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Author(s): Doug Wilson, Andrew Klein

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An Evaluation of the Rhode Island Sexual Assault Response Team (SART)

BOTEC Analysis Corporation
Waltham, Massachusetts
April 2005

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Abstract of the Rhode Island Sexual Assault Response Team (SART) Evaluation¹

In the past 25 or more years, the criminal justice system has reformed sexual assault laws and communities have developed programs, such SART which are designed to provide catalysts to the effects of legal reforms.

The SART process in Rhode Island is a coordinated effort between the victim, the Sexual Assault and Trauma Resource Center (SATRC), the police department, and the Rhode Island Department of the Attorney General, the prosecuting agency for all felony sexual assaults. The SART program was initiated in January 2002. The evaluation covers assaults for a period, from September 2002 – August 2003 (n=238 sexual assaults). The cases were followed until July 2004.

The program has demonstrated positive effects in that there is demand among sexual assault victims for SART services. Victims who seek SART services have significant odds of being assaulted by a friend, acquaintance or relative, have had a subsequent forensic exam, and *believe* that the offense was first degree sexual assault. Also, users of SART services are importantly less likely to have an initial finding of probable cause found by the police.

The estimated probability of a victim choosing to be a SART client, whose assault is without these assault characteristics and the police find probable cause is 3 percent, while the probability of a victim seeking SART services with all of these assault characteristics and the police do not initially find probable cause is 89 percent.

At this stage in the development of the SART program there is, however, no clear effect on the legal outcome of cases. Contingency analyses examined seven hypotheses about the legal effects of SART. They are:

¹ This study was undertaken by Sexual Assault and Trauma Resource Center (SATRC) of Rhode Island, BOTEC Analysis Corporation supported by NIJ Grant No. 2002WGBX0007.

1. SART increases the pool of defendants.
2. SART cases that are intimate partner sexual assaults are more likely to be charged in Superior Court.
3. Victims with forensic exams are more likely to have defendants charged in Superior Court.
4. SART victims with forensic exams are more likely to be charged in Superior Court.
5. Judicial processes for SART cases move more slowly and thus understate the effect of SART because of a SART case backlog.
6. SART cases after they are filed in Superior Court are less likely to be dismissed.
7. SART cases are more likely than non-SART cases to be charged in Superior Court.

The application of Fisher's exact test to each of these seven hypotheses provided no evidence that the null hypotheses should be questioned.

These results, however, should be viewed with circumspection. The statistical power of the contingency analyses was modest, due to small sample sizes. Also, SART efforts may have helped to maintain a "level playing field" between the prosecution of acquaintance assault and stranger assault. The null results in the contingency analyses may demonstrate SART's success at maintaining the likelihood that acquaintance assaults will be prosecuted. That is, SART programs may be a lagged social response to social-legislative-judicial change.

Finally, SART's effect may "spillover" to the prosecution of sexual assault cases in which the victim does not use SART services. All sexual assault cases are prosecuted by the Department of the Attorney General. This may cause the null difference between the outcome of SART and non-SART cases.

This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

Executive Summary

An Evaluation of the Rhode Island Sexual Assault Response Team (SART)

Introduction: The Sexual Assault and Trauma Resource Center (SATRC) of Rhode Island contracted with BOTEK Analysis Corporation with funding from the National Institute of Justice¹ to undertake an evaluation of the principal legal effects on clients of the Sexual Assault Response Team (SART) operated by the Sexual Assault and Trauma Resource Center.

Local police, in the United States, have the unique role of determining the pool of defendants in crime investigations, given the ability and willingness of the victim to confirm them. Prosecutors then guided by the informal norms of the courtroom workgroup and their discretion choose from the pool of defendants. Police decisions to arrest and the prosecutor's decision to file a felony complaint in sexual assaults constitute the primary official screening of these crimes.

In the past 25 or more years, the criminal justice system has reformed sexual assault laws and communities have developed programs, such as rape crisis centers, and SART and Sexual Assault Nurse Examiner (SANE) programs, which are designed to provide catalysts to the effects of legal reforms.

Study Results: This evaluation is the first outcome evaluation of a SART program. The evaluation describes the SART process, which is a coordinated effort between the victim, The Sexual Assault and Trauma Resource Center (SATRC), the police department, the Rhode Island Department of the Attorney General, the prosecuting agency for felony sexual assaults. It also examines the outcome of this process. The SART program was initiated in January 2002. The evaluation covers assaults for a period, from September 2002 – August 2003 following the initial implementation phase.

¹ NIJ Grant No. 2002WGBX0007

The cases were followed until July 2004. As should be expected the program is still developing, but nevertheless it has demonstrated positive effects in that there is demand among sexual assault victims for SART services. Victims who seek SART services have significant odds of being assaulted by a friend, acquaintance or relative, have a subsequent forensic exam, and *believe* that the offense is first degree sexual assault. Also, users of SART services are importantly less likely to have an initial finding of probable cause found by the police. The estimated probability of a victim choosing to be a SART client, whose assault is without these assault characteristics and the police find probable cause is 3 percent, while the probability of a victim seeking SART services with all of these assault characteristics and the police do not initially find probable cause is 89 percent.

At this stage in the development of the SART program there is, however, no clear effect on the legal outcome of cases. Contingency analyses examined seven hypotheses about the legal effects of SART. They are:

1. SART increases the pool of defendants.
2. SART cases that are intimate partner sexual assaults are more likely to be charged in Superior Court.
3. Victims with forensic exams are more likely to have defendants charged in Superior Court.
4. SART victims with forensic exams are more likely to be charged in Superior Court.
5. Judicial processes for SART cases move more slowly and thus understate the effect of SART because of a SART case backlog.
6. SART cases after they are filed in Superior Court are less likely to be dismissed.
7. SART cases are more likely than non-SART cases to be charged in Superior Court.

The application of Fisher’s exact test to each of these seven hypotheses provided no evidence that the null hypotheses should be questioned.

These results, however, should be viewed with circumspection. The statistical power of the contingency analyses was modest, due to small sample sizes. That is, a longer test of SART and a larger sample might produce somewhat different results.

Also, it may be that SART efforts have helped to maintain a “level playing field” and that the consistent null results in the contingency analyses demonstrates SART’s success at maintaining the likelihood that acquaintance assaults will be prosecuted, which is an outcome of rape law reform legislated several years earlier. That is, SART programs may be a lagged social response to social-legislative-judicial change.

Finally, SART’s effect may “spillover” to the prosecution of sexual assault cases in which the victim does not use SART services. As a result there is a null difference between the outcome of SART and non-SART cases.

The literature review of police and prosecution of sexual assault in other jurisdictions indicates that the reform of sexual assault laws has increased the likelihood of the prosecution of acquaintance rapes relative to stranger rapes. Nevertheless discussions with the Rhode Island Department of the Attorney General indicate that SART cases, many of which by their characteristics are acquaintance assaults and are coupled with a lack of an initial finding by the police of probable cause, are more difficult to prosecute. Furthermore, as is discussed in the literature review, informal arrest and prosecution guidelines for sexual assault continue to apply extra-legal standards, such as evidence of resistance. For example, in this study, when the police failed to find probable cause it was strongly related to a lack of injury; that is, a failure to resist.

Appreciation: The authors are greatly appreciative of the opportunity to work with The Sexual Assault and Trauma Resource Center of Rhode Island, the Domestic Violence Training and Monitoring Unit of the State Supreme Court and the Department

of the Attorney General all of whom generously gave their time and provided available information. Any program or agency that involves itself in an evaluation takes a risk, but it is also expressing confidence that it can learn from a disinterested evaluation.

This study would not have been possible without the support of the National Institute of Justice/Department of Justice. The Institute's help and the government project officer's patience are appreciated. Two anonymous reviewers did their jobs by stimulating further thought about the results. Any errors in this report are solely those of the authors. The results of the report do not represent an expression of policy of any of the involved agencies, the reviewers, or the National Institute of Justice.

Andrew Klein, Ph.D.
Douglas Wilson, Ph.D.

BOTEC Analysis Corporation
Waltham, Massachusetts.

April, 2005

An Evaluation of the Sexual Assault Response Team (SART) Rhode Island

Introduction and Background: The following study examines the outcomes of the activities of the Sexual Assault Response Team (SART) of Rhode Island. SART programs are a collective response to the felony of sexual assault. In Rhode Island SART is a coordinated effort between the victim, the police department and the Rhode Island Department of the Attorney General, the prosecuting agency for felony sexual assaults.

This study is divided into five sections. The first is a literature review which provides a conceptual background for the study. Fundamentally, SART, as a program, has a mission to respond to the concerns and needs of its clients - sexual assault victims – and pursues its operations within a bureaucratic criminal justice environment of local police, criminal prosecutors in the Department of the Attorney General, and the courts. The literature review helps to establish the critical importance of this administered environment and its effects on SART operations.

The methodology section that follows includes a discussion of the study site – the state of Rhode Island, the data that the study draws upon and the study design. Rhode Island provides a good study site insofar as it is representative of the urban United States. The Rhode Island criminal justice data provide a unique data source for the study. The Domestic Violence/Sexual Assault (DVSA) database operated by the Rhode Island Justice system combined with the Rhode Island criminal history data provides a rich source of information. While these administrative data sources provide uniform data, the study also was hampered by reporting delays. The study is observational. SART cases and non-SART cases are not the result of random assignment, but are the outcome of victim behavior. A key issue in the methodology is to determine how the victims “assigned” themselves to SART or non-SART. SART and non-SART can be thought of as the treatment and control groups respectively.

A third section describes the SART process. There is clear consistency between the conceptual basis established in the literature review and the criminal justice processes currently operating in Rhode Island with regard to sexual assault.

The fourth section, the analysis section, uses logistic regression to examine the differences between SART clients and non-SART clients. Then, contingency table analysis is used to examine the differences in the outcomes for SART and non-SART cases within the Rhode Island criminal justice system.

A final section provides some conclusions and makes suggestions for further analysis. It is an irony of the research process that study questions are often best framed after the study is completed. In that sense this study is formative and exploratory.

The Literature: The FBI reports that in the period 1999-2000 the rate of female rape in the Northeast was 46.4 per 100,000 females; the rate in the South was 67.9, the West was 67.4 and the Midwest was 72.7. Legal redress for these sexual assaults depends on the screening decisions of police and prosecutors.

The police have the unique role of determining the pool of defendants, given the ability and willingness of the victim to confirm the assault. Prosecutors then guided by the informal norms of the courtroom workgroup and their discretion choose from this pool.¹ Police decisions to arrest and the prosecutor's decision to file a felony complaint constitute the primary official screenings of sexual assault.

In the past 25 or more years, the criminal justice system has reformed sexual assault laws and communities have developed programs, such as SART, sexual assault nurse examiner programs and specialized police and prosecution training all of which are designed to provide catalysts to the legal reforms with increased emphasis on forensic exams, and more specialized investigative resources and processes.

Reforms were undertaken at the state and federal level in an effort to increase the reporting of sexual assaults and reduce the attrition of these cases due to a lack of arrest

¹ Ford, David A. and Susan Breall, *Violence Against Women: Synthesis of Research for Prosecutors*, Final Report, National Institute of Justice, 2000.p.17.

or unsuccessful prosecution in the courts. State laws and the Federal code were revised by the 1980's to shift the focus to the behavior of the offender and away from the victim.

Most states eliminated requirements of victim resistance, prompt reporting and corroboration. The single crime of rape was replaced with a series of graded offenses similar to those for other types of violent crime that are graded by aggravating circumstances. The enactment of rape shield laws restricted the introduction of information about the victim's sexual conduct.²

Bachman and Paternoster found that the outcome of these reforms was a modest, but measurable increase in the likelihood of a rape being reported to the police, an increased likelihood of the offender being imprisoned, and that stranger rapes and acquaintance rapes were more likely to be similarly sanctioned.³ Finally, the rate of increase in the reports of acquaintance sexual assaults was greater than the increase in reports of stranger rapes.⁴

Despite these reforms the problems of under-reporting and attrition remain. In part, it reflects the general behavior of the criminal justice system, and in part it reflects the failure of analysts and policymakers to understand the variance within the system so that effective practices and programs can be identified.

Characteristically, sexual assault cases experience a high level of attrition between reporting and sentencing, as do other violent crimes. Approximately thirty-two percent of victims of sexual assault or rape report the incident to police.⁵ One-half of those reports result in an arrest⁶ and arraignment. Prosecutors fail to prosecute a

² J. David Hirschel and DJ Dawson, *Violence Against Women: Synthesis of research for Law Enforcement Officials*, National Institute of Justice, 2003, p.11.

³ Ronet Bachman and Raymond Paternoster, *A Contemporary Look at the Effects of Rape Law Reform: How Far Have We Really Come?* The Journal of Criminal Law and Criminology, Vol. 84(9), 1993, 554-574.

⁴ *Ibid*

⁵ Callie Marie Rennison, *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000*, Bureau of Justice Statistics, August 2002.

⁶ Lawrence A. Greenfield, *Sex Offenses and Offenders: An Analysis of Data on Rape and Sexual Assault*, Bureau of Justice Statistics, February 1997, p.v

significant number of the arraignments. The result is that 8-10 percent of sexual assault incidents are prosecuted and sanctioned.⁷

Galvin and Polk find a similar result for other violent crimes. They report that rape ranked in the middle of four other crimes: homicide, robbery, assault and burglary, in terms of attrition between reporting and sentencing.⁸ Myers and LaFree found that for the outcomes of dismissal, trial and verdict there was no evidence that in terms of reaching decisions sexual assault cases are treated differently from other violent crimes.⁹ Thus, enhancing the criminal justice response to sexual assault requires both reform of the standard criminal justice response to violent crimes and in greater diffusion of effective program practices in sexual assault cases.

In addition to legal reforms, which in the face of the general problem of attrition have had some success, several organizational reforms have been developed with unknown effect. Among the interventions mentioned in the literature, are the development of sexual assault response teams (SART) to provide a coordinated community response,¹⁰ the increased use of forensic examinations to improve the evidentiary basis of sexual assaults,¹¹ and increased levels of investigative resources for police and prosecutors to reduce excessive workloads and increase professionalism.^{12,13}

⁷ Estimates of the attrition vary, but all agree that “there is tremendous attrition in the process of rape cases between reporting and sentencing.” Frazier and Haney *Sexual assault Cases in the legal system: Police Prosecutor and Victim Perspectives*, Law and Human Behavior, Vol. 26(6) 1996, p.608.

⁸ Galvin, J and Polk, K. *Attrition in Case Processing: Is Rape Unique?* Journal of Research in Crime and Delinquency, 1983, p. 126-153.

⁹ Martha A. Myers and Gary D. LaFree, *Sexual Assault and its Prosecution: A Comparison with Other Crimes*, The Journal of Criminal Law and Criminology, Vol. 73(3), 1982, p. 1282-1305.

¹⁰ Rebecca Campbell and Courtney E. Ahrens, *Innovative Community Services for Rape Victims: An Application of Multiple Case Study Methodology*, American Journal of Community Psychology, Vol. 26(4), 1998. P. 537-571.

¹¹ J. David Hirschel and DJ Dawson, *Violence Against Women: Synthesis of Research for Law Enforcement Officials*, NIJ, September 2003. There are also a number of journal articles in the public health literature that examine the effect of medical exams on the outcome of sexual assault cases. See, for example, Riggs, N, Houry D, Long G, Markovchick V, Feldhause KM, *Analysis of 1076 cases of Sexual Assault*, Annals of Emergency Medicine, Vol. 35(4), 2000 p. 358-62.

¹² Ronald J. Berger, W. Lawrence Neuman, and Patricia Searles, *The Impact of Rape Law Reform: An Aggregate Analysis of Police Reports and Arrests*, Criminal Justice Review, Vol. 19, (1) 1994, p. 18.

¹³ Frazier and Haney, *op.cit.* p. 624.

It is currently unknown whether and how these program responses have reduced barriers to arrest and prosecution and been catalysts for the benefits of legal reforms.

Studies of the screening of sexual assaults through arrest and prosecution provide a generally consistent discussion of the micro factors explaining the decisions of the police to arrest and prosecutors to prosecute. Kerstetter, after reviewing alternative theories of decision making within the legal system in his study of police and the prosecutor responses to sexual assaults,¹⁴ settles on the importance of *pragmatic instrumentalism* as a description of how criminal cases are processed. Pragmatic instrumentalism seeks those devices that turn the formalism of a statute into official actions. These factors are manifested as the outcomes of bureaucratic behavior and the administrative processes. They include administrative practices, matters of evidence, aggravating circumstances, and behaviors not sanctioned by law, which are inappropriately considered. Kerstetter contends that the most serious oversight in sexual assault research concerns the role of evidence.¹⁵

Kerstetter writes, “As a result, attention must be paid not only to whether evidence of the incident exists, but also to other factors (e.g., the complainant’s willingness to prosecute) that relate evidentiary requirements and administrative convenience.¹⁶ In his examination of police response to sexual assault, Kerstetter finds that in official decision-making on sexual assault the instrumental and evidentiary processes predominate and is defined by the local justice system’s requirements of administrative and legal processes.¹⁷ This instrumental process defines and controls access to legal redress.

¹⁴ Wayne A. Kerstetter, *Gateway to Justice: Police and Prosecutorial Response to Sexual Assaults against Women*, The Journal of Criminal Law and Criminology, Vol. 81(2), 1990, p. 271-276.

¹⁵ Kerstetter, *op.cit.* p.282.

¹⁶ Kerstetter, *op.cit.*, p. 271.

¹⁷ It is important to keep in mind that Kerstetter among others are examining single law enforcement agencies, and that the instrumental process will vary among communities.

LaFree similarly concluded in his study “legally-relevant variables were paramount.”¹⁸ He found that the complainant’s ability to identify the attacker and her willingness to prosecute were the most important factors in the police decision to arrest.¹⁹ Frazier and Haney also concluded that police and the prosecutors relied on similar factors and that “consistent with prior research, evidentiary and credibility factors as well as offense severity are associated with cases proceeding to the prosecuting attorney’s office.”²⁰

In the dynamics of a rape investigation, a significant portion of the arrest and prosecution process involves the victim confirming the assault. The investigator needs to establish three primary facts: a sexual assault occurred, the identity of the assailant and the complainant did not consent. If it is an attack by a stranger, the issue of consent is a null question. If the assailant is known then the issue of consent becomes problematic. Thus, stranger assaults and acquaintance assaults present the police and prosecutor with different problems. For example, in an acquaintance attack damage to the victim’s sex organs is interpreted as evidence of coercion and an aggravating variable.²¹ The use of a weapon in acquaintance assaults is similarly interpreted. In stranger rapes these facts are unrelated to the question of whether coercion can be demonstrated.

The variables, such as those discussed above, may be manifestations of bureaucratic and administrative behavior within the organization. As such the stated reasons may be different from the causes for the behavior. For example, the variable “willingness to prosecute,” may not be simply based on the volition of the victim. It is likely the result of an interaction with a combination of factors such as having the accused in custody, the presence of medical or other supporting evidence, and a low likelihood that the sexual act was consensual. Lacking these case elements, detectives or

¹⁸ Gary D. LaFree, *Official Reactions to Social Problems: Police Decisions in Sexual Assault Cases*, Social Problems, Vol.28, 1981 p.588.

¹⁹ Gary LaFree, *op. cit.*, p. 592.

²⁰ Patricia A. Frazier and Beth Haney, *Sexual assault Cases in the legal system: Police Prosecutor and Victim Perspectives*, Law and Human Behavior, Vol. 26(6) 1996, p.624.

²¹ Kerstetter, *op.cit.* p. 298.

prosecutors may choose to emphasize to the victim the difficulties of proceeding. If a victim withdraws a complaint, the case is “unfounded.” It is no longer unsolved and a detective’s or prosecutor’s record is unblemished. It is estimated that in about 10 percent of cases the police or prosecutor encourages the victim to drop the case.²² A lack of volition by the victim to sign a complaint or prosecute will result in the cases being dropped by busy detectives and prosecutors.²³ Prosecutor decisions, while driven largely by the same concerns as police investigators, appear to make their decisions based on the capacity and credibility of the victim. The prosecutor’s concerns may be driven by the desire to avoid time-consuming and expensive trials by presenting as formidable a case as possible to the defendant.²⁴

Micro studies provide a general understanding of how arrest and prosecution decisions are made, but they do not explain the variance in screening decisions among police departments. On the basis of work by Kerstetter, LaFree, and Frazier and Haney, it is reasonable to conclude that controlling for the dynamics of local official practices is a necessary part of integrating the effects of special organizational interventions, such as SART, forensic examinations, and the level of investigative resources.

Studies across police and prosecution departments in contrast to within department studies provide additional background and insight. Berger *et al*²⁵ in an aggregate analysis of police reports and arrests describe additional complexities in the relationship between sexual assault reports and arrest. They find that the discretionary aspects of criminal justice processing insulate police from the legislative intent of legal reforms, although they do find that reform is likely to increase reporting and increase arrests in larger and more professional departments. They also documented the

²² Ford, David A. and Susan Breall, *op cit.* p.18.

²³ Kerstetter, Wayne and Van Winkle, B. *Who Decides? Study of the Complaint’s Decision to Prosecute in Rape Cases*, Criminal Justice and Behavior, Vol.17(3),1990, p.268-283.
p. 268-283.

²⁴ Kerstetter and VanWinkle, *op. cit.*

²⁵ Ronald J. Berger, W. Lawrence Neuman, and Patricia Searles, *The Impact of Rape Law Reform: An Aggregate Analysis of Police Reports and Arrests*, Criminal Justice Review, Vol. 19, (1) 1994, p. 18.

importance of contextual variables. They found that the pre-reform attitudes measured in terms of an index of “liberalism-feminism” *increased* the likelihood of arrest in the post-reform period,

In contrast, they found that the “socio-cultural climate,” a measure of social disorganization or entropy *decreased* the likelihood of arrest. With regard to the negative effect of “socio-cultural climate,” the authors suggest that high levels of community instability generate more crime of all types placing more stress on law enforcement or desensitizing the police and the community to sexual violence.²⁶

Importantly, they found that other community variables have significant effects on police arrests, but not necessarily in the expected direction. The measure of rape crisis centers *decreased* the likelihood of arrest. The authors provide an interesting interpretation of this variable. They suggest that rape crisis centers provide for some victims “an alternative outlet for their pain and rage that decreases their inclination to expose themselves to the criminal justice system or to follow through on criminal charges.” Given the results of the Berger *et al* study, community responses such as rape crisis centers might provide a dual role; an outlet to a victim’s hurt and rage and thus an alternative to arrest and pursuit of legal sanctions, but also provide advocacy to victims pursuing prosecution. While Berger *et al* may have isolated this relationship between rape crisis centers and arrest, the sequence of reporting a sexual assault and arrest do not fit well with the interpretation by Berger *et al* that the presence of rape crisis centers is *behaviorally* related to a decrease in arrests. Lower arrest rates may have preceded the establishment of the crisis center. Nevertheless, a dual role may be played by these centers.

A dual role may also be played by forensic exams. Hirschel and Dawson summarize the purpose of forensic exams. The examination is to properly collect forensic evidence, including offender identification by the victim, and tests for DNA, *but at the*

²⁶ Ronald J. Berger, *et al*, *op.cit.*

same time treat victims for physical injuries, takes preventive measures against pregnancy and test for diseases such as syphilis, hepatitis B and HIV.²⁷

The contribution of forensic exams to sexual assault arrests and prosecutions is not currently well understood. For example, in Rhode Island 43 percent of sexual assaults victims for whom there is a domestic violence sexual assault (DVSA) report had a forensic exam; 23 percent of those cases were arraigned. In contrast, in the 57 percent of cases without an exam, 73 percent were arraigned.²⁸ This result with regard to the outcome of sexual assault cases with forensic exams is not different from that reported in the public health literature.²⁹ The public health literature finds little or no effect on judicial outcomes that result from forensic exams.³⁰ Outside of a preliminary study by BOTEK Analysis Corporation, (Appendix 1) and this study, however, none of the previous studies compare the outcome of assault cases with and without forensic exams. For example, an evaluation of a SANE program, although it found positive qualitative effects, used a weak pre-post evaluation design without a control group and without multivariate analysis to adjust for pre and post SANE case differences.³¹ It also found no difference in judicial outcomes.

²⁷ J. David Hirschel and D.J. Dawson, *op.cit.* p. 14.

²⁸ Douglas Wilson, *A Review of Rhode Island Adult Sexual Assault Prosecution: 1999-2001, A Draft Interim Report, The Effectiveness of the Rhode Island SART Program*, BOTEK Analysis Corporation, National Institute of Justice, 2003.

²⁹ The public health literature includes: Rambow, B, Adkinson C, Frost, TH, Peterson GF., *Female Sexual Assault: Medical and Legal Implications*, Annals of Emergency Medicine, 1992 Vol. 21(6), p. 727-31 Frazier PA, Hanley B. *Sexual Assault Cases in the Legal System: Police, Prosecutor and Victim Perspectives*, Journal of Law and Human Behavior, Vol.20, 1996, p. 607-628 Gray-Eurom K, Seaberg DC, Wears RL, *The Prosecution of Sexual Assault Cases: Correlation with Forensic Evidence*, Annals of Emergency Medicine, Vol.39 (2), 2002, P. 39-46.McGregor MJ, Du Mont J, Myhr TL, *Sexual Assault Forensic Medical Examination: Is Evidence Related to Successful Prosecution?* Annals of Emergency Medicine, Vol. 39(6), 2002, p. 639-47.McGregor MJ, LEG, Marion SA, Wiebe E. *Examination for Sexual Assault: Is the Documentation of Physical Injury Associated with the Laying of Charges? A Retrospective Cohort Study*, Canadian Medical Association Journal, Vol. 160(11), 1999, p. 1565-9.De Jong, AR, Rose M. *Legal Proof of Child Sexual Abuse in the Absence of Physical Evidence*, Pediatrics, Vol.88(3), 1991,p.506-11, and *Frequency and Significance of Physical Evidence in Legally Proven Cases of Sexual Assault* Pediatrics, Vol.84(6), 1989, p.1022-6.

³⁰ *Ibid*

³¹ Cameron S. Crandall and Deborah Helitzer, *Impact Evaluation of a Sexual Assault Nurse Examiner (SANE) Program*, Final Report, NIJ, December 2003.

The study by Berger *et al* suggests a more complex general hypothesis with regard to the measurement of the effects of community agencies combating sexual assault. Specifically, when there is more than a choice of arrest and prosecution or nothing, the response to a sexual assault provided by a rape crisis center and/or a forensic exam may *alter* the likelihood of pursuing prosecution. Victims may place great value on dealing with a medical or social agency that will provide health and mental health services and a guarantee of confidentiality.³² At the same time other victims (or the same victims) may look to community agencies, such as a SART, to support and advise them in their pursuit of accountability when they fail to get satisfaction from the police, the sole agency determining the initial pool of defendants.

Micro and aggregate studies demonstrate that arrest decisions are indeed complex. Kerstetter's instrumental pragmatism likely interacts with other non-police factors such as the community's level of social entropy, the availability of victim medical services, a community response team, and the level of investigative resources available to the police and prosecutors.

Neither micro nor aggregate studies alone can provide an understanding of the contribution made by the program interventions, developed during the last 25 years, designed to cope with the legal and social problems that result from crimes of sexual assault. Although Berger *et al* and Spohn and Horney³³ indicate that borderline sexual assault cases are more likely to be pursued it is not clear what enforcement instruments have been most effective in translating statutory language into official actions on these cases.

The screening studies produced over roughly the last 25 years find that in terms of *variables* there are several that are important to making an arrest and prosecuting the assault. Specifically, the victim resisted,³⁴ the victim is able to identify the assailant, the

³² Ronet Bachman, 1998, *op.cit.* p.25-26.

³³ Cassia C. Spohn and Julia Horney, *The Impact of rape Law reform on the Processing of Simple and Aggravated Rape Cases*, Journal of Criminal Law and Criminology Vol. 86(3), 1996, 861-885.

³⁴ Rose and Randall, *loc. cit.*

assailant is in custody,³⁵ the victim reported the assault promptly,³⁶ she is willing to prosecute,³⁷ corroborating evidence is available,³⁸ witnesses were present, or there were other circumstances such as the attack began as another crime.³⁹

The belief, by the police or by the victim, that sex role norms were violated, such as the use of drugs or alcohol, generally resulted in a modest disincentive to arrest or pursue prosecution.⁴⁰ Alcohol abuse is interpreted as more important to credibility, than as a behavioral fault. The literature provides mixed support for the importance of race,⁴¹ and the presence of a weapon.⁴² The importance of the presence of a weapon may not hinge on its presence but its nature and how it was used.⁴³

In 1996 the American Society of Criminology convened a set of task forces to examine critical justice issues and report. *The Violence Against Women: Overview* concluded that even following several years of reform efforts:⁴⁴

Research shows that in the processing of rape cases, corroboration requirements persist in a de facto manner, resistance standards continue to provide the basis for decision-making; and past sexual activity of the victim still influence the management of rape cases. Moreover, victim credibility remains an issue for courtroom participants and often accompanies beliefs about victim culpability.

Methodology – The Site: Rhode Island provides an excellent site within which to examine the effects of the Sexual Assault Response Team (SART). The FBI indicated that Rhode Island reported 39.3 forcible rapes per 100,000 population in 2000; 32.0 per

³⁵ Kerstetter, *op.cit.* p. 302

³⁶ LaFree, *op. cit.* p.588, and Libby Ruch, Barry Coyne, Paul Perrone, Reporting Sexual Assault to the Police in Hawaii, NIJ, 2001.

³⁷ Vicki Rose and Susan Randall, *Attrition of Justice Phenomenon in the Processing of Rape/Sexual Assault Cases*, National Institute of Mental Health, 1984 p.588.

³⁸ *Police Discretion and the Judgment that a Crime has been Committed – Rape in Philadelphia*, University of Pennsylvania Law Review, Vol. 277, 1968, p.286-289.

³⁹ Kerstetter, *op.cit.* p. 288.

⁴⁰ Kerstetter, *op. cit.* p.285, and LaFree, *op.cit.*, p. 588.

⁴¹ LaFree, *loc.cit.* finds support, Kerstetter, *op.cit.*, does not.

⁴² Rose and Randall, *op.cit.* did not find the presence of a weapon significant.

⁴³ Galton, *Police Processing of Rape Complaints: A Case Study*, American Journal of Criminal Law, Vol. 4, 1975-76, p. 21.

⁴⁴ E.Erez, J.Belknap, S. Caringella-Macdonald, M.Chesney-Lind, K.J.Ferraro, D.A. Ford, J. Horney, S.I.Miller, and E.A.Stanko, Critical Criminal Justice Issues: Task Force Reports From the American Society of Criminology, *Violence Against Women: Overview*, American Society of Criminology, 1996, p.61-

100,000 were reported for the United States.⁴⁵ It is a homogeneous urban state with a population in excess of one million, and a density of about 1000 persons per square mile.

Table 1: Comparison of Rhode Island and U.S. Socio-economic Variables indicates that Rhode Island is in many ways a social microcosm of urban United States.

Table 1: Comparison of Rhode Island and U.S. socio-economic variables

Item number	Socio-economic variables 2000	Rhode Island (percent)	US (percent)
1	Persons under 5 years old	6.1	6.8
2	Persons under 18 years old	23.6	25.7
3	Persons 65 years and older	14.5	12.4
4	Females	52.0	50.9
5	White persons	85.0	75.1
6	Living in the same house in 1995-2000, age 5+	58.1	54.1
7	Foreign born persons	11.4	11.1
8	Language other than English spoken at home, age 5+	20.0	17.9
9	High school graduates, age 25+	78.0	80.4
10	Home ownership rate	60.0	66.2
11	Median household money income (1999) (\$ value)	\$42,090	\$41,994
12	Persons below poverty (1999)	11.9	12.4

Rhode Island’s multiple police departments operate within the same legal framework. But within this single legal framework there is significant variation. The ratio of arrests to reported incidents varies significantly among Rhode Island’s towns and cities. The per capita police expenditures, a measure of the demand for services, and the number of police per 10,000 population, a measure of supply, varies among the 39 towns and cities. Victims’ access to SART varies among the jurisdictions, the likelihood of forensic examinations varies among the assault cases, and differences in social entropy and its affect on screening decisions varies among the Rhode Island’s towns and cities.

Rhode Island operates under a sexual assault law that incorporates the many reforms that were legislated during the reform period. It has three graduated sexual assault offenses: First, Second and Third Degree Sexual Assaults. First Degree Sexual

⁴⁵ FBI Uniform Crime Reports

Assault involves “sexual penetration,” Second Degree involves “sexual contact,” and Third Degree is statutory rape, where the victim is over 14 but under the age of consent of 16 and the alleged assailant is over 18. Persons can be charged with Assault with Intent to Commit First Degree Sexual Assault.

The penalties for these crimes are a minimum of ten years imprisonment for the First Degree, three years for Second Degree, not more than five years for Third Degree, and no less than three years for Assault with Intent.

As in many reformed states, the testimony of the victim need not be corroborated in prosecutions, nor prove the victim physically resisted the accused if the victim reasonably believed that resistance would be useless and might result in her serious bodily injury. Finally, in order for defense to introduce evidence of the victim’s prior sexual history, it must make a specific offer of the proof. The offer of proof, and all arguments relating to it, must take place outside the hearing of spectators and the jury.

A unique advantage of Rhode Island as a laboratory is that all felony rape cases are prosecuted by the Attorney General’s office; prosecution within the state is relatively constant.

Methodology – The Data: Rhode Island provides four data sources which are the basis for the evaluation.

1. The automated CourtConnect file,
2. The domestic violence/ sexual assault reporting form (DV/SA-1)
3. Sexual Assault Police Incident Reports, which are centrally filed with the DV/SA-1 forms.
4. The SART files of RI/Sexual Assault and Trauma Resource Center

The following describes these data sources.

1. *The Automated Court Connect File:*

The court’s public, automated case file provided the suspect’s prior criminal history as indicated by prior court cases heard in Rhode Island criminal courts (District and Superior) since 1990. Table 2 provides an outline of the available information.

2. *The Domestic Violence/ Sexual Assault Reporting Form (DV/SA-1)*

Law enforcement officers who respond to or investigate a sexual assault must complete a sexual assault report (DV/SA-1). The report is scanned into a computerized database maintained by the Domestic Violence Training and Monitoring Unit

Table 2: Suspect criminal history

Prior offense category	Disposition	Date of disposition
Crimes Against Persons: Sexual Assaults/Child Molestation, Domestic Violence, Other	Dismissed, Not Guilty, Filed, Probation, Suspended Sentence, prison (Incarcerated after revocation)	Date
Crimes Against Property	Same as above	Same as above
Crimes Public Order	Same as above	Same as above
Major Motor Vehicle (excluding drunk driving)	Same as above	Same as above
Substance Abuse Crimes (Including drunk driving)	Same as above	Same as above
Other	Same as above	Same as above

administered by the state’s Supreme Court. Table 3: *DV/SA-1 Report Data* below lists pertinent data indicating responses by the police, the victim, and the suspect.

3. *Sexual Assault Police Incident Reports*

Law enforcement officials who respond to or investigate a sexual assault are required to file a written police incident report to accompany the (DV/SA-1). The written reports range from a few paragraphs to dozens of typed pages. Each local law enforcement agency maintains its own forms and formats for these reports

4. *SART records:*

The SART records contain all of the above mentioned information and any supplemental information about the progress of the case, and the victim’s continued involvement in the prosecution of the case or counseling services.

Table 3: DV/SA-1 Report Data

Incident /Police Response Questions	Options
Who Contacted Police?	Victim, Family Member, Friend, Neighbor, Suspect, Hospital, 911, Anon, Other
City of Incident	(Name)
Incident Date	(Date)
Did Initial Police Investigation Find Probable Case of Sexual Assault	Yes/No
Were Photo(s) Taken of Victim?	Yes/No
Were Photo(s) Taken of Crime Scene?	Yes/No
Weapon/Object Used to Hurt/Injure	Yes/No If yes, handgun, long gun, knife, other
Witness Information	
Was Witness Present During Incident?	Yes/No If yes, Friend, Neighbor, Relative, Passerby, Bartender, Other
Post Incident Police Response	
Was Arrest Made within 24 Hours?	Yes/No
Follow Up Photos of Victim 2-4 days later?	Yes/No
Did Investigation Establish Probable Cause	Yes/No
Warrant Issued?	Yes/No
Case Under Investigation?	Yes/No
Charges?	1 st , 2 nd , 3rd Degree Sexual Assault, Other
Has Case Been Referred to Attorney General	Yes/No
Victim Information	
DOB	(Date)
Ethnic/Racial Background	White, Black, Wh Hispanic, BI Hispanic, Asian, Native Am., Other _____
Physical Assault	Yes/No
Visible Injuries	Yes/No
Victim Required Medical Attention	Yes/No If yes, What Medical Facility?
Alcohol/Drugs Involved	Yes/No/Unknown
Was Forensic Rape Exam Done?	Yes/No
Did Victim Give Written Statement?	Yes/No
Did Victim Sign DVSA Form	Yes/No
Did Victim Fill Out Body Chart	Yes/No
Did Victim Sign Medical Release	Yes/No
Suspect Information	
DOB	(Date)
Ethnic/Racial Background	
Relationship to Victim (I)	Married, Formerly Married, Intimate Partner, Former Intimate Partner, Child in Common, Cohabitant, Dating, Relative _____
Relationship to Victim (II)	Co-Worker, Stranger, Friend, Employer, Acquaintance, Caregiver, Date, Employee, Other
Alcohol/Drug Use	Yes/No/Unknown

Methodology – The Design: The study is observational. It is after the fact. Victims were not assigned randomly to receive SART services. As such it is necessary to determine the existence of a comparable counterfactual situation in which SART is not available or estimate the manner by which victims choose, or do not choose, to become SART clients. If the “assignment” problem is resolved, then it may be possible to test the effects of the SART program.

The assignment approach is the preferred way to attack this problem. An alternative was to compare towns and cities in Rhode Island with and without access to SART services; that is use a comparative counterfactual design. The naïve expectation would be victims in towns and cities in which SART was available would have different outcomes for their sexual assault cases than victims without access to SART. The most serious flaw in this approach is the “ecological fallacy.”⁴⁶ Specifically, in the aggregate, victims in places with access to SART, access it individually with different likelihoods because of the individual circumstances of their cases. At best the measured effect would be weak or null and the possibility of confounding could lead to the measurement of an effect with the wrong sign. The preferred approach is to determine why victims use SART services and whether SART affects the victims’ cases.

An initial task in the evaluation is to examine the SART process. Inspecting the process helps make clear the degree to which the processing of sexual assault cases in Rhode Island has features that are similar to those described in the literature review. The measurement of SART effects cannot come before there is an understanding of the SART process.

Methodology – The Analysis: The SART analysis has three parts. The first is to describe the processes of the SART of Rhode Island and its coordination with the Rhode Island criminal justice system. This is followed by an examination, of the characteristics

⁴⁶ That is, inferences about individual behavior are drawn from data about aggregates. See David A. Freedman, “*Ecological Inference and the Ecological Fallacy*,” International Encyclopedia of the Social and Behavioral Sciences, Technical Report No. 549, October 1999.

of victims who are and who are not SART clients through the application of logistic regression. Finally, a contingency table analysis examines the support for several hypotheses about SART effects. In summary, the problem of the evaluation is to examine the SART process to determine where it is most likely to have its effects and, with the aid of statistical analysis, determine why victims choose SART and if SART has an independent, measurable effect on the legal outcome.

The following note is important. The reader must be mindful that the statistical power of the contingency analyses discussed in the analysis section is undesirably low. Low statistical power increases the likelihood of incorrectly accepting the null hypothesis when a treatment effect exists.

The small statistical power found in the contingency analyses is the result of sample sizes that are too small to reveal the existence of program effects with any reasonable degree of certainty. A secondary cause of the low power is the generally large ratio of non-SART cases to SART cases. When the ratio between non-SART and SART cases is large, say 4:1 or 5:1, the contribution of the controls to statistical power is diluted; i.e., the sample is again, effectively small.

There are several responses to this problem. The most important is to view the evaluation as a formative one. That is, the evaluation should be seen as providing useful information for the continued development of the Sexual Assault Response Team of Rhode Island. SART is a developing program. The analysis of the client population of SART indicates that its cases include those that are usually considered more difficult to prosecute. Specifically, SART cases have a high likelihood of involving sexual assaults by friends, acquaintances, or relative, are believed by the victim to be first degree assaults, but in an important number of cases the police initially fail to find probable cause.

A second response is that the activities of the SART of Rhode Island and sexual assault cases in Rhode Island should continue to be studied. SART has willingly and

cooperatively engaged in this evaluation. This is greatly to their credit. Most organizations withdraw from rigorous evaluations, demand changes or refuse to engage in them in the first place. SART of Rhode Island has “stayed the course,” and they need to know whether they become more successful with more experience and possible process changes.

The third response is that other SART programs should be evaluated even if they are relatively small in size. A number of small studies can be cobbled together in a meta-analysis to measure an average outcome. To successfully accomplish this it is necessary that similar measures are calculated in each study. To the degree that NIJ supports these studies it can administer them so that comparable measures are calculated or calculable. The difficulty of meta-analyses from the public policy view is that it provides little insight to the outcome of any particular program. The processes that lead to the “average outcome,” will differ among programs and the SART process becomes a “black box.”

Finally, null results in the measurement of SART effects may mean that SART has effectively helped to maintain a “level playing field” for acquaintance sexual assault and stranger assault that resulted from reform of rape statutes that happened several years ago.

The SART Process - Introduction: In 2001, SATRC began to establish its Sexual Assault Response Team (SART), based on a multidisciplinary team approach to working with victims and survivors of sexual assault.⁴⁷ Team members include law enforcement, SATRC staff, and persons from the Department of the Attorney General, charged with prosecuting all felonies across the state. The SART program was formed specifically to serve victims who cooperate with law enforcement in the prosecution of their assaulters. It serves a screening function followed by an advocacy and support function while being integrated into the overall services of its parent agency, SATRC.

⁴⁷ The first official SART case actually began in December 2001.

The main goal of SART is to help sexual assault victims navigate the criminal justice system with more knowledge and ease. The second goal is to increase the successful prosecution of sexual assault cases by enhancing communication between all parties involved in the process. This includes keeping the victim updated on the status of the case, and providing advocacy and referral services when needed. The third goal is to assist victims recover from and/or cope with the trauma of their assaults through individual and group counseling and support offered by SART and SATRC staff.

SART eligible victims must be 14 years or older, the age at which the underlying offense is charged as a Sexual Assault, as opposed to a Child Molestation. The victim must report to law enforcement, hospitals or the Helpline either a first (penetration), second (touching) or third degree (statutory) sexual assault. The assault must occur in one of the jurisdictions that have agreed to participate in the SART process.

The Rhode Island SART model differs from others in that it was initiated by and lodged in a private, non-profit sexual assault victim advocacy and counseling agency. SATRC reached out to law enforcement and prosecutors to develop the program. The organization obtained the agreement of local law enforcement agencies and the State's Attorney to cooperate by the referral of victims to SART, participation in multi-disciplinary team meetings with victims to facilitate charging decisions, and continued communication with SART to update staff and victims of case progress.

In addition, SART provides periodic training to law enforcement officials regarding sexual assaults in general and the SART program specifically. SART officials have signed official Memorandums of Understandings (MOU) with participating police departments. Case referrals began during SART's first round of development meetings with individual police departments in which they agreed to specific provisions of cooperation and support.

The MOU provides that all parties acknowledge that the "team approach is a more positive approach" in responding to sexual assaults. "Therefore, to improve such

responses, the participants agree to support the concept, philosophy and development of the Sexual Assault Response Team.”

Law enforcement agencies agree to inform victims about the SART program and if interested, refer them to the SART Coordinator. The detective assigned to the case will after conferring with the SART advocate will then decide whether or not a victim statement should be taken right away or whether a formal SART interview should be scheduled. If the latter, the scheduling is coordinated with SART and all the parties, including the victim. If a SART interview is not scheduled, the detective must contact the SART Coordinator within one business day to provide follow up services to any willing victim. Further, law enforcement participants agree to share information relevant to each case with SART for the purposes of tracking and maintaining an ongoing case dialogue. Law enforcement will participate in team meetings to review cases as needed. Any law enforcement personnel involved in sexual assault investigations will undergo SART training offered by SART personnel. SART, in turn, promises to continually review training needs of law enforcement and ways to improve SART. The first formal “official” agreement was executed by the Providence police and SART on July 23, 2003. By the end of 2003, twenty-five (25) of 39 departments had signed

SART referrals come from two sources: one half from law enforcement and the other half from the victims themselves. (See Table 4.) Because the SART program is housed in a non-profit, victim service and advocacy agency, it is available to accept case referrals directly from victims regardless of local law enforcement officers’ decision to proceed or not with arresting the alleged sexual assaulter or sending or not sending incident reports to the Attorney General for possible charging where arrests are not made.

Law enforcement cases generally result when patrol officers are called to the scene and complete the initial incident reports for sexual assaults. If the case so warrants and a detective is available, a detective may be called out initially to the incident scene. Otherwise, a detective may be assigned within a day or two. In Providence, there are two

detectives assigned to handle all sexual assaults. In the remaining smaller police departments, the detectives are drawn from the Major Crime Units.

If the case is not referred by a participating police department, it may also be self-referred by victims of sexual assaults. Victims may call the state’s sexual assault hot line, the 24 hour Helpline, or receive medical attention at area hospitals. All of the state’s hospitals have received training in how to respond to cases of sexual assaults. The hospital, upon learning of a sexual assault, generally calls a Helpline advocate to meet with the victim in the hospital unless the victim refuses. In addition to responding to crisis calls, Helpline volunteers are trained to respond, in person, as requested by police or hospitals to assist victims of sexual and/or domestic assaults. In either case, victims are asked if they wish the police to be contacted and are referred to SATRC/SART.

Table 4: SART referral sources

Source*	Number of clients	Percent
Initiated by justice system		
Police (12) or Law Enforcement Aide (4)	16	37
Attorney General	2	5.
Other (Justice Commission)	2	5
DCYF (child protective services)	1	2
Sub-total	21	49
Initiated by non-justice source		
Helpline	10	23
Self	6	14
Hospital	4	9
SATRC/Rape Crisis Center	2	5
Sub-total	22	51

* Four referral sources were not recorded.

The SART Team Process:^{48,49} Detectives in participating departments fax a copy of the incident report to SART. The victim is told to contact the SART Case Manager and may be given a SART brochure by police. The SART Case Manager will also contact the victim if the victim has not contacted her. She explains to the victim the

⁴⁸ The information on the SART process is based on SART documents and interviews with the Supervisor of the SART Program, Melissa England.

⁴⁹ Information on the Department of the Attorney General is based on interviews with Assistant Attorney General Steve Ryan.

SART process and tells the victim that if the Attorney General decides to proceed with the case, she will arrange for an interview with the victim and the SART team. Until the victim signs a release form, all communications between SART and the victim remain confidential. Victims are invited to meet with the SART coordinator. Approximately half agree to do so. The others are sent information on SART and services available, upon referral, as well as an information release form to sign.

If the victim is interested in having the case prosecuted, SART faxes a copy of the police report to the Department of the Attorney General's Screening Unit. The next available Assistant Attorney General from the Criminal Division starts the review process by reviewing the police report. Minimally for a case to proceed the victim must be interested in cooperating with criminal justice officials in the prosecution of their cases, the identity of the suspect must be known and be in custody available for prosecution.

When either the police or SART send the Attorney General's Screening Unit a police report of a sexual assault, an Assistant Attorney General after consulting with the SART team makes the decision whether to prosecute the case or set up a SART interview. Several Attorneys in the Department have specialized training in sexual assaults. There are no formal criteria utilized by the Attorneys screening the cases other than an evaluation of "the evidence to support the charge." They also assess "the reliability of the victim as reporter." Finally, they evaluate the impact that prosecution may have on the victim, including, for example, if it may involve "serious mental health issues."⁵⁰

If the prosecutor on rotation, after consulting with the SART team and after a review by the Assistant Attorney General in charge of the Domestic Violence/Sexual Assault Unit makes a decision not to prosecute the case, charge or bring the case to the Grand Jury, it will not reach formal screening. If additional corroborating evidence, including witness statements, medical/physical evidence is forthcoming, the case will

⁵⁰ This is an example of an extra-legal criterion, which results in discriminatory treatment of mentally ill victims.

then go to screening. In the gathering of additional evidence, the Department relies “in most cases” on local detectives. It also has at its disposal, investigators available through the state’s Bureau of Criminal Investigations that consists of “mostly retired police officers.”

Forensic medical evidence is used more widely in child sexual assault cases than adult cases. Medical evidence, such as clothing and evidence of semen in adult cases may be compromised by reporting delays. According to the head of the Domestic Violence and Sexual Assault Unit, forensic examinations can constitute a “double edged sword.” If there are no findings, juries take that very seriously as if it is a “CSI world.” In such cases, the Department has a doctor testify that lack of forensic evidence, particularly in second degree sexual assaults, “neither proves nor disproves sexual assault.” When the Department receives a “very graphic complaint” and a violent assault is alleged and in some instances objects are used and no evidence is found in the forensic report, it poses a major problem for credibility of the case.

If the victim does not wish to prosecute, there is no complainant and the case is generally dropped as it “would have a difficult time despite efforts to push the case through.” If, however, it is a “particularly violent assault,” or involves a repeat offender, the Department may move the case forward, regardless of the victim’s wishes in order to safeguard the victim or the public at large. If a victim changes her mind in midstream, the Department will try to go forward or “try to work out a reasonable disposition short of trial.”

There are no standard bail guidelines for sexual assault cases. They remain “pretty much” on a case by case basis. However, in the majority of first degree sexual cases, the Assistant Attorney General that handles arraignments beginning in the District Court requests defendants be held without bail. In cases, however, where evidence is weak or there was a significant delay in the original reporting of the alleged crime, the Department assesses the implications of exposing the victim to cross examination at this stage of the proceedings, especially if it believes the court is likely to grant bail. The

court's criteria for bail differ from the Attorney General's Department. The Department is primarily concerned with the relevant strength of the case; the court is concerned with the defendant's prior record, ties to the community, employment and so on.

The Department has no formal criteria of when it is appropriate to convert sexual assault charges into non-sexual assault charges. Such conversions are a tool used to "get time hanging over an offender's head," a "conviction" on his record and avoid "facing a likely not guilty" on the original charges. Such plea bargains "occur with victim input and approval."

Most of the cases referred to the Attorney General from SART are accepted for further SART Team interviews. The Department of the Attorney General usually needs one to two weeks to get back to SART. At times, police may proceed directly with victim interviews and not wait for the SART process to be completed. SART, however, will still offer services to these victims.

One of the road blocks to SART case referrals from police has proven to be the time it takes for the Department of the Attorney General to complete the case review process described above. Police may be concerned in specific situations that SART may delay them from quickly completing full interviews with victims. Victims may be pressuring them to be interviewed before SART hears from prosecutors.

Most of the cases, involve the most serious sexual assault charges, sexual assault in the first degree. If the Department decides to proceed with a case, the SART case manager is asked to set up the SART Team interview with the victim. The Team is made up of the Advocate Coordinator, an Assistant Attorney General assigned from the Criminal Division, the police department and the victim. If the victim is involved with the Division of Children, Youth and Families, a representative of that agency also attends. Cases may include children who are 14 or over who are involved in state guardianship or on-going abuse and/or neglect investigations.

Interviews are scheduled in locations determined to be the most convenient for victims. In the Providence area, victims uniformly choose to have the interviews at the Sexual Assault and Trauma Resource Center (SATRC) headquarters. In outlying areas the interviews may be held in police stations or satellite SATRC offices used for its Child Advocacy Project.

The interviews are conducted by the police detective from the town or city where the incident occurred. By agreement and Attorney General's preference, others do not ask the victim questions. When the detective has completed his or her questions, he or she may ask if anyone else has anything to ask. All of the detectives involved have received SART training and orientation and, according to SART participants, are uniformly sensitive to victims and professional in conducting competence interviews. The interviews last from one to three hours.

The interviews try to get specific, detailed information from victims to follow up on the initial incident reports, which are considered minimal. If the victim is under 18, it is his or her choice whether to have parents in the room. If the victim so requests, parents are asked to remain outside. Police are trained how to explain to parents why this may be for the best. Most victims do not want their parents in the room during the interview and most parents, according to SART personnel, don't want to be present in the room to hear the details of the assault.

The interviews are audio taped and typed up by the police department or SART personnel if so requested by the police. The Department reviews the interview to help it decide whether or not to go forward. If not, the Department contacts the victim to explain why not. If the Department proceeds with the case, it is presented to the Grand Jury for a True Bill for sexual assault first degree. For lesser sexual assaults, the Attorney General signs "information" to bring charges in Superior Court. Most cases are presented to the Grand Jury.

If the Department proceeds with the prosecution, SART follows up with victims to inform them of all case progress, bail imposition, and so on. If the defendant is incarcerated, SART assists victims to sign up for VINE in order to be informed of moves of the defendant within the state's prison system. Most of the SART victims are also involved in some form of counseling offered by SATRC or other agencies. In addition, a small percent attend weekly support groups for victims offered by SATRC.

The Department of the Attorney General also has its own felony victim advocates and there may be some overlap with these advocates. The Attorney General's advocates are not assigned until after an indictment and generally they restrict their activities to informing victims of court dates. Unlike SART personnel, they do not have training on sexual assault victimization.

The Department supplies SART with monthly updates of all open SART cases. In addition, SART has access to the court's computerized case file. If the case reaches disposition, prosecutors talk to victims directly on sentencing recommendations. Victim impact statements are completed by victims with the Attorney General, not SART. Notwithstanding minimum mandatory sentences imposed by statute for first and second degree sexual assaults, "courts have discretion in determining/ agreeing to lesser sentences. Often the charge will not be amended and, after victim contact, agreement is made to lower a jail sentence." The "more experienced prosecutors have leeway to make a judgment as to the quality of the case and its likelihood for successful prosecution at trial" to agree to less than minimum mandatory sentences. The Department always makes sexual offender treatment part of the disposition but cannot control whether or not judges impose it.

According to SART, most victims are relieved when the case is prosecuted. They feel empowered; they did what they could although many are disappointed with the perceived leniency of the sentences. If the charges are converted from sexual to non-sexual assaults, they generally express profound dissatisfaction to SART personnel.

According to SART personnel, SART provides them the opportunity to be with victims consistently when needed, accompany them to court and offer them support. It is the experience of SART that victims often have no one to confide in as they often do not talk about their victimization with friends or family. SART involvement may also put subtle pressure on the Attorney General to proceed with the prosecution.

In summary, there are four principle SART activities. The first is the coordination and maintenance of the SART team. Second, SART arranges joint interviews. Third, SART accompanies victims to court and related proceedings. Finally, SART meets directly with victims to offer support, counseling and to make referrals for assistance to SATRC or other agencies. The second and third activities may end at different times. In other words, after the victim is no longer in counseling, she may still be accompanied by SART to court proceedings or after the legal case has been completed, SART may still be in regular contact with the victim offering support and counseling.

The Outcome of the SART Process: SART is in an early stage of its development. Because of this the period of study covers SART and non-SART cases from September 2002 to the end of August 2003. The sexual assault cases reported in this period were followed until July 2004. There were 238 sexual assaults reported during the period in which perpetrators were identified; 47 were SART cases. In 10 SART cases the perpetrator was not identified. In the 20 month implementation period there were 38 cases and in the eight months following the end of the study period there were 46 cases. These cases in the post-study period were not tracked because the available follow-up period was brief.

Table 5: SART cases, 2001-2004

	January 2001- August 2002 Implementation	September 2002- August 2003 Study Sample	September 2003- July 2004 Post-Study
Number of Months	20	12	8
Number of SART cases	38	57	46
Average per Month	2	4.75	5.75

The number of cases used in the analysis is 200, which combines data from 176 completed DVSA forms and the data from 24 SART cases, where DVSA forms were not available and SART data was substituted.

Victims who participate in SART choose to participate. The obvious question is what motivates a victim’s choice. Table 6 suggests, on the basis of differences between proportions, that victims who chose to utilize SART had certain case characteristics that were different from victims who did not utilize SART. SART participants were less likely to have probable cause initially found by police, less likely to be injured, and less likely that the suspect was affected by drugs or alcohol, and more likely that the victim is photographed. This cluster of case attributes are interrelated and associated with the lower percentage of cases for which police found probable cause for SART victims.

An examination of these relationship, using binary logistic analysis, found that injury was related to whether police found probable cause ($p=0.02$) and that other variables: police photos ($p=0.00$), presence of drugs and alcohol ($p=0.02$), the filing of other charges ($p=0.00$), and the presence of evidence ($p=0.03$) were significantly related

Table 6: SART compared to non-SART cases (DV/SA) n=176

DV/SA item	Percent of SART cases (n=22)	Percent of Non-SART cases (n=154)	Statistical significance of difference *= < 0.05
Offender Race: White	78.2	66.7	
Police find probable cause	65.2	89.0	*
Suspect at Scene	26.1	28.6	
Witnesses Present	9.1	22.7	
Weapon	9.1	9.1	
Suspect on alcohol/drugs	9.1	35.1	*
Victim Contacted Police	63.6	64.3	
Evidence Found	50.0	33.1	
Other Charges Filed	13.6	22.7	
Victim Injury	9.1	33.1	*
Police Photo Victim	50.0	26.6	*
Victim Pregnant	4.5	2.6	
Victim Signed Statement	59.1	66.2	

to injury. Clearly, injury or evidence of resistance is an important initial marker for probable cause.

A logistic analysis, specific to the question of whether a victim is a SART client, indicates that in the study sample there is a cluster of three attributes. SART clients have significant odds of being assaulted by a friend, acquaintance or relative, have a subsequent forensic exam, and *believe* that the offense is first degree sexual assault.⁵¹ Table 7 indicates the odds ratio of a victim becoming a SART client given the selected attributes of the case and victim behavior. The presence of these attributes varies among the reported 200 sexual assault cases used in the analysis. Some victims were assaulted by a person other than a friend, relative or acquaintance, did not have a subsequent forensic exam, and did not consider the attack to be first degree sexual assault. The probability of choosing to be a SART client varies by the presence or absence of

Table 7: The odds ratio of a victim becoming a SART client (n=200)

Variable	Odds Ratio	Confidence interval		Probability
		Low	High	
Assailant was friend, acquaintance or relative	5.3	2.3	12.1	0.000
Victim had a forensic exam	2.8	1.2	6.2	0.014
1st degree sexual assault alleged by victim	3.9	1.8	8.7	0.001
Police find probable cause	0.27	0.11	0.67	0.003

these attributes and behaviors. Table 8 indicates the distribution of the probability of being a SART client based on case attributes. The likelihood of being a SART client ranges from 5 percent for victims with none of the distinguishing attributes to 71 percent for victims with all three case attributes. There are, however, victims who have all or some of the distinguishing characteristics of SART clients, but do not choose to participate in SART. Why?

As was indicated in Table 6, the evidence indicates that the choice appears to depend on whether the police have initially decided that there is probable cause to make

⁵¹ The difference between the victim’s belief and prosecutor’s belief is important. The proportion of cases charged as first degree sexual assault by the Department of the Attorney General was 33 percent for SART cases and 27 percent for non-SART victims, an unimportant difference.

an arrest. If the police have decided initially that there is probable cause, then the victim is much less likely to be a SART client.

Table 8: The probability of being a SART client based on three case characteristics: assailant, forensic examination, belief that the sexual assault was first degree

Variables			Client choice			
Assailant was friend, acquaintance or relative	Victim had a forensic exam	Belief that sexual assault was first degree	SART client	Not SART client	Total clients	Estimated Probability of choosing SART based on logistic regression
No	No	No	2	58	60	0.05
No	Yes	No	2	11	13	0.10
No	No	Yes	2	17	19	0.16
Yes	No	No	11	38	49	0.21
No	Yes	Yes	6	6	12	0.31
Yes	Yes	No	4	10	14	0.39
Yes	No	Yes	11	6	17	0.51
Yes	Yes	Yes	9	7	16	0.71
Total			47	153	200	

Table 9 indicates that victims of assaults in which the police do not find probable cause for arrest are much more likely to become SART clients, given the circumstances of their assault. For example, the likelihood of seeking SART help is much less for a victim in which the assailant was not a friend, acquaintance or relative, the victim did not have a forensic exam and the victim did not believe that the assault was first degree, regardless of whether the police found probable cause. In contrast the likelihood of seeking SART assistance is much greater if the police do not initially find probable cause in a case in which all three circumstances listed above are true. For example, if the assault was by an assailant who was other than a friend, acquaintance or relative, there was no forensic exam and the assault was not believed to be first degree sexual assault, and the police do find probable cause, the probability of becoming a SART client is 3 percent. On the other hand, if the assailant was a friend, etc. there was a forensic exam and the assault was believed to be first degree, and the police do not find probable cause, the probability of becoming a SART client is 89 percent.

Table 9: The probability of being a SART client based on three characteristics of the case: assailant type, forensic examination, belief that the sexual assault was first degree and a finding of probable cause by the police

Variables			Client Choice			
			Estimated Probability of choosing SART based on logistic regression			
Assailant was friend, acquaintance or relative	Victim had a forensic exam	Belief that sexual assault was first degree	Police find Probable Cause	N=165	Police do not find Probable Cause	N=35
No	No	No	0.03	54	0.12	6
No	Yes	No	0.09	10	.028	3
No	No	Yes	0.13	17	0.36	4
Yes	No	No	0.16	37	0.41	12
No	Yes	Yes	0.29	9	0.60	1
Yes	Yes	No	0.35	14	*	0
Yes	No	Yes	0.42	12	0.73	5
Yes	Yes	Yes	0.67	12	0.89	4

* No observation within sample.

A principal benefit of SART is that it may provide an opportunity for a “second opinion” when the police fail to find probable cause, and the victim feels that accountability has been denied. Generally, victims contact SART fairly quickly. The time from the adult sexual assault incident to the referral to SART averaged twenty days; the median time was 10.5 days. The times ranged from before a report was made to police to 180 days after the incident. In child molestation cases, in which the victim reports as an adult, referrals have been as long as nine years after the alleged incident(s).

It is important to note that forensic exams, while they generally have little leverage on their own with regard to case outcome, as noted in the literature, become important in the SART process. In many communities, SART programs are combined with SANE, (Sexual Assault Nurse Examiners) programs. Advocates for SANE have widely promoted it as a key component in strengthening the criminal justice response to sexual assault.

The Rhode Island SART program does not have a SANE component; rather it relies on the medical staffs at the several major hospitals in the state. The state’s public

health laboratory analyzes specimens obtained from the rape examination kits. All the Rhode Island hospitals have standardized rape kits and use instructions developed by the State Department of Public Health. The Sexual Assault and Trauma Resource Center and the Department provide regular training of doctors and nurses in completing the kits.

Estimates in Table 9 (above) indicate that victims who have forensic exams and fail to be validated with decision of probable cause have an important increase in their likelihood of seeking SART assistance. This suggests that a formal SANE program should perhaps be developed and be coordinated with the SART program. An important effect of SANE may be to validate the victim's concerns and provide access to a SART agency that will assist the victim in pursuing accountability for her assault. This may be a more effective route than having large numbers of SANE rape kits sit unexamined in a laboratory.⁵²

Contingency Analyses: The following contingency analyses examine several hypotheses about the relationship between the SART of Rhode Island program and the judicial processes as they are applied to sexual assault cases. The statistical measurement tool is Fisher's exact test, which is appropriate regardless of cell sizes and where observations are independent, as is the case in this study. The test provides directional P values (Chi-square does not), and is consistent with the measurements calculated with Chi-square.

The contingency analysis examined seven hypotheses.

1. SART increases the pool of defendants.
2. SART cases that are intimate partner sexual assaults are more likely to be charged in Superior Court.
3. Victims with forensic exams are more likely to have defendants charged in Superior Court.

⁵² It should be noted that the role of forensic exams depends on whether the police or prosecution establish that the sex was not consensual, the availability of other evidence in the case and whether the victim pursues the case.

4. SART victims with forensic exams are more likely to be charged in Superior Court.
5. Judicial processes for SART cases move more slowly and thus understate the effect of SART because of a SART case backlog.
6. SART cases after they are filed in Superior Court are less likely to be dismissed.
7. SART cases are more likely than non-SART cases to be charged in Superior Court.

Hypothesis One: SART increases the pool of defendants. There are two ways in which the pool of defendants can be increased. The first is to increase the pool of defendants charged in felony court by increasing the number of charged cases where probable cause was not initially found.

An examination of cases initially without probable cause divided between SART and not SART found no significant difference in the likelihood of a case being charged in felony court.

Table 10: SART and non-SART cases without initial finding of probable cause and charged in Superior Court

Item	Charged in Superior Court	Not charged in Superior Court	Total
SART and no probable cause	1	6	7
Non-SART and no probable cause	0	17	17
Total	1	23	24

Although it was much more likely that a victim confronted with a case initially without probable cause would use SART services, it did not significantly increase her chances of having the case charged in felony court. The Fisher exact test, using a one-tailed test was $P=0.2917$

Similarly, the pool of defendants can be increased if SART cases, in which probable cause was initially found, were more likely to be charged in felony court.

There was, however, no significant difference between the likelihood of SART cases or non-SART cases being charged in felony court in which probable cause was initially found. The Fisher exact test using a one tailed test was $P=0.1281$

Table 11: SART and non-SART cases with an initial finding of probable cause and charged in Superior Court

Item	Charged in Superior Court	Not charged in Superior Court	Total
SART and probable cause	7	8	15
Non-SART and probable cause	39	97	136
Total	46	105	151

The above tests do not explicitly take into account the differences in case-mix between SART and non-SART cases. It may be that SART is more successful in dealing with the mix of cases that victims bring to SART. The null hypothesis is that case mix does not make a difference in the effectiveness of SART.

A logistic regression with the independent variables that reflect the kind of case that SART attracts (assault by the friend, acquaintance or relative, the victim had a forensic exam and the victim believed the assault was first degree) does not cast doubt on the null hypothesis that controlling for case mix does not reveal an independent SART effect with regard to whether a case is filed in Superior Court. The P value for SART was 0.19. Although SART case-types are likely to be the most difficult cases to prosecute, prosecutors do not think that victims who use SART services present, “at the end of the day” more convincing cases than victims not using SART.

Finally, the number of SART cases used in the above logistic analysis is modest ($n=22$) because covariates are available for 22 cases. If, however, a Fisher exact test is applied to a 2x2 contingency tables without consideration of covariates, the number of SART cases is increased to 47. The result is unchanged. SART cases are no more likely to be charged in Superior Court than non-SART cases; $P=4004$

Table 12: SART and non-SART cases charged in Superior Court or not charged in Superior Court

Item	Charged in Superior Court	Not charged in Superior Court	Total
SART	17	30	47
Non-SART	63	128	191
Total	80	158	238

Hypothesis Two: SART cases that are intimate partner sexual assaults are more likely to be charged in Superior Court. It is hypothesized that cases involving intimate partner⁵³ sexual assault were more likely to be charged and prosecuted in Superior Court if they were SART cases. The result of Fisher’s exact test indicates that an intimate partner victim who uses SART services is no more likely to have their case heard in Superior Court than intimate partner victims who do not use SART services; $P=0.2946$.(one-tailed test)

Table 13: SART and non-SART intimate partner sexual assault cases charged in Superior Court or not charged in Superior Court

Item	Charged in Superior Court	Not charged in Superior Court	Total
SART and intimate partner	2	3	5
Non-SART and intimate partner	11	44	55
Total	13	47	60

Hypothesis Three: Victims with forensic exams are more likely to have defendants charged in Superior Court. Fifty-six women had forensic exams out of the total of 199 women for whom there was forensic information. For the Fisher exact test. $P=0.0978$ (one-tailed test); $P=0.1981$ (two tailed test). A forensic exam does not significantly affect a victim’s chances of having the defendant charged in Superior Court.

⁵³ Intimate partner included intimate partner, ex-intimate partner, married, ex-married, and cohabitant.

Table 14: Defendants whose victims had or had not a forensic examination charged in Superior Court or not charged in Superior Court

Item	Defendant charged in Superior Court	Defendant not charged in Superior Court	Total
Forensic exam	18	38	56
No forensic exam	62	81	143
Total	80	119	199

Hypothesis Four: SART victims with forensic exams are more likely to be charged in Superior Court The result of Fisher’s exact test, with regard to this hypothesis indicates that such victims are no more likely to be charged in Superior Court than victims not using SART services who have a forensic exam; $P=0.6017$ (one-tailed test).

Table 15: SART and non-SART case with forensic exam in which the defendant was charged/not charged in Superior Court

Item	Charged in Superior Court	Not charged in Superior Court	Total
SART and forensic exam	7	15	22
Non-SART and forensic exam	11	23	34
Total	18	38	56

Hypothesis Five: Judicial processes for SART cases move more slowly and thus understate the effect of SART because of a SART case backlog. A possible confounder in this and other analyses is that some SART and non-SART cases are not charged or not yet charged. That is, if judicial processes treat SART cases more slowly, the number of SART cases charged in Superior Court may be understated. The question is whether SART cases are more likely to be not charged or not yet charged than non-SART cases. Fisher’s exact test does not find a significant difference; $P=0.6241$ (two-tailed test). The judicial process does not favor SART or non-SART cases and cannot

Table 16: SART and non-SART cases charged or not charged or not yet charged

Item	Charged	Not charged or not yet charged	Total
SART	25	22	47
Non-SART	110	81	191
Total	135	103	238

be considered a source of the lack of difference in outcomes between SART and non-SART cases.

Hypothesis Six: SART cases after they are filed in Superior Court are less likely to be dismissed. An examination of Table 17: *Outcomes for SART and Non-SART cases*, indicates SART cases are not processed differently from non-SART cases. The likelihood of a SART or non-SART cases being dismissed after it has been filed in Superior Court are not different. The Fisher exact test $P=0.3355$ (two-tailed test).

Table 17: Outcomes for SART and non-SART cases

Line No.	Item	SART case		non-SART case		Total	
		n=47	%	n=191	%	n=238	%
1	Cases filed in Superior Court.	17	36	63	33	80	34
2	Open	7	41	14	22	21	26
3	Dismissed	0	0	7	11	7	9
4	Disposed	10	59	42	67	52	65
5	Cases Charged not in Superior Court	8	17	47	25	55	23
6	Cases not charged by end of study (June 2004)	22	47	81	42	103	43

Table 18: SART and non-SART case dismissals after being charged in Superior Court

Item	Dismissed	Not dismissed	Total
SART	0	17	17
Non-SART	7	56	63
Total	7	73	80

Hypothesis Seven: SART cases are more likely than non-SART cases to be charged in Superior Court. Similarly, there is no difference in the likelihood of a SART or non-SART case being charged in Superior Court or a District Court. The Fisher exact test $P=0.3735$.

Table 19: SART and non-SART cases filed in Superior or District Court

Item	Superior Court	District Court	Total
SART	17	8	25
Non-SART	63	47	110
Total	80	55	135

Table 20 summarizes the results of the contingency analysis using Fisher’s exact test as well as the outcome of the logistic regression that tested the likelihood of a SART case being prosecuted in Superior court controlling for the attributes of the case.

Table 20: Summary of SART Outcome Hypotheses

Hypothesis No.	Hypothesis Statement	Probability
1	SART increases the pool of defendants. -Initially no probable cause -Probable cause -Case mix variables (multivariate logistic analysis)	0.29 0.13 0.20
2	SART cases that are intimate partner sexual assaults are more likely to be charged in Superior Court.	0.29
3	Victims with forensic exams are more likely to have defendants charged in Superior Court.	0.19
4	SART victims with forensic exams are more likely to be charged in Superior Court.	0.60
5	Judicial processes for SART cases move more slowly and thus understate the effect of SART because of a SART case backlog.	0.62
6	SART cases after they are filed in Superior Court are less likely to be dismissed.	0.33
7	SART cases are more likely than non-SART cases to be charged in Superior Court.	0.37

Conclusions: These outcomes should not be considered a final result. The SART of Rhode Island is a program that has not reached its maturity. Only SART’s effects

within the judicial process, primarily Superior Court (felony court) have been examined. There is clearly demand for SART services. The dual role of providing counseling and support during the adjudication of victim's cases is an important combination of services.

SART clients self-select and in the study SART cases had particular attributes. They were likely to have been assaulted by a friend, a relative or an acquaintance, had a forensic exam and believed that the sexual assault was first degree. The police were also less likely to initially find probable cause. SART clients, of course, had different mixes of these attributes. The likelihood of a victim becoming a SART client was a function of the mix of these four attributes. SART victims, while they are different from non-SART victims, do not appear to have differential success in the courts.

It may also be the case that the null results of the contingency analyses indicates that SART is effective at helping to maintain a "level playing field" between acquaintance assault and stranger assault, which was initiated by the reform of rape statutes several years ago. That is, SART programs are a lagged response to a social-legislative-judicial change and help to maintain it.

Finally, SART's effect may "spillover" to the prosecution of sexual assault cases in which the victim does not use SART services. As a result there is a null difference between the outcome of SART and non-SART cases.

The SART study leaves unaddressed several intriguing questions. The present study does not provide the whole answer. There may have been other SART benefits, which the study was not designed to examine. The combination of SART judicial advocacy and rape counseling may, in general, lead to better victim outcomes.

Until further research is completed some principal cautions should be kept in mind. The study is a small study of a maturing program... A reasonable strategy is to lengthen the study to increase the number of cases and follow them until a high percentage of them are disposed. Such a strategy would provide greater confidence in the results.

Also, some of the underlying relationships are not well understood. The relationships, for example, between sexual assault, forensic examinations and prosecution have only been partially probed. The fact that this relationship is unclear means that the behavioral relationship between SART activities and forensic examinations is also not well understood.

The behavioral variability may be larger than is evidenced by the study of a single period. The discussion in Appendix 1 of the prosecution of sexual assault cases in the baseline period 1999-2001 provides another look at the role of forensic exams in the period prior to SART. The Appendix concludes that the prosecution process and outcomes in Rhode Island are quite similar to the results found in other urban locations.

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Appendix 1: Forensic Examinations and Sexual Assault Prosecution

The Baseline Period: The period 1999-2001 is the baseline for adult sexual assault prosecution. Sexual assault in Rhode Island is divided into four categories. Table 1 distributes the cases by assault charge.

Table 1: Most Serious Sexual Assault Defendant Charge:
1999-2001*

Most Serious Defendant Charge	Number
1 st Degree	106
2 ^d Degree	107
3 rd Degree	70
Sex Assault/Domestic	42
Total	325

* includes cases not disposed

In each year of the three year baseline period an average of 108 assailants were charged with sexual assault.⁵⁴ Chart 1: *Rhode Island Justice System Outcomes for Disposed Adult Sexual Assault Cases 1999-2001*, illustrates the distribution of adult sexual assault cases in the Rhode Island justice system with regard to the path of activities following the filing of a police report. Chart 1 outlines the criminal justice process starting with the police report, proceeds to whether the victim had a forensic exam, whether a defendant was arraigned, whether the case was dropped or dismissed, and finally the outcome of cases that were prosecuted.

Specifically, Chart 1 maps whether there was a forensic exam (forensic exam, ~forensic exam), an arraignment (arraigned, ~arraigned), whether the case was dismissed (dropped/dismissed, ~dropped/dismissed) and the prosecution result (trial, plea, conviction).⁵⁵ The data at each branch in the chart indicate the number of cases and the percents. Chart 1 does not distinguish among the levels of sexual assault charges, although there are some differences by level of charge. Whether there is a forensic exam

⁵⁴ The mean was 108.3 with an average deviation of 26.8 cases per year.

⁵⁵ Thirty-one cases from the baseline period are currently pending. All the pending cases will be followed and added to the baseline when they are disposed.

is generally independent of the charge, except for second degree assault for which a forensic exam is less likely, however the statistical power is small. That is, a larger sample might show that there are differences in the probability of an examination. The dismissal rate is also a function of the level of the assault charge. Third degree charges are less likely to be dismissed and domestic sexual assault charges are more likely to be dismissed. .

This is an expected outcome. Third degree assault involves children and is not directly controllable by the victim and domestic sexual assault is likely to involve an overriding long-term intimate relationship. These differences notwithstanding an examination on the basis of the level of sexual assault charge did not show a significantly different pattern from the aggregate pattern.

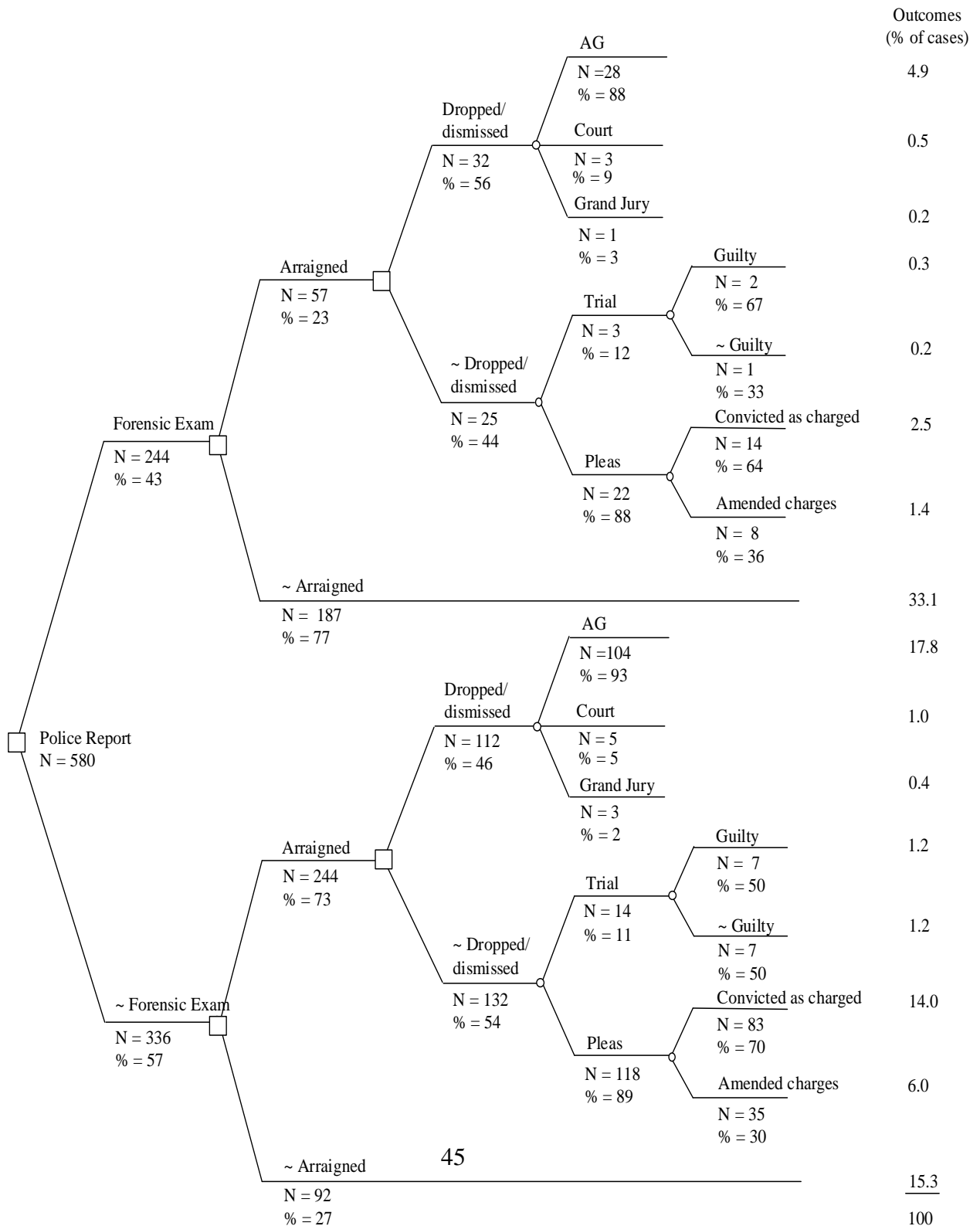
The Outcome of Police Reports: The generally desired outcome of a police report is an arraignment in those cases where evidence of a sexual assault has been established. In Rhode Island the police are required, by statute, to file reports on sexual assaults with the courts, regardless of whether there is probable cause to arrest a suspect. During the baseline period approximately 580 police reports, in which the outcome of the case is known, were filed with the Rhode Island Supreme Court's Domestic Violence Training and Monitoring Unit.⁵⁶

In this period the rate of sexual assault, as measured by police reports, was 11/10,000 female population. This significantly understates the rate of sexual assaults in the State. The National Crime Victimization Survey during the period 1992-2000 estimated that 36 percent of rapes, 34 percent of attempted rapes and 26 per cent of sexual assaults were reported to police.⁵⁷ Projecting these numbers to Rhode Island would mean that Rhode Island women were victimized at the rate of 35/10,000.

⁵⁶ Unfortunately, it is likely that this is a slight undercount. Some police departments do not report to the Unit in a timely manner, or where no arrest has been made the report may be sent to the Office of the Attorney General for an arrest decision. The likely result of the undercount is that the measure of the proportion of assailants charged is somewhat higher than actual.

⁵⁷ Rennison CM, *Rape and Sexual Assault: Reporting to Police and Medical Attention, 1992-2000.*, US Department of Justice, August 2002, Table 3...

Chart 1: Rhode Island Justice System Outcomes for Disposed Adult Sexual Assault Cases 1999-2001



In assaults reported to the police about half of the cases result in an arraignment. This approximates the national clearance rate of sexual assault cases.⁵⁸ Significantly fewer victims seek a forensic exam than not. Forty-three percent of the victims sought forensic examinations and the accompanying medical care;⁵⁹ 57 percent of victims were not examined. Arraignment is much more likely in cases without forensic evidence. Twenty-three percent of cases with forensic evidence result in an arraignment, *while 73 percent of cases without forensic evidence were arraigned.* (See Chart 1) Cases with forensic evidence are clearly different with regard to their smaller occurrence and the lower likelihood that an assailant will be arraigned.⁶⁰

With regard to the distribution of charges across all cases, 16 percent were first degree, 17 percent were second degree, 11 percent third degree and 7 percent sexual assault domestic violence, and 49 percent were not arraigned.

Dropped or Dismissed Cases: The outcome of 49 percent of the police reports was no arraignment. In addition, 48 percent of arraignments were later dropped or dismissed, most often by the Department of the Attorney General. That is, nearly three-quarters (73 percent) of the police reports had a null result of no arraignment or an arraignment that was later dropped. As noted, the lack of arraignment was much more likely for a victim with forensic evidence, although the probability of later dismissal appears to be unaffected by whether the victim had forensic evidence.

The reasons for dropping or dismissing a case are complex. Most cases involve an intimate partner, a friend, neighbor, coworker or a relative. Nationally, 14 percent of victims claim that the assault was by a stranger.⁶¹ As noted earlier only 50 percent of reported sexual assaults are cleared by an arrest. Clearly, if only 14 percent of

⁵⁸ Bureau of Justice Statistics, Sourcebook of Criminal Justice Statistics, 1998, Table 4.19

⁵⁹ The purpose of the examination is to properly collect forensic evidence, including victim identification, tests for DNA, treatment of the victim for physical injuries, and take preventive measures against diseases such as syphilis, hepatitis B and HIV as well as pregnancy.

⁶⁰ Whether a victim has a forensic exam is a matter of choice; they self-select.

⁶¹ Tjaden, Patricia and Thoennes, Nancy, *Prevalence, Incidence and Consequences of Violence Against Women: Findings from the National Violence Against Women Survey*, Research in Brief, National Institute of Justice Centers for Disease Control and Prevention, November 1998, p. 8.

perpetrators are strangers, then many identifiable assailants are not charged. In addition, a significant number of arraigned assailants have the charges dropped or dismissed on the initiative of the victim or the initiative of the prosecutor who doubts the strength of the case.

Because it is a lengthy matter, the pursuit of a sexual assault case requires immediate and continuing support from the police, the prosecutor as well as the advocacy of ancillary organizations, friends and family. Nationally, the median number of days between arrest and sentencing is a lengthy 220 days.⁶² The length of time in Rhode Island is similar.

Outcomes for Prosecuted Cases: If there is an arraignment the likelihood of the case going forward is essentially the same regardless of whether there is forensic evidence, but the current number of cases is too small to provide sufficient power to determine with a high degree of certainty that a difference does not exist.⁶³

If the charges against the assailant are not dismissed the likelihood of conviction for a felony is about two-thirds. The conviction result is indifferent to whether forensic evidence was presented in the case. On the other hand, if the low level of arraignment for victims with forensic evidence is the starting point, the felony conviction rate is 7 percent while the conviction rate without forensic evidence is 27 percent.⁶⁴

Discussion-A Review of the Literature: There are two principal outcomes found in Chart 1. There is significant decay between the number of sexual assaults and the number of cases in which the court punishes the offender. Surveys estimate that about 32 percent of sexual assaults are reported to the police. About 52 percent of the reported cases in Chart 1 result in an arraignment and about 48 percent of the arraignments are

⁶² Sourcebook of Criminal Justice Statistics, 1998, Bureau of Justice Statistics, U.S. Department of Justice, p. 434.

⁶³ The power is approximately 0.40. By the end of the study the number of cases is expected to provide sufficient statistical power.

⁶⁴ Ninety percent of prosecuted cases are settled with pleas; 10 percent were settled with trials in which about half of the defendants were found guilty. In plea bargained cases three-fifths of the assailants were convicted as charged; the remaining pled to amended charges.

dropped or dismissed. That is, in about 8 percent of the assaults the court punishes an offender. The second result is the difference, particularly with regard to arraignments, is between victims with and without a forensic exam.

A review of sexual assault studies in other locations indicates that the Rhode Island experience is repeated in other states. Unfortunately, the literature on the effect of forensic examinations on court outcomes generally does not include a non-forensic control group. The SATRC/BOTEC study is unique in this regard.

In a retrospective study in Minneapolis without non-forensic controls, only 29 percent of the sexual assault cases seen in the Hennepin County Medical Center had the potential for successful prosecution with both a victim willing to cooperate in the prosecution and an identified assailant.⁶⁵ Thirty-four percent of those cases, or 10 percent of all cases with a forensic exam, resulted in a successful prosecution; a rate not unlike Rhode Island. Evidence of genital or non-genital trauma was significantly associated with a successful legal outcome.^{66,67}

In an uncontrolled retrospective study in Duval County, Florida, 33 percent of the assault cases with forensic evidence resulted in an arrest; in 44 percent of those cases, the charges were not dropped.⁶⁸ That is, approximately 15 percent of the cases were arraigned and continued; roughly the same result that was found in Rhode Island. In Duval County perpetrators were more likely to be found guilty if the victim was less than 18, there was trauma and a weapon was used.

A study in Ontario, Canada of 187 female sexual assault victims seen at a large Ontario hospital indicated that non-medical variables such as the victims' age, use of

⁶⁵ Rambow, B, Adkinson C, Frost, TH, Peterson GF., *Female Sexual Assault: Medical and Legal Implications*, Annals of Emergency Medicine, 1992 Vol. 21(6), p. 727-31

⁶⁶ Frazier PA, Hanley B. *Sexual Assault Cases in the Legal System: Police, Prosecutor and Victim Perspectives*, Journal of Law and Human Behavior, Vol.20, 1996, p. 607-628.

⁶⁷ Rambow, et al, op cit.

⁶⁸ Gray-Eurom K, Seaberg DC, Wears RL, *The Prosecution of Sexual Assault Cases: Correlation with Forensic Evidence*, Annals of Emergency Medicine, Vol.39(2), 2002, P. 39-46.

alcohol, resistance and relationship of the assailant and corroborating evidence of witnesses were related to arraignment; *medical evidence was not significant.*

In a second uncontrolled Canadian study in the Province of British Columbia, charges were filed in approximately 33 percent of the forensic evidence cases, in which a suspect was identified by police, and a conviction was obtained in 11 percent of the cases, similar to Duval County, Hennepin County and Rhode Island.^{69,70} In this study an injury score that qualified as severe was the only variable significantly associated with conviction, although documentation on the police record of the receipt of forensic samples was significantly related with charges being filed.

Finally, in a parallel note, forensic evidence is also of modest use in child abuse cases.⁷¹ De Jong and Rose in a study of child sexual abuse found that physical evidence was present in only 23 percent of the cases that resulted in felony convictions.

It is critical to determine the differences in the cases with and without forensic evidence and why forensic evidence seems not add to the prosecutorial attractiveness of a case. While the literature accords with the Rhode Island experience none of these studies, because they lack non-forensic comparison groups, shed light on why prosecutors regard forensic evidence so lightly.

Hypotheses about Forensic Evidence: A forensic examination is an early step following a sexual assault. It appears that other case attributes dominate forensic evidence. For example, the offender may admit to the crime, prosecutors may require less evidence that the woman was sexually assaulted in a stranger rape or the evidence may be more obvious, the victim may be young and the fact of youthfulness may override the need for forensic evidence. The forensic exam and particularly the accompanying

⁶⁹ McGregor MJ, Du Mont J, Myhr TL, *Sexual Assault Forensic Medical Examination: Is Evidence Related to Successful Prosecution?* Annals of Emergency Medicine, Vol. 39(6), 2002, p. 639-47.

⁷⁰ McGregor MJ, LEG, Marion SA, Wiebe E. *Examination for Sexual Assault: Is the Documentation of Physical Injury Associated with the Laying of Charges? A Retrospective Cohort Study*, Canadian Medical Association Journal, Vol. 160(11), 1999, p. 1565-9.

⁷¹ De Jong, AR, Rose M. *Legal Proof of Child Sexual Abuse in the Absence of Physical Evidence*, Pediatrics, Vol.88(3), 1991,p.506-11, and *Frequency and Significance of Physical Evidence in Legally Proven Cases of Sexual Assault* Pediatrics, Vol.84(6), 1989, p.1022-6.

medical care may respond to the pain, rage and fear to the end that there is no arraignment, especially given that a large proportion of assaults are by known assailants.

The public health literature on the outcome of forensic exams may be at too high a level of aggregation and overlook variables that are critical to prosecutors when deciding whether to pursue a case. It is also common for many rape kits that have been transported from emergency rooms to forensic laboratories to sit unused because of impediments to the use of the evidence. This is not a failure of the forensic exam process but a flaw in the criminal proceedings. Thus, the importance of forensic exams may be better understood if the emergency room literature was re-analyzed from the perspective of the prosecutor, and if there was better understanding of the impediments to the flow of forensic evidence from the emergency room to the prosecutor. That is, forensic evidence may be persuasive in some cases and that in its absence the probability of arraignment would be nil. The text of this study indicates that forensic evidence in combination with the SART program is perhaps more effective...

It may also be hypothesized that reasons, unrelated to the physical evidence collected, explain the low arraignment rate of these cases. If victims who seek forensic exams were in all characteristics the same as those who did not, it would be expected that the probability of an arraignment for those with and without forensic evidence would be insignificantly different; the mean probability of arraignment of assailants of victims with forensic evidence and for those without would be from the same population. This is clearly not the case. This just as it is the case that the population that utilizes SART is not the same as the population that forego SART services.

Victims seeking a forensic exam may be in greater need of help and less willing or unable to identify the assailant. In a large Cleveland Hospital 27 percent of the assaults involved a weapon, general body trauma was present in 67 percent of the cases, genital trauma occurred in 53 percent of the cases and 39 percent of the victims could not

identify a suspect.⁷² In the Duval County study there was evidence of trauma in 57 percent of the examinations, and no suspect was identified to the police in 56 percent of the cases. In the Hennepin County study 50 percent of the victims had associated injuries, and 71 percent of the victims did not know the assailant or were unwilling to testify.^{73,74}

It appears that victims who have a forensic examination are more likely to have been assailed by a stranger or were unwilling to identify their attacker and suffered more genital and extragenital injuries. The increased likelihood of victims with forensic exams to be assaulted by strangers or unwilling to identify the attacker is hypothesized to explain a significant amount of the difference in the rate of arraignment. For example, as noted in Hennepin County only 29 percent of the victims identified the assailant and were willing to testify. The study does not identify the proportion of these cases that were arraigned, but even in the absence of that figure the arraignment rate is likely to be close to the Rhode Island rate of 24 percent. In Duval County a suspect was known to the victim in 65 percent of the assaults at the time of the examination, but was identified to the police in 44 percent of the cases. An arrest was made in 33 percent of the cases, again a result similar to Rhode Island.⁷⁵

In general, the information available on sexual assaults is modest. Most victims do not report them to the police, those who report to the police may have sustained fewer injuries, be more likely to know their assailant and be willing to testify than those victims who have forensic exams and the accompanying medical care

⁷² Riggs N, Houry D, Long G, Markovchick V, Feldhaus KM, *Analysis of 1076 cases of Sexual Assault*, Annals of Emergency Medicine, Vol.35(4), 2000,p. 358-62.

⁷³ Rambow B, *et al*, op cit.

⁷⁴ Intriguingly, a Nashville, Tennessee study suggests that the use of a county hospital emergency room for the medical management of rape victims discourages their reporting the event to the authorities. Cartwright PS, *Reported Sexual Assault in Nashville-Davidson County, Tennessee, 1980-1982*, American Journal of Obstetrics and Gynecology, Vol. 154(5), 1986, p. 1064-8.

¹⁹ It should be noted that the rate of dismissal of cases with forensic evidence in Duval County and Rhode Island were the same, 56 percent.

⁷⁵ The effectiveness of forensic exams can only be determined by comparing the cases with equivalent charges with and without a forensic exam. The outcomes are the arraignment and dismissal effects of forensic exams. That is, $P(A_1|F) = P(A_1 \wedge F)/P(F)$ compared to $P(A_1|\sim F) = P(A_1 \wedge \sim F)/P(\sim F)$, where $A_{1,2,3}$ = assault degree, F= forensic exam.

Examined victims are frequently injured. The forensic exam provides an opportunity to expertly collect, with training and proper equipment, evidence that would strengthen the assault case. It appears that prosecutors may not generally rely on forensic evidence in assault cases, as is discussed in the main text of this study. The rate of arraignment following the identification of an assailant is apparently much higher for non-forensic cases, perhaps due to their willingness to testify. The routine collection of DNA and its addition to and comparison to the Department of Justice CODIS database of DNA can increase the number of cleared cases. Clearly, the contents of many rape kits are not added to CODIS. Cases without forensic exams forfeit this avenue of pursuit, although stranger assaults may be less likely in cases in which forensic evidence is not sought.

The conventional pattern appears to be one in which cases with allegations that do not appear to be supported by the evidence, or the victim does not wish to proceed, or is persuaded not to proceed, are sifted out by not charging the assailant or by dismissing the case after charges are made. This leaves the most flagrant cases, a few of which are tested in trials.

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