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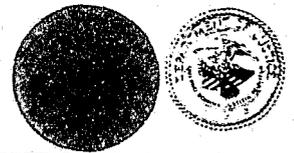
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# International Summaries

A Series of Selected Translations in Law Enforcement and Criminal Justice

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From West Germany

## Mistrust of Rape Victims: Experiences With the Police and Criminal Justice System

*Care and protection of rape victims during criminal proceedings is insufficient—there are few suitable victim support mechanisms*

By Hans Fehrmann, Klaus Jakobs,  
Rolf Junker, and Claus Warnke  
Michael C. Baumann, editor

### Introduction

The following four studies by police officers in the College of Public Administration in Bremen, West Germany, examine different aspects of police mistrust of sexually assaulted women. In 1984, the combined studies were awarded the annual prize for outstanding unpublished works in the field of internal security by the Police Administration Academy in Munster, a continuing education and research center for municipal and criminal police agencies.

The purpose of the studies was to depict the system as it actually functions and cause police practitioners to critically examine their attitudes and thinking on the position and credibility of the victim as both victim and crime witness. The authors examined the records of 84 cases of attempted rape and rape occurring over a 1-year period in the city of Bremen; 45 of the victims were personally interviewed. In revising the original study for publication, regional references to

This is a summary of *Das Misstrauen Gegen Vergewaltigte Frauen: Erfahrungen von Vergewaltigungsopfern mit Polizei und Justiz*. Sonderband der BKA-Forschungsreihe, Wiesbaden, West Germany, 1986, 162 pp. NCJ 104280. Summary published March 1987.

Bremen were deleted to give the study general applicability.

**"The sexually assaulted woman in the midst of criminal proceedings hostile to the victim," by Claus Warnke**

In the last 20 years, the incidence of sexual assault has been relatively constant. Its rate has not corresponded to the general increase in crime between 1960 and 1984. Public perception of the crime is formed less by these statistics than by the media, which exploits its strong emotional component.

*Societal attitude.* In media reports of sexual assault, a great deal of attention is given to the assailant, who is either condemned or excused in the reports. This conditions public attitudes toward the victim.

Public reaction, or lack thereof to the crime has as great an effect on the victim as the crime itself; the sexual assault may be perpetuated by an assailant's acquittal. Acquittal is often due to social-psychological misconceptions on the part of the prosecuting attorney and the judge. It is known as "in dubio pro reo"—full of mistrust of the victim. Mistrust may arise

if any irregularities occur in the victim's recounting of the crime during preliminary hearings. If the woman is perceived as guilty of behavior contributing to the crime, the rape or attempted rape loses its character as a punishable offense. The assailant is acquitted with the impression that he has been victimized by the woman.

*Development of the crime.* Primary focus is on the actions of the assailant. This was made particularly clear in the examination of attempted rape cases. The victims' perceptions of rape attempts as criminal acts were not legally accepted by the system. The behavior of the assailants would have been perceived by the system as relevant only if, in their own estimation, they had begun to rape the victim. The assailants' repeated declarations that they wanted to rape the victims were not even taken into consideration because they had voluntarily discontinued their attempts to rape the women. Charges of attempted rape were dismissed because the assailants discontinued their rape attempts.

*Legal aspects.* Although the Penal Code was revised in 1975, a problem still exists in regard to sexual assault. It is limited to "intercourse outside of the marital relationship." However, this relationship is not defined. A woman legally separated from her husband and in the process of a

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divorce could not charge her husband with sexual assault. On the other hand, a woman sexually assaulted by her former live-in partner was able to bring charges. The law also does not clarify whether a woman has the right to determine whether or not she wishes to engage in sexual activity.

## *Fear of rape and the typical rape case.*

Fear of rape is widespread among women. Many believe it can happen anywhere at any time. Women fear specific situations which are deemed—according to the official philosophy of prevention—to be dangerous, such as the night, the dark, strange men, etc. Such warnings do not correspond with reality. Assault rarely occurs in a “dangerous” situation. As a result, the woman who experiences a typical assault (by an average man, an acquaintance, in her apartment or home) is often overwhelmed by public mistrust of her story. The victim is punished because her case does not fit into the public’s preconceived ideas of a rape situation. In addition, the daily routine and lifestyle of an assault victim are usually assessed against conservative, middle-class norms. A woman is often judged more stringently than a man; if she does not meet high standards, she is often thought of as perhaps “having wanted it.”

The files of rape cases show that a very small percentage of reported cases lead to convictions. This is ascribed to preconceived notions concerning rape situations, even among police and criminal justice professionals.

In most cases, the victim knows her assailant. Since this does not correspond to the stereotyped components of cases of sexual assault, mistrust arises. If the assailant did not use force, if the victim has no bodily injuries, or if the cases occurred at night and/or in the victim’s home, mistrust also arises. When the degree to which the victim is acquainted with the assailant is balanced against the facts of the attack, it can be seen that the closer the assailant fits with the public’s perception of the “ideal type,” the greater the chance of conviction.

*The role of social position.* The social position of a woman does appear to influence an investigation. Preferential

police treatment was given to a woman of high social standing who was permitted to have her husband present during the initial police examination. Having a family member or friend present is an exception to the normal procedure.

Social position can also affect the investigating officer in minor indirect ways. The officer’s conception of his own social position and what difficulties he can expect to experience from those in a higher position may play a role.

Lower class women often respond defensively to the investigation of a rape case. This impedes discovery of the truth and increases mistrust of the victim.

*The role of mistrust.* In those cases where the victim’s lifestyle and behavior does not fall within what officers perceive as “normal,” mistrust can quickly arise. In the case of a waitress who worked a night shift and was assaulted on her way home after going out with friends after work, elements of the case were taken out of context. The use of alcohol was interpreted negatively. A witness cited by the victim was never questioned. When interviewed for this study, the victim greatly emphasized that she was shown great mistrust.

A street prostitute arrested for drunkenness mentioned to the officers that she had once been raped (one of the officers reminded her of the assailant). The officers, incredulous at the notion that a prostitute could be raped, only began to believe her when the description of the assailant and the circumstances of the case reminded one of the officers of an unsolved series of sexual assaults. The prostitute attained full credibility in the eyes of the officers when she explained why she did not report the case. She rationalized that she was sure no one would believe a prostitute. She also gave minute details of the case which were planned by the assailant to make it appear not to be a rape.

*Conditions of the investigation.* Only the crime of murder is considered more serious than sexual assault. In organizational terms, spectacular capital crimes (hostage taking or extortion) elicit an immediate increase in investigational staff. This is not the case for sexual

assault. The investigative procedures used in capital crimes should be instituted for sexual assault cases. A team, including female officers, should be dispatched as quickly as possible to visit the scene and interview the victim (in many cases, the scene is never visited). The size of the team should be determined by the demands of the case.

In serial crime cases where there is no suspect and great public attention, women report experiencing no mistrust. The reason appears to be that the women are considered indispensable in helping to solve the crimes. The superior communications systems used in the investigation of these crimes also help to avoid multiple police examinations of the victims.

It was found that many women have a sense of solidarity with other women as potential victims. Therefore, they will endure all the strains of the sexual assault investigation. Women expect investigating officers to recognize this. Unfortunately, it is too much to expect from overworked criminal police officers (or state attorneys and judges) who have not been given any special training in handling this crime.

*Final perspective.* The victim has the right to special consideration due to her physical and psychological state. She should be provided assistance, sent an investigative team, allowed to have a trusted relative or friend present during police examinations, and have the report of the crime reflect her perspective.

The length of the investigation should be kept to a minimum and resocialization of the victim should begin immediately after commission of the crime.

**“The sexually assaulted woman’s contact with the municipal and criminal (investigating) police,” by Hans Fehrmann**

“Victimology” as an area of criminology has developed in the last few decades and has received increased attention recently. As an aspect of this, the victim’s confrontation with the investigating authorities has received some marginal attention.

*Sources of mistrust.* Mistrust is described as the expression of "doubt" or an "aggressive atmosphere during interrogation." This description may create the impression that the victim's contact with the investigating authorities can have a disproportionate influence on her psychological state. The assumption from which the authorities proceed should be that the proper psychological support of the victim aids the search for the truth.

*Mutual mistrust.* The ambivalence of mistrust always arises when a police officer shows any form of mistrust of a victim. It can be assumed that mistrust also exists on the part of the victim. It can arise from previous experiences with the police or general preconceived notions and determines the victim's behavior. In the worst cases, it may lead the victim to not report the crime.

*Role of skepticism.* Professional skepticism, needed by all whose job it is to find the truth, should not be confused with mistrust. A basis of trust must first exist in the relationship between the authorities and the victim before the truth can be discovered. Only then can professional skepticism be shown. Examinations based on professional skepticism differ psychologically from those borne of mistrust.

*The police and the victim.* Police behavior during the first contact with the victim is of the utmost importance in establishing trust. Two primary factors are the victims' attitudes toward the police and the psychological and physical assistance given by the police. A sympathetic and trusting attitude is necessary to help calm the victim.

In 82.2 percent of the cases reviewed, the sexual assault was reported to the local municipal police. In 60 percent of the cases, the victims stated that they were dealt with in a polite and correct manner. When expectations of police behavior were compared with victim assessment of actual behavior, the actual behavior received higher marks.

Many victims expected that once the report had been filed, the matter was completed. However, municipal police issue a general report only; detailed

examination is the responsibility of the criminal police. Victims did not know that additional details would be sought during a second and third examination with increasing intensity and thoroughness, and some considered this burdensome.

When crimes were reported outside normal hours (7:30 a.m. to 4:00 p.m.), standby police responded. They brought the victim to the police station to fill out a brief report after preliminary measures had been taken (photographing injuries, visiting the scene, medical assistance, etc.). Up to 3 hours later, a standby officer appeared at the victim's home for a more detailed investigation. Victims did not expect to be questioned again so soon after the initial report; they felt they should have been held longer at the police station for more detailed questioning. Victims who dealt with standby police reported they had not felt comfortable during these sometimes very lengthy followup sessions. None was questioned by a female officer.

Many of those who were dissatisfied with police behavior complained that a close trusted person (such as a husband or friend) was not permitted to be present during the examinations and questioning.

*Multiple examinations and mistrust.* It has been claimed that victims perceive multiple examinations as an indication of the authorities' mistrust of them. This study does not confirm that. Over 90 percent had no criticism of the multiple examinations procedure. Victims did view the warning of possible consequences for giving inaccurate information as an indication of mistrust.

Each additional officer who becomes involved in the investigation must build up a level of trust, or overcome already established mistrust on the part of his or her predecessor toward the victim. This is a strain on both victim and investigator.

*Factors influencing shock.* It seems clear from the results of the investigation that victims' post-crime shock is intensified and lasts longer if police exhibit mistrust.

The psychological benefit to a victim of having a trusted person present during police questioning can be a decisive

determinant of the amount of shock a victim experiences, and whether or not trust between police and victim can be established.

*Atmosphere during examination.* The atmosphere during questioning may not influence the course of the investigation but can help the victim overcome shock. Negative environmental influences (building or examination room design) can be offset by the personal style and attitude of the investigating officer.

How the victim identifies her assailant also plays a role in overcoming shock. Some women met their assailant accidentally at the police station, which had a negative impact. The woman must be psychologically prepared to meet the assailant for identification purposes. Use of a two-way mirror could be beneficial.

*The victim's feelings of shame.* The attitude of the victim cannot be understood if one does not understand a woman's feeling of shame at the intimate violation of rape. Knowledge of this is important to proper police behavior. Shame may be suppressed immediately after the crime but can return during the investigation.

Feelings of shame did not prevent some victims from reporting all the details of the crime. Although they found it distasteful to relay the details to officers, women felt this was necessary. The chances of overcoming women's shame so as to make a full report lie with the examining officer and in the victim's assessment of the importance of the details. A connection between mistrust on the part of the police and actions conditioned by the shame of the victim could not be proved.

Most women reported they would have preferred to be examined by a female officer. The choice should be left to the victim. The 10 percent who did not feel a female investigator was necessary reported that they had a trusting relationship with the examining officer.

*Lack of willingness to cooperate.* Police mistrust of the victim often arises because police feel the victim is not willing to cooperate to solve the crime. This often occurs if a long time has elapsed between the assault and the report of the case, or

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if the victim clearly appears to be disinterested in punishing the assailant. Such behavior appears to contradict a desire to solve the crime. There may be reasons for it, however, including lack of trust in police work, fear of the authorities, a feeling the assailant will not be punished because it is her word against his, or an inability to discuss the matter due to shock. Disinterest may be motivated by the feeling that the victim may ruin the assailant's life or that the assailant needs therapy, not a prison term.

## *Implications for protection of the victim.*

It has generally been seen that police behavior and mistrust of the victim are not nearly so poor as often reported (even by the police themselves). It is important, however, to use the latest social science research findings to reduce the basic and typical mistakes made by police officers. This can prevent a revictimization of the woman.

## **"Mistrust of the sexually assaulted woman during a criminal investigation, focusing on the role of the state attorney," by Klaus Jakobs**

*Organization.* The cases used in the research were handled by 26 different departments with as many attorneys involved. Each attorney is responsible for the same block of alphabet letters for 5 years. If the family name of the accused is not known, that of the victim is used. There is no system by which repeat offenders can be traced.

*The investigation.* Even though the law requires that the investigation be carried out by the state attorney's office, the police actually dominate the process. In 85.2 percent of the cases, the criminal police sent the files to the state attorney's office after the investigation had been closed. Police disposition was accepted without critical examination.

*Length of the investigation.* When the assailant was unknown, the state investigation lasted 3.5 months; when known, it was 9.5 months. Delays in the latter were due to psychiatric treatment of the

assailant, difficulties in interviewing witnesses, and delays in transmitting files between police, the state attorney, and the court.

*Case dismissal.* In those cases considered solved by the police even though the assailant was not found, the state attorney dismissed the case without further investigation. Whether mistrust of the victim plays a role in disposition of cases could not be determined. It is clear, however, that the state attorney seeks the most economical solution to the case.

*Trial.* The court is obligated to advise the defendant of the charges being brought against him. The victim, on the other hand, is put in a position to react only—pretrial explanation of the procedures by the police or state attorney does not exist. The rights of the accused overshadow the needs of the victim.

*Conclusion.* State authorities only partially fulfill their constitutional duties to fight crime. This is especially true of the office of state attorney. Neglect of its role as "master of the criminal proceedings" results from its problematical position between the police and the courts. A shift away from the active pursuit of the truth and toward a bureaucratic solution to the proceedings has occurred.

## **"Care of the victim of sexual assault by the institutions of formal social control," by Rolf Junker**

*The forgotten victim.* In 1911, Radbruch mentioned the importance of rehabilitating imprisoned criminals. Since then, the preventive measures taken by the state have focused solely on the criminal.

Lack of appropriate care of victims by public institutions may lead to their feeling abandoned. It is therefore important to determine if and how they receive care and whether mistrust of them as victims influences that care. Are the institutions of social control prepared to assume the function of caring for the victim? (Care is understood to mean psychological support and redress of injuries.)

*The victim in court.* According to Article 1, Paragraph 3, of the Basic Law (the West German Constitution), everyone is entitled to equal justice under the law. This entitles the victim, who is also the witness, to influence the proceedings in her interest. In the literature, however, the victim's rights are often lost in a discussion of the witness's obligations. The victim's legal position should be explained to her before preliminary hearings and trial.

Removal of the assailant and the public from the courtroom while the victim testifies is of central importance to creating a more trusting atmosphere, and gives the victim the impression that the court understands her situation.

*Right to legal counsel.* The witness (i.e., the victim) has the right to legal counsel; every victim should be advised to exercise this right. This role of counselor is not performed by any of the institutions of formal social control. In many cases, the victim looked to the state attorney as her defender, not having been advised of her right to engage counsel. Engaging counsel is also an expansion of the victim's confrontation with the crime.

*The victim's perception of major players.* Most victims had no special expectations of the judge. Even when the outcome was negative, the judge was perceived as a fatherly figure. Most victims expected the defense counsel to be objective but found themselves confronted by an enemy. The attending physician was reported as unfriendly and the medical care described as "miserable."

*Aftereffects of the assault.* The psychic damage experienced is on two levels. More important than the loss of trust in one's self is the loss of trust in others, including the state and its representatives. The victim's lifestyle changes noticeably: contact with people is broken off; relations with men are often disturbed for years. The victims do not want pity. They want a return to life as it was before the sexual assault, something they cannot do without assistance.