



## When the Perpetrator is a Partner: Research Directions in Intimate Partner Sexual Assault Case Processing

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Intimate partner violence (IPV) and sexual assault impact millions of people every year (Black et al., 2011). In Texas alone, one third of adults, or 6.3 million people, have reported experiencing sexual victimization at least once in their lifetime (Busch-Armendariz et al., 2015). Prevalence rates for IPV in Texas are similar, with 1 in 3 Texans reporting experiencing violent victimization at the hands of an intimate partner (Busch-Armendariz, Cook, Heffrom, Bohman, 2011). Even though the majority of victims will not report to law enforcement, 426,816 IPV and 104,459 sexual assaults were reported to police in the U.S. in 2013 (Truman & Langton, 2014). Additionally, in 2015, 18,636 sexual assault incidents and 194,872 family violence incidents were reported to Texas law enforcement (Texas Department of Public Safety, 2015). Of the family violence incidents, almost 40% involved marital relationships, that included common-law marriages, husbands/wives, or ex-spouses (Texas Department of Public Safety, 2015).

The criminal justice system has historically encountered problems when addressing sexual assault and IPV, in treating victims with respect and dignity, and ensuring that justice has been served. It was not uncommon for jurisdictions to require that reports of sexual assault be supported by evidence that the victim resisted the perpetrator and/or require a corroborating witness. Regarding IPV, law enforcement historically neglected to intervene in a meaningful way, often leaving the victim and suspect to handle the situation on their own after failed attempts at on-site mediation. Eventually, the issues surrounding the criminal justice response to sexual assault and IPV prompted widespread reform to more appropriately deal with these crimes.

Research examining the criminal justice response to violence against women has historically examined sexual assault and IPV separately. Spohn and Tellis (2012) argued that this approach has resulted in a void of research examining the criminal justice system's response to intimate partner sexual assault (IPSA), or sexual assaults that happen in the context of an intimate partnership. Years later, Spohn, Tellis, and O'Neal (2015, p.100) suggested that future research focus on examining criminal justice decision making in IPSA (e.g., arrest decisions), which is "a topic that is arguably a challenge and an under-developed area in sexual assault case-processing literature." Although research has examined whether sexual assault cases involving intimate partners are handled differently than sexual assault cases involving acquaintances or strangers, few have considered the specific factors that under-

mine the full prosecution of IPSA (e.g., arrest decisions, filing decisions, and victim cooperation). Accordingly, this report guides future IPSA case processing research and the response to victims of IPSA to fill this void in research. The following sections address shortcomings and potential solutions to conceptualization and data collection. After all, until this research is carried out, questions will remain regarding how the criminal justice system and practitioners can best respond to victims of IPSA.

### IPSA Case Processing

Little research has focused solely on IPSA case processing.<sup>1</sup> Recently, however, O'Neal and colleagues (O'Neal, 2017; O'Neal et al., 2015; O'Neal & Spohn, 2016) have been working to fill this gap in case processing research regarding the intersection of sexual assault and IPV. First, their 2015 study is the most recent (and only second) qualitative examination of prosecutorial decision making in IPSA cases (for the first study see Tellis, 2010). They investigated the factors that influenced the prosecutor's initial charging decision using qualitative data from IPSA complaints that were referred to Los Angeles City and County prosecution. They found that various legal, cultural, relationship-based, and rape myths surrounding IPSA influenced prosecutor's charging decisions and, ultimately, that prosecutors considered legal and extra-legal factors when making charging decisions. Legal factors are those expected to influence decision making, such as strength of evidence. Extralegal factors include legally irrelevant characteristics, such as the victim's moral character. Specifically, O'Neal and colleagues (2015) found that prosecutors were less likely to file initial charges in cases that did not include traditional "domestic violence" factors (e.g., excessive jealousy, controlling behavior, etc.), if the victim declined cooperation, or if the victim's credibility was questioned.

Second, O'Neal and Spohn's (2016) study is the only research to use both quantitative and qualitative methods to focus on law enforcement and prosecutorial decision making in IPSA cases. Overall, their results highlight the complexity of two stages of the criminal justice system decision-making process. O'Neal and Spohn (2016) enhanced quantitative findings with qualitative examples from LAPD detectives' interviews and charge evaluation sheets from complaints referred to Los Angeles prosecution. Regarding law enforcement decision making, they found that police

<sup>1</sup>but see: O'Neal, 2017; O'Neal & Spohn, 2016; O'Neal et al., 2015; Tellis, 2010

officers were more likely to arrest in cases involving suspect weapon use, a physical assault of the victim, victim cooperation, physical evidence collection, whether the suspect was interviewed, and whether the victim made a prompt report. Regarding prosecutorial decision making, initial charging decisions were influenced by suspect weapon use and whether the victim cooperated with the investigation.

Finally, O'Neal's (2017) research is the only study of victim cooperation in IPSA cases. Her study used quantitative data from 160 IPSA incidents reported to the LAPD and the Los Angeles County Sheriff's Department (LASD) and qualitative data from case narratives that detailed the reasons victims withdrew participation with case processing. Quantitative results suggested that IPSA victim cooperation was influenced by: (1) relationship factors including marital status, relationship length, and controlling behavior; (2) measures of case seriousness including suspect threats; (3) and evidentiary strength, including physical evidence collection. Qualitative results indicated that victims mainly withdrew cooperation because: (1) they were no longer interested in continuing with the CJ process or they wanted to put the matter behind them; or (2) they blamed themselves for the incident and/or made excuses for the suspect's behaviors.

## Recommendations for Future Research

Although research on all IPSA case processing stages is needed, there is a specific need for research examining the police decision to arrest, the prosecutor's decision to file charges, and the victim's decision to cooperate. Despite their importance in determining the fate of cases, we know very little about these decision stages in IPSA cases. Regarding arrest, examining this decision stage is vital because broader research generally focuses on arrest when quantifying the decision-making control afforded to the police (Schulenberg, 2015). Regarding the prosecutor's initial filing decision, some scholars consider this stage to be the most important (Spohn & Holleran, 2001). Prosecutors have essentially absolute discretionary power at this stage of the process. Case rejection at this stage is usually exempt from review (Spohn & Holleran, 2001), making information gleaned from examining this decision point particularly compelling. Regarding victim cooperation, existing research has consistently found that this decision has influenced outcomes in both IPV and sexual assault cases (for recent review see O'Neal, 2016). Indeed, understanding the circumstances that surround the cooperation decision can inform criminal justice practices and is important for case attrition. In the sections that follow we provide suggestions for future research. We begin with a suggested data collection strategy. We then discuss why examining arrest, initial filing, and victim cooperation is an important first step in moving the IPSA case processing body of work forward.

## Identifying Appropriate Data Collection Strategies

To study IPSA case processing, we suggest collecting narrative reports from police agencies and linking them to charge evaluation sheets collected from district attorney offices. Because the suggested future research involves examining IPSA cases, we suggest collecting case files from two different case categories: (1) cases that have been formally recorded as "sexual assault/

rape," but involve intimates; and (2) cases that have been formally recorded as domestic violence or IPV, but the nature of the violent relationship or reported incident includes sexual violence.

Cases that have been formally recorded as "sexual assault/rape" but involve intimates include incidents that are recorded as sex-related offenses (e.g., rape, sexual assault, sexual battery, sodomy, penetration with a foreign object) and include intimate partners. We generally define intimate partners as a suspect and victim who are married (including common law marriage), cohabitating, dating, legally separated or divorced, or who have children together. For example, a rape report involving a dating couple would fall under this category. These types of reports are typically handled by a sex crimes unit.

Cases that have been formally recorded as domestic violence or IPV should be included if the nature of the reported incident or violent relationship involves rape, sexual assault, etc. For example, a domestic violence call between a married couple would fall under this category *if* the victim reported an aspect of sexual violence (rape, sexual assault, sexual battery). These types of reports are typically handled by a family violence unit or domestic violence unit. Collecting files from these two different case categories provides the opportunity to examine/compare decision making and outcomes in cases that are formally recorded as different crimes (and often handled by different units), but are arguably the same phenomenon—sexual assaults that occurs within the context of an intimate partnership or IPSA.

## Arrest, Initial Filing, and Victim Cooperation in IPSA

IPSA case outcomes and case processing decisions research is in its infancy. And, although a few studies exist, to date, scholars have largely neglected to undertake a large-scale study to document specific factors that undermine the full prosecution of these types of cases. As mentioned above, research examining arrest and filing decisions has examined sexual assault and IPV separately. This is problematic, as research suggests that sexual assault often accompanies victims' experiences of IPV (Sack, 2010). Indeed, findings indicate that between 7% and 14% of women who cohabitate or marry will be sexually victimized by their intimate partners at least once (Black et al., 2011; Finkelhor & Yllo, 1985; Tjaden & Thoennes, 1998). These findings highlight an important nexus between sexual assault and IPV. Victims of IPSA encounter numerous obstacles to help-seeking that victims of other crimes do not. For example, individuals are unaware of how widespread acquaintance rape and IPSA are, resulting in increased victim blame in incidents where the suspect is a dating partner (Bridges & McGrail, 1989; Johnson, Kuck, & Schander, 1997; L'Armand & Pepitone, 1982). Placing blame on victims of acquaintance rape and IPSA may stem from beliefs that prior dating or sexual interactions suggest women's willingness to engage in sex in any situation (Pollard, 1992). Also related to the suspect/victim relationship, sometimes sexual victimization that occurs in intimate relationships is wrongly associated to simple miscommunication. This is rooted in the idea that perpetrators do not realize that women do not want to have sex at the time of the incident (Belknap, 2007). Finkelhor and Yllo (1985) term this phenomenon the "sanitary stereotype"—IPSA as a trivial conflict involving couple miscommunication. Overall, these public attitudes are problematic because legal decision making is susceptible to the

same biases that characterize general information processing, like the tendency to focus on information that is consistent with pre-existing views (McEwan, 2003). Overall, these general public attitudes toward IPSA can shape police and prosecutorial decision making in IPSA cases. Research to date finds that some—not all—criminal justice actors adhere to rape-related myths (Krahé, 1991; Page, 2010; Sleath & Bull, 2015). Adhering to rape myths can produce responses that deny full protection to certain victims, like those who do not conform to the “real rape stereotype” involving stranger assault.

Regarding victim cooperation, IPSA victims encounter numerous stressors and barriers to participation that victims of other crime types do not (Ford, 1991). For example, IPSA victims may have to report, discuss, and/or testify about intimate details of their consensual sexual encounters with the suspects. IPSA victims may have anxiety about losing financial support if her abuser is the principal household earner. The victim may have concerns for her children’s safety or custody battles; she may fear that she will have to raise the children as a single mother (Hart, 1996). Victims of IPSA may worry that cooperating with the criminal justice system will cause new acts of violence or the abuser may threaten the children to maintain power post-separation (Hayes, 2015). These reservations are not unjustified—IPV suspects are seldom detained prior to trial (Lerman, 1980). Victims of IPSA may be forced by partners (i.e., abusers) to terminate cooperation. Suspects may threaten children or pets, attempt to pressure victims back into the partnership, or destroy property (Hart, 1996; Hayes, 2015). These factors can cause victims of IPSA to view withdrawing cooperation as the only possible decision.

## Conclusion: Research to Practice

The research suggested above will have practical and academic significance. Regarding academic significance, limited scholarship exists on IPSA case processing. Therefore, the above-suggested research has the potential to shed important light on the complex nature of criminal justice decision making (e.g., arrest and filing) and victim decision making (e.g., cooperation) in these types of cases. This also has the potential to improve the official response to IPSA victims. Understanding IPSA case processing through research can improve law enforcement, prosecutorial, and practitioner response to these crimes. For example, O’Neal’s (2016) research found that IPSA victims were less likely to cooperate with law enforcement when perpetrators limited the victim’s access to a vehicle, telephone, and/or tangible support from family and friends. Her study provides insight into the ways in which perpetrator behavior can influence victim experiences with formal help-seeking institutions. This type of research can guide official response by demonstrating the necessity of treating IPSA victims as IPV victims (as opposed to simply sexual assault victims) and acknowledging potential relationship-based barriers to victim cooperation. For example, IPSA victims may be unable to attend follow-up police interviews or case worker meetings due to a lack of transportation, or may miss detective or case worker telephone calls due to being denied access to a phone. In addition, a victim may return to their abuser’s residence because she has been denied other forms of support. Officers and case workers may view these behaviors negatively, considering these victims as less worthy of formal attention if they “ignore” calls, are “no shows” for meetings, or return to their attacker’s residence.

O’Neal’s (2016) research, however, shows that when victims do not cooperate, it may be the result of the suspect’s behavior. Criminal justice professionals and practitioners can use research to inform their response to IPSA victims, which has the potential to increase victim satisfaction, enhance cooperation, and decrease case attrition.

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## RESOURCES

**Texas Association Against Sexual Assault (TAASA):** (888) 91-TAASA

**Rape, Abuse, and Incest National Network (RAINN):** (800) 656-HOPE

**Crime in Texas: The Texas Crime Report:** [http://www.dps.texas.gov/administration/crime\\_records/pages/crimestatistics.htm](http://www.dps.texas.gov/administration/crime_records/pages/crimestatistics.htm)

**The Institute on Domestic Violence & Sexual Assault (IDVSA):** <http://sites.utexas.edu/idvsa/about-idvsa/staff/>

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