

APPENDIX U:

POWERPOINT SLIDES COMBINING
RESEARCH ON SEXUAL ASSAULT JURORS
AND SUGGESTIONS FOR JURY
QUESTIONNAIRES FOR THE *VOIR DIRE* AND
JURY QUESTIONNAIRES UNIT

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Project Attorney

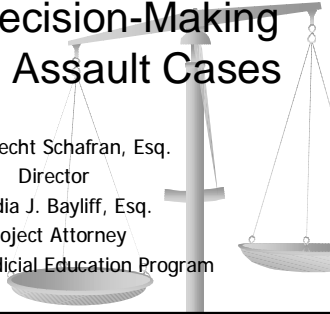
National Judicial Education Program

New York, New York

Jurors' Decision-Making in Sexual Assault Cases

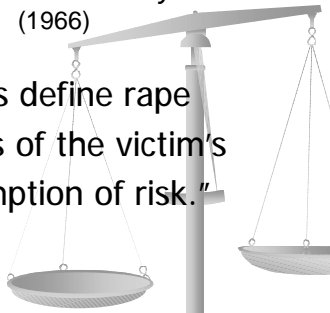
Lynn Hecht Schafran, Esq.
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Project Attorney
National Judicial Education Program



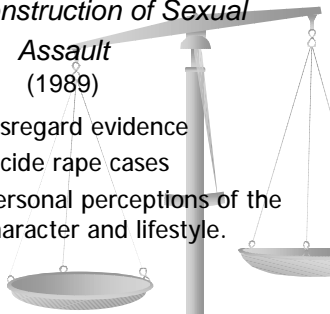
Harry Kalven & Hans Zeisel,
The American Jury
(1966)

Jurors define rape
in terms of the victim's
"assumption of risk."



Gary LaFree, Ph.D.,
*Rape and Criminal Justice: The
Social Construction of Sexual
Assault*
(1989)

Jurors disregard evidence
and decide rape cases
based on their personal perceptions of the
victims' character and lifestyle.



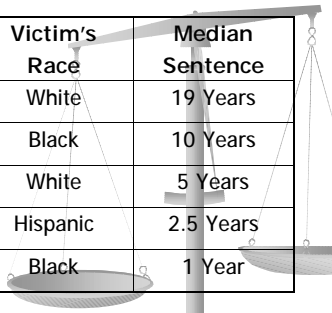
Dallas Times Herald,
Race Tilts the Scales of Justice (1991)

Rape Jurors' Sentences
Devalue Women of Color



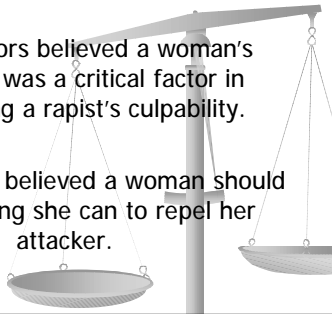
Dallas Times Herald (1991)

| Offender's Race | Victim's Race | Median Sentence |
|-----------------|---------------|-----------------|
| Black | White | 19 Years |
| White | Black | 10 Years |
| White | White | 5 Years |
| Hispanic | Hispanic | 2.5 Years |
| Black | Black | 1 Year |



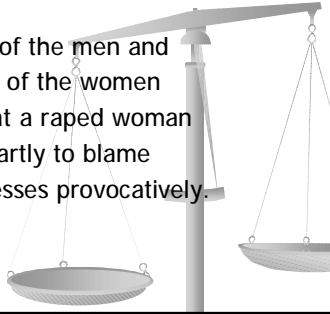
LaFree, *Rape and Criminal Justice*

- n 32% of jurors believed a woman's resistance was a critical factor in determining a rapist's culpability.
- n 59% of jurors believed a woman should do everything she can to repel her attacker.



Times/CNN Poll
(1991)

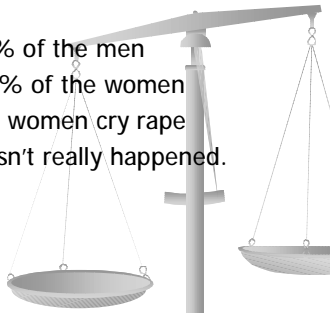
38% of the men and
37% of the women
said that a raped woman
is partly to blame
if she dresses provocatively.



Georgia Opinion Poll
(1998)

(Random sample: ages 18 to 49)

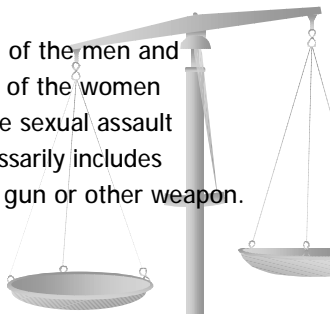
49% of the men
and 42% of the women
believe women cry rape
when it hasn't really happened.



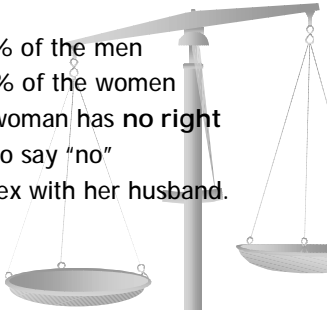
Georgia Opinion Poll
(1998)

(Random sample: ages 18 to 49)

48% of the men and
48% of the women
believe sexual assault
necessarily includes
the use of a gun or other weapon.

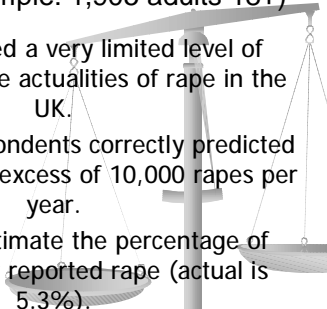


**Georgia Opinion Poll
(1998)**
(Random sample: ages 18 to 49)



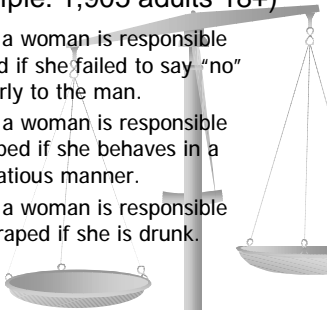
20% of the men
and 9% of the women
believe a woman has **no right**
to say "no"
to having sex with her husband.

**British Opinion Poll
(2005)**
(Random Sample: 1,905 adults 18+)



Results showed a very limited level of awareness of the actualities of rape in the UK.
Only 4% of respondents correctly predicted that there are in excess of 10,000 rapes per year.
People overestimate the percentage of convictions for reported rape (actual is 5.3%).

**British Opinion Poll
(2005)**
(Random Sample: 1,905 adults 18+)

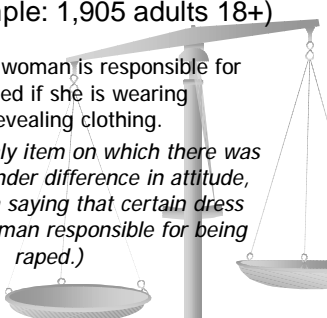


37% believe a woman is responsible for being raped if she failed to say "no" clearly to the man.
35% believe a woman is responsible for being raped if she behaves in a flirtatious manner.
30% believe a woman is responsible for being raped if she is drunk.

**British Opinion Poll
(2005)**
(Random Sample: 1,905 adults 18+)

26% believe a woman is responsible for being raped if she is wearing sexy/revealing clothing.

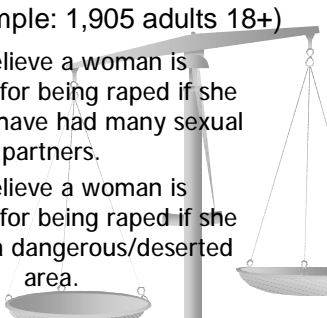
(This was the only item on which there was a significant gender difference in attitude, with more men saying that certain dress can make a woman responsible for being raped.)



**British Opinion Poll
(2005)**
(Random Sample: 1,905 adults 18+)

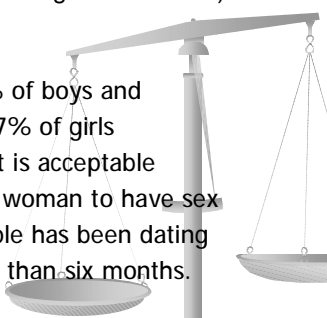
22% believe a woman is responsible for being raped if she is known to have had many sexual partners.

22% believe a woman is responsible for being raped if she is alone in a dangerous/deserted area.



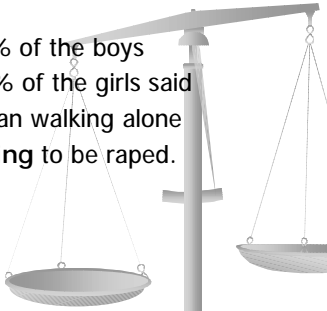
**Rhode Island Study
of School Children (1988)**
(1,700 6th to 9th grade students)

65% of boys and 57% of girls said it is acceptable to force a woman to have sex if the couple has been dating for more than six months.



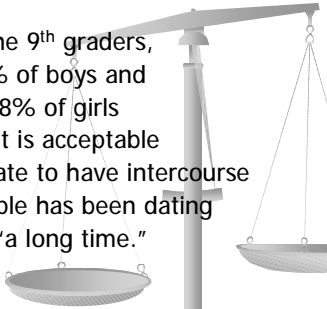
Rhode Island Study
of School Children (1988)
(1,700 6th to 9th grade students)

50% of the boys
And 50% of the girls said
a woman walking alone
is asking to be raped.



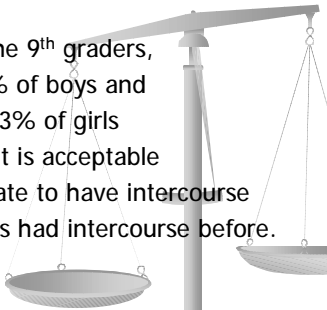
Rhode Island Study
of School Children (1998)
(2,467 6th to 9th grade students)

Of the 9th graders,
62% of boys and
58% of girls
said it is acceptable
to force a date to have intercourse
if the couple has been dating
for "a long time."



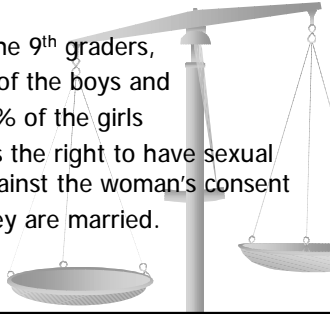
Rhode Island Study
of School Children (1998)
(2,467 6th to 9th grade students)

Of the 9th graders,
70% of boys and
53% of girls
said it is acceptable
to force a date to have intercourse
if the couple has had intercourse before.



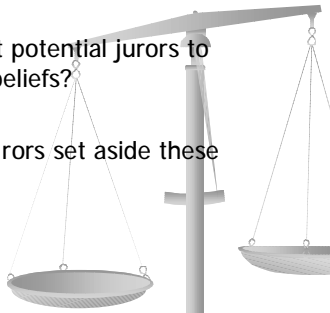
**Rhode Island Study
of School Children (1998)**
(2,467 6th to 9th grade students)

Of the 9th graders,
73% of the boys and
78% of the girls
said a man has the right to have sexual
intercourse against the woman's consent
if they are married.



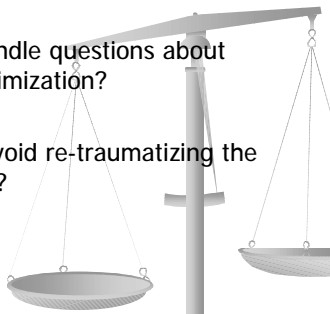
Key Questions

- n How do you get potential jurors to disclose these beliefs?
- n Can potential jurors set aside these beliefs?



Key Questions

- n How do you handle questions about jurors' past victimization?
- n How can you avoid re-traumatizing the potential jurors?



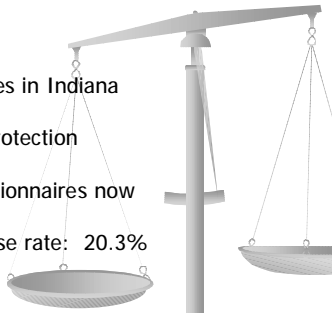
Key Questions

- n How do you handle questions about jurors' past perpetration?
- n Should you use specially-tailored questionnaires?



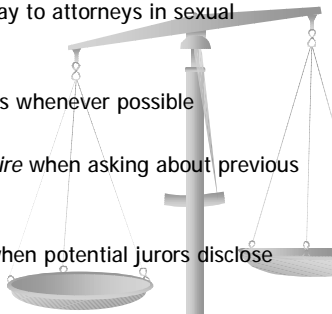
Judge William Hughes Hamilton Superior Court, IN

- n Initial effort
- n Change in the rules in Indiana
- n Enhanced juror protection
- n Confidential questionnaires now
- n Change in response rate: 20.3%



Recommendations

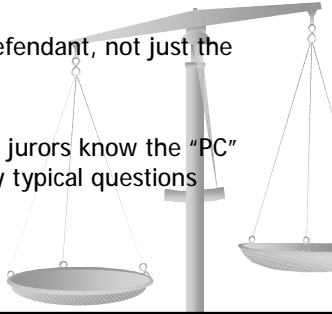
- n Give greater leeway to attorneys in sexual assault cases
- n Use questionnaires whenever possible
- n Use private *voir dire* when asking about previous victimization
- n Provide support when potential jurors disclose



Recommendations

n Focus on the defendant, not just the victim

n Remember that jurors know the "PC" answer to many typical questions



Thank you.