

Alcohol, drugs factor into assaults

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Alcohol and drug use greatly contribute to violent crime, they said.

Among college students nationwide, 73 percent of the assailants and 55 percent of the victims in sexual assaults had used drugs, alcohol or both immediately before the assault occurred, according to the American Medical Association.

"In most cases of sexual assault, the perpetrator has been drinking or using drugs and occasionally the victim as well," Lincoln Police Chief Tom Casady said.

The involvement of alcohol and drugs in sexual assault cases adds to the prevalent feelings of guilt sexual assault victims often feel, said Teresa Rudnick, a sexual assault services coordinator for Lincoln's Rape and Spouse Abuse Crisis Center.

"It is a common scenario in cases of rape — women go through stages of blaming," she said. "If she was drinking, those may be worse."

Under law, if the person committing the sexual assault knew or should have known the victim was incapable of resisting or appraising the situation — even if he or she thought it was a consensual act — a sexual assault has occurred.

When someone is intoxicated, the line between what happened and what the victim and offender thought happened becomes blurred, Rudnick said.

"A big issue they run into in their healing process is, say, if they don't have complete memory of what happened to them, the mind will tend to fill in those blanks," she said. "They are getting memories back in pieces and fragments and trying to piece all those together like a puzzle."

It's hard for victims to tell whether they're imagining the crime or just remembering it. So when alcohol and drugs impair judgment, or the victim feels guilty, the odds of the victim reporting the crime and of the aggressor being prosecuted can change, she said.

"That makes the prosecution that much harder when the person who would be the key witness doesn't remember everything that happened," Rudnick said. "That also plays a part in their deciding whether or not to report it."

The Lincoln Police Department investigated 103 reported cases of rape in 1998. In Nebraska, rape is considered a first-degree sexual assault. No actual "rape" charge exists.

Testimony in a sexual assault case also is affected if either the victim or the offender was under the influence of alcohol or drugs at the time of the crime, Chief Deputy Lancaster County Attorney John Colburn said.

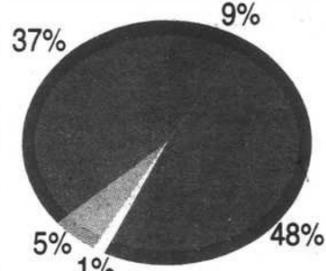
"As with any witness' ability to recollect and recall events, if that's impaired, that has an effect on their credibility of testimony," he said.

Colburn said a victim's impairment may vary slightly after a few drinks, but a victim who had been drinking all night may not realize what was happening. When he or she recalls the crime in court, ambiguity may surface. Ambiguity in testimony gives the defense a chance to attack the victim's credibility, he said.

"If someone has drunk a lot, but not passed out, that opens up the defense to make arguments that they

Local sexual assaults

In 1998, the Lancaster County Attorney's Office filed 77 counts of sexual assault.



- Seven counts of first-degree sexual assault
- Thirty-seven counts of third-degree sexual assault
- One count of attempted first degree sexual assault
- Four counts of attempted third-degree sexual assault
- Twenty-eight counts of varying crimes involving attempted sexual assault or sexual assault of a child

Source: Lancaster County Attorney's Office

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consented even though they may have not consented," Colburn said. "That makes it much more difficult for us to prosecute as a case."

Colburn said the most common defense in sexual assault cases involving alcohol or drugs is that the victim consented. One way for victims to gain credibility, he said, is to report the crime immediately, and keep all evidence intact. Physical evidence, such as semen or hair samples, is harder to obtain as days and weeks go by and memories may fade.

Memories can fade even if the victim was not heavily intoxicated, Casady said. Although very few local rape cases have involved Rohypnol, dubbed the "date rape drug," it could present a serious threat.

Rapists most commonly use Rohypnol by slipping it into unsuspecting people's drinks. The powerful drug can make victims weak and unconscious for several hours. During this time they may be raped or assaulted but not remember it, or only remember parts.

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Housing Director Doug Zatechka also said he has seen only a few sexual assault cases where use of the "date rape drug" was suspected.

The residence halls are not safe houses that guarantee protection from drinking and sexual assault, even though students sign housing contracts pledging to refrain from drinking in the halls and to obey the law, Zatechka said. And despite the 24-hour patrolling of Community Service Officers, sexual assaults still occur.

"We do not catch every problem," Zatechka said. "We wish we did."

He constantly worries about the safety of students in the residence halls, despite safeguards.

National 1997 statistics from the U.S. Department of Justice state that women under the age of 25 make up 52 percent of all rape and sexual assault victims. Women in the same age group make up almost all dorm residents.

If a residence hall student commits a sexual assault or any serious crime, he or she gets kicked out of the residence halls. UNL kicks out four or five students each year, Zatechka

State MIP penalties include diversion program, fines

■ Across Nebraska, there is no consensus among officials as to whether certain programs work better than others.

BY SHANE ANTHONY
Staff writer

A mere three months from her 21st birthday, Jami Konzak got busted.

The junior finance major was on her way home from a party on an August evening. Police stopped a car she was a passenger in and found a 12-pack of beer at her feet.

MIP.

"I thought I was so innocent since it was so close to my birthday," she said. It was her first offense, but she decided to plead guilty. Because of classes and a busy work schedule, she chose to pay a \$230 fine instead of a diversion program. She chose to pay in dollars rather than time.

But the cost minors pay for violating state liquor laws varies across the state. So do opinions about how effective punishments are.

In Lancaster County, fines and jail time for those who do not choose pretrial diversion run the gamut of the allowed fines or jail time said Mike DeJoseph, a deputy county attorney. The severity of the punishment depends on the crime, he said.

If the offense occurs in the city of Lincoln, the minimum fine under city ordinance is \$175.

In Cass County, Deputy County Attorney Rick Fedde said, the first offense is usually punished by a fine only. The second could result in jail time, he said, but punishments depend largely on the facts of the case.

Minors who get caught in possession of alcohol in Lincoln County can expect about a \$200 fine for the first offense, barring pretrial diversion, said Jeff Meyer, a deputy county attorney. The second offense usually results in two days in jail. The third offense, he said, nets seven to 10 days, and the fourth offense means 30.

"I haven't come across a fifth offense," he said with a chuckle.

All three counties — Lancaster, Cass and Lincoln — offer some form of pretrial diversion if the minor meets requirements. Diversion is a one-time shot, though. If a minor has gone through diversion for any offense before the MIP, charges will be filed.

Minors caught in Johnson County, though, don't have that option. Minors older than 16 face a criminal complaint, County Attorney Steve Mercure said.

"I've never been enamored with pretrial diversion," he said. "They don't change their behavior because of being in pretrial diversion."

Janet Cundall, director of Cass County's diversion program, disagreed — to a point.

"It may not keep them from drinking, but it may make them more aware of who they are and who they're associating with," she said.

The program she directs may include visits to Alcoholics Anonymous classes, time spent observing court proceedings and educational classes — all at a cost

of about \$110. If the offense involved driving, Cundall could revoke the minor's license or restrict it.

If the minor got in trouble again during the six-month program, the County Attorney would still prosecute on the original charge and the new charge, she said.

Anne Robbins supervises a similar program in North Platte for Lincoln County cases through the Boys and Girls Home of Nebraska. Minors there pay \$125 for a diversion program that includes videos, classes and possibly a defensive driving course if necessary. They meet with case supervisors once every couple of weeks after the first 12 weeks, she said.

She said diversion can help.

"Most of the kids do very well," she said. "I think a lot of kids are really scared when they first get picked up, and they come in. They're going to get out of it what they put into it. At least we can maybe get them to talk about things and see things from a different perspective."

Meyer, one of the deputy county attorneys who refers cases to Robbins, agreed.

"I think (diversion programs) are effective for the individual involved momentarily," he said. "There aren't a whole lot of 17-, 18-, and 19-year-olds who want to go to jail."

But Meyer said he does share some of Mercure's skepticism about affecting other minors' attitudes.

"My guess is, based on the number of cases we see, there's probably not a whole lot of deterrent effect," he said.

Said Mercure: "I have long ago given up the idea that I'm reaching many kids. If they want to drink, most kids aren't going to alter their behavior because of being prosecuted. Kids who are going to drink are probably going to drink. They don't weigh the consequences of MIP."

In 20 years, he said, he has seen few changes in attitudes about MIP and minors.

His job, he said, is to try to alert young people to the hazards of alcohol use. Parents play a much more important role in educating their kids — especially by example, he said.

"Most impact comes from adults in their lives," he said.

Lancaster County's DeJoseph said he did not really know how punishments and programs affect minors.

Cass County's Fedde said the outcome depends on the youths involved.

John McQuinn, chief prosecutor for the city of Lincoln, also shied from saying how effective court measures can be, although some benefits may be derived from pretrial diversion for first-time offenders, he said.

One way or another, he said, the message has to get out.

"Minors need to stay away from alcoholic beverages," he said. "I realize that's a vain hope, given the use of alcohol in our society, whether it's among adults or whether it's among minors."

Konzak said her experience did not stop her from drinking, but it did make her think more about how easily one can be caught. She is now able to drink legally, but she did have one piece of advice for minors who choose to imbibe:

"If you're going to think you're old enough to drink, then you've got to pay the price that goes with it."

"If they want to drink, most kids aren't going to alter their behavior because of being prosecuted."

STEVE MERCURE
Johnson County attorney

What is assault?

All three degrees of sexual assault have the underlying premise that if the person committing the sexual assault knew or should have known the victim was incapable of resisting or appraising the situation, a sexual assault has occurred.

First-degree sexual assault:

This occurs when there is sexual penetration without consent of the victim; it also occurs when the actor is 19 years or older and the victim is less than 16 years old. Penalty: Class II felony carrying a sentence of 1 to 50 years in prison.

Second-degree sexual assault:

A person commits this if they subject another person to sexual contact without consent of that person, and causes that person serious personal injury. Penalty: Class III felony carrying a sentence of 1 to 20 years in prison and/or a \$25,000 fine.

Third-degree sexual assault:

A person commits this if they subject another person to sexual contact without consent, but does not cause serious personal injury. Penalty: Class I misdemeanor carrying a sentence of no more than one year in jail and/or a \$1,000 fine.

Campus crimes

The following are a total of the crimes that the UNL Police Department have investigated. The first chart is the reported offenses, while the second is the actual number of arrests in the given categories.

Selected on-campus offenses reported to the police

	1998	1997	1996	1995	1994	1993	1992
1st degree sexual assault	0	1	2	0	1	3	3
2nd degree sexual assault	0	0	0	0	0	0	0
3rd degree sexual assault	5	0	1	3	2	2	7

Selected on-campus offenses with arrest by the police

	1998	1997	1996	1995	1994	1993	1992
Liquor violations	54	80	11	1	5	8	13

Source: UNL Police

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said. Crime victims in the residence halls have options including counseling sessions to help them cope with trauma, visiting ministers and educational programs.

Zatechka said the biggest step toward curbing serious problems in the residence halls would have to occur off campus. That's because most partying occurs off campus, he said.

The problems with sexual assault and other law violations occur in the residence halls once drunk students return to their rooms.

The problem escalates when students invite each other up to their rooms when they arrive drunk at the residence halls after a party, he said.

"Those types of things — alcohol is going to be causal to the vast majority of them," Zatechka said.

Even if alcohol or drugs are involved in a sexual assault, Zatechka

said, a woman shouldn't feel she was responsible for the crime.

"Just because the woman was under the influence shouldn't change the fact she is assaulted," he said.

Rudnick emphasized that no matter what state sexual assault victims are in, if they were assaulted or were

not aware that they were being assaulted at the time, the guilt of the crime is not theirs.

"They may feel like something they did made this happen to them," Rudnick said. "Hopefully they'll come to the conclusion that it wasn't."