

## SENATE JUDICIARY COMMITTEE

## MINUTES OF MEETING

FEBRUARY 19, 1975

The meeting was called to order at 9:10 a.m. Senator Close was in the Chair.

PRESENT:            Senator Close  
                   Senator Bryan  
                   Senator Dodge  
                   Senator Foote  
                   Senator Wilson  
                   Senator Sheerin  
                   Senator Hilbrecht

ABSENT:

SB 52 Makes changes in law relating to sexual crimes against persons.

Testimony was presented before the Committee by the following:

Sandi Petta, President, Community Action Against Rape - Ms. Petta stated that rape is the fastest growing crime of violence but the least reported (between 80% and 90% of sexual assaults are never reported). She also stated that studies indicated that rape is premeditated.

Ms. Petta described the traumatic experience of a victim as occurring in three phases:

Phase I - the immediate reaction which ranges from shock and disbelief to hysteria; tendency for the victim's mind to block out important details of the assault; and an intense fear that the attacker will return to harm her.

Phase II - the victim makes what outwardly appears to be a satisfactory adjustment. However, the problem is usually suppressed, as she can't go on with her life because she continues to think about the rape from time to time.

Phase III - as the victim becomes aware of what has happened to her, she generally becomes depressed. She may limit her activities, move away, get a watch dog, or change her lifestyle.

Ms. Petta listed the procedures a rape victim has to follow if she decides to prosecute.

Finally, Ms. Petta stated that women are now beginning to take the law into their own hands, by carrying protective weapons or taking self-defense lessons.

Florence McClure, Vice President, Community Action Against Rape - Referring to the crime of rape, Mrs. McClure stated that she found the following barriers to a good judicial system:

1) the victim is viewed as a criminal. It is the victim's word against the defendant's.

2) inability to obtain qualified jurors after challenges by the defense.

3) court problems. At the present time in Clark County, it is the decision of the police entities as to whether or not there is enough evidence for a court trial, rather than the District

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Attorney's Office.

4) crowded court calendars. At this time, it is taking 6 months or longer to get a preliminary hearing on a sexual assault case (provided that the defendant is not incarcerated).

5) polygraph test requirements. The use of this instrument is becoming more widespread all the time. However, it is the victim that is being required to take one rather than or in addition to the defendant.

6) incest. Mrs. McClure stated that in over one-half of incest cases complaints are never signed because they do not want a member of the family being sent to prison. Because of this, they are asking that public officials having good reason to believe that a child has been sexually abused be required to report it.

7) mentally disordered sex offenders.

Mrs. McClure informed the Committee that Las Vegas is now third on the FBI list for percentage of rape per population. She also requested that the Committee give serious thought to her statements relative to changes which the bill drafter did not include.

Tom Beatty, Assistant District Attorney, Las Vegas - Mr. Beatty stated that the use of "Sexual battery" in lieu of rape, statutory rape, lewdness, etc. was very beneficial in that it would help to alleviate some of the stigma and fear attached to these.

Mr. Beatty discussed with the Committee the following sections and the problems found therein.

Section 20 - As presently written, this section could be found unconstitutional. However there is a bill before the Assembly (AB 12) which would substantially meet the needs which are sought to be handled here.

Section 27 - As it stands now, it does not necessarily cover sexual molestation but merely physical injury. The inclusion of the term "sexual molestation" in NRS 200.502 and 200.503 would be appropriate. He also suggested that a definition or elaboration of the term be included.

Section 11 - Substantial bodily harm is an aggravating factor used to determine the degree of sexual battery. The causation of pregnancy is included in substantial bodily harm, and it was his opinion that it be eliminated.

Substantial bodily harm is present in Sections 13, 14 and 15 by excusion. 193.015 defines substantial bodily harm to mean "bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the functions of any bodily member or organ, or prolonged physical pain."

Mr. Beatty expressed concern over the fact that the "garden

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SB 52 variety" forcible rape is not covered under first degree sexual battery. He stated that rape by force, fear, or threats of violence but without a particular deadly weapon being shown or without being simulated or by physical brute force alone, does not turn up until Section 15, third degree. He felt that there could be possible proof problems in that it would be up to the jury to determine whether in fact there was sufficient force, fear, or threats thereof, to cause a person to submit. Additionally, he stated that this statute would reduce the penalty for "garden variety" forcible rape from 5 years-to-life to 1-to-10 years. It was his position that there should be a higher top end, such as 1-to-life.

Section 13, subsection b, paragraph 4 - He questioned as to whether threats of future physical or mental punishment could be considered as sufficient coercion.

Section 13, subsection b, paragraph 7 - Problem as to proof of what is medically acceptable or ethical.

Section 13, subsection d - Question as to what "in a position of authority" means. Also "related by blood or affinity" needs to be clarified as to the degree of consanguinity. He suggested using the same language as incest, which says "persons being within the degree of consanguinity within which marriages are declared by law to be incestuous and void."

Section 15, subsection b - Indicated that there may be a problem in that, any person over the age of 16 can be certified as an adult on a felony, therefore, any person over 16 having sexual relations with a person under 16 can now be found guilty of a felony. This could include heavy petting, necking, etc.

Section 16 - Sexual battery in the fourth degree. He stated that this seemed to be a "catch-all" category. Although he was not quite sure as to what all this would encompass, he felt that it should be a gross misdemeanor rather than a simple misdemeanor.

It was noted that sexual contact carried a higher penalty (1-to-15 years) than did actual rape (1-to-10 years). Mrs. McClure stated that she was not aware of this inasmuch as she had not set up the bill.

In conclusion, Mr. Beatty stated that this was a very complex bill in that it seemed to be intended to fully supplant the present laws on rape, statutory rape, infamous crimes against nature and lewdness with a minor. He felt that each section should be very carefully gone over to insure against omitting any offense.

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SB 52 Patrick B. Walsh, Attorney General's Office - He stated that he had been an attorney for only 6 months and had been working with the prison so he had very little experience with the law of sexual assault. However, he said that a lot of the language was difficult to understand, and cited as an example "primary genital area", which would imply that there is a "secondary genital area".

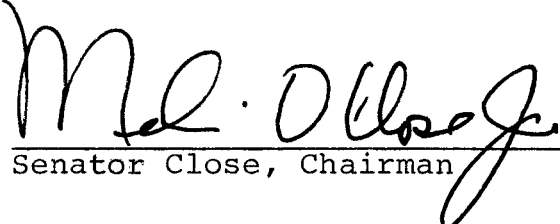
End of testimony on SB 52. The Committee requested that Mr. Beatty prepare some amendments to the bill. It will be placed on the agenda for March 3, 1975 for further discussion.

There being no further business, the meeting was adjourned.

Respectfully submitted,

  
Cheri Kinsley, Secretary

APPROVED:

  
Senator Close, Chairman