PROFILING THE RAPIST: THE PREDICTION OF DANGEROUSNESS

Dr William Glaser
Department of Psychiatry
University of Melbourne
Victoria

The Use and Misuse of Prediction

IF ANY MAN CAN BE A RAPIST (BROWN MILLER 1975) AND IF SEXUAL offenders (including rapists) are 'not a homogeneous group' (Canada. Working Group. Sex Offender Treatment Review 1990), then the definition of the 'typical' rapist and the development of a typology of rapists should be considered a fruitless enterprise. There are no physical or psychological characteristics which distinguish rapists, or types of rapists, from their fellow men. About the only thing rapists have in common, apart from their commission of the crime, is their shared social attitude towards women: this is summed up neatly by one of the subjects in Gebhard's classic study:

Man, these dumb broads don't know what they want. They get you worked up and then they try to chicken out. You let 'em get away with stuff like that and the next thing you know they'll be walking all over you (Gebhard et al. 1965, p. 205).

In parallel with this abandonment of taxonomic schemes, there has been despair about our apparent inability to predict which known rapist will attack again, at which time and in what circumstances. Not only have empirical studies on the prediction of violence generally shown that most predictions of dangerousness turn out to be false positives (Steadman & Cocozza 1974) but also such predictions with respect to 'sexual psychopaths' lead to excessive periods of indeterminate incarceration in poorly resourced facilities with little hope of any 'treatment' (Kittrie 1971).

This is a gloomy picture. It is tempting to simply let sentencers, parole boards, clinicians and correctional officers get on with their work as best they can, using essentially a retributionist model dressed up with a little bit of rehabilitation. Yet there are cogent reasons
for persisting with the prediction paradigm in the hope of making it more applicable to what actually goes on in the real world.

Firstly, punishment alone, even long periods of incarceration, does not ensure the safety of future victims once the offender is released. Not only are many (perhaps most) offences committed by an individual rapist never detected; there is also no guarantee that he will confine his attentions to adult victims: up to one-quarter of rapists have been involved with teenagers and young children as well (Abel et al. 1987; Abel, Becker, Cunningham-Rathner, Mittelman & Rouleau 1988; Freund 1990). It is important to realise that potential victims may include contacts which the rapist makes in very different circumstances: friends, work-colleagues, his children, children of friends and neighbours, students and, unfortunately, in some cases, even his patients (McPhedran 1991).

Secondly, there is an increasing acknowledgment that prediction must be linked to appropriate interventions. For too long, prediction studies have concentrated on static or 'tombstone' factors—those which are not amenable to any interventions. The three best-known (and most reliable) of these are an offender's youthfulness, previous history of violence and possession of 'psychopathic' traits. Yet, dynamic and 'fluid' variables are also important in determining whether an offence will actually be committed, even in 'high-risk' offenders. For example, one study of rapists noted that 94 per cent of the offenders reported feeling anger caused by interpersonal conflict, just prior to 'relapsing'. (Pithers et al. 1988). For sex offenders in general, it is likely that specific interventions can be designed to deal with these 'dynamic' contributors to re-offending (Rice et al. 1990); a list of such variables is provided in Table 1.

Thirdly, prediction studies are an important way of achieving fairness and consistency for offenders. Many offenders were once victims of one sort or another, if not of sexual abuse then at least of gross social and emotional deprivations. While there have been some doubts raised about the accuracy of (for example) child molesters' accounts of being sexually abused as children (Freund, Watson & Dickey 1990), there is enough evidence to indicate that the behaviour of certain subgroups of sexual offenders is truly a function of social disadvantage rather than being an expression of persistent criminality or deviance. This applies particularly to the intellectually disabled (Hingsburger, Griffiths & Quinsey 1991; Glaser 1991). In such cases, punishment is inappropriate, both pragmatically and from the human rights perspective. Rather, it is more important to evaluate the needs of an individual offender and design interventions which will not only ensure the safety of the society in which he lives but also will eliminate behaviour which is in fact causing him considerable distress.
Table 1

Factors Contributing to Sexual Offending that are Potential Targets for Intervention

<table>
<thead>
<tr>
<th>motivators</th>
<th>sexual desire; deviant sexual desire, cerebral basis for sexual pleasure, emotional needs and conflicts; for example, dominance, hatred, acceptance, aggression, nurturance, and so on.</th>
</tr>
</thead>
<tbody>
<tr>
<td>blocks to legal sexual outlets</td>
<td>low IQ, unattractive, unassertive, low social skills, restrictive views on sexuality, low sex knowledge, sexual dysfunction, unavailability of appropriate sex partners, marital discord.</td>
</tr>
<tr>
<td>disinhibitors</td>
<td>alcohol/drug abuse, pornography use, models (childhood victimisation), cognitive distortions, deviant sexual attitudes (rape myths, victim blaming), attitudes supportive of violence, antisocial lifestyle, psychopathy, psychosis, brain injury/pathology.</td>
</tr>
<tr>
<td>inhibitors</td>
<td>moral values, empathy for victims, aversion to violence, fear of consequences, legal penalties, incarceration, unavailability of potential victims, resistance of victims.</td>
</tr>
</tbody>
</table>

Why Predictions Go Wrong

Clinicians and scientists have a different understanding of prediction failure from that of the community. For the community (and particularly for potential victims), predictions fail when a rapist is released and re-offends in a violent fashion. For the scientists and service providers, however, the reliability and validity of a predictive instrument depend more on its ability to pick the offenders who will not re-offend. Indeed, the paradox is that the more such non-offenders there are, the greater the suspicion that the instrument has unnecessarily locked up 'non-dangerous' offenders or subjected them to some other unnecessary intervention.

It could be argued that this enormous difference between measures of predictive success arises simply from the age-old problems of human error and imperfect knowledge. Certainly there have been dramatic improvements in predictive capacity using comprehensive and systematised information-gathering systems as well as specific investigations such as penile plethysmography (Quinsey 1990). In fact, the main impediments to the accurate and reliable assessment of rapists are associated more with the social structure of the community in which we live, rather than with their well-known deviousness or the possible lack of competence in those who attempt to deal with them. These social and political factors are summarised next:
Professional attitudes and resources

It is still unfortunately the case that those who attempt to deal with rapists, whether they be police, judges, correctional officers or clinicians, are too willing to accept the offender's description of his crime. Kinsey's remark that the difference between a 'good time' and a 'rape' may hinge on whether the girl's parents were awake when she finally arrived home, is still often believed, even if less often quoted (Kinsey, Pomeroy & Martin 1949). This same willingness to believe the offender often extends to his claims that he has never offended before, he has never practised any other form of sexual deviance, he did not plan the current offence or that he does not experience any aggressive sexual thoughts or fantasies. Further careful questioning and investigation is usually needed to reveal the falsity of such claims (Abel et al. 1987).

The facilities provided for the assessment of rapists and other sex offenders who have finally been convicted are still grossly inadequate. There has been absolutely no improvement in the pitiful resources allocated by the Victorian Government to the management of rapists and other sex offenders in the community since they were last described by the writer at a conference (Glaser 1991). The community psychosexual treatment program still operates out of cramped cold quarters in a building which is going to be demolished any day. A total complement of just over three full-time equivalent staff attempts to run a service which provides not only treatment for offenders but also reports to the courts, provides clinical support for community corrections staff, direct treatment for a range of other non-sex-offender difficult clients, teaching for other professionals and consultation and liaison with other service providers. There is little privacy for either clients or staff, inadequate security and sometimes no electricity or telephone services. Facilities in other parts of the system are in similar disarray: the prison psychosexual treatment program, which is run on a shoe-string, has just lost its third coordinator within the space of approximately eighteen months.

The community is quite rightly sceptical of the sort of 'service' that such facilities can provide. One can only wonder at the priorities of a system which purports to provide a treatment and management service for serious offenders but leaves the service so poorly resourced that the safety of the community must inevitably be compromised.

The response by the law

There is no doubt that the law actively encourages the willingness to believe an offender's story, as described above. As well, the credibility of women and children as witnesses has been discounted throughout legal history (Scutt 1990). Even with the new definitions of 'consent' introduced in recent rape legislation in Victoria and other jurisdictions, it may well be that women and children are revictimised during lengthy cross-examinations in court proceedings (Brereton 1992).

When a conviction is obtained, courts still have little to guide them in assessing the future dangerousness of an offender. Plea bargaining inevitably reduces the number and severity of the charges and the adverse medical or psychological report prepared for a defendant's legal advisers is rarely put in evidence. The courts are often the last to know
what an offender has actually done and thought while committing his crime; yet they are responsible for ordering the ultimate disposition which is intended to protect the community.

The response of victims

If the professionals and the judiciary are prevented from accurately coming to grips with the rapist, then the victim is in a worse position. Unfortunately, it is too often the case that victims are seen crying out for vengeance or (as the offenders seen by this writer now assert) they are simply after money from the Crimes Compensation Tribunal. The reality often may be very different. The trauma inflicted by the rapist upon his victim involves not only physical and psychological hurt but also the unrealistic hope that the offender will change with 'treatment'; that he will make appropriate restitution and/or will resume a more peaceful relationship. These hopes, born out of fear and despair, are not in any way the basis for making a decision about an offender's risk of re-offending.

The response by the media

A study of British newspapers over the last forty years has found little serious reporting of the subject of sex offending; rather, the emphasis has been on a rather moralistic (and hypocritical) sensationalism (Soothill & Walby 1991). The electronic media have simply amplified this trend by pretending that the reporting of sexualised violence amounts to 'news' in such 'tabloid television' programs as *Hard Copy* (Rowe 1992).

It is debatable as to whether 'serious' treatments of rape have eliminated this emphasis. The recent ABC-TV program about sexual violence, *Without Consent*, has made an attempt to record, as accurately as possible, both the factual and emotional components of the experiences of rapists and their victims. However, a fundamental mistake has been made here: it is assumed that the community is able to appreciate the horror of the victims' suffering and the callousness displayed by rapists when bragging about their crimes. Yet, there is only so much horror which a viewer can experience before disbelief sets in. There is only so much disgust that a male viewer can feel for his rapist colleague before he, too, starts to enjoy the fantasies of sexual power.

Therefore, rapists cannot simply be allowed to tell 'their side of the story'. They must be cross-examined by the media in the same way as their victims are in court. Otherwise, such programs simply end up confirming community prejudices. As a rapist client said, when asked whether he had watched the program:

I tried to watch it, tried to see if the women were legit . . . it was difficult though, because the other blokes were laughing too loudly . . .

Towards a Victim-Responsive Prediction Paradigm

Predictions of dangerousness can no longer be seen as a detached and objective scientific enterprise. Their evil has arisen from the use by the state to exclude arbitrarily-defined 'dangerous' individuals from society. Yet, the cynicism and despair surrounding such abuse have produced a disregard for the positive aspects of prediction work. Ultimately, the protection of society demands that more sophisticated and refined predictive instruments are produced and that they are linked not to simple dichotomous decisions about release or
detention of an offender but rather to the determination of specific interventions which will ensure the safety of society while also ensuring the minimum possible intervention in an offender's life.

For victims, and even for potential victims, punishment may be preferable to pragmatism. All too often, the debate about offender intervention programs has centred around resource allocation: for every offender in a treatment program, a victim is being denied appropriate support and restitution. At a more general level, it is very difficult to decide whether the grief and rage of a victim who requires a punitive sanction in order to gain some resolution of her distress outweighs the ill-defined promise of decreased risk to the community provided by less punitive 'treatment'-oriented models.

It must be emphasised that most effective 'treatment' paradigms focus on an offender taking responsibility for his crimes, on developing empathic responses to his victim(s), on following treatment goals set by the therapist rather than himself and on learning techniques to prevent re-offending behaviour. Whether this, in itself, constitutes 'punishment' rather than 'treatment' is both an ethical and pragmatic question. Again, it is hard to know whether such treatment requirements satisfy the needs of the victim who has already been wronged.

Nevertheless, if victims are to be given a voice in the matter (and this could well occur through, for example, the introduction of victim impact statements) then such a choice needs to be informed. The victims themselves need to have accurate and reliable information about the chances of their torturers repeating the offence, or indeed any other offence involving violence. They also need to know the chances of his responding to specific interventions, whether these be formal treatment programs, intensive supervision in the community or incarceration for a determinate period.

The needs of victims are the best reason for improving and refining our predictive models. A victim focus should be the primary justification for changing professional attitudes, for improving intervention services, for removing the impediments to sentencers and parole boards acquiring comprehensive knowledge about an offender and for educating the media in responsible reporting.

A victim's life after rape involves misery, humiliation and disempowerment. Knowledge is power: a rapist, nearly all the time, knows what he wants to do to his victim; his victim does not. Practitioners and social scientists are gradually learning much of the rapist's art and cunning. The more their victims and potential victims acquire of this knowledge, the more power they will possess against them.

References


Quinsey, V.L. 1990, Strategies for the Assessment, Treatment and Management of Sex Offenders (Report), Correctional Services, Canada.


