

APRIL 28, 1975

MEMBERS PRESENT: CHAIRMAN BENNETT
VICE-CHAIRMAN CHIRSTENSEN
MRS. FORD
MR. MURPHY
MR. MANN
MR. CRADDOCK
MR. LOWMAN
MR. VERGIELS
MR. BARENGO

GUESTS: Orville Wahrenbrock, Dept. of Human Resources
A. R. Martelle, Welfare Division
Douglas Simeroth, Welfare Division
Florence McClure, Comm. Action Against Rape
Jeneane Harter, Chiropractors Assn.
Sue Morrow, Press

The meeting was called to order by Chairman Bennett at 4:00 p.m. Mr. Bennett announced that the first bill on the agenda was AB-664 which provides counseling and medical treatment to victims of rape and their spouses.

Assemblyman Nash Sena, principal sponsor of the bill, introduced Florence McClure, Vice-President of Community Action Against Rape of Las Vegas. Mrs. McClure stated this was her fifth trip during this Legislative session to speak for reforms on rape and sexual assault laws. Mr. Barengo and Mr. Lowman have heard her speak on SB-222 and SB-52 in the Assembly Judiciary Committee and may find some of her remarks repetitious.

The balance of Mrs. McClure's statement is attached hereto and made a part of these Minutes. Also attached are other documents submitted by Mrs. McClure concerning rape laws and statistics.

Mrs. Ford said that an affidavit is required only under Section 4, and she feels that an affidavit should also be required under Section 3 before a victim could receive treatment at the county's expense. Mrs. McClure said that 70% of the rape victims are told that if they go to the police or say anything they will be killed. Also some victims are in such bad shape at the time they receive treatment that they would be unable to make an affidavit then.

Mr. Murphy asked what the fiscal note was and was informed that the counties will be the only ones to pay. Mrs. McClure says if the bill goes to Ways and Means to be sure and say very little money is involved.

Assemblyman Steve Coulter then appeared in support of AJR-38 which memorializes Congress to authorize and fund a veterans' hospital in Southern Nevada. This resolution has the support of Congressman Laxalt and Senator Cannon. At present the veterans have to travel to Reno to get treatment.

Mrs. Ford asked if Mr. Coulter had talked to anyone about using existing facilities in Las Vegas. He said that it had been discussed but they were asking for a whole new hospital.

Mr. Coulter also spoke for AJR-39 which memorializes Congress to repeal income limitation on the receipt of social security benefits. It is unfair to ask people to retire totally at age 65 when they are capable of working. The present limitation of \$3600 should be lifted according to Senator Cannon and Governor O'Callaghan.

Chairman Bennett announced that AB-695 would be held and not heard at this time.

Jeneane Harter appeared to discuss SB-258 which was first heard on March 24th. There was some discussion about an amendment which she thought Mrs. Ford had suggested. It was brought out that the Committee had requested that the Chiropractors Association's attorney appear to offer further information on SB-258 and SB-261 and he has failed to do so. Ms. Harter said she had also requested Mr. Isaeff to appear but he had been unable to do so.

Mr. Mann moved that SB-258 and SB-261 be indefinitely postponed. Mr. Lowman seconded the motion. Unanimously voted by the Committee to indefinitely postpone.

Mr. Murphy stated he would like the Committee to introduce a bill which would allow graduate nursing students to obtain an interim permit to practice in hospitals. Mr. Vergiels moved that the Committee introduce the bill, Mr. Murphy seconded. Unanimously agreed by Committee.

After discussion on AB-664 it was agreed that Mrs. Ford would draft an amendment to the bill.

Mr. Mann moved a "do pass" on AJR-38. Seconded by Mr. Vergiels. Unanimously passed.

Mr. Mann moved "do pass" on AJR-39, and Mr. Bennett seconded. Aye votes: Mann, Bennett, Christensen, Murphy, Vergiels. No votes: Mrs. Ford, Lowman and Craddock. Passed.

The meeting adjourned at 4:50 p.m.

Respectfully submitted,

Jane Dunne, Secretary

ASSEMBLY
HEARING

247

COMMITTEE ON HEALTH & WELFARE
Monday
Date April 28, 1975 Time 3:00 p.m. Room 240

Bill or Resolution
to be considered

Subject

*Amended
& Passed
5-5* AB-664 -

Provides counseling and medical treatment
to victims of rape and their spouses.

*not
heard* AB-695

Revises provisions for state assistance to
blind persons.

As Pass AJR-38

Memorializes Congress to authorize and fund
a veterans' hospital in Southern Nevada.

Do Pass AJR-39 <

Memorializes Congress to repeal income
limitations on the receipt of social
security benefits.

>B 258

SB 261

58TH NEVADA LEGISLATURE

HEALTH AND WELFARE COMMITTEE
LEGISLATION ACTION

DATE April 28, 1975

SUBJECT AJR 38

MOTION: _____

Do Pass Amend _____ Indefinitely Postpone _____ Reconsider _____

Moved By Mr. Mann Seconded By Mr. Vergiels

AMENDMENT _____

Moved By _____ Seconded By _____

AMENDMENT _____

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Bennett	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Christensen	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Barengo	Absent	_____	_____	_____	_____	_____
Craddock	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Mann	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Murphy	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Vergiels	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Ford	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Lowman	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____

TALLY: 8 . 0

Original Motion: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes _____ Date _____

HEALTH AND WELFARE COMMITTEE
LEGISLATION ACTION

DATE April 28, 1975

SUBJECT AJR 39

MOTION: _____

Do Pass Amend _____ Indefinitely Postpone _____ Reconsiderer _____

Moved By Mr. Mann Seconded By Mr. Bennett

AMENDMENT _____

Moved By _____ Seconded By _____

AMENDMENT _____

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
Bennett	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Christensen	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Barengo	Absent	_____	_____	_____	_____	_____
Craddock	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
Mann	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Murphy	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Vergiels	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
Ford	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
Lowman	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____

TALLY: 5 3

Original Motion: Passed Defeated _____ Withdrawn _____

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes _____
Date _____

58TH NEVADA LEGISLATURE

HEALTH AND WELFARE COMMITTEE
LEGISLATION ACTION

DATE April 28, 1975

SUBJECT SB-258 and SB-261

MOTION: _____

Do Pass ___ Amend ___ Indefinitely Postpone xx Reconsiderer ___

Moved By Mr. Mann Seconded By Mr. Lowman

AMENDMENT _____

Moved By _____ Seconded By _____

AMENDMENT _____

Moved By _____ Seconded By _____

<u>VOTE:</u>	<u>MOTION</u>		<u>AMEND</u>		<u>AMEND</u>	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
Bennett	x	—	—	—	—	—
Christensen	x	—	—	—	—	—
Barengo	x	—	—	—	—	—
Craddock	x	—	—	—	—	—
Mann	x	—	—	—	—	—
Murphy	x	—	—	—	—	—
Vergiels	x	—	—	—	—	—
Ford	x	—	—	—	—	—
Lowman	x	—	—	—	—	—
	<u>9</u>	<u>0</u>	—	—	—	—

TALLY:

Original Motion: Passed x Defeated ___ Withdrawn ___

Amended & Passed _____ Amended & Defeated _____

Amended & Passed _____ Amended & Defeated _____

Attach to Minutes _____
Date _____

Mr. Chairman and members of the Assembly Health and Welfare Committee, I am Mrs. Florence McClure, Vice President of Community Action Against Rape, located in Las Vegas, Nevada.

This is my fifth trip this Legislative Session to speak for reforms in rape and sexual assault laws. Assemblymen Barengo and Lowman have heard me speak in favor of SB 222 and SB 52 in the Assembly Judiciary Committee, so they may find some of my remarks repetitious.

Community Action Against Rape, as well as other organizations in Clark County, are backing our efforts to bring about needed changes. Tonight, for instance, Ms. Sandi Petta, our president will be presenting a film and program on child molestation. On Saturday Mrs. Jeri Amblad, a member of AAUW who is working with our organization, spoke to three teacher training sessions on child molestation.

We are in favor of AB 664 as it fills a need that is not presently being met:

For instance, SB 222 carries the following language under Section 6:

"Any costs incurred by a hospital for the examination of the victim of a sexual offense, when such examination is performed for the purposes of gathering evidence for possible prosecution of the person who committed the offense, shall not be charged directly or indirectly to the victim. Such costs shall be charged to the county in whose jurisdiction the offense was committed."

This cost has not been paid by the victim, so this is not relieving her of any costs. This charge is presently borne by the

police entity authorizing the examination. They are interested in obtaining evidence of whether any sperm is present, so the doctor makes the examination and obtains material so that a pathologist can run the test that will be used possibly in a trial. This is a small charge --

The balance of the treatment to the victim has to be paid by her before she leaves or arrange to pay same.

This past weekend I had an unexpected guest. I received a call about 8 AM, Saturday morning, from the Emergency Room nurse at Southern Nevada Memorial Hospital; she said that there was a 37-year-old woman there who had been raped in her motel room and she was afraid to go back to the room to get her things. I told them I would be there in about 15 minutes. I found that she was a social worker in Milwaukee who stopped off for a 2-day vacation in Las Vegas en route to a conference for social workers in Oregon. She had been told by friends in Wisconsin that she did not need a reservation this time of year in Las Vegas; however, when she started calling hotels from the airport, she found this was not true. She finally got a reservation at the Sun & Sand Motel, but the taxi driver told her that it was off the beaten path and would be hard for her to get around (she found later this was not true); he said he could take her to a motel close to the Sahara, so she agreed. It was The European Motel. She got Room No. 5, the bed was not made and they gave her sheets and she had to ask for a blanket and they gave her a dirty one with cigarette burns. She had tried all the doors to insure that the room was secure and then went to dinner and a walk down the strip. She went to bed shortly after midnight and left the bathroom light on and the door slightly ajar. Around

3 AM, she awoke some what, as she realized that the bathroom light had gone off. The next thing she knew someone had grabbed her arm and pulled it high up her back. She tried to talk to him, but it did no good; he raped her. There was no phone in the room, so she had to put on some clothes and go to the motel office to call the police; the clerk, when she told him she needed the phone to call the police, said the office was closed and he would not let her in. She had to go across the street to a casino to call the police. They found that one of the doors she had tried and found locked on her side of the room was entry to a storage room that had a window, and it was pushed open and the door could be opened from that side. The police did find finger and palm prints on the window and they took the latents. The police took her to the hospital but when she told them she might not be able to come back for a trial if they caught him, they did not authorize the examination for evidence taking, so the \$31.50 she paid the cashier was only for the use of the treatment room, penicillan to counteract any V.D. she may have been exposed to, and DES (the morning after pill to prevent pregnancy) as she is not "on the pill." She is the mother of two two daughters, ages 16 and 18, and she has been more fearful for their safety than hers. It just made me sick to see her hand over her Master Charge card to pay the \$31.50, especially since she had already come in contact with heartless people.

I drove her to the motel to pick up her luggage and we went to the office to see if we could at least get a refund on the Saturday rental paid; the clerk said he had no authority and only after I pressed him did he give me the name of the owners, but no one answers

the phone. When I return to Las Vegas, I plan to get on the agenda of the next Convention Authority meeting and also plan to talk to Mr. Manny Cortez of the Taxicab Authority about diverting customers to other motels. It is very obvious to me that he is getting a kick-back from the motel; I have 11 years experience in hotel administration and am aware of devious practices.

Can you image what an image she had of Las Vegas when I put her on the plane yesterday for Oregon; she told my husband that the only good thing that came out of her trip to Las Vegas was meeting us. She plans on contacting the rape crisis center in Milwaukee when she gets home and tell them what happened. If women's magazines across the country find that it is not safe for a woman, traveling alone, to come here, they may print same in newsletters, etc. The women are smart enough to know that authorities cannot stop the crime of rape, but when everyone she comes into contact with doesn't seem to care, that is another matter.

I am submitting herewith a bill given to a victim of rape-torture. It is the most gruesome case I have heard of to date, short of the victim being murdered. What I am going to tell you is not pleasant but it is necessary in order to make my point. In March Sandra, a 32-year-old mother of a 9 year-old son, went to the Jack in the Box for sandwiches for friends in the lounge next door. En route back a young blond-headed boy stuck a knife in her back and forced her into the desert back of the buildings -- located near Torrey Pines and West Charleston. Then insued the following: He put a rock on her chest and raped her; he made her commit fellatio; he raped her anally; and he held a knife up her vagina while he urinated into her mouth and said, "If you do not swallow every drop, I'll slit you clear

up to your navel." He also burned her nipples with a cigarette and her pubic hair. He took her clothes with him when he left, saying she was not to send anyone after him or he would kill her, and "I have raped 20 women and killed 2." A preliminary hearing was held April 16 and the Judge agreed with the defense that he should undergo a psychiatric evaluation and the Dep. D. A. extracted a waiver for a preliminary hearing if he was found able to stand trial. Two brothers found the victim when she called for help and they saw right away she had been tortured and they wrapped clothes -- their coats -- around her and called Police from a 7=11 payphone. After examination and treatment at the hospital, she was told to see the cashier and given this bill in the amount of \$51.90. She has not paid it yet, and I am going to have to check it out as there is a charge of \$13.40 for "Lab-UCG Test Slide 8083160" and if I am not mistaken that portion should be paid by the police entity and not the victim. Perhaps ^{other} ~~the~~ victims ~~has~~ been charged for the lab text instead of police entity.

Let's talk about another victim, Nancy; a 22-year old single woman had a man force his way into her apartment; she got away and ran down the street at about 6 AM yelling "Help Rape, Help Rape!" No one came to her aid, a car even swerved to avoid hitting her but did not stop -- EVEN THOUGH THE MAN CHASING HER WAS NUDE FROM THE WAIST DOWN. She ran into the Brookman Motel but no one on duty -- he drug her back to her apartment and raped her. She received many bruises, etc. She called me first and I called the police -- it was daybreak -- I got there in 20 minutes but the police had 4 units there and had him in custody on his way downtown; he was on parole for selling drugs.

She had to pay the hospital \$20 for her treatment.

She did not know him but had seen him at the laundromat and knew he lived in an apartment house next to hers. On March 15 he was bound over for trial at a preliminary hearing. In both of these cases you find speedy preliminary hearings but that is because the defendants are in custody and the law says in that case it will be held within 15 days. This is the only time a victim gets any justice -- when the defendant is in custody.

Some may ask, "Don't they have insurance coverage?" A number of women do have culinary insurance in Clark County, but then too they may not want the Personnel Department, where they are employed, or the Union Insurance Office to know that they were raped. Because our newspapers do not put the name of the victim in the paper, she can go through the whole court process and no one at work be aware of what happened. What with the myths in our society, a victim knows that she will be looked down upon by her peers.

All expenses incurred at the Emergency Room at this point in time should be paid by the County. Section 3 of AB 664 would take care of these initial charges. Under SB 222 only the hospital cost for gathering evidentiary material is paid for by the county.

A precedent for this bill has already been set; no doubt in many states, but I know of Boston and Dade County, Florida. The women who wrote this book, Rape: Victims of Crisis, laid the groundwork in Boston when they founded one of the first and best rape crisis centers in the country.

In Dade County (Miami, Miami Beach, etc.) the initial treatment in the emergency department is paid by the county at Jackson Memorial Hospital; the rape crisis center is located right in the hospital.

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I wish to put to rest any idea that the rest of the Sections of AB 664 will cost the county a lot of money. Based on 1½ years experience with victims, we believe that only 1 or two could have used/counseling for traumatic condition because of rape. We have ten counselors available and another 6 are just now completing a training program; these are volunteers to help victims. We have a male counselor available to help husband's, fathers, brothers, etc. He has a degree and is a licensed marriage counselor, as well as 20 years in the ministry. We look for compassionate people who are eager to help, but a number of us have degrees -- our president has a masters in counseling and is employed by State Vocational Rehab, another who has her masters is a former teacher, 2 are nurses and I have a degree in sociology and business. We are able to help all that we have come in contact with. I can think of one case where the husband could use help but doubt that he would accept; the first trial did not end in an unanimous verdict and has to be re-tried. Statistics show that where the wife is raped, 2 cases out of 5 end in divorce. So it should be on the/^{statute}books if needed.

One case, which we did not work on, where this was no doubt needed was that of a 16-year-old girl who was raped in the TWIN Lakes Shopping Center Parking Lot during daylight hours. The offender is Jerome Ramsey and he placed a broomstick up her vagina afterwards and did a lot of damage to her. He has never stood trial as he is a Mentally Disordered Sex Offender and was placed in Sparks and they in turn put him in Camarillo State Hospital, California and they let him come home for furlough. He was one of those released from maximum security by order of Judge Bruce Thompson and placed in Sparks; within a couple of days he had ripped the clothes off a mentally

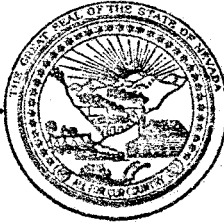
girl there. I believe he is one of those sent to California because the security facilities at Sparks have not been completed. Clarence Møfford is another that falls in this category; he has an I.Q. of 38 -- in 1972 he ran over a woman with his car and raped her -- he was sent to Sparks and they let him out in 2 months as "not insane, and he hits a girl over the head with a bottle but a car comes up and he runs. He was tried on the 1972 charge and found "not guilty by reason of insanity," but Sparks wouldn't take him so he was charge with AWDW on the girl and he got 1 year and he had already served that so was released. There will be another victim soon as he is walking around.

A lot of money is definitely not involved here. AB 664 has all safeguards written in to prevent fraud. We have found in our work and from what we have read that traumatic conditions appear when the victim or her husband have other problems and the rape pushed them and their relationship over the brink. By passing this out to the Assembly floor with a "do pass" recommendation, you can help those very few regain what they have lost.

Thank you.

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
CARSON CITY, NEVADA 89701



LEGISLATIVE COMMISSION
LAWRENCE E. JACOBSEN, Assemblyman, Chairman
INTERIM FINANCE COMMITTEE
FLOYD R. LAMB, Senator, Chairman

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ARTHUR J. PALMER, Director

PERRY P. BURNETT, Legislative Counsel
EARL T. OLIVER, Legislative Auditor
ARTHUR J. PALMER, Research Director

April 25, 1975

M E M O R A N D U M

TO: Assemblyman Nash Sena
FROM: Mary Lou Love, Deputy Researcher, Office of Research *MLL*
RE: Rape Statistics

Prior to your request, I had already compiled rape data on Washoe and Clark Counties. For reasons of variations in recordkeeping or lack of records, this information is not readily available on a county by county or district court basis. In fact, Clark County figures were obtained by having an intern at UNLV go through the district attorney's records. There is a real need for some sort of uniform recordkeeping procedure at the D.A. and district court level.

Washoe County--In 1972, there were 29 reported rapes, 18 charges made, and none went to trial. In 1973, there were 17 reported rapes, 16 charges made, and none went to trial. In 1974, there were 26 rapes reported in the first three quarters; 18 charges were made, and none went to trial.

Clark County--In 1973, there were 150 reported rapes; 11 cases were approved for prosecution and 3 went to trial. In 1974, there were 86 reported rapes in the first three quarters, 52 cases were approved for trial and 16 went to trial.

It should be noted that some cases not going to trial are dismissed or the defendant pleads guilty. And, of course, some cases are held over to the next year. Judging from the Las Vegas statistics, however, the number is small. Furthermore, the State Crime Commission estimates that at least half of the rapes committed are never reported.

Statewide--In 1973, there were 252 reported rapes in Nevada. In the first three quarters of 1974, there were 188 reported rapes, 83 of which resulted in police action by arrest or other means.

Rape Statistics
April 25, 1975
Page 2

Source of Information: Facts on reported rapes statewide were provided by the State Department of Law Enforcement Assistance. Data on rape cases approved for trial was obtained from the district attorney's offices in Washoe and Clark Counties.

I am also enclosing our background paper on this subject, in case you have not already seen it.

I hope this information will prove helpful to you.

MLL/jd
Encl.

NEVADA LEGISLATIVE COUNSEL BUREAU
OFFICE OF RESEARCH BACKGROUND PAPER

1975 No. 13

RAPE AND RAPE LAWS

I

Of all violent crimes, rape is one of the most abhorrent to society in general and to women in particular. As of 1973, forcible rape offenses were up 62 percent from 1968. From 1972 to 1973 the nationwide incidence of rape increased from 22.3 to 24.3 per 100,000 persons. In Nevada in this period, rape per 100,000 residents increased from 34.0 to 46.0. There were 62.2 rapes per 100,000 residents in Las Vegas and Clark County in 1973 and 32.4 per 100,000 residents in Reno and Washoe County.

Lawmakers, with the approbation of their constituents, have reacted by enacting heavy penalties for perpetrators of this heinous crime. Yet, few persons charged with the crime of rape are ever tried and still fewer are convicted. Willingness to pass laws sentencing rape offenders to life imprisonment or even death, combined with reluctance to actually convict persons accused of rape, is only one example of society's ambivalence on the subject. Part of the reason for this ambivalence is that rape laws are rooted in an era when women were considered the property to fathers or husbands. A rape was an attack on a man's property and a threat to the certainty of paternity.

For the victim, the rape itself may be one of the least traumatic aspects of the entire experience surrounding it. Various studies estimate that police records show only 5 to 30 percent of actual rapes committed. Failure to report rapes is attributed by some experts to the malfunction of law enforcement mechanisms as well as to the inequity of rape laws. After calling the police, the rape victim who decides to report the crime next must go to an emergency room to be examined for the purpose of gathering evidence. Pictures may be taken, policemen may be present during the examination, and the victim frequently is not informed of available treatment for possible venereal disease, pregnancy or psychological problems. In almost every case, the victim is billed for the examination.

The next step for the rape victim is to undergo further police questioning which may or may not be performed by someone experienced or trained in dealing with rape or crimes of sexual assault. Following questioning of the victim, approximately 18 percent of reported rapes are deemed without merit, according to FBI Uniform Crime Reports. For various reasons, law enforcement authorities decide not to recommend prosecution. A finding of no merit may occur as a result of victim intoxication, delay in reporting the crime, lack of physical condition supporting the allegation, victim's refusal to submit to a medical examination, establishment of prior relationship between victim and offender, or failure on the victim's part to preserve the necessary physical evidence. One writer observes that these reasons for not pursuing charges of rape do not relate primarily to whether or not rape was committed, but to the chances for obtaining a conviction.

Assuming that a suspect has been arrested and that the victim's case has been determined to be prosecutable, the next step is trial for those defendants pleading not guilty. At this point, the rape victim must surmount three obstacles-- 1) statutory provisions with regard to proof of rape, admissibility of evidence and sentencing, 2) judicial decisions concerning admissibility of evidence and instructions to the jury, and 3) jury attitudes toward the victim. National figures indicate that of all adults arrested for forcible rape in 1973, 76 percent were prosecuted. Of those cases prosecuted, 36 percent of the defendants were found guilty of the substantive offense and 17 percent guilty of a lesser offense.

It has been said of rape that it is the easiest crime to allege and the most difficult to prove. Some states have required that in order for a defendant to be found guilty of rape, corroborative evidence must be provided in addition to the victim's testimony. Furthermore, the credibility of the victim's testimony may be impeached by laws which allow a victim's past sexual conduct to be admitted as evidence. The implication of laws of this nature is that once a woman has sexual relations with one man she no longer retains the right to protection of the law in cases of rape. While the law looks upon a defendant's sexual activity and in some cases even alleged prior criminal sexual activity as irrelevant to his truthfulness, a sexually active woman's testimony is likely to be regarded suspiciously. Finally, exceedingly long sentences established by law may serve to deter conviction for rape instead of deterring the crime itself.

Even where the law is not specific with regard to admitting evidence of a victim's prior sexual history, the presiding judge may allow such testimony and in some cases may instruct the jury that a victim's code of chastity is relevant both to the witness's credibility and to the issue of whether or not the person consented to sexual intercourse. In a study of 38 Philadelphia judges with experience in rape trials, one researcher found that judicial attitudes toward rape indicate a fairly high level of skepticism. Interviewed judges generally grouped rape victims into three degrees of credibility. Genuine victims comprised the first category and were viewed as persons attacked in circumstances easily ascertained as forcible rape, such as the "stranger leaping out of the shadows in the dark alley" situation. Interestingly, according to FBI Uniform Crime statistics, in almost half the cases of reported rape, the victim and offender were acquainted to some degree. In addition, one-third of all reported rapes occur in the victim's abode. The second and third categories of judge-interpreted credibility were situations of consensual intercourse and female vindictiveness.

The study of judicial attitudes found that responding judges in weighing evidence in rape cases gave the heaviest credence to circumstantial evidence. Such evidence might include the victim's prior sexual history, evidence of the victim's resistance to force, intoxication of the victim and age differential between the victim and the offender. Clearly, in many instances it is the victim who is on trial, not the defendant.

Finally, the rape victim faces the jury, which may be so circumscribed by legal and judicial prescriptions and instructions that it has little choice but to acquit the defendant. While it may be believed that juries are inclined to be overly sympathetic to rape victims, it is also possible that harsh sentences influence juries to side with defendants. Societal attitudes also may affect juries' willingness to convict. Myths that women enjoy assaults or that men are subject to uncontrollable passions may dissuade juries from blaming offenders for rape.

II

In the last 2 years several states have taken action to revise their rape statutes in response to problems such as those described in section I of this paper.

California in 1974 enacted a package of rape reform laws. Possibly the most significant act concerns evidence and is known as Robbins Rape Evidence Law. Opinion and reputation evidence, as well as conduct, may not be introduced as evidence by the defendant to prove consent to sexual intercourse. This standard does not apply when the complaining witness's prior conduct was with the defendant. Procedure is set up to determine the relevancy of past sexual conduct before it can be introduced to challenge the complaining witness's credibility.

Another part of the California rape reform package concerns instructions to the jury in criminal prosecution for rape or unlawful sexual intercourse. This statute prohibits instructions to the effect that it may be inferred that a female who has previously consented to sexual intercourse with persons other than the defendant would be more likely to consent to sexual intercourse again. The judge may not instruct the jury that sexual conduct in and of itself may be considered in judging the complaining witness's credibility. Furthermore, still another new California law prohibits use of the term "unchaste character" by any court in any jury instructions where the defendant is charged with rape, unlawful sexual intercourse or assault with the intent to commit such crimes. California also prohibits charging sexual assault victims for costs incurred by hospitals or emergency medical facilities for examinations for the purpose of gathering evidence. Local government agencies are to be billed for such costs.

Finally, California adopted a series of resolutions dealing with the training of officers who handle rape cases and with treatment by hospitals for problems such as venereal disease, pregnancy and other possible medical problems which may accompany rape.

New York and Connecticut both enacted new laws which delete the requirement that rape victims produce corroborating evidence. New York makes an exception to this rule in cases where lack of consent is an element resulting from the victim's age or mental condition.

In 1974, Iowa enacted a law similar to California's which excludes evidence of a victim's past sexual conduct in trials of rape and forbids mention of said conduct in front of the jury. However, if the defendant makes application to the court to admit evidence of this nature, the court in camera conducts a hearing

as to the relevancy of the information and controls the admittance or exclusion of the evidence. In no instance may a victim's past sexual conduct which occurred more than 1 year prior to the date of the crime be admissible unless the conduct was with the defendant.

After much debate and discussion, Michigan in 1974 enacted what many persons hail as a model rape law. The new Michigan statute removes from the victim and prosecution the burden of proof of nonconsent to sexual assault and no longer requires "resistance to the utmost" by the victim to prove the fact of assault. Cross examination about a victim's chastity and sexual reputation is banned with two exceptions: 1) cases of prior sexual activity with the accused, and 2) in certain instances where there is evidence of sexual activity showing the origin of disease or pregnancy. Michigan's law defines a criminal penetration and contact to include any situation where the victim is forced to commit an act on the body of the accused; threat and coercion extend to threat of future retaliation. Criminal sexual conduct is defined by degree, and sentencing is prescribed according to that degree schedule.

Two unique areas of concern were enacted into Michigan law. First of all, the new sexual assault statute protects a married person from sexual assault by the spouse when either has filed for divorce, or have separated and are living apart. Secondly, Michigan's law is notable in that it is sex neutral, covering victims and offenders of both sexes equally. Thus, increased protection is offered to victim's of homosexual assault.

III

The incidence of rape in Nevada per 100,000 residents is higher than the average for the United States. In 1973, there were 252 rapes in Nevada; in the first three quarters of 1974, there were 188 rapes in the state. Of the 188 reported rapes, 83 were cleared from police records by arrest or other means. As would be expected, the incidence of rape is higher in urban areas than in rural areas.

In 1973, Clark County reported 150 rapes; 11 cases were submitted for prosecution and 9 cases were approved for prosecution. Four of these cases were dismissed or plead guilty; two cases were set over to 1974 and three cases went to trial. Of the three going to trial, two defendants were found guilty and one case

was set over to 1974. In the first three quarters of 1974, there were 86 reported rapes in Clark County; 62 cases were submitted for prosecution and 52 cases were approved for prosecution. In 1974, 16 cases went to trial; 10 persons were found guilty, three persons were found not guilty and three mistrials were declared.

Unfortunately, detailed information on rape cases in Washoe County is not available. In Washoe County in 1973 there were 17 reported rapes; 16 charges were made and no cases went to trial. In the first three quarters of 1974, 20 rapes were reported in the county and 18 charges were made. No cases went to trial.

Nevada Revised Statutes (200.363-200.375) define forcible rape as carnal knowledge of a female against her will. Any sexual penetration, however slight, is sufficient to complete carnal knowledge. Penalties for the offense of rape are dependent on the degree of bodily harm inflicted. Cases of substantial bodily harm may result in either sentences of life without possibility of parole or life with the possibility of parole after 10 years. Conviction for rape without substantial bodily harm may result in imprisonment for life or a definite term of not less than 5 years; in either case, parole is possible after 5 years. In Nevada, a husband may not be convicted of raping his wife unless he is an accomplice or an accessory to the rape of his wife by a third person.

There are no Nevada statutes concerning instructions to the jury or admissibility of evidence which are peculiar to the crime of rape. NRS 175.171 requires that no special instructions shall be given to the jury relating exclusively to the testimony of the defendant. The question of instructions to the jury concerning the victim's credibility is left open. NRS 48.045 makes character evidence inadmissible to prove conduct; however, an accused may offer evidence of the character of the victim of the crime.

IV

In recent years, there have been many suggestions for the reform of laws concerning rape and sexual assault. Most of the current proposals emphasize the rights of the victim who later becomes the accuser in court action. However, all reform of this nature must be considered in light of our system of justice which regards the defendant innocent until proven guilty. Balancing these

rights in order to obtain protection for victims from sexual assault and yet retain protection for the innocent persons charged with sexual crimes is the heart of the matter. Nevertheless, when we look at the very low percentage of persons going to trial or being convicted, it appears that it may be time to give additional consideration to victims of rape, both female and male.

The Michigan Women's Task Force on Rape offers the following suggestions for improving sexual assault laws:

- 1) Bring all sex crimes under the legal concept of crimes of violence, rather than making rape a unique category.
- 2) Provide for degrees of sexual conduct according to the severity and degree of coercion and violence.
- 3) Specifically define different types of acts constituting sexual assault, describing behavior of the offender only.
- 4) Place the burden of proof for consent to sexual intercourse on the offender who presents a consent defense.
- 5) Protect persons from rape by spouse.
- 6) Define rape to include other forms of nonconsensual sexual intercourse, such as forcible sodomy.
- 7) Describe rape in non sex-specific terms.
- 8) Provide compensation to victims of sexual assault for specific costs incurred as a direct or related result of the criminal act.
- 9) Give objective treatment to cases whether or not victim and offender were previously acquainted.

Another author writing in the California Law Review offers further ideas for reforming rape laws:

- 1) Revise statutes allowing evidence or special instructions to the jury which impeach a victim's credibility on the basis of prior sexual experience, or mere acquaintance of victim and accused.
- 2) Reduce excessively high sentences to levels where juries will not be reluctant to convict.

- 3) Broaden the definition of sexual assault to include certain contact other than penetration.

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MLL/2-24-75

When the law is not enough. . .

By Tom Tiede

Newspaper Enterprise Assn.

BOSTON — When an elderly woman in Philadelphia was raped recently, she was taken to the police department for investigation and then to the hospital for examination — but she was not taken anywhere for sympathy and understanding. Perhaps as a result, she died a few months after the incident — not from any physical complications but, as neighbors said, of a broken spirit.

So it is, to lesser degrees of severity and outcome, for thousands of rape victims in the nation. Most are not harmed so much in body as in mind, as society is equipped to help the former but there is precious little assistance for the latter.

Except in Boston. Here two women have set up a Rape Victims Counseling Program at Boston City Hospital which recognizes the value of a shoulder to lean on. After victims have been grilled by police and probed by physicians, they can then receive human compassion any hour of the day. And they seem to appreciate it.

Said one victim to a counselor recently: "So many people might tend to blame the woman. It's good to talk to someone who doesn't."

To be sure, talk is the primary function of the Victims Counseling Program. Very often rape victims are too worried about public reaction and social stigmas to communicate with families and friends. How, for instance, can a victim tell her husband that she can't get the

attacker out of her mind? "Women have flashbacks even during normal sex," says program co-director Dr. Ann Burgess, "but they can't tell their husbands."

Rape

And if women with understanding families are often afraid to communicate, those with edgy or suspicious relatives sometimes clam up completely. Dr. Burgess tells of the husband of one rape victim who was so disgusted he left the house and worked on his automobile 24 hours a day. "Now how could she work it out with him? He didn't want to listen. She needed outside help."

The counseling program offers a trusty kind of communications assistance, and it is anonymous. The idea is that worried women can be persuaded to tell all to strangers, albeit trained strangers. To this end, Dr. Burgess, along with sociologist Dr. Lynda Holmstrom, have trained eight nurses at Boston City Hospital, each of whom have the gifts of gab, sensitivity and professionalism.

Unfortunately, the counselors are frightfully busy. Rape is one of the fastest growing violent crimes in the nation. FBI statistics indicate that more than 50,000 sexual assaults will be reported

to police this year and perhaps twice that number will not be reported. Shockingly, the FBI believes the reported crimes alone are increasing 11-12 per cent a year; some 70 per cent

since 1967.

But the crime itself is only part of the victim's dilemma. So misunderstood is rape that society has never totally condemned it. Some men feel a minor assault is "just boys and girls going to excess."

Many arrested rapists not only feel their victims secretly want to be violated, but that such violation is usually the man's right. Even the laws against rape are shot through with ambiguities; when three men blindfolded and raped three Boston women last year, the court acquitted the defendants because the blinded girls could not prove who had done what to whom.

Yet even without related stresses, rape is traumatic enough for most victims. Dr. Burgess says half the women who've been through the counseling program were threatened with a weapon. In many instances, the preliminaries to the intercourse are fraught with humiliations and degradations — "there is a lot of talk that goes on, usually it is very bad." Most worrisome, perhaps, is the feeling of uncer-

tainty a victim experiences. All during the ordeal, says Dr. Burgess, the woman doesn't know if she'll live or die.

So by the time a victim is approached by a counselor, deep trauma has often set in. Women are frantic about the possibility of pregnancy or the prospect of venereal disease. They have real or imagined physical discomforts. Some are afraid to return home, others smell an odor that reminds them of the rape and get hysterical.

Some women, of course, are able to cope quite well — but Dr. Burgess says the majority harbor feelings that range from frustrated rage to guilt. "It was like being unfaithful to my husband," says one victim, "but I just couldn't help it."

Gently, the counselors probe for emotional wounds. If it's necessary and requested by the victim, the nurses also talk to parents or husbands. Advice is given on morning-after-pills, anti-VD treatments. Follow-up is vital, says Dr. Burgess, and sometimes the victim-counselor relationship continues for a year or more. "We try to be persistent but we don't want to bug them. If after a few weeks they don't want help, we naturally leave them alone."

Most want at least some kind of help and a few want too much; one counselor keeps getting three or four calls a week from a young victim who needs friendship more than anything else. Yet whatever the emotional need, the counselors try to help. Even prostitutes, who claim rape when they aren't paid, are counseled — because, as Dr. Burgess says, "You never know. A lot of people think some victims provoke rape. We don't make judgments. We just help."

Apparently the help is working. After assisting more than 200 victims, Dr. Burgess says there's not been one hospitalization resulting from emotional crisis. The program has been so successful Dr. Burgess is considering expanding it to include victims of any personal crisis from automobile accidents to street mugging.

SOUTHERN NEVADA MEMORIAL HOSPITAL

1800 W. CHARLESTON BLVD.
LAS VEGAS, NEVADA 89102
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PATIENT BILL OUTPATIENT FINAL

PAGE: 1

F/C: 272

BILLING DATE: 03/15/75

PATIENT NUMBER 211911	PATIENT NAME WENGAARD, SANDRA	ROOM NUMBER	BIRTH DATE 03/19/42	ADMISSION DATE 03/11/75	ADMISSION TIME
ATTENDING PHYSICIAN STROMAIN, RAY A MD		DIAGNOSIS	SOCIAL SECURITY 588-50-8543	DISCHARGE DATE 03/11/75	DISCHARGE TIME
INSURANCE		GROUP NUMBER	POLICY NUMBER		

1				
2				
3				

DESCRIPTION	TOTAL CHARGE	ESTIMATE			PATIENT CHARGE
		1	2	3	
DETAIL OF CURRENT CHARGES & PAYMENTS					
ER-TREATMENTS OR MEDIC 9702803	1450				1450
EMERGENCY ROOM 9702802	2400				2400
LAB-UCG TEST SLIDE 8083160	1340				1340
SUMMARY OF CHARGES					
EMERGENCY ROOM	3850				3850
LABORATORY	1340				1340
SUB-TOTAL OF CHARGES	5190				5190
<p><i>Health must pay</i></p>					
<p>Benefits assigned to: SOUTHERN NEVADA MEMORIAL HOSPITAL - LAS VEGAS, NEVADA IF INSURANCE PAPERS NOT PRESENTED DUE IN FULL FROM PATIENT</p>					
	5190				5190

PATHOLOGY: ASSOCIATED PATHOLOGISTS CHARTERED
RADIOLOGY: TAYLOR, KNUDSON & LUM PROFESSIONAL ASSN.

5190

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