

About Male Batterers Who Sexually Abuse Their Intimate Partners

The Violence Against Women Survey found that 7.7% of women, or more than seven million women in the United States, have been raped by their intimate partners ("IPs"). Research focusing only on marital relationships have found that between 10 and 14% of married women are raped by their husbands, that between one-third and one-half of battered women are sexually assaulted by their IPs. Female victims of IP sexual assaults have portrayed their partners as "a domineering, controlling, physically abusive patriarch who perceives sex as an entitlement in marriage."

While little has been written about marital rape in general, far less has explored why men sexually assault their female IPs—only two studies, each of which reported on only a handful of men's experiences. Although one study looked at the men's skills (finding them low), the three men whom David Finklehor and Kristi Yllö interviewed stated they were entitled to sex whenever they wanted it, regardless of their wife's willingness, and saw it as a way to control their wives.

Demographics of Current Study

By contrast to prior research on men who rape their IPs, a current study by Raquel Kennedy Bergen and Paul Bukovec ("Men and Intimate Partner Rape: Characteristics of Men Who Sexually Abuse Their Intimate Partners," 21 *Journal of Interpersonal Violence* 1375-1384 (2006)) examined 229 men, aged 18 – 63 enrolled at a batterer intervention program in a large metropolitan city in the Northeast, 53% of whom had sexually assaulted their IPs at least once.

The men reflected the racial distribution of their city: 47% were African American, 40% Caucasian, 8% Latino, 2% Asian, and the rest self-identified as other. Three-quarters of the men were between 20 and 45 in age, 30% were Catholic, 30% Protestants, and the remainder included Muslims, Jews and others. While the men were more likely than the overall population to be of lower socioeconomic status in terms of education, occupation and employment, 33% were in white-collar jobs, of whom "a substantial number" were "professionals, including professors and physicians." Fifty-three percent of the men claimed to have been physically or psychologically abused as children,

60% admitted to regularly consuming alcohol, and one-third to using recreational drugs.

Almost two-thirds (65%) of these men were court mandated into the program (most of whom faced domestic violence charges), and the rest were "partner mandated" by IPs threatening to leave them unless they attended the program. Fifty-six percent of the men were actually living with their current IP (whether cohabiting or married to them); these men averaged 3.5 years with their current partner, although 25% had been married to their partner for more than 11 years.

Each man in the program was required to fill out an extensive 20-page questionnaire at the beginning of the program about his relationship with his current partner, six pages of which ask about his abusive behaviors with that partner, including physical, emotional, verbal and sexual abuse, and if he has done each of the behaviors never, rarely, occasionally, frequently or often against the current partner. Seventeen of the questions specifically ask about his history of sexual abuse and coercion, from having sex while the partner was asleep to using a gun to sexually assault a partner. The men were told that their IPs would also be filling out comparable data, although the study relies only on what the men admitted to, known to be an underreporting, particularly of the more severe abuse and especially of sexual abuse.

Findings of Study

Virtually all of the men (92%) admitted to being physically or emotionally abusive of their IPs, 84% to having physically abused them (including 38% who tried to kill them by choking them and 40% who used a gun on them at least once), and 57% of the physically abusive men admitted to having assaulted their partner between one and five times within the previous year, and 40% admitted that their physical violence had increased in frequency over the past year.

While 53% responded in the affirmative to behaviors constituting sexual assault or rape, fewer than 8% affirmatively answered "Have you ever sexually abused your partner?" As to actual sexual behaviors the men admitted to, 7% threatened to harm an IP if she did not have sex, 14% physically forced their IP to have sex, 17% had sex when she

was unable to consent. Forty percent of the men emotionally pressured their IP to have sex against her will, and an additional 8% threatening to withhold money from a partner unless she had sex. Ten percent of the men admitted to using emotional coercion on their IP when she was sick, most commonly after she was discharged from the hospital, often immediately following childbirth.

Although lower than what women have reported, 6% of the men admitted that they forced their partners to look at pornography and 4% coerced their IPs into enacting what they had seen in the pornographic material. Many men used a large variety of forms of sexual violence against the wills of their IPs, including using weapons and forcing their IP "to have sex with other people, animals and objects." One-third of the sexually abusing men (33%) did so when their partners were asleep and unable to consent, and 90% of these men admitted to other sexually abusive acts against their IPs. Fifteen percent of the entire sample (and one-quarter of husband rapists) admitted to forcing sex after physically abusing their IPs, presumably to assure themselves that the relationship is all right again, and to reassert power, control and domination over their abused women.

Limitations of Study

Because these men were all in a batterer treatment program they are clearly not representative of the general male population, nor even of all men who abuse their female IPs. As previously noted, because the study is based only on what the men reported, it very likely under-reports much of the abuse, particularly the more severe forms of sexual abuse. Unfortunately, we are not told if there were any significant differences between the court mandated men and those who were "partner mandated" into the treatment program.

Failure to Consider Full Range of Abuse

Despite years of knowing that there are huge overlaps by abusers with many different types of victims, this study, like most IP violence studies and treatment programs, considered only the abuse with the men's current IPs. It did not look at their abuse of

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New Jersey Appellate Court Finds That State Not Required to Provide Rape Defendant With Photograph of Victim

The defendant, Marquis Gilchrist, was charged with aggravated sexual assault, kidnapping, burglary, and criminal restraint. Gilchrist entered the victim M.C.'s bedroom in the middle of the night, bound her, and threatened her with a gun. After searching for items to steal from M.C.'s apartment, Gilchrist vaginally penetrated M.C. and threatened to come back and kill her if she told anybody about the rape. M.C. moved from the apartment where the assault occurred. Semen left on a blanket following the assault later matched a DNA sample provided by Gilchrist after his arrest on other burglary charges.

Defense's Argument for Photo of Victim

Following his indictment, Gilchrist filed a pretrial motion for further discovery directing the prosecutor to provide the defense with a photograph of the victim. The defense argued that it was "essential" that Gilchrist see a photograph of the victim before trial so he could determine if he knew her or had some interaction with her in the past. The defense also claimed that providing the photograph would "impose no material burden" on M.C. because she would have to face Gilchrist in person at trial. Gilchrist's attorney argued to the trial court that the photograph implicated the defendant's right to confrontation and his right to effective assistance of counsel. The State advised the trial court that it would have complied with defendant's request if the victim did not object, but M.C. expressed "overwhelming fear" that giving a photograph to the defense would make it easier for Gilchrist to fulfill his threats to kill her. The State also responded that Gilchrist

had no right to confront witnesses pretrial and that he failed to present any legitimate reason for obtaining M.C.'s photograph. The trial court granted the motion based on the trial judge's "practical" determination that the court could not prevent the defense from taking a picture of the victim, so it was less threatening for M.C. to provide the photograph through the prosecutor.

Defense Fails to Show How Photo Would Be Exculpatory

The Superior Court of New Jersey, Appellate Division, first noted its concern

counsel would have an opportunity to cross-examine M.C. and address any evidentiary issues.

Chilling Effect of Such Pretrial Discovery

Another significant limitation on a defendant's right to discovery is "the chilling and inhibiting effect that discovery can have on material witnesses who are subject to intimidation harassment, or embarrassment." Because M.C. was sexually assaulted and threatened with death, the State argued that her fears were reasonable and that she would be

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with the trial court's "practical solution," admonishing the judge that it is the court's role to make decisions based on controlling legal principles, not what might be best for the defendant or victim. *State v. Gilchrist*, 885 A.2D 29 (N.J. Super. App. Div. 2005). The court then analyzed the issue under the constitutional right of a criminal defendant to confront witnesses against him. However, this right does not require the pretrial disclosure of any and all information in an unfocused search for evidence. The defendant must make a showing that the evidence will either be relevant or exculpatory, and Gilchrist failed to provide any legitimate basis for obtaining M.C.'s photograph. In the event the matter proceeded to trial, defense

"victimized again" if she was forced to submit to a court-ordered photograph. The court concluded that any possible benefits to the defendant of a court-ordered photograph of M.C. were entirely speculative and outweighed by other important considerations. Referencing the Victim's Rights Amendment of the New Jersey Constitution, the court considered "M.C.'s privacy; her right to be treated with fairness, compassion, and respect; her right to be free from intimidation; and the need to encourage crime victims to cooperate and participate in the criminal justice system." The order requiring the State to photograph M.C. and to provide Gilchrist with the photograph was reversed. ■

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prior or other current partners (many of these men are involved in multiple relationships) or other adults with whom they

were not romantically involved. Nor did the study consider whether any of these men were sexually abusing children, whether theirs, their IP's or any other children. Although this study has done much

to inform us about the sexual abuse to which batterers in treatment programs are willing to admit, until we are willing to see and treat abuse in its whole context, we will never end it. ■