express their own feelings about the rape.[33] Regarding friendships, while there is the potential for relationships to improve after traumatic events, many woman and their friends report that rape disclosure was the source of negative changes in the friendship where friends avoid the survivor or even end the friendship.[34] In general, partners, parents and friends report feeling shocked, helpless, angry, and frustrated over not knowing how to help the survivor and fear for their continued safety.[35]

There is a significant impact on the relationships mothers form and maintain with their children following mothers' sexual assault during adulthood, which is not the case for mothers who have been sexually abused as children.[36] Given the psychological and physical impact of rape, a woman's capacity to provide nurturing, care and emotional closeness may be challenged after sexual assault. In fact, research shows that regardless of race, age (mother's and child's), socioeconomic status, mother's level of substance use, social functioning, PTSD symptoms, child behavioral problems, and other mother-child

and demographic factors, women who had been raped had poorer parent-child relationships as compared to women who had not been raped.[37] This demonstrates that the impact of rape not only affects survivors, but the next generation of their children.

We are here today because we want to improve the response to rape victims. Rape is the least likely crime to be reported. Research shows that only 1 in 5 adult women will report a rape to police.[38] That means 4 out of 5 women will not contact authorities.

Why?

The National Violence Against Women Survey (NVAWS) found the following reasons provided by rape victims for why they did not report to police: police would not believe me or would blame me (12%), police could not do anything (13%), and too ashamed or embarrassed (18%). In another study, victims stated that they worried about the risk of further harm and distress in making the decision to not report to police.[39] Further, we know that there are differences in "who" is more likely to report to police as well as differences in how they will experience the process. Minority women, victims of low socioeconomic status and those raped by someone they know are at high risk for experiencing difficulties and negative reactions.[40]

We also know that there are police attitudes at play. For example, beliefs such as prostitutes can't be raped , intimate partner violence (IPV) is not as serious as stranger rape,[41] contribute to perpetuating rape myths. Other examples include fitting the description of "real victim" (not under influence of alcohol raped by a stranger) to receive services.[42] Also, the police perception that a victim is less credible if there is no weapon involved, the assault is not quickly reported, or if the alleged perpetrator is an acquaintance[43] comes into play. Other research has found that having prior sexual relationship with the accused or a previous complaint of another rape charge that was not proven were seen as factors that raised investigators' doubts about victims' credibility.[44] This is troublesome given the research evidence that documents high incidences of repeat rape victimization for women who have experienced early sexual assault. It is also troublesome given the prevalence of studies that demonstrate as much as 80% of rapes are committed by someone known to the victim and that control tactics often do not involve weapons.[45]

> *"I am discouraged by the lack of response of law enforcement for the past 25 to 30 years. We encounter patrol officers and sex crime investigators throughout the state who continue to believe that if alcohol is involved or if it is an acquaintance rape - that the rape is not real. We have encountered this attitude for 30 years. There are notable exceptions where this is not the case and law enforcement officers are trained in how to be victim focused in their response".*
>
> *- Advocate*

The Impact of How Police Respond and Risks of Secondary Victimization

When women make a decision to go to the police to report the rape, the response by police is critical given that police officers have the discretion to initiate an investigation, make an arrest, etc. While assessing the "merits of a case," there are police practices which can exacerbate victims' trauma. In the context of police investigative practices, the following may occur:

Questions by Police: The range of questions may include: Victim's attire, use of alcohol or drugs, reason for being at certain location at time of rape, degree of resistance, prior sexual encounters with

alleged assailant, and whether she "led on" the alleged assailant.[46] Other questions such as, "did you go to his room?" and "were you alone with him in his room?" can make a victim who was raped by a man feel it was her fault. If this is not done in a sensitive way, the victims' experience is not validated or she may feel she used poor judgment, should have fought back, or actually deserved what happened to her.

Expectations to recount the events multiple times to multiple people: Aside from having to tell the story to different people (patrol officer, detective, prosecutor, etc), law enforcement may ask for the details over and over to check for consistency. This can be emotionally unsettling and cognitively challenging (especially when concentration and memory are affected by trauma).[47] Some research has found that police officers expect more consistency in a rape complainant's story than from victims of any other crime.[48]

Discouraged from proceeding with report or prosecution: Law enforcement may actively discourage victims from reporting, sometimes portraying the personal costs to pursue prosecution like repeated court trips, or cross-examination that can be humiliating.[49] Police may refuse or be reluctant to take the report. For example, a police officer may tell a victim of acquaintance rape that because she "was invited to go to his house", that it now becomes a case of "he said/she said," where they don't have a case. They may also tell a victim that the case is not serious enough to pursue. When police are concerned with the prosecuting outcome instead of validating the victim, this can feel like re-victimization.

Threatening: Police may threaten a victim about charges being brought against them if at some point doubt emerges about the accuracy of their reporting/ claims.

"The most egregious thing that continues to happen is that survivors are asked to sign a waiver of prosecution when it is an acquaintance rape, which means the case does not even go to the State Attorney for review. Police officers tell victims that an acquaintance rape is hard to prosecute and that there is not much of a case. This is inappropriate and is done when the survivor is going through the physical examinations and interviews. What it means is that they [police] do not know how to conduct the investigation." – Advocate

Mia's Story

A mother of two young children was raped by two men. She made the report to the police and the two assailants were arrested. She was at the police station and as the investigation continued well into the early morning, the young woman became distraught and was worried about her two children waking up and her not being at home. She expressed this concern and kept asking when she could go home to be with her children. "I need to go home." She was confused after the trauma and desperately wanting to be with her children. The police officer handling the case told her – "here is the deal – if you want to go home all you have to do is say "nothing happened". It was late, she wanted to be home with her children. She had been there for hours – and she said "fine, nothing happened." At that moment, they handcuffed her and arrested her for filing a false police report. She is now in jail. This is a woman who did not have an advocate with her to help navigate the process following her assault. Once this came to the attention of the sexual assault advocates, she was assigned an advocate who is securing the services of an attorney to represent her in court. The rape recovery team is working with a psychiatrist to secure pro bono services for serving as an expert witness to explain the confusion that happens as part of PSTD following this type of acute trauma.

Secondary victimization

The risks of negative reaction/disbelief by the police may have a secondary victimization effect. Re-victimization occurs when the police or others blame or stigmatize victims, causing additional trauma after the rape itself,[50] sometimes referred to as the "second rape."[51] This secondary victimization impacts her mental health. As a result of contact with legal system, 87% of survivors reported they felt bad about themselves, depressed (71%), violated (89%), distrustful of others (53%), and reluctant to seek further help (80%).[52] Most striking, it was victims of non-stranger rape whose cases were not prosecuted who experienced the highest PTSD.[53] Women should not feel "as if it is up to them to persuade the police of the genuineness of their allegation before an investigation proceeds." They should not feel that the police is "trying to catch them out, to see if they [are] lying." And women should not be expected to display "tears

and hysterical behavior" to conform to perceptions of what some might think a woman who has just been raped *should* appear.[54]

Reactions of police response by victims of sexual assault

In the National Violence Against Women Survey, the reactions/results of police response for the 141 women who reported their rape to police are expressed below:[55]

76% took report

43% detained perpetrator

33% referred case for prosecution (significant higher for intimate)

35% referred victim to victim services (significant higher for intimate)

32% gave victim advice (significant higher for intimate)

10% did nothing

Recommendations

The Center calls for critical examination of police culture and practice in order to improve the responses to victims and survivors of sexual violence and abuse and to prevent further trauma. Even when victims and police officers agree on what happened (offered services, interactions), there is a disconnection between how rape survivors feel after these experiences and how officers perceive their actions affect levels of distress.[56] Law enforcement agencies can expand their efforts to assist rape victims and be mindful of practices that exacerbate trauma. Police officers can improve current practices to make the reporting and prosecuting experience worthwhile. Further, current training and expectations, agency pressures on police officers to treat the victim as a witness to the crime in order to be able to "build a good case" can be contradicting and hurtful to victims of sexual assault. Improving the response to rape victims/survivors requires addressing some of the underlying social practices (e.g., rape myths) so that victims can trust and openly participate in a process that can begin JUSTICE and HEALING.

Given the chronic failure to report and investigate rape, we need to make changes and we can draw from lessons learned from other legislation regarding rape. In particular, The Prison Rape Elimination (PREA) Act of 2003, which was unanimously passed by Congress in 2003, can serve as a model for this work. PREA specifically applies to incarcerated persons in U.S. correctional institutions including federal prisons, state prisons, jails, private facilities, lock-ups, juvenile facilities, and immigration detention centers. The law not only addresses rape but also applies to multiple forms of sexual violence, including coercion by staff or other incarcerated people, which is critical, considering strict definitions of rape do not include many of the sexual violations people experience. While PREA addresses rape and sexual violence for incarcerated populations, many of the elements are applicable for all victims.

There are four key recommendations drawn from The National Prison Rape Elimination Commission (NPREC), the U.S. bipartisan panel established by the 2003 Prison Rape Elimination Act,[57] which can be applied to rape victims/survivors in general to help improve responses to rape, which are listed below.

1. **Developing national standards to detect, prevent, reduce, and address rape/sexual violence.**
    a. There should be guidelines for how to address the chronic failure of investigating and reporting rape. States and local jurisdictions should be able to look to national standards to guide their practices. Similarly, there should be consequences for police officers who unfairly detain and treat victims of sexual violence as criminals.

    b. There should be specialized prevention efforts and responses for women who are repeat victims of sexual victimization.

c. More research is needed on marginalized and often invisible women. Special efforts should be made to detect particularly at-risk populations such as minors, LBGTQ, immigrants, prostitutes, and homeless women.

2. **Collecting and disseminating information about the prevalence of sexual assaults and the impact of police practices.**
    a. National data collected regarding rape prevalence should be used for public education and prevention efforts.

    b. Information regarding the impact of police practices should be disseminated to the public.

3. **Disseminating information on effective models such as the Philadelphia Police Department where systemic changes have been instituted.**
    a. Research should evaluate models of police practices for effectiveness.

    b. Models found to be effective at responding to victims/survivors as well as providing needed evidence for rape cases should be used to exemplify best practices.

4. **Providing funding to help states implement the standards and to support government agencies and non-profit organizations research the issue and develop training and public education.**
    a. Police officers should explain/warn/prepare victims about the type of questions they need to ask and the reasons for them. Similarly, only questions that are relevant should be asked.

    b. Police should offer the support of a victim advocate.

    c. More research on understanding minority women's experiences with rape as well as other marginalized groups and implications for training and resources.

    d. Only police officers trained to investigate rape cases should take the report/do the questioning.

Of primary importance are efforts to train law enforcement regarding how to respond to victims/ survivors. This recommendation has numerous implications and the potential to create better results:

- Training regarding how to 1) respond more empathically to psychologically distressed rape victims, 2) acknowledge vulnerability and diminished competency of women who were under the influence or drugged---rather than attribute blame, and 3) providing detectives with skills to both support victims and produce stronger statements.
    - Potential result: Police empathy was positively correlated with victims' ratings of likelihood of taking the case to court, and negatively correlated with PTSD severity and shame.[58]
- Holding perpetrators accountable to reduce likelihood of re-offense/re-victimization of same victims or new victims.
    - Potential result: reduce the number of rapes in our country.

We must make changes in how police respond to rape victims/survivors. We need to develop the necessary tools such as national standards, best practices and effective models in order to train law enforcement. We believe that training police in how to better respond to rape victims/survivors is one of the most important steps we can take in this effort. Police officers hold tremendous power and discretion and their attitudes, beliefs and practices can either support or re-victimize rape victims/survivors. Funding must be put toward these efforts if positive changes which impact every segment of our society, women victims/survivors, their families, partners and children are to occur.

Endnotes

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