



Questionnaire on criminalization and prosecution of rape

The Advocates for Human Rights makes this submission to the Special Rapporteur on Violence against Women. As described in Question 1, this submission presents the legal framework of the state of Minnesota in the United States of America.

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Definition and scope of criminal law provisions

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.

In the United States, most criminal offenses are prosecuted by state and local authorities, rather than by the U.S. government. Each of the 50 States have their own criminal laws and rules, separate from other states, and separate from the U.S. government.

The Advocates for Human Rights has expertise within the U.S. State of Minnesota, a State with a strong reputation for its legal framework on violence against women. We have attached in separate documents the Minnesota statutes on all forms of rape and sexual assault.

2. Based on the wording of those provisions, is the provided definition of rape:
 - a. Gender specific, covering women only? **NO. The definition of "intimate parts" includes the female and male primary genital area, groin, inner thigh, buttocks, or breast of a human being. Minn. Stat. Sec. 609.341, subd. 5.**
 - b. Gender neutral, covering all persons? **YES. Gender is not mentioned at all. As an example, a transgendered person could be the victim of any criminal-sexual-conduct offense in Minnesota. Regardless of the appearance of the "primary genital area," it is the subject of criminal sexual conduct statutes. The state has successfully prosecuted the sexual assault of transgendered**

persons because the statute refers to the intimate parts of any human being. The same applies for areas such as the breast or the groin – the gender identity of the person being victimized does not determine whether the statutes apply.

- c. Based on the lack of consent of victim? **YES. Sexual penetration is criminalized if there is a lack of consent plus either force or coercion, or if the victim was asleep or unconscious.**
- d. Based on the use of force or threat? **YES. To prove a criminal offense, non-consent along with force (infliction or attempted infliction of harm) or coercion (confinement or use of superior size or strength) must be shown.**
- e. Some combination of the above? **YES. While contact (non-penetration) with intimate parts can be prosecuted as a gross-misdemeanor fifth-degree offense with a showing of mere lack of consent, the penetration offenses typically known as “rape” require a showing of both non-consent and also the use of force or coercion.**

For example, the nonconsensual grabbing of a person’s breast is fifth-degree criminal sexual conduct. But to prove “rape” with vaginal, anal, or oral penetration, the state would have to show non-consent as well as the infliction of harm or use of confinement (pinning down).

- f. Does it cover only vaginal rape? **NO. The sexual contact or penetration of any of the intimate parts is criminalized, regardless of the gender of the victim.**
- g. Does it cover all forms of penetration? **YES. If yes, please specify. Penetration of the female genital opening, anal opening, and contact by mouth are all treated the same, regardless of the gender of the perpetrator or victim.**
- h. Is marital rape in this provision explicitly included? **NO.**
- i. Is the law silent on marital rape? **YES. It is not mentioned.**
- j. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **YES. Any penetration by force or of an unconscious person is criminalized, regardless of the relationship of the parties. See Minn. Stat. Sec. 609.344, subd. 1(c) and subd. 1(d).**
- k. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? **NO. It is not mentioned whether to include or exclude it as a factor.**

Marital rape is not specifically prohibited, but it can be prosecuted under the other forms of rape.

Minnesota has statutes that criminalize sexual conduct with a person who is either mentally impaired or physically helpless. The statutes indicate that such persons cannot lawfully consent to sexual activity.

A person who lives in a residential facility for individuals with cognitive disabilities, for example, likely cannot consent to sexual activities. If a person cannot live independently because of either significant cognitive impairment, or because of significant mental-health diagnoses, they cannot give legal consent to sexual activity. This is true even if that person is “willing” and cooperates with a sexual partner. Their inability to make decisions for themselves in other ways is considered when determining their ability to consent sexually.

Further, a person who is asleep or unconscious cannot consent to sexual activity. Police and prosecutors see many cases in which individuals are sleeping at a house party after consuming alcohol or other drugs. If another person removes the sleeping person’s clothing and engages in sexual activity with them, it is criminal sexual conduct. Multiple cases of that type are prosecuted every year in Minnesota.

Minnesota previously had a statute that granted an exception to rape in cases of marriage or live-in partnership in which one partner was mentally impaired (as with a permanent, congenital condition), or was physically helpless (as in sleeping or unconscious). The purpose of the statute had been to acknowledge that people with cognitive disabilities can form consensual relationships, and the State sought not to prohibit that. But the legal exception had the unintended effect of also prohibiting criminal charges against husbands who rape their spouses when the spouse was asleep or had ingested a substance that made them unconscious (such as alcohol or sleep medication). The statute granting that exception to rape charges was repealed in 2019, the most recent legislative session.

- 3. Are there any provisions excluding criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit it. NO. Minnesota law specifically defines consent to *exclude* the existence of a prior sexual relationship. For example, spouses or live-in partners must give consent to each separate sexual encounter. The fact that the same couple has engaged in previous consensual sexual conduct does not mean that consent is assumed for every encounter. A former boyfriend, similarly, cannot assume consent merely because sexual consent**

had been given previously. If consent is not given to the present sex act, it is nonconsensual, regardless of previous occasions.

In a case involving domestic violence, a husband was prosecuted for nonconsensual sexual intercourse with his wife. He had been physically violent with her, and then insisted that she engage in sexual conduct with him. She was fearful and complied out of fear, but did not truly and freely consent to the activity. He was prosecuted for coercing sexual intercourse, despite the fact of their marriage and previous consensual sexual relationship.

Minn. Stat. Sec. 609.341, subd. 4 Consent:

“... Consent does not mean the existence of a prior or current social relationship between the actor and the complainant...”

4. What is the legal age for sexual consent? **The legal age of consent for sex is 16 (so long as the older partner is not an adult in a family or household relationship, or in an a position of authority over the 16 or 17 year old). In case of family or household, or authority, the teen must be 18 to consent. See Minn. Stat. Sec. 609.341, subd. 10 & subd. 15.**

For example, an adult of any age can engage in consensual sexual conduct with a 16-year-old. However, if that adult has authority over the teen, such as a coach, teacher, camp counselor, or scout leader, the sexual conduct is unlawful. This remains the case for 120 days after the end of that position-of-authority relationship. After 120 days, the position of authority is considered to have ended.

A teacher at a high school is generally considered to have a position of authority over any student at that school. There have been criminal charges against teachers who engage in sexual conduct with a student who is aged 16 or 17. One teacher claimed that, during the summer break, he was no longer in a position of authority with a 17-year-old student, because she was no longer in his classroom. However, for 120 days after the end of the school year, that position of authority remains in place, and sexual conduct is prohibited. (Sexual conduct with a child under the age of 16 would be penalized under a different section of the statute.)

Similarly, if an adult resides in the same household with a teenager, regardless of any family relationship, sexual conduct is prohibited. Also, if the adult does not live in the same house, but is a family member such as an uncle or cousin, sexual conduct with that teenager is unlawful.

For example, criminal charges have been brought in cases where the family with a 16- or 17-year-old teen allows an adult family friend to stay with them. In one case, the adult was a 19-year-old man with whom the 16-year-old agreed to have sex. Despite that agreement, the adult was charged with a criminal offense because he was in the same household with the teen. It is unlawful even if the teen is “willing” and agrees to sexual activity. Because of the household relationship, the younger teen cannot legally give consent.

The same is true for family members who do not live in the household – a cousin, aunt, uncle, grandparents, siblings, and parents – all are prohibited by their familial relationship from sexual conduct with 16- and 17-year-olds, regardless of the “willingness” of the teen to engage in sexual conduct. The teen cannot consent.

5. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.

Yes, along with a mistake-of-age defense for peers.

First, Minnesota law allows for lawful sexual conduct between teenagers less than two years apart in age. For teenagers who are 13, 14, or 15 years of age, a criminal offense is committed only if the older partner is more than 24 months older than the younger partner.

Second, it grants an exception to individuals within 10 years of the minor’s age to explain that they were reasonably mistaken about the age of the minor, thereby negating criminal charges. Any person who is less than 10 years older than the minor (aged 13-15) can claim “mistake of age” with evidence that they believed the teen to be over 16. (Sexual conduct with a person under the age of 13 is prohibited under all circumstances.)

For example, a person aged 16 who engages in sexual conduct with a person aged 13 commits a criminal offense. But the 16-year-old can claim “mistake of age,” if he/she can convince the jury that he/she reasonably believed the 13-year-old to be over 16. If the jury is convinced that the person reasonably believed the younger one to be over 16, the jury would acquit the 16-year-old.

A person aged 15 who engages in sexual conduct with a 14-year-old does not commit a criminal offense because he/she is less than 24 months older.

A person who is 24 years of age who engages in sexual conduct with a 15-year-old can claim “mistake of age” that he/she thought the teen to be the age of 16. But

an individual who is 25 or older cannot claim that mistake regarding the 15-year-old – he/she would still be guilty of the crime.

See, e.g., Minn. Stat. Sec. 609.344, subd. 1(b) ... “the complainant is at least 13 but less than 16 years of age, and the actor is more than 24 months older than the complainant. In any such case, if the actor is no more than 120 months older than the complainant, it shall be an affirmative defense... that the actor reasonably believes the complainant to be 16 years of age or older.”

6. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

The maximum prison penalties are as follows for each degree of criminal sexual conduct:

1	2	3	4	5
30 years	25 years	15 years	10 years	1 year

Maximum penalties are rarely administered by the courts, however. Sentencing in Minnesota is very complex. The suggested penalty guidelines differs depending on the particular offense characteristics and the offender’s criminal history. We have attached a copy of the Minnesota Sentencing Guidelines for Sex Offenses.

Assuming no criminal history, the penalty for nonconsensual, forcible penetration rape of an adult (3rd degree) is 48 months in prison. If that same offense causes injury, the penalty (for 1st degree) increases 144 months in prison. The court can depart either upward or downward from the 48- or 144-month terms if either aggravating or mitigating factors are found.

7. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

There is no specific reparation for sexual violence, but generally, crime victims in Minnesota can apply to the court for reimbursement of out-of-pocket expenses caused by the offense - for example, medical or mental-health expenses, damaged property, etc. The imposition of restitution occurs only if there is a conviction and sentencing of the offender.

Aggravating and mitigating circumstances

8. Does the law foresee aggravating circumstances when sentencing rape cases?

YES. There are a number of aggravating factors applicable to all felony crimes in Minnesota. The effect of these factors is to give the court reason to “depart” - to go above the guideline sentence to impose a more serious prison penalty. Some aggravating factors most often applicable to criminal sexual conduct cases are as follows:

Particular vulnerability – for example, a child who is *very* young (under 4), a person who suffers from very limiting forms of cognitive or physical disabilities, a victim who is physically very much smaller than the perpetrator.

In one case, a 15-year-old girl was violently sexually assaulted by a sex trafficker. She had run from home and had nowhere else to go. She was around 5 feet tall and 120 pounds, whereas the offender weighed 250 pounds. She was under the influence of illegal drugs, which impaired her ability to think clearly. She was found to be particularly vulnerable, and that status gave the judge the option of giving a sentence above the standard, guidelines sentence for that offense.

Extreme cruelty – for example, a gang of 5 perpetrators raping one victim, inflicting great bodily harm (that could kill or be permanent), inflicting gratuitous fear such as threatening to harm the victim’s child.

For example, one case involved a woman who was buying cocaine from a dealer. Inside his house, he violently sexually assaulted her and hit her head hard enough to render her unconscious. He then dragged her outside in the cold February weather and left her, naked from the waist down, in a snowbank. She lay there so long that she received frostbite on her buttocks and legs, requiring hospitalization. Frostbite has a very similar effect on the skin as a severe burn. The offender was found to have acted with extreme cruelty, which allowed for a sentence above the typical sentence for that rape.

Invading a zone of privacy – for example, sexually violating a person in her own bed, a stranger entering the victim’s house.

One case involved a boyfriend who lived with his girlfriend. He sexually assaulted her in their bed. Even though he lived there, he was found to have invaded a zone of privacy in that a person’s bedroom is particularly private, even if the offender also lives there. That gave the judge the authority to give a greater-than-guidelines sentence.

Multiple forms of penetration – for example, both oral and vaginal penetration.

- a. Is rape by more than one perpetrator an aggravating circumstance? **YES. Forcible rape by two perpetrators results in a charge of 1st degree, rather than 3rd degree, criminal sexual conduct.**

For example, two male college students met a woman who was just starting college. They went to her dorm room to “hang out,” and one began having sexual contact with her. She said “no,” and asked the other man to help her. Instead, he also joined the sexual assault, and both men engaged in sexual penetration with the woman without her consent. Had the first man been alone in sexually assaulting her, he would have been charged with third-degree criminal sexual conduct. But because both men forcibly penetrated her, they were both charged with first-degree criminal sexual conduct.

- b. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; age difference) **YES. Minnesota statutes prohibit a number of sexual relationships based on the professional identity of the perpetrator, which include a psychotherapist, a clergy, a corrections guard, a police officer, a bus driver for individuals with disabilities, a physician, and a massage therapist. In those cases, consent by the victim is not relevant.**

One form of sexual abuse by a professional seen all too often by police is sexual conduct by massage therapists. A person receiving a professional massage is in a vulnerable setting because they have removed all or most of their clothing, and lay on a table permitting the therapist to touch them. Unfortunately, some massage therapists go further and non-consensually touch the breasts or genital area of the client. This results in a criminal sexual conduct charge.

A psychotherapist providing mental-health services is also prohibited from engaging in sexual conduct with a client. This is a reflection of the emotionally-vulnerable circumstance of the client in that relationship. Thus, a counselor who was providing marital counseling to a couple was charged with criminal sexual conduct when he began to have a sexual relationship with the client who was the wife. This was true, even though she had fallen in love and willingly engaged in sexual conduct with the therapist. His actions were nonetheless criminal because of that psychotherapy relationship, and it remained prohibited even after the end of the therapist-client relationship, so long as the client was emotionally dependent on the therapist.

Similarly, a priest was charged with criminal sexual conduct for having sex with a parishioner who was seeking his spiritual advice. Although the parishioner had fallen in love with the priest and was agreeable to the sexual conduct, the priest's actions were unlawful and he was charged with criminal sexual conduct.

See responses to question numbers 4 and 5 regarding the age difference between peers. All sexual conduct is prohibited with children under 13 years of age.

Teacher/student – Teacher/student relations are not specifically prohibited. Only if the teacher in a position of authority, and the teen was 16-17 years of age at the time of the sexual relationship, is it barred. If the teen is still in secondary school but is 18 or older, a sexual relationship with a teacher at the school is not prohibited.

If a teacher or coach works in the same school, but does not have the 16-year-old in the classroom, a jury may decide that he/she is not "in a position of authority." Or, if the teacher is at a different school altogether, he/she does not have "a position of authority. There was a case involving a 16-year-old girl who volunteered at a separate elementary/primary school. A teacher from a different class, who did not supervise her volunteering, had sexual conduct with her. There was no criminal charge for that.

c. Is rape by spouse or intimate partner an aggravating circumstance? **NO.**

9. Does the law foresee mitigating circumstances for the purposes of punishment?

YES. For example, if the court finds that the offender is "particularly amenable" to treatment and probationary supervision, it can grant a probationary term with no prison term so long as the offender follows the terms of probation.

10. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? **NO.** If so, at what stage and what are the consequences?

a. Regardless of the law, is reconciliation permitted in practice? and what is the practice in this regard? **NO.**

The only way reconciliation becomes relevant is how it could affect the evidence that the prosecution has to prove the offense. If the victim changes her testimony to cover up and protect the offender, it could become more difficult for the prosecution to prove the offense. This most commonly

occurs in intimate-partner sexual violence, where the victim may later downplay the violence or claim that she or he lied to the police. Prosecutors in Minnesota generally know how to, and do, address the issues raised when victims minimize the reality to cover for the offender.

11. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? **NO, not specifically. This is in the discretion of the prosecutor.** If yes, please specify.
 - a. If the perpetrator marries the victim of rape? **NO.**
 - b. If the perpetrator loses his “socially dangerous” character or reconciles with the victim? **NO.**

Prosecution

12. Is rape reported to the police prosecuted ex officio (public prosecution)? **YES.**
13. Is rape reported to the police prosecuted ex parte (private prosecution)? **NO. Other than bringing a civil lawsuit for money damages, there is no private prosecution.**
14. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **YES. The prosecution will often agree (as with any type of criminal case) to lessen the charges or the sentence if the offender pleads guilty. It is in the discretion of the prosecutor.**

A prosecutor can always consider the likelihood of success at trial in offering a plea bargain. For example, if there are few other facts supporting the account of the victim, the case may seem weaker and the prosecutor may allow the perpetrator to plead guilty to a lower offense than was actually committed. If the case involved little to no physical injury, involved a victim who has difficulty remembering the events because of the consumption of alcohol, or involved a victim whose description of the events has changed dramatically while she gave several statements, the prosecutor may agree to a lighter sentence in order to have a guilty plea rather than a trial.

15. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? **YES. The prosecution will often agree (as with any type of criminal case) to lessen the charges or the sentence if the offender pleads guilty. It is in the discretion of the prosecutor.**

For example, if the case involves a forcible penetration with injury, the state could charge criminal sexual conduct in the first degree. This carries a guidelines

sentence of 144-months (as discussed in question 6 above). However, if the prosecutor feels that the case at trial might be weak, the state could agree to allow the offender instead to plead guilty to third degree criminal sexual conduct, carrying a 48-month sentence. This avoids the risk of a not-guilty verdict at trial. This could be the case whether the victim is a child or an adult – it is determined by how strong the prosecutor feels the evidence is, and how likely a conviction at trial might be.

These plea agreements are not, however, determined by friendly settlements between families, or by victims who wish to reconcile with the perpetrator who is their spouse. They are a decision by the state, not the individual victims or their families. The state does consult victims about plea agreements so as to provide victim-centered approach, but the final decision is made by the prosecutor.

16. Please provide information on the statute of limitations for prosecuting rape.

The statute of limitations applies to bringing a complaint, not to reporting the offense to police. For sexual assault, the statute of limitations is generally 9 years for child or adult victims. For someone who was a child at the time of the offense, an additional time for filing a complaint is 3 years from the date it was reported to law enforcement. In cases of forcible sexual assault in which DNA was recovered, there is no statute of limitations.

For example, a prosecutor could file a complaint regarding a victim who was 6 years old at the time of the sexual conduct any time until 9 years later (when the victim would be age 15). If that person does not report the offense to police until the age of 14, the prosecutor can file the complaint any time until three years later when the victim would be 17. If that person does not report the offense until the age of 24, the prosecutor can file the complaint until three years from that date, when the victim would be 27.

17. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood? **YES. Either the charges can be filed 9 years after the offense occurs, which might allow a child to become an adult, or within 3 years after the offense is reported to the authorities – whichever is longer.**

18. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses? **NO.** If yes, please specify. **Minnesota has a statute that says that corroboration of the victim's account is *not* necessary for a finding of guilt in a sexual assault case. See Minn. Stat. 609.347, subd. 1.**

For example, there is almost never a separate witness to sexual assault, as it usually occurs in a private place when only two people are present. That does not prevent the state from bringing charges. If there is no DNA sample collected, it does not prohibit the state from charging criminal sexual conduct. Criminal sexual conduct often does not leave any physical injury, but that does not impede criminal charging. While corroborating evidence goes a long way to helping prove guilt, it is not legally *necessary* for a finding of guilt.

19. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman's sexual history during trial? **YES, there is a statute and a rule of evidence. These are called "rape shield" provisions. To admit evidence of prior sexual conduct, the court must determine that it is more probative than prejudicial. The court must also determine that there is a very clear pattern of similar behavior- similar to *modus operendi* – that makes it more likely that the victim consented to the charged offense. Prior sexual consent by the victim with the person now accused of sexual assault will almost always be admissible. But prior consensual sexual conduct with other individuals will almost always be excluded.**

For example, there was testimony in one case that the victim and her friend used an internet site to meet men. They would meet the men in person and drink alcohol with them. Sometimes the victim had sex with the men and sometimes she did not. Although she met the perpetrator who sexually assaulted her through that internet site, the court determined that the previous activity did not create a *modus operendi* that made her prior sexual conduct more probative than it was prejudicial. Her previous conduct with other men was ruled inadmissible.

Prior sexual abuse or sexual assault are also excluded by the rape shield provisions, as are prior *reports* to police of sexual assault.

20. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? **NO.** If yes, please specify. **Minnesota has general crime-victim protections, such as the right to hear about plea offers, the right to speak at the sentencing hearing, and the right to restitution, but they do not apply to "avoid revictimization" during the court process.**

Minnesota has a number of multi-disciplinary teams that meet regularly to improve the local response to sexual assault cases. Comprised of law enforcement, prosecutors, support advocates, educational professionals, and medical professionals, these teams create response protocols for their communities. This

helps to ensure a consistent, victim-centered response by professionals across all disciplines.

One valuable practice that is very consistently used in Minnesota is to have trained nurses perform the medical examination. These nurses are called Sexual Assault Nurse Examiners (SANEs). They undergo a rigorous training and certification process. They understand the emotional/psychological difficulties of sexual violence, as well as the best medical practices for treating sexual assault victims.

These SANEs also collect evidence. The state police agency provides a sexual assault kit that includes medical swabs. The SANE collects swabs from the various parts of the body that might contain saliva or semen from the perpetrator. These swabs are specially packaged to preserve them as evidence, and they are sent by the police to the state laboratory. The state laboratory then tests the swabs to look for DNA from saliva or semen. This DNA can be matched to the perpetrator to either identify him, if he is a stranger, or to corroborate the victim's account of sexual assault by him.

In rural areas, some nurses receive the training to become a SANE and can administer sexual assault kits, even if they cannot maintain the formal certification because they see too few sexual assault patients each year. This vastly increases the proficiency of the response around the state for victims of sexual assault.

War and/or conflict

21. Is rape criminalized as a war crime or crime against humanity? **NO. (answering regarding Minnesota)**
22. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? **NO/N/A**
23. Are there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **NO.**
24. Has the Rome Statute of the International Criminal Court (ICC) been ratified? **NO.**

Data

25. Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

This data is not available in the format requested. While law enforcement agencies summarize for the U.S. government data on certain criminal offenses reported by victims, there is no follow-through to connect reported incidents to

the prosecution of those offenses. Further, it is very complicated to disaggregate that data from an individual state, versus the totals provided for the entire United States.

One of our recommendations is for states to require better tracking of reported cases, investigations, charges, and convictions. It is very difficult to know how the criminal-justice system is responding to sexual violence without tracking that information, but it is not currently available in our data.

On a national level, information on sexual violence is collected in two methods: random survey interviews, and statistical reporting by law enforcement. A concern about the two methods we should highlight is this: the definitions of sexual violence used in those methods are not identical – they do not capture the same behavior. Thus, the two data sets cannot be easily compared because they do not involve the same type of sexual violence.

To more accurately track data, we recommend that a single definition of sexual violence be adopted, that each state (in a large nation such as the U.S.) be required to separately collect the same data, and that the states then report to a centralized data collection site that can be combined to give the overall picture in the nation.

With that background, these are the data figures that are available.

Uniform Crime Victimization Survey (Data from around the United States)

This data is collected by surveying a nationally representative sample of U.S. households. Importantly, neither individuals experiencing homeless, living in institutions such as jails or nursing homes, nor on U.S. military bases, are included in this survey. It measures incidents of crime against those 12 years of age or above, regardless of whether it was reported to law enforcement. The information is then generalized statistically to estimate crime incidence for the entire U.S. population.

Rape Definition

Forced sexual intercourse including both psychological coercion and physical force. Forced sexual intercourse means vaginal, anal, or oral penetration by the offender(s). This category also includes incidents where the penetration is from a foreign object, such as a bottle. Includes attempted rape, male and female victims, and both heterosexual and same sex rape. Attempted rape includes verbal threats of rape.

Sexual assault Definition

A wide range of victimizations, separate from rape or attempted rape. These crimes include attacks or attempted attacks generally involving unwanted sexual contact between victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling. Sexual assault also includes verbal threats.

U.S. Rape and Sexual Assault Victimizations

2014	2015	2016	2017	2018
284,350	431,840	298,410	393,980	734,630
1.1*	1.6*	1.1*	1.4*	2.7*

*Rate per 1,000 persons age 12 or older

U.S. Rape and sexual assault reported to police:

2016 – 23.2%

2017 – 40.4%

2018 – 24.9%

Rachel E. Morgan, Ph.D., Barbara A. Oudekerk, PhD., Bureau of Justice Statistics, *Criminal Victimization, 2018* (Sept. 10, 2019)

<http://www.bjs.gov/index.cfm?ty=pbdetail&iid=6686>

U.S. Federal Bureau of Investigations [FBI] – Law Enforcement Uniform Crime Report (Reports Taken on Sexual Assault)

Sexual Assault Definition:

Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

2014	2015	2016	2017	2018
118,027	126,134	132,414	135,666	139,380
35.9*	39.3*	40.9*	41.7*	42.6*

*Rate per 100,000 inhabitants of all ages

Rape reports “cleared by arrest” or “cleared by exceptional means” indicate that the crime was “solved:” an offender was identified and evidence of guilt collected by investigation. It does not track whether the offender was subjected to prosecution or any court process. It also does not track the very common occurrence of “pending,” or dropping an incomplete rape investigation.

U.S. Rape Reports Cleared by Arrest or Cleared By Exceptional Means

2016 – 36.5%

2017 – 34.5%
2018 – 33.4%

FBI, Criminal Justice Information Services Division, yearly reports accessed here
<https://mn.gov/sentencing-guidelines/reports/>

Sexual Assault Cases Sentenced in the State of Minnesota

For the State of Minnesota, the state Sentencing Guidelines Commission maintains information about sex offenses that resulted in a conviction and sentence. The following table is from annual reports available on its website:

<https://mn.gov/sentencing-guidelines/reports/>

Offense	2014	2015	2016	2017	2018
Adult victim rape 1°	73	88	92	94	89
Adult victim rape 3°	59	58	46	48	72
All forms of sexual assault Total:	491	537	481	509	520

Other

26. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.