

## Chapter 8: Rape

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Rape is the ordinary product of ordinary (male, heterosexual) behaviour. That helps explain the emotiveness of the issue. It touches upon all our experiences both male and female. It is its ordinariness which renders it so difficult to grasp and embrace. It challenges us all to examine ourselves and our relationships very carefully. In so doing, it can make us all uncomfortable. And it should (Walklate, 1995, p. 85) (I gratefully acknowledge Jan Jordan for bringing this quotation to my attention, see Jordan 2004).

Walklate's observations about the ordinariness of rape are apt. This ordinariness stands in stark contrast to rape's often profoundly injurious effects on its victims and the myriad wider societal costs. New Zealand has made significant progress in drawing public attention to the effects of child sexual abuse and family violence. Yet rape seems to attract less attention, both from public health and criminal justice perspectives. Perhaps its neglect is because rape is so ordinary. Although probably second only to murder in its seriousness, no great skill is required to commit a rape, and legal proof that rape has been committed often can only be established by pitting one person's word against another. And there is far more confusion and ambiguity in all of our minds about what rape is and isn't than for comparable serious offences such as aggravated robbery and murder. Most of us probably grew up believing that rape was an extraordinary offence, rare, dramatic and often—at least in conversations that I have had with others on this topic—involving a dubious-looking male stranger who drags an unwitting woman into some form of foliage. Whether deliberately or unwittingly, offenders often exploit erroneous beliefs about what rape is, and about the nature of consenting adult sexual relationships, by targeting victims and contexts for offending that can cause doubt in friends, family, police, judges, therapists and others about whether a rape has occurred.

### **So What Is Rape?**

Although rapes can certainly be perpetrated against children, in this chapter, I use the term rape to refer primarily to serious and penetrative sexual assaults directed at adults: women or men. However, as we shall see, the vast majority of what is known about rape casts men as perpetrators and women as their victims.

Until 1985, the Crimes Act 1961 defined rape as sexual intercourse between a male and a female adult or child, where she did not consent, consented under threat of violence or death, or because the perpetrator impersonated her husband. Since then significant legislative reforms of the relevant sections of that Act have been undertaken. In 1985 the term rape was replaced with a more inclusive term—sexual violation—that covers all forms of penetration of the vagina or anus with any part of the body of the offender, or with objects, and any contact between the offender’s mouth or tongue and any part of the genitalia of the victim. The offence requires that such contact “occur without the victim’s consent . . . or without [the offender] believing on reasonable grounds that the other person consents to that sexual connection” [s. 128 Crimes Amendment Act no. 3, 1985]. So, among other things, it became possible in 1985 for a man to commit rape against his wife, although not all men know this nearly 20 years later.

### How Prevalent Is Rape?

As with all illegal behaviour, the exact prevalence of rape cannot be established. At best, we can consider a variety of sources of information, evaluate their strengths and weaknesses and put forward a “best estimate”. The most accurate estimates of how many people are victims of rape are obtained from general population surveys that ask specifically about the behaviours that comprise a rape, rather than simply whether a rape has occurred. Many people—both victims and perpetrators—will report acts that meet the legal definition of rape but do not label these experiences as rape and will not report them. In other words, distorted views about what rape is are so pervasive in the community that they can lead to serious underreporting if not handled carefully (Koss, 1992; Koss, Gidycz, & Wisniewski, 1987). Mary Koss is a US expert on rape who has estimated that approximately 20% of American women will be raped at some point in their lives, and that perhaps a third will be the victim of a rape attempt (Koss, 1993). Less is known from these sources about how many men perpetrate rapes. Some studies have used written surveys to ask young men in universities whether they have committed certain acts, including those that meet the legal definition of rape. Approximately 6-7% of these men admit attempting or completing rapes (Gavey, 1991, is a New Zealand example).

### Rapists: Who Are They?

The same difficulties that make victimisation estimates informed guesswork also cause uncertainty about describing rapists accurately. How do we know

that we are basing research on a representative cross-section of rapists? Research on rapist characteristics comes from two main sources: studies of convicted offenders, and psychology research on university students.

For a man to be convicted of rape, the offence must have been reported to the police, and gone forward for prosecution. The man must then be committed to trial, and found guilty. The odds are very much against this happening: at every step many complaints fail to go forward. A study in New South Wales estimated that perhaps 4% of rapes result in the conviction of the offender (Carrington, 1996).

If an offender is convicted, then sentencing for rape in New Zealand is almost invariably imprisonment (Spier, 2002) and the starting point at present—before consideration of mitigating and aggravating factors—is 8 years, second in length only to murder (Spier). In 1993 the maximum sentence for sexual violation was increased to 20 years imprisonment, regardless of the form of violation. However as the 2001 Taradale case of the “broomstick boys” shows, some serious forms of sexual violation are still attracting sentences that belie their serious nature. The central offender in that case received a sentence of 2.5 years imprisonment for the anal violation of a sleeping schoolmate with a broomstick coated in a mentholated ointment. The Court of Appeal evidently viewed this sentence as strongly deterrent (Sentence right, 2003).

Given that the odds *against* being caught and convicted are so high, studies of convicted—and usually imprisoned—offenders may be biased. The psychosocial characteristics of convicted rapists lend some support to this concern because of their similarity to other prisoners. In Western nations like our own, they are likely to be relatively young, underemployed, poorly educated, non-European, and equivalent in social competence their socio-economic peers. Their developmental histories are often similar to other serious offenders: characterised by caregiver inconsistency, a history of institutional care, abuse and neglect, and poor school performance. Family-based experience of sexual abuse is more prevalent than in non-sexual offenders, but may be less common than physical abuse, and less common than for child molesters (Tingle, Barnard, Robbins, Newman, & Hutchinson, 1986).

In the university student studies, the findings focus on a small percentage of men in the sample who either (a) report rape commission in the course of the study—these reports are usually anonymous, and these men are unlikely to have come to the attention of the criminal justice system—or (b) report that they believe they are at risk of, or would be interested in committing a rape if they knew that they would not be caught. These studies usually raise concerns about whether university students represent adequately the wider population, and with the “at risk” men, whether they are identical to men who *actually* commit rapes.

Those caveats aside, there is one thing we can be certain of from research using both of these sources: rapists, and the acts they commit, are highly heterogeneous. Drawing on research from both sources, the remainder of this section reviews briefly relevant findings on mental disorders, psychopathy, sexual arousal and other psychological characteristics of rapists.

### Mental Disorders

Although rapists may develop any of the psychiatric illnesses that afflict other human beings just two diagnostic categories currently listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV; American Psychiatric Association, 1994) are directly relevant to rape. Neither makes a significant contribution to a better understanding of rapists or their management. First, many rapists will meet the diagnostic criteria for *Antisocial Personality Disorder* (APD). These criteria are primarily behavioural, requiring as they do that an individual have a history of rule violation and disordered conduct beginning in childhood and persisting to the present. Hence APD is very common among career criminals (Stevens, 1993) but is not specifically predictive of rape in men with no previous history of sexual offending. A related category—psychopathy—not currently in the DSM is of more value for management purposes and is discussed separately below.

*Paraphilia* is the other diagnostic category relevant to sex offenders. The development of the DSM has been influenced as much by political lobbying as by science (Kutchins & Kirk, 1997). Some US states (e.g., California) detain sex offenders in mental hospitals under civil commitment legislation after their criminal sentences have expired. To do so requires a diagnosis of a mental disorder in the offenders that hospitals can be seen to “treat”. Rapists caught in such legislation are often diagnosed as suffering from *Paraphilia not otherwise specified* in order to justify their continued detainment (Vess & Polaschek, 2004). The most substantial element on which this diagnosis is evoked is the man’s rape conviction. There is no evidence that meeting or not meeting the criteria for paraphilia has any implications for rehabilitation, management or risk (Polaschek, 2003a).

### Psychopathy

Psychopathy refers to a cluster of personality characteristics and behavioural habits that—when they occur together—have important implications for assessment and management. Psychopathy is most commonly measured nowadays using one of Professor Robert Hare’s psychometrically sophisticated

rating scales: usually the Psychopathy Checklist-Revised (PCL-R; Hare, 1991; 2003). Professionally responsible and accurate use of these rating instruments requires highly specialised training. High scores (usually above 25 or 30 out of a maximum of 40) predict a number of negative outcomes including increased risk of sexual, violent and general recidivism (Hanson & Morton-Bourgon, 2004; Hare, 2003). Individuals who score high on the PCL-R will tend to come across as superficially glib, grandiose, easily bored, manipulative and callously indifferent to the impact of their antisocial behaviour on others. They also are characterised by a long history of unstable, parasitic, impulsive and antisocial conduct. Psychopathy is more prevalent in rapists than in child sex offenders (Polaschek & King, 2002).

## Sexual Arousal Patterns and Sexual Preferences for Rape

The plethysmograph is a mercury filled rubber ring that when fitted around a penis and attached to a computer can detect and record small changes in tumescence. Such a device can be used to examine relatively low levels of sexual arousal to different types of sexual material. Typically, during a plethysmographic assessment, an offender is seated in a private room where he attends to a series of sexual images, or audiotaped or videotaped vignettes. Men who show more pronounced arousal to non-consenting or violent sexual material compared to consenting sexual intercourse may be said to show evidence of *deviant sexual arousal patterns*.

Extensive research used penile plethysmography during the 1970s and 1980s to investigate the kind of sexual stimuli that most aroused rapists. The aim was to establish whether sex offending was caused simply by a preference for sexually offensive activity. Although some studies suggested that this tool would enable reliable, scientific assessment of whether such preferences existed, more recently plethysmography has fallen out of favour for myriad reasons including that: (a) it is much easier to fake plethysmographic responses than was first thought, (b) often studies have found no plethysmographic differences between rapists and non-offender controls, (c) non-offenders can quite easily demonstrate arousal to rape in certain states such as when angry with women (Yates, Barbaree, & Marshall, 1984), or when they believe they have consumed alcohol (Bridgell et al., 1978), (d) there are numerous problems with standardising the stimuli used, (e) there are mounting concerns about the ethics of making tapes or slides of “real people” for use in such assessments, (f) offenders often dislike the procedure, (g) sexual preference testing is based on a simplistic, single-factor view of the causes of rape that has proved to be woefully inadequate (Ward, Polaschek, & Beech, in press), (h) deviant sexual arousal appears not to

predict recidivism in rapists (Hanson & Morton-Bourgon, 2004) and (i) sexual arousal to ordinary, non-violent sexual cues may be just as important in driving the offences for some—perhaps many—offenders. I return to this last point when looking at the goals of rape.

## Offence Specialisation and Conviction Histories

Sex offenders are often thought of as prolific, specialist offenders, a belief that is difficult to dispel when we cannot easily obtain accurate information about rapists' *actual* offending behaviour. However, as with most other kinds of human behaviour, it is likely that rapists vary widely in how often they offend, from the highly repetitive through to “one-off” offenders, and research tends to support this view (Hanson & Morton-Bourgon, 2004). Thorough risk assessment—as outlined in the first section of this book—helps practitioners establish where a particular offender sits on that continuum and what the most appropriate professional response is.

Studies of rapists' official sexual reconvictions (i.e., sexual recidivism) suggest that between 10 and 42% will be convicted of another rape over varying follow-up periods. Convicted rapists' non-sexual violent recidivism rates are often as high or higher than their sexual recidivism, and general reconviction rates are higher still (Polaschek & King, 2002). Another way of viewing this issue is to say that convicted rapists are rarely specialists: they are far more likely to be reconvicted for another type of offence than they are for a rape and these other offences may also be serious. Although some rapists also have convictions for sexual offences against children, most do not have other types of sexual convictions (e.g., exhibitionism, peeping and peering).

## Other Psychological Characteristics

A raft of other psychological characteristics may contribute to rape, (e.g., anger towards women, rape myths). Most have been measured by having offenders or students complete paper-and-pencil questionnaires with items with meanings so obvious that if a respondent wants to *fake good* (i.e., appear more “wholesome” or “normal” than he is) he can easily identify the appropriate responses. The transparency of such items is usually the explanation given in a number of studies that have found that convicted offenders produce scores on these scales that are the same or “better” than non-offenders.

The substantial body of research on self-report questionnaires using US college students provides the most interesting information about the psychological characteristics of rapists. Such research is often anonymous

whereas research on incarcerated offenders often is not. In these university studies, rape risk has been found to be related to endorsement of traditional sex roles and adversarial attitudes to women (e.g., Koss, Leonard, Beezley, & Oros, 1985; Muehlenhard & Falcon, 1990), rape myths, and acceptance of the use of violence towards women (e.g., Burt, 1980; Malamuth, 1986; Muehlenhard & Linton, 1987). Other factors associated with greater use of sexual coercion include earlier age of first sexual experience (Berkowitz, 1992), greater number of sexual experiences and less satisfaction with these experiences than non coercive males (Craig, 1990). In other words, rather than rapists being men who are driven to offend because of a lack of legitimate sexual access as was once thought, this research suggests that rapists are men who are sexually promiscuous and find sex doesn't live up to their expectations. They also have a more "macho" personality style than other men (Mosher & Anderson, 1986), meaning that they obtain higher scores on a scale that measures whether men believe that sex should be about establishing dominance over women, that violence is the proper way to prove that one is dominant over other men, and that taking risks with one's life is exciting.

The most extensive research programme with unadjudicated offenders is Malamuth and colleagues' series of studies that describe their confluence model of sexual aggression (e.g., Malamuth, 1996; Malamuth, Heavey, & Linz, 1993). They identified and tracked a small group of male college student rapists for ten years into adulthood and then examined a variety of behaviours towards current women partners. Their data suggest that sexual aggression is only really likely to occur when four or more risk factors converge, that these factors are specific to the behaviour of these men toward women (i.e., they did not predict aggression towards men) but are not specific to sexual aggression. They may also predict relationship conflict, and the tendency to control and dominate one's partner in conversation.

In developing the model, Malamuth and colleagues primarily used six predictor variables (i.e., risk factors); sexual arousal to rape (plethysmography), dominance as a motive for sex, hostility towards women, attitudes facilitating aggression against women, antisocial personality characteristics, and sexual experience as a measure of opportunity to aggress (Malamuth et al., 1993).

Malamuth, Sockloskie, Koss, and Tanaka (1991) used scores on these 6 variables to test two pathways that interact to increase the likelihood of sexual aggression; *hostile masculinity* and *sexual promiscuity*. The first pathway reflects the influence of early hostile home environments on the development of various attitudes and personality characteristics which make coercive behaviour more likely (Patterson, DeBaryshe, & Ramsey, 1989), such as a controlling adversarial orientation toward women, where

aggressive courtship and sexual conquest are valued achievements (Gilmore, 1990). The second path, sexual promiscuity, reflects the overuse of sexuality as a source of self-validation and potentially leads not only to increased opportunity to use coercive tactics in the pursuit of sexual conquest, but also heightens the likelihood that they will be used. So Malamuth and colleagues have found that two pathways—one to do with sexual development, and the other relating to fundamental views about others, especially women—interact to predict who will rape.

### Typologies of Rape: Rapists' Goals and Motives

People often wonder “is rape a sexual or a violent crime? Is it really about power?” and other imponderables. Feminist analyses of rape have been particularly valuable in drawing attention to the role of socio-cultural influences on rape and away from viewing it as a product of sexual aberrance in individual men. However, such analyses have led to confusion about the goals of rape. At the individual offender level of analysis, rape serves many purposes as the following section will demonstrate. Understanding whether rape is a sexual or violent crime will depend on the frame of reference. So, a woman who has just been raped may describe it as very violent, report having feared for her life and so on. The person who committed this crime may see it as low-violence in that he only hit the person once, and never intended to carry through his initial threat to kill her.

Offenders' goals and motives can help to sort offences into distinct types. One such typology was developed by Knight and Prentky (1990) based on 4 types of offence motivation: opportunistic, pervasively angry, sexual (sadistic and non-sadistic), and vindictive. *Opportunistic* offenders are the most common in criminal populations; these men have diversely antisocial interests. They therefore commit rapes because an attractive opportunity to have sex presents itself (e.g., a man breaks into a house in the daytime and finds an attractive young woman asleep in a bed, or a man at a party in his flat goes to get into his bed and finds a drunk woman has passed out on it). Driven by global anger, *pervasively angry* offenders carry out a range of violent offences including rapes of women. During the rape they use much more violence than is necessary to gain the victim's “co-operation”, and may seriously injure her. The third motivational type is *sexual*. These offenders rape after prolonged and elaborate fantasising, are sexually preoccupied and experience their sexual interest as a strong and uncontrollable urge. Their offences are planned and may have a compulsive, repetitive quality. There are two subtypes of sexually motivated rapes: *sadistic* or *non-sadistic*. Offenders minimise the use of physical violence in non-sadistic offences. In sadistic



offences, sexual and aggressive drives are said to have fused together so that the offender is sexually aroused by fantasies of physically harming victims, but the actual degree of violence still may vary widely. The fourth and final motivational type—*vindictive* offenders—are misogynistic: they exclusively blame and punish women in their anger. Offence behaviours are physically injurious, and degrade and humiliate the victim (Knight & Prentky, 1990).

This distinction between offences motivated by sexual gratification, those with more harm-oriented goals and those that somehow combine both, is at the heart of understanding rapists' offence goals and has also been found in New Zealand research. Polaschek, Hudson, Ward, and Siegert (2001) analysed rapists' descriptions of their offences and found that they had one of three goals prior to committing their rapes:

(a) *Obtaining sexual gratification to extend an already positive mood.* These men committed low-violence offences and chose situations that were—at least in their own minds—ambiguous with respect to victim consent (e.g., she was asleep at the start of the rape, she had invited the offender to her house, she had previously agreed to sex with the offender); These men invariably picked women acquaintances as victims, denied that their interaction with the victim was non-consenting, and blamed her for their “wrongful conviction”;

(b) *Obtaining sexual gratification to escape feeling stressed or depressed.* These men were the least common, admitted that their behaviour was rape, had a history of using sex as their dominant mood-management strategy, and felt desperate and driven at the time of the offence. Their victims were more likely to be strangers and they were often distressed afterwards at their behaviour; and

(c) *Redressing a grievance with a woman.* In the original research, this goal was referred to as harm redress. These grievance-based offences usually arose after the offender sought to confront a woman about some perceived affront or psychological injury she had caused him (e.g., by leaving him, denying him custody of his children, insulting him in public). The interactions that turned into these offences sometimes began unremarkably, with the offender attempting to discuss the issue with the woman. In other cases the offender began a non-sexual assault early in the interaction. For all of these offences, the dominant affect was anger. The decision to commit a rape—often primarily for punishment and humiliation purposes—occurred *after* the interaction began. Few of these men experienced their offending as sexually gratifying, but they often found it satisfying from a retributive perspective. The victim was often someone with whom they had a recent or previous important relationship, though one or two offenders had generalised the responsibility for their misfortunes to all women.

This work supports Malamuth's research on the importance of both a hostile, adversarial orientation to women [Goals (a) and (c) above], and a preference for frequent, non-affectionate or impersonal sexual liaisons in rape [Goal (a)].

### Sexual Sadism

The issue of sexual sadism deserves special mention because it attracts disproportionate interest and confusion. Much has been made of sadistic rapes, particularly in popular media. The psychological literature claims a clear distinction between violent rapes committed by highly angry offenders, and sadistic rapes. However, Polaschek, Ward, and Gannon (in press) found that closer examination makes the distinction very blurry indeed. First, there is confusion about exactly what sadists are aroused by. Is it violence? Or victim humiliation? Psychological suffering? Or physical suffering? Or overt injury? An offender who experiences profound sexual enjoyment in calmly engaging in physical torture of an unknown victim may be easily identified as a sadist, but will be *extremely* rare. However, angry men frequently report gaining enjoyment and satisfaction from physically hurting, and humiliating a woman because—for example—she has had the “presumptuousness” to end their relationship. Is this sadism? Some writers suggest that sadistic rapists are men who use more violence than is needed to overcome victim resistance, and are capable of sexual arousal while angry. If so, then sadistic rape is common. Psychological research needs to clarify the relationship between sexually sadistic and vindictive or punitively motivated offences in order to establish whether sadism is a useful term in relation to rape (Polaschek et al. in press).

### Assessment Issues

When psychologists assess a rapist they gather a full range of information and use a variety of methods. The aim of the assessment is to get a good enough understanding of the offender to develop a *formulation*, which is an individualised etiological theory of how that offender came to commit the offence in question. The main methods of assessment include interviewing the offender, having him complete self-report questionnaires, reviewing file information, and—if possible—interviewing others who know him (e.g., family members, institutional staff). The main areas of assessment concern both the offender's developmental history and current issues. Developmental histories cover such things as early upbringing, schooling and social

development. Areas of adult functioning to assess include employment, relationships, alcohol and drug history, and a detailed understanding of the cognitive, behavioural and emotional factors contributing to the current offence. Cultural identity and the place of cultural values may also be important in understanding a particular offender and his behaviour. However, little New Zealand research directly addresses this issue. Formal ethnicity labels (e.g., Maori, Indian) provide little useful information about the role of culture in an individual's offending. More helpful is a more comprehensive assessment of cultural identity as part of developmental history and current lifestyle assessments. Detailed coverage of assessment is outside of the scope of this chapter (see Ward, McCormack, Hudson, & Polaschek, 1997). However, rapists' heterogeneity makes accurate intervention targeting complex, so individual formulation built on a thorough assessment is the best practice to ensure that a particular rapist is managed as safely and effectively as possible.

## **Intervention Issues**

Intervention for sexual offenders is highly developed compared to those for other forms of serious offending, but programme development has been heavily influenced by the characteristics and needs of men who sexually abuse children, raising concern about how well these interventions fit the needs of some rapists (Polaschek & King, 2002). Group approaches to treatment are currently preferred, especially with rapists, who are often more aversive and interpersonally difficult to deal with one-to-one than other sex offenders. Cognitive-behavioural interventions appear to be the most effective with child molesters. As yet it is not entirely clear what works with rapists (see below).

Core components of sex offender interventions usually include developing an understanding of each offender's own offence process (i.e., how he can know that his risk of offending is building up, what his particular offence-related deficits are), challenging offence-supportive attitudes and cognitive distortions (e.g., that victims or others are at all responsible for his offences, that he cannot control himself, that it is acceptable to punish others for not meeting his needs), increasing victim empathy, improving social competence and sexual knowledge, and relapse prevention (safety) planning (Marshall, Anderson, & Fernandez, 1999). These modules are thought to target needs common to all sex offenders. Other interventions such as relationship therapy, anger management, correcting deviant sexual interests, substance abuse treatment, and life management skills may only be needed by some offenders, and may be provided on an individual basis.

The international intervention literature has little to say about the role of cultural identity. At the very least it is a responsivity factor: programmes that appear to offenders to be designed for men from other cultures may be both emotionally and spiritually alienating, and difficult to understand. Although its efforts are still relatively embryonic, New Zealand Corrections nevertheless leads the way in incorporating cultural identity issues into intervention design for Maori child sex offenders (Nathan, Wilson, & Hillman, 2004; Rutherford & Grace, 2004). A similar initiative will be needed with rapists.

Although there are often more rapists in New Zealand prisons than men who have sexually abused children (Skelton & Riley, 2004), no specialist treatment programmes are available. Elsewhere in the Western world rapists and child molesters are usually treated together in group programmes. However rapists are specifically excluded from New Zealand's highly effective correctional treatment units for sex offending: Te Piriti and Kia Marama, and few rapists find their way into group community treatments for sex offenders such as the STOP programmes (personal communication with Hamish Dixon, February 2004). By inference then, New Zealand rapists are largely escaping intensive intervention for their offending. Is this a bad thing?

On the face of it, it seems surprising that the Department of Corrections has no intensive group intervention for rapists, in an era when it has developed a number of specialist interventions for other types of offending (e.g., disqualified driving, violence). Carefully conducted evaluations of New Zealand's correctional programmes for child molesters: Kia Marama (Bakker, Hudson, Wales, & Riley, 1998) and Te Piriti (Nathan et al., 2003) suggest that these programmes are effective in reducing recidivism risk. So why are many rapists being released from prison without intensive intervention relating to their sexual offending? (The Department's Psychological Service does provide rape intervention to some inmates on a one-to-one basis). One reason may be because there is an international dearth of scientific research providing clear direction on what is effective with rapists.

One of the most convincing sources of information on rehabilitation programme effectiveness comes from *meta-analysis*, a statistical technique in which a potentially large pool of individual programme evaluation studies, all with slightly different methodologies, can be examined using a common metric: the effect size statistic. Recent meta-analyses of sex offender treatment (Gallagher, Wilson, Hirschfield, Coggeshall, & MacKenzie, 1999; Hanson et al., 2002) do not report outcome separately for rapists. Alexander (1999) is an exception, but her sample contained just 631 rapists in an overall pool of almost 11000. She reported a 4% reduction in sexual recidivism for treated over untreated rapists. In California's state-of-the-art SOTEP evaluation, at

3-year follow-up treated volunteer rapists—there were just 22 of them—had an 11% sexual reconviction rate. Men who refused to take part in treatment had a 10% rate. With few studies, small samples and small differences in recidivism rates, it is difficult to argue that the rehabilitation of rapists is effective in reducing their sexual reconviction risk.

What of their risk of *violent* reconviction? Untreated, rapists' non-sexual violent recidivism is often higher than their sexual recidivism<sup>1</sup>. For those few programmes that have examined it, post-programme violent recidivism does not appear to be reduced by current rapist treatment. In the California SOTEP programme, in which rapists who volunteered for treatment were randomly allocated to treatment or no treatment (“untreated volunteers”) treatment for sexual offending appears if anything to have increased the risk of violent recidivism (see Table 1).

### ***Sotep Programme Rapists' Sexual and Violent Recidivism Rates: 3-year Follow-up***

	Sexual recidivism <sup>a</sup>	Violent recidivism <sup>b</sup>
Treated volunteers	11%	29%
Untreated volunteers	18%	23%
Untreated non-volunteers	10%	18%

<sup>a</sup>Marques, Day, Nelson, and West (1994)

<sup>b</sup>Marques (1999)

What should we make of these rates of violent reconviction? Consistent with earlier points about the criminal diversity of rapists, their criminogenic needs (i.e., risk factors that are targeted in treatment in order to effect changes in recidivism) may be broader than current programmes recognise. Programmes should pilot the targeting of violent offending (if rapists have such a history) and its associated criminogenic needs. In doing so, the programme may end up being more effective with sexual recidivism, because such behaviour may be partially caused by the same factors. In other words, one reason why treatment of rapists may be currently ineffective or only weakly effective is that we have taken too narrow a view of *what* to treat.

## **Managing Rapists**

The material covered in this chapter is intended to suggest that rapists are diverse and challenging, and that the job of assessing them and managing their risk is best done by people with professional training and expertise with

rapists. Rapists convicted in New Zealand almost invariably go to prison, but most are eventually released back to the community, often still at significant risk of serious offending. If such men are released with safety plans already developed, then management of their risk can focus on implementing those plans. As a general rule, it is highly desirable to establish relationships with offenders' significant others in order to verify safety-related behaviour. Promising offenders unlimited confidentiality is certainly unwise. Supervising professionals should establish with rapists early on their rules about what they will and won't do to verify offenders' accounts of their safety-related behaviour, and about when they will disclose to relevant others problems with offenders' behaviour.

Ideally, because of the diversity and complexity of their backgrounds, risk factors and offending histories, the first step in managing a rapist will be a comprehensive formulation of that offender, followed by referral to the most appropriate available programme. Depending on the circumstances of the offender and the area, that may be a local sex offender programme (e.g., STOP, SAFE) or even a relationship violence programme or alcohol and drug treatment facility. However, no appropriate programme may be available, and often rapists are not motivated to comply with referral and programme requirements anyway.

Some rapists deny that they had anything to do with the victim. There are few options for managing effectively the ongoing safety of such men if they will take no active part in doing so themselves. More commonly, offenders deny that the sexual interaction they had with the victim was non-consenting. In this situation the best course of action may be to concentrate on establishing with the offender a plan for avoiding *accusations* of rape, focusing on the actions he carried out that put him in a position to be accused of rape. This approach has been piloted recently with a range of denying sexual offenders previously considered untreatable because programme entry required some admission of culpability (Marshall, Thornton, Marshall, Fernandez, & Mann, 2001).

Hanson and Morton-Bourgon (2004) established that one of the most important factors in predicting sexual recidivism in rapists was a general antisocial orientation to life (e.g., antisocial attitudes, hanging out with criminal peers, involvement in minor infractions) so these behaviours should also be monitored. Non-compliance with community supervision requirements, violating conditions of parole and interpersonal conflict with intimate relationship partners may also be important signs of increased risk of recidivism. Interestingly a number of intuitively appealing factors were *not* predictive of further rapes, including: denying or minimising the offence, lack of treatment motivation, poor progress in treatment, an adverse childhood environment, and low self esteem (Hanson & Morton-Bourgon 2004).

When offenders have not been in a rehabilitation programme, the supervisor's task may be to develop a safety plan from scratch: a challenging enterprise. Because it is impossible to absolutely prevent an offender from putting himself into risky situations if he wants to, the most practically helpful plans rely on a collaborative relationship between the offender and the supervisor, and on the offender accepting that (a) he is responsible for and capable of preventing his own offending, and (b) the identified risks really are risks for *him*, and (c) that others around him should be recruited into the process of risk management. More detail on safety planning is contained in the earlier chapter on child sexual offending.

## Conclusions

Rapists are often difficult and challenging offenders to work with. They have histories and characteristics similar to other chronically antisocial men, but as well, their offending is fuelled by hostile, adversarial attitudes to women and a preference for frequent brief sexual encounters in which they focus on their own sexual gratification at the expense of an emotionally meaningful interaction with their sexual partner. Convicted rapists often have a history of non-sexual violent offending too, and are more likely to be psychopaths than child molesters. As a group they are often unmotivated to participate in treatment, may see "getting help" as weak and unnecessary (Marshall, 1993), and quite a number deny that they raped the people identified as their victims. It isn't yet clear how best to treat rapists' risk of sexual recidivism and very few programmes in New Zealand currently admit rapists for specialist offence-focused intervention. Today, the most effective management of rapists comprises specialist assessment of each offender's management needs, referral to appropriate programmes where they are available, and collaborative safety planning.

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### (Endnotes)

1 An important methodological complication is that in research conducted in some North American jurisdictions, sexual assaults may be recorded simply as (non-sexual) assaults as a result of plea bargaining. In this case researchers often examine violent recidivism in order to provide a more inclusive estimate of sexual recidivism, not as an estimate of non-sexual recidivism.