



Case Attrition of Sexual Violence Offenses: Empirical Findings

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The State of Alaska's response to violence in Alaska Native villages has faced increased scrutiny over the past decade, with criticism coming from a number of sources, including the Alaska Advisory Committee to the U.S. Commission on Civil Rights, the Alaska Inter-Tribal Council (in *AITC v. Alaska*, 110 P.3d 947, 2005), and, most recently, Amnesty International. In general, allegations have been made that the state discriminates on a geographic and racial basis in the provision of criminal justice services to Alaska Native villages that are isolated from the main road system. For example, in *AITC v. Alaska* (2005), plaintiffs argued that their equal protection rights were violated by the state's deployment of police resources in a discriminatory fashion that favored those living along the main highway system. Similarly, in a 2007 report on police and court responses to violence against American Indian and Alaska Native women (*Maze of Injustice: The Failure to Protect Indigenous Women from Sexual Violence in the USA*), Amnesty International singled out Alaska for what it considers to be a discriminatory, two-tiered deployment of police into the isolated areas of the state, said to be indicative of the state's "failing to exercise due diligence when it comes to sexual violence against . . . Alaska Native women." Amnesty International argued that with this two-tiered deployment of police resources, villages without a trooper post receive less effective police response than villages with a trooper post.

The evidence put forth in the many critical reports is based primarily upon the written and oral testimony of criminal justice agency personnel as well as Alaska Native crime victims, political leaders, and legal advocates. Although compelling, the case made against the state is largely anecdotal, failing to demonstrate a *systematic* lack of criminal justice system response to sexual violence against Alaska Natives. In this article we consider information gathered from

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For other articles and publications related to sexual violence and violence against women, see:
<http://justice.uaa.alaska.edu/vaw/>

Abstract: This report examined the legal resolutions for 1,184 contact sexual violence cases reported to Alaska State Troopers in 2003 and 2004, and excluded results from other law enforcement agencies. We determined whether cases were founded with an identifiable suspect, were referred to the Alaska Department of Law for prosecution, were accepted for prosecution, and if the case resulted in a conviction. We only examined whether any conviction on any charge was obtained. In some cases, the conviction may be for a non-sexual offense.

- Seventy-five percent of cases were founded with at least one identifiable suspect, 51% of founded cases were referred to the Alaska Department of Law for prosecution, 60% of referred cases were accepted for prosecution, and 80% of accepted cases resulted in a conviction on at least one charge. The greatest point of attrition was from the founding to the referral decision.
- For the most part, cases of Alaska Native victims were as likely, or even more likely, to be processed by the criminal justice system relative to the cases of non-Native victims.
- Cases of sexual violence in the most rural portions of Alaska had an equal or greater chance of being subject to legal sanction when compared with cases from Alaska's less rural areas, and were as likely or more likely to receive full enforcement and prosecution. Unfortunately, the percentage of founded cases that resulted in a conviction never exceeded 30%.

the case files of the Alaska State Troopers (AST) and the Alaska Department of Law (DOL) to determine if there is an empirical basis for claims of unequal enforcement of sexual violence statutes. Specifically, we consider multiple decision-making points within the criminal justice process to compare the outcomes of cases involving Alaska Native victims with cases of non-Native victims.

The results presented below allow for an examination of case attrition of instances of sexual violence reported to AST and prosecuted by DOL. *Case attrition* is a term used to describe the process by which only a portion of offenses reported to the police are eventually dealt with through criminal prosecution. At each specific decision-making point the number of cases deemed worthy of official attention is reduced, with some cases carried forward for additional processing while others are no longer subject to prosecution.

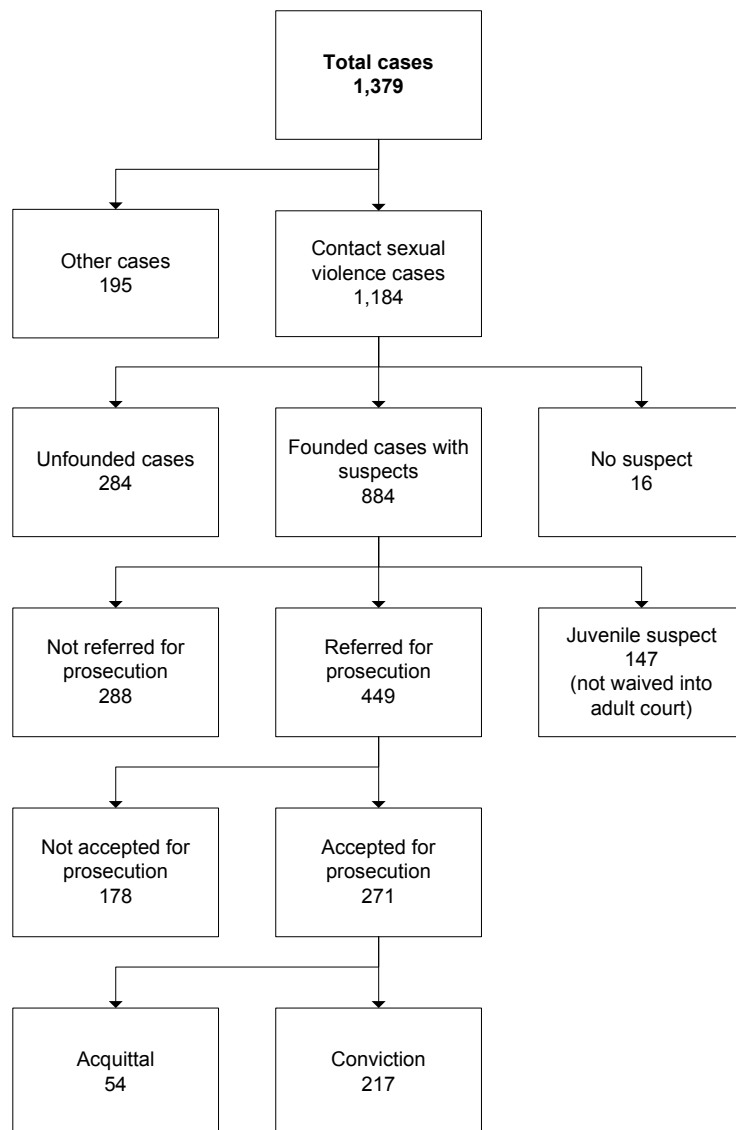
The attrition of sexual violence cases reported to AST in 2003 and 2004 is shown in Figure 1. Overall, there were 1,379 reports of sexual offenses made to AST during those

two years. Of those original reports, 1,184 were contact sexual violence cases involving forcible rape, sexual assault, or sexual abuse of a minor. Among the other 195 cases were offenses that occurred outside of AST's geographic area of responsibility, offenses that occurred before 2003, offenses committed by children too young to form criminal intent, and non-contact sexual offenses such as indecent exposure or possession of child pornography.

In the next step in the process the police decide if the reported offense is *founded* (i.e., that it actually occurred) and if there is a suspect responsible for the offense to be subject to prosecution. Roughly three-fourths (74.7%) of the 1,184 reported contact sexual violence cases were deemed by AST to have occurred and to have at least one identifiable suspect.

After the police decide that an offense has indeed occurred and also identify a suspect, the next decision is whether to refer the case for prosecution in criminal court. Half (50.8%) of the 884 founded cases with identified suspects were referred to DOL for prosecution in adult criminal court. The

Figure 1. Processing of Sexual Violence Cases Reported to the Alaska State Troopers, 2003–2004



cases excluded from the analysis at that point included those juvenile cases that were not waived into adult court (a sixth—16.6%—of founded cases with suspects) and those that were not referred for reasons such as a

lack of evidence or uncooperative victims (a third—32.6%—of founded cases with suspects).

Once referred by the police, prosecutors decide which cases to prosecute; three-fifths

(60.4%) of contact sexual violence cases referred by AST to DOL were accepted for prosecution. Cases that are prosecuted eventually result either in a conviction or an acquittal. Of the cases of sexual violence accepted for prosecution by DOL, most (80.1%) resulted in a conviction. Ultimately, only 18 percent of reported cases, 25 percent of founded cases with suspects, and 48 percent of cases referred by AST to prosecution resulted in a conviction—i.e., guilty plea or conviction at trial.

Apart from this general consideration of the winnowing of reported sexual violence offenses as they proceed through the system, it is also possible to examine relative case attrition of offenses involving Alaska Natives versus those of non-Natives. Doing so allows for a determination of the extent to which there is systematic under-enforcement of laws against contact sexual violence in cases with Alaska Native victims. Greater degrees of attrition of Alaska Native victims' cases when compared to that for non-Native victims would lend credence to the anecdotal evidence used in reports critical of the state's provision of policing and prosecution to Alaska Native communities.

Comparisons of attrition of cases of sexual violence are made on a number of levels. First, case attrition for offenses involving Alaska Native victims is compared with attrition of non-Native victims' cases. Next, case attrition in communities located in the rural regions of Alaska is compared with case attrition in communities located outside of the state's rural regions. Finally, the attrition of cases that occurred in isolated villages is compared with the attrition of cases that occurred in less-isolated locations. At each of these levels comparisons are made on the basis of the total of all contact sexual violence offenses, and for rape/sexual assault and sexual abuse of a minor (SAM) separately. Four different decisions are considered: the Troopers' decision on whether reported cases are founded; the Troopers' decision to refer founded cases for prosecution; the prosecutors' decision

Table 1. Attrition of Sexual Violence Cases Reported to Alaska State Troopers, Alaska Native vs. Non-Native Victims, 2003-2004

Decision	Total sexual violence				Rape/sexual assault				Sexual abuse of a minor			
	Alaska Native		Non-Native		Alaska Native		Non-Native		Alaska Native		Non-Native	
	N	%	N	%	N	%	N	%	N	%	N	%
Founded	512	82.4 %	351	82.0 %	268	87.3 %	148	78.7 % *	244	77.7 %	203	84.6 % *
Referred [†]	289	67.7	159	56.8 *	153	69.9	65	56.0 *	136	65.4	94	57.3
Accepted	185	64.0	85	53.5 *	105	68.6	29	44.6 *	80	58.8	56	59.6
Convicted	149	80.5	67	78.8	80	76.2	21	72.4	69	86.3	46	82.1

[†]Percentages based on founded cases with adult suspects.

*Difference between Alaska Native and non-Native victims is statistically significant at the $p < .05$ level.

Table 2. Attrition of Sexual Violence Cases Reported to Alaska State Troopers, Bush Stratum vs. Non-Bush Stratum, 2003-2004

Decision	Total sexual violence				Rape/sexual assault				Sexual abuse of a minor			
	Bush		Non-Bush		Bush		Non-Bush		Bush		Non-Bush	
	N	%	N	%	N	%	N	%	N	%	N	%
Founded	447	76.1 %	453	75.9 %	233	81.5 %	197	75.2 %	214	71.1 %	256	76.6 %
Referred [†]	242	65.9	207	55.9 *	129	69.7	89	56.0 *	113	62.1	118	55.9
Accepted	167	69.0	104	50.2 *	95	73.6	39	43.8 *	72	63.7	65	55.1
Convicted	136	81.4	81	77.9	72	75.8	29	74.4	64	88.9	52	80.0

[†]Percentages based on founded cases with adult suspects.

*Difference between bush and non-bush regions is statistically significant at the $p < .05$ level.

to accept referred cases for prosecution; and the final court decision in cases accepted for prosecution—i.e., whether a conviction was obtained. These results are presented as a comparison between Alaska Native and non-Native victims in terms of the number and percentage of cases that were chosen to be carried forward in the criminal justice process. The results of chi-square tests of statistical significance—a test which measures the likelihood that differences in the percentage of cases carried forward are the result of chance alone and not indicative of an underlying association—are also provided.

Differences in the processing of cases involving Alaska Native and non-Native victims are shown in Table 1. For the most part, these results indicate that the cases of Alaska Native victims are as likely, or are even more likely, to be processed by the criminal justice system relative to the cases of non-Native victims. For the total of all sexual violence offenses, cases involving Alaska Native victims were just as likely as cases with non-Native victims to be founded or to result in a conviction and they were more likely to be referred by AST to prosecutors and to be accepted by DOL for prosecution. Considering only cases involving the offenses of rape and sexual assault, there were statistically significant differences between Alaska Native and non-Native victims at the founding decision

and at the decisions to refer cases and accept cases for prosecution; at each of these decision-making points the cases of Alaska Native victims were more likely to be carried forward. In terms of SAM cases, those cases involving Alaska Native victims were less likely to be founded. Otherwise, none of the differences in the processing rates of Alaska Native and non-Native victims' SAM cases were statistically significant.

A second set of analyses was conducted to consider the processing of cases occurring in the largely Alaska Native communities of the most rural areas of the state. The dichotomy for these analyses was drawn between cases occurring either inside or outside of what the Department of Health and Social Services in its Alaska Behavioral Risk Factor Surveillance System has termed the "Bush Stratum"—comprising the boroughs and census areas north and west of the Railbelt. Comparisons of case processing from these bush communities with cases from non-bush communities are reported in Table 2. These results indicate that cases of sexual violence that occur in the most rural portions of Alaska have, depending upon the decision, an equal or greater chance of being subject to legal sanction when compared with cases from Alaska's less rural areas. Similar to what was found when comparing attrition in Alaska Native victims' cases versus non-Native victims' cases, victims from bush communities of sexual violence in general

and of rape/sexual assault were more likely to have their cases referred to prosecutors by AST and to have DOL accept those cases for prosecution.

The final set of analyses considers attrition of cases coming from the most isolated villages compared to places that are less isolated. For these analyses a village was considered isolated if it lacked a local AST post or if Troopers were unable to reach the village by automobile. The premise of this dichotomy is that travel to villages that cannot be reached by highway is more difficult and, because of that hindrance, it could be expected that conducting investigations would be more difficult—thus increasing case attrition. From the perspective behind the allegations against the state, it is in these disconnected villages that lack a locally-posted police agency certified by the Alaska Police Standards Council where the greatest disparities in the enforcement and prosecution of cases of sexual violence would be expected to occur.

The results comparing attrition of cases occurring in villages defined as isolated with cases occurring in places more easily reached are presented in Table 3. As with the previously discussed comparisons of cases, case attrition in isolated villages is no more prevalent than in places that are better connected to AST posts. The results presented in Table 3 indicate that cases from isolated villages are instead *actually more*

Table 3. Attrition of Sexual Violence Cases Reported to Alaska State Troopers, Isolated vs. Non-Isolated Communities, 2003-2004

Decision	Total sexual violence				Rape/sexual assault				Sexual abuse of a minor			
	Isolated		Non-Isolated		Isolated		Non-Isolated		Isolated		Non-Isolated	
	N	%	N	%	N	%	N	%	N	%	N	%
Founded	437	76.4 %	463	75.7 %	230	81.9 %	200	74.9 % *	207	71.1 %	263	76.5 %
Referred [†]	243	66.8	206	55.2 *	132	71.0	86	54.4 *	111	62.4	120	55.8
Accepted	166	68.3	105	51.0 *	94	71.2	40	46.5 *	72	64.9	65	54.2
Convicted	132	79.5	85	81.0	70	74.5	31	77.5	62	86.1	54	83.1

[†]Percentages based on founded cases with adult suspects.

*Difference between isolated and non-isolated regions is statistically significant at the $p < .05$ level.

likely to receive full enforcement. Cases of rape/sexual assault in isolated villages were more likely to be founded, more likely to be referred for prosecution by AST, and more likely to be accepted for prosecution by DOL. Likewise, across the total of all sexual violence offenses, cases from isolated villages were referred and accepted for prosecution at a rate *greater than* cases from non-isolated locations. No differences were found in the attrition of SAM cases.

Overall, the results presented in this article provide little empirical support for allegations of discrimination in the processing of sexual violence cases by AST or DOL on a racial or geographic basis. With the exception of SAM cases against Alaska Native victims being less likely to be founded, *cases of sexual violence against*

Alaska Native victims were just as likely or actually more likely to receive full enforcement and prosecution when compared with cases against non-Native victims. On the basis of geography, cases occurring in locations with predominately Alaska Native populations believed to be underserved by AST were actually more likely to be dealt with by AST or DOL when compared with cases from outside those geographic areas. Our results indicate that the anecdotal evidence found in reports critical of the state's response to sexual violence against Alaska Natives does not accurately reflect the actual processing of cases of rape, sexual assault, and SAM reported to AST and prosecuted by DOL. Ultimately, these results do not support claims of unequal enforcement by the state in response to the victimization of

the Alaska Native population. However, Alaska continues to experience high rates of forcible rape, and the prosecution of sexual violence continues to be difficult: the percentage of AST-founded cases that resulted in a conviction never exceeded 30 percent.

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