Characteristics of drug-facilitated sexual assault in Spain[1]

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Abstract

The aim of this study consisted in analyzing the cases of drug-facilitated sexual assault -chemical submission- from 2008 to 2017. A total of 240 cases registered during this period within the territorial area of the Spanish Civil Guard were analyzed. Results show an increasing incidence of sexual assault cases that are drug-facilitated in order to annul the will of the victim, or at least that there is a greater awareness to report these cases. From the analyses carried out, distinctive characteristics of this type of sexual offenses were observed with respect to other modalities, in the sense that they are linked to leisure situations (at night, on weekends and holiday periods) although the place of commission is fundamentally the victim's or the perpetrator's residence. The profile of the victim is that of a young woman, of legal age (with a mean age of 25 years) and Spanish, although foreign women are also vulnerable victims. When the victim is male, the mean age decreases notably (20 years), with a higher incidence among minors. The aggressor is eminently male, older (around 30 years) and also

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Spanish. Databases can be a good starting point to frame the phenomenon, elucidating some of the main variables that intervene in these crimes, such as the moment and place of commission, as well as those persons most inclined to suffer them and, in the opposite pole, those most likely to carry out this type of criminal act.

Keywords: drug-facilitated sexual assault, chemical submission, sexual offense, sexual abuse, aggression, vulnerable victim.

Introduction

In recent years, cases of victims who have suffered assaults after having their physical and mental faculties altered by the induced use of substances have been reported by the general media. In the past decade, there has been an international increase in the number of these cases, which has led to a greater interest in this type of crime that generates great social alarm due to the helplessness it causes in the victim (Becerra-García, 2015; McBrierty, Wilkinson, & Tormey, 2013; Navarro & Vega, 2013; Villa, Fazio, & Esposito, 2016; Xifró-Collsamata et al., 2015). Most authors define chemical submission as the use or administration of one or several psychoactive substances to a person for illicit or criminal purposes, so as to manipulate or modify the victim's will or behavior, altering their degree of vigilance, their judgment or their state of consciousness (García-Caballero, Cruz-Landeira, & Quintela-Jorge, 2012; García-Repetto & Soria, 2013). In this situation, the effects of said substance or substances, administered in order to cause the victim (the person to whom the drug or

drugs are administered) secondary damage, prevent the victim from being able to give legal consent, or to resist a possible aggressor.

There are several European Union agencies that have focused their attention on this phenomenon, issuing a series of recommendations to member states. Thus, the Commission on Narcotic Drugs approved the Resolution on International Cooperation to combat the covert administration of psychoactive substances related to sexual assault and other criminal acts in 2010 (Resolution 53/7, E/CN.7/2010/18). In Spain, recent changes have been made to the legislation in this regard, but if there is one fact that stands out, it is the preparation of the first protocol of action for cases of sexual assault with suspected intoxication and its publication by the National Institute of Toxicology and Forensic Sciences (Instituto Nacional de Toxicología y Ciencias Forenses, INTCF), dependent of the Spanish Ministry of Justice. The Spanish Security Forces have also defined specific intervention strategies for this type of cases (Quintana, Moreno, & Ramos, 2018).

Although their use has been extended to a multitude of crimes, one of the most worrying cases is that of drug-facilitated sexual assaults (DFSA), due to the protected legal right, its complexity and the difficulty of its detection (Anderson, Flynn, Drummer, Gerostamoulos, & Schumann, 2019; Butler & Welch, 2009; Cruz-Landeira, Quintela-Jorge, & López-Rivadulla, 2008; Hurley, Parker, & Wells, 2006). This acronym refers to those non-consensual sexual relations, abuses or sexual assaults that are carried out while the victims are under the effects of psychoactive substances such as alcohol, psychoactive drugs or other drugs, generally incapacitated or in a state of unconsciousness (Hall & Moore, 2008). Horvath and Brown (2005) distinguished

between two types: a) *premeditated or proactive DFSA*, which implies all sexual activity is not consented, aided by the forced or covert administration by the aggressor of a substance for the purpose of sexual assault, and b) *opportunistic DFSA*, which involves sexual activity performed with a victim that is incapacitated after voluntary substance use.

In Spain, the legislation does not consider chemical submission as an aggravating circumstance of the crime of sexual abuse (Berenguer, Suárez, & Rodríguez, 2011), although there are instructions for action for cases of sexual assault with suspected intoxication, published by the Ministry of Justice (Vega, 2012), and a medical-forensic action guide prepared by a research group in this area, from the Legal Medicine Institute of Catalonia (Xifró et al., 2013). Both, in addition to giving guidelines for action in this type of crime, provide some information on the Spanish situation, noting that 20-30% of sexual assaults occur facilitated by chemical submission, and that of those cases, less than 20% are reported due to the loss or decrease of memory on behalf of the victim as a result of the effects of the substances administered by the aggressor (Bañón-González et al., 2012). Thus, many authors agree that the real prevalence of this phenomenon can never be known, as many cases are not reported (because either the event is not clear, or due to the shame the victim suffers ...), or the complaint is filed so late that it hinders the investigative work (García-Repetto & Soria, 2011). In addition, there is also the difficulty in diagnosing as chemical submission those cases that reach the health center with suspicious indicators (the detection of cases of chemical submission poses a challenge for the toxicology laboratories, as they require the determination of substances that are present in very low concentrations in most of

the analyzed samples) or the lack of collaboration of the victim due to the effects of the drug, the relationship with the perpetrator, etc.

To our knowledge, no studies have been carried out in Spain regarding chemical submission from a police investigation perspective, and those that have been carried out, are mostly oriented towards toxicological aspects (see for example, Cruz-Landeira et al., 2008; García-Caballero et al., 2013; García-Repetto & Soria, 2013). On the other hand, and in view of the media impact of some cases and the social alarm and outrage they have caused, it is expected that articles of legal guidance will soon be plentiful.

In order to know the characteristics of sexual crimes committed through chemical submission, the known cases within the scope of the Spanish Civil Guard between 2008 and 2017 were analyzed. Civil Guard is one of the police forces active in Spain, that has both a regular national role and undertakes specific foreign peace-keeping missions. As a national police force, the Civil Guard is comparable today to the French National Gendarmerie, the Italian Carabinieri, the Portuguese National Republican Guard or the Dutch Royal Marechaussee, as it is part of the European Gendarmerie Force.

Method

In order to carry out the present study, all those acts of crime against the indemnity and sexual freedom that occurred within the Civil Guard's scope and were committed facilitated by the administration of drugs or medication were identified and filtered. The national territory in which this police force carries out its security and

investigation functions encompasses populations of less than 50,000 inhabitants, and the outskirts of the provincial capitals (approximately 85% of the national territory). In the Basque Country and Catalonia the Civil Guard does not develop citizen security functions. Thus, a total of 240 different cases were selected, reported in the interval between January 1st, 2008 and December 31st, 2017, although within each case there could be several victims and several perpetrators, thus increasing the figure to 326 different criminal acts. Of the total number of cases analyzed, 224 were consummated (93.3%), while only 16 were tentative (6.7%). A total of 151 cases (62.9%) were classified as resolved, as there were no doubts regarding the aggression or the sexual abuse through chemical submission, while 52 cases were classified as partially resolved (21.7%) and 37 as unresolved (15.4%).

Results

Spatial and temporal context

In general, an upward trend in the number of chemical submission cases reported and investigated over the years can be observed (see Figure 1).

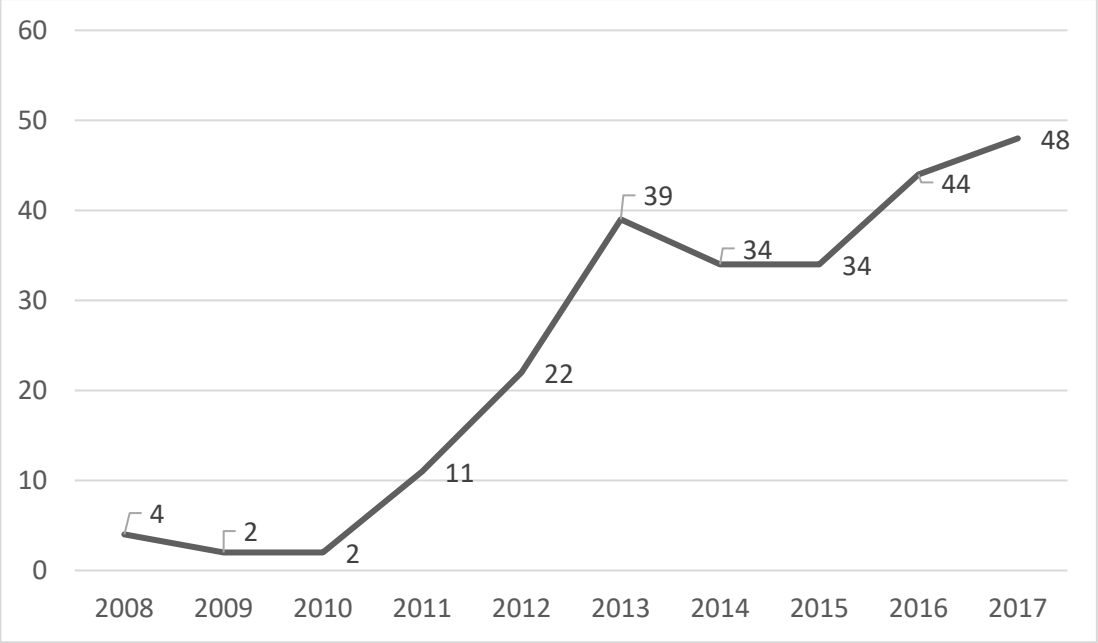


Figure 1. Number of cases of chemical submission per year (2008-2017).

Considering the total of 326 criminal acts, Andalusia, Valencia, Canary Islands, Balearic Islands and Madrid have the highest number of crimes (see Table 1).

	Frequency	Percentage
Andalusia	62	19,0
Valencia	56	17,2
Canary Islands	46	14,1
Balearic Islands	38	11,7
Madrid	30	9,2
Castilla-La Mancha	17	5,2
Galicia	16	4,9
Murcia	12	3,7
Castilla y León	10	3,1
Cantabria	9	2,8
Melilla	8	2,5
Extremadura	6	1,8
Aragón	5	1,5
La Rioja	5	1,5
Navarra	3	0,9
Asturias	1	0,3
Catalonia	1	0,3
Basque Country	1	0,3
Total	326	100,0

Table 1. Frequency and percentage of cases according to Autonomous Community.

As indicated in Table 2, more than half of the cases (52.9%) occurred in a residence, whether it was the victim's, the aggressor's or a stranger's. Although the chemical submission itself can be carried out in these places to subsequently commit the sexual assault, the most common scenario that was found was to administer the substance to the victim elsewhere (usually in situations of nightlife or in other social situations), take him/her to a residence and carry out the attack there without his/her consent.

These cases are followed by those committed in public roads and nightclubs or entertainment venues as the most common places where this type of crime is committed with the aid of chemical submission, with almost 20% of the total sample.

They tend to occur especially at night, as within the cited 20%, 64.5% of the cases that occur in these places occur at dawn, being, along with residences, the places where more sexual assaults facilitated by chemical submission occur at those times. Less common, but highly related to the coastal areas mentioned above, are hotels or hostels (in which 6.7% of the cases occurred), as well as the beach (in which 3.8% of the cases occurred), both also during the night hours. Other commission areas typical of these crimes, although to a much lesser extent, are vehicles, vacant lots, parks, roads, parking lots, industrial warehouses...

	Percentage %
Residence	53
Street	11
Entertainment area	8
Others	8
Hotel	7
Unknown	4
Beach	4
Vacant lot	3
Vehicle	3

Table 2. Percentage of chemical submission cases according to where they were committed (2008-2017).

Along with the place of commission, it is of vital importance to know the days and times at which these events occur, especially regarding their prevention or rapid identification. Most of these crimes (71%) take place at night, understood as the range between 22:00 and 06:00, and on weekends (40.7% of the events occurred on a Saturday or a Sunday). That is, 31.5% of cases occurred during the weekend nights, a

figure that rises to 44.5% if Friday is considered as the beginning of the weekend. These three days usually coincide with the times of the week that more social situations outside the home occur, as they correspond to work or school free time, and many people take advantage to go out with friends, for leisure or partying. A progressive increase in the number of events as the days of the week advance can be observed. It has not been possible to study, due to methodological limitations, the incidence during days before holidays in the middle of the week.

Finally, in relation to the spatio-temporal situation, the months in which crimes mediated by chemical submission tend to occur more frequently were analyzed, expecting to find, as already mentioned throughout this section, that holiday periods and periods of increased tourism in our country were more likely to record this type of events. Although it is true, as shown in Figure 2, that during the month of July, central in the summer holidays, there is an outstanding increase of crimes of this nature with 16.7% of the cases (which could corroborate the prior assumption), the distribution throughout the year is quite random, varying little from one month to another, and only slightly increasing during the months of September and October, which accumulate 22.5% of the total between them.

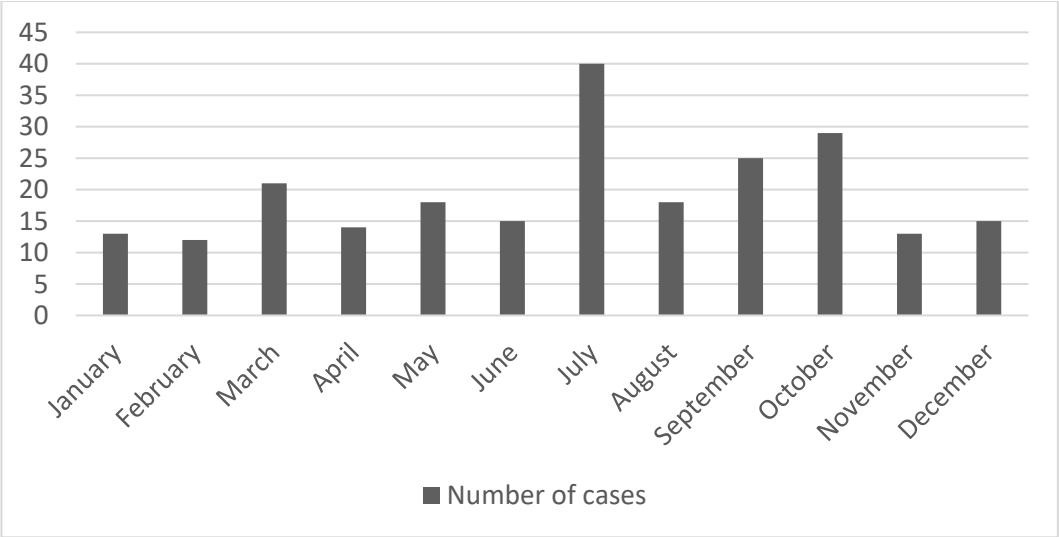


Figure 2. Number of cases of chemical submission according to the month of the year (2008-2017).

Profile of the victim

When analyzing the victim of these crimes, sex, age and nationality were taken into account. With these variables, an approximate profile of those people more likely to suffer sexual offenses facilitated by chemical submission can be reported. A total of 246 victims were studied for the 240 cases, as there were cases with multiple victims.

Contrary to some scientific literature, which reports women as the exclusive victims of this type of crimes, the present study revealed that 10.6% of men were also victims of this type of crimes. A 67.5% were victims over the age of 18 years, while 31.7% were minors (the age of the remaining 0.8% of victims was unknown), being 24.16 years (*SD* = 11.13) the average age. More than half of the victims, 61.4%, were of Spanish nationality, with the rest being from very varied nationalities (32 different

nationalities), with a notable amount of cases occurring to individuals from the United Kingdom (8.9%) and Morocco (4.1%). European, African and Latin American individuals can be found among these victims, without any specific predominance of any race or ethnicity.

According to gender, it was observed that 57.7% of male victims were minors, while 42.3% were 18 or older. The average age was 20.3 years (*SD* = 7.83). Regarding nationality, the data follow the general line of the global of victims: more than half of these men were of Spanish nationality (53.8%), followed by those with Moroccan nationality (30.8%) and other European, African and Latin American nationalities in the same proportion. In the case of women, unlike in men, most of the victims were of legal age (70.5%). The average age was somewhat higher, 24.58 years (*SD* = 11.34), although the difference is not significant, $F(1,322) = 0.011$, $p = .916$. Nor does the nationality of the victims vary, with Spanish being predominant (62.3%), followed by the United Kingdom and other nationalities, mostly European and Latin American.

Profile of the perpetrator

As in the analysis of the victim, for the study of the aggressor, sex, age and nationality were taken into account, as well as the presence or not of prior criminal records, whether their place of residence was the same as that of the victim, and whether both had a prior relationship of some kind. A total of 233 aggressors were studied for the 240 cases, as there were multiple aggressors in some cases and other cases were the perpetrator was unidentified.

A total of 98.3% of aggressors were male, and only 1.7% were female aggressors (4 cases). Virtually all perpetrators (92.7%) were of legal age, with a mean age of 33.11 years (*SD* = 13.30). The distribution by nationality is similar to that of the victims, with a large Spanish majority (60.1%) and very diverse nationalities, among which Moroccan (4.7%), Romanian (4.7%), Colombian (4.3%) and Ecuadorian (4.3%) are noteworthy.

Especially relevant was the study of the background of the known perpetrators, finding that more than half of them (59.7%) presented criminal records prior to the drug-facilitated sexual offense. That is, almost six out of ten aggressors were repeat offenders, although the crimes for which they had been convicted previously were very varied (crimes against road safety, abuse within the family, robbery or theft, threats and injury crimes, drug trafficking, and sexual abuse and assault).

Likewise, a percentage close to half of the sample of aggressors (40.3%) resided in the same locality as their victim at the time of the aggression. A 34.8% of the perpetrators had some type of link with the victim, partly corroborating the existing scientific literature, as mentioned in the introductory section. The type of relationship found indicates that they both knew each other before the crime in 39.5% of the cases, there was a friendship relationship in 21% of the cases, it was a family member (parents or uncles) in 18.5% of cases, and there was sentimental relationship (present or past) in 17'3% of the cases. The rest were casual (1.2%) or work-related (2.5%) links.

Discussion

A study was carried out of all the cases of sexual crimes registered in the databases of the Spanish Civil Guard in which substances had intervened to facilitate their commission, between 2008 and 2017. In any case, these were not all the crimes of this nature that had occurred in the timeframe analyzed, as there is a percentage of unknown crimes, because the victim does not report them, because they are not detected or because they are mistakenly framed as another type of crime. Therefore, it is vitally important to carry out national studies covering the entire statistics held by all the Spanish police forces. Only with the data from the Civil Guard, 240 cases reported within a period of 9 years could be analyzed, thus it is expected that this figure would be much higher if the National Police records were also included, in order to know with total accuracy the magnitude of the problem, and hence, be able to elaborate more precise guidelines to help contain it.

In view of the results obtained, attention is drawn to the linear increase in complaints over time, doubling since 2012, and with a clear tendency to follow in the same line in future years. As it is a crime of a sexual nature, intimate and carried out in the private sphere of the victim, a large "dark figure" (cases that go unreported) is expected. In some cases, this is because the victims never become aware of what has happened to them. In other cases, it is not reported because of the type of victim, as among certain collectives there is a tendency not to report these crimes. Thus, it would be interesting for future studies to relate this type of crime to prostitution or trafficking,

where the tendency not to report could be extremely high (Silva, Manzanero, Bengoa, & Contreras, 2018). In addition, in the years 2008-2010, there was still no awareness of the reality of the problem on behalf of society, thus it is plausible (as shown by the available data) that the number of reported cases would be lower. Moreover, its correct classification by the agent could be somewhat confusing due to the novelty of this criminal typology, thus losing information in many cases. In recent years, as the problem has been brought to the public notice and Judicial Police officers of the Civil Guard have received increasingly specialized training with regard to investigation of new criminal forms, the known reports have increased consequently, as shown in Figure 1, either due to the existence of more complaints or to a better categorization of the cases, doubling in number from 2012 to 2016, and maintaining that growth in a sustained manner until present days, multiplying 10-fold the known cases with respect to 2008 data.

The most affected areas coincide with the places that tend to concentrate the largest number of foreign tourists (generally passing through our country and without permanent residence), as well as places of entertainment that welcome large social affluences in which the victim is more exposed to his/her aggressor.

In relation to the location of the events, the specific place of their commission was also analyzed, with the difficulty that this entails, as in many of the cases, the victim recalls that after being in a specific place and being drugged, she/he woke up in a different place with signs of having been sexually assaulted. In this way, it is not easy to determine the exact place where the events take place, although the statistics

sometimes include the location where the victim was drugged, and at other times the place where he/she woke up. In any case, more than half of the cases occurred during the weekend nights in a private residence, in public roads and in nightclubs or entertainment venues. In line with the results found in other studies (Anderson, Flynn, & Pilgrim, 2017), alcohol consumption is present in the majority of cases of DFSA, so the places where alcoholic beverages are consumed are the most favorable for the commission of this type of crimes.

In this sense, the Security Forces responsible for investigating and dealing with this type of crime should focus their attention on these places, although it is impossible to control the circulation of many of these drugs due to their availability and easy concealment in practically any environment and situation.

The typical profile of the victim is that of a young woman, about 25 years old, and of Spanish nationality, although foreign women also have a high probability of suffering these crimes. In general, relating these guidelines with the spatio-temporal situation seen above, the data correspond to the profile of people in social situations of nightlife, during holidays or weekends. In the few cases where the victim was a male, these were predominantly minors.

The typical profile of the aggressor is that of a man, about 34 years old, of Spanish nationality, with a history of other crimes and who usually does not have a prior relationship with the victim.

Conclusions

Knowing the profile of the perpetrators can facilitate the inquiry tasks in these cases, facilitating their early identification and detention. However, a real knowledge of the impact and repercussion of these sex offenses mediated by chemical submission is difficult to achieve. The different factors that intervene in these crimes, both related to the victim, and to the substances that are administered, interfere in the response capacity of the security forces responsible for these cases, thus losing reliability at the time of data and general information collection that these cases can offer.

However, the statistics available in Spain from the Civil Guard's or National Police's databases can be a good starting point to frame the phenomenon, elucidating some of the main variables that intervene in these crimes, such as the moment and place of commission, as well as those persons most inclined to suffer them and, in the opposite pole, those most likely to carry out this type of criminal act. Of course, much more research is necessary, as these data are stored as mere databases for large-scale consultation, with information that is not well specified, and that is rarely analyzed in detail in search of possible solutions to the problem.

It is vitally important that the Security Forces that are responsible for investigating these crimes focus on the time and place of commission, in order to aid prevention or early identification, not only because of the seriousness of the act for the victim, but also to give these crimes much more visibility than they currently have. However, anticipating these crimes implies a high difficulty, as, despite being able to elucidate a profile for the victim and the perpetrator, as discussed in this paper, and

even the most probable places where these crimes can be committed, there are other variables related to the substances used (their availability and easy concealment, their quick action and short duration...) that make it practically impossible to control when and in what situation crimes of this nature will occur. Joint analyses of criminal and toxicological factors characteristic of chemical submission sexual assault crimes could be very useful to mitigate their prevalence and thus contribute positively to the fight against this phenomenon in today's society.

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