

RAPE: THE PROBLEM IN PENNSYLVANIA

A Preliminary Report for the

Select House Committee to Study

The Situations and Circumstances of

Victims of Rape

Pennsylvania House of Representatives

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by:

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Rape is one of the most serious crimes confronting society today. Statistics released by the FBI in its 1972 Uniform Crime Report, show that the incidence of rape has jumped 70% since 1967, thus making it the most rapidly increasing crime in the nation. The study estimates that 90% (educated guesses range from 50% to 90%) of all forcible rapes go unreported. By applying these figures to the 46,430 rapes that were reported during 1972, we find that somewhere in the neighborhood of 92,000 to 186,000 victims allowed their assaults to go unquestioned.

Section 3121 of the Pennsylvania Crimes Code defines rape as follows:

A person commits a felony of the first degree when he engages in sexual intercourse with another person not his spouse:

- (1) by forcible compulsion;
- (2) by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (3) who is unconscious; or
- (4) who is so mentally deranged or deficient that such person is incapable of consent.

In Pennsylvania, where forcible rapes constitute 5.8% of all violent crimes, 1,875 such offenses were reported during 1973. 1,153 or 61.5% of these were cleared by arrest. These figures, however, are not as optimistic as they may appear. Clearance by arrest should not be confused with clearance by conviction.

To cite a point in case, from January 1973 to March 1974, 864 rapes were reported in Philadelphia. Based on Department of Justice figures for the Southeast Common Human Service Region, 67.3% or approximately 581 cases were cleared by arrest. Of this total, however, only 44 defendants were brought to trial; and from this, a mere 22 were sentenced to prison terms. As astounding as these figures may appear, they become even more incomprehensible when one reconsiders the estimation that 90% of the women who are raped don't even report it.

It becomes obvious that rape is one of the most under-reported crimes in both the Commonwealth and the nation. Fear and/or embarrassment on the part of the victim are recognized as the most common inhibitors. Another underlying factor may very well be the allegations of insensitivity toward the victim by both medical and police personnel. Some women who have experienced this situation say that what follows the incident is almost as demoralizing as the attack itself.

Since our whole system of justice is geared toward protecting the defendant, stipulations such as the "corroboration requirement" have been created in certain states. The original intent of this law was to protect the innocent from "unscrupulous women and the wrath of outraged juries".

While a corroboration requirement is not included in Pennsylvania law for crimes of sexual assault, a de facto requirement is understood to exist by the police, prosecutors, and sometimes the courts. Without corroboration, little help is forthcoming with apprehension, much less conviction.

FBI figures indicate that nationally 18% of rape complaints are dismissed as "unfounded". However, in a study published in the Pennsylvania Law Review, police dismissed as unfounded 40% of rapes where the victim had to struggle and scream, and 33% of rapes where the offender used a weapon.

It seems apparent, then, that a situation exists where our rape laws do not protect their intended beneficiaries. A careful study of the problem reveals that it is shrouded by a double standard. Rape laws express both our deep revulsion of this crime and our equally deep distrust of those women who accuse another human being of having committed it. Society abhors this crime so intensely that it is difficult to believe that the particular individual who stands accused of rape could possibly be guilty of having committed it.

Rape is the only crime in which by law and legal tradition, the victim's attitude is given more important consideration than the assailant's behavior. Less attention is paid to the offender's use of force than to (1) the victim's "encouragement" of force, and (2) the victim's reaction to the threat of force.

A widely-used term in the defense of an accused rapist is "victim-precipitated rape". This counter-charge has been used to place the blame on the victim even in cases involving the most violent of rapes. However, an examination of rape data on a national level by the Federal Commission on Crimes of Violence found that evidence of women "precipitating" a rape existed in less than 4% of all cases. The "precipitative behavior" cited in these few instances was nothing more than walking and dressing in a way that our society defines as "attractive."

Another common practice utilized for the defense of an alleged rapist is the discrediting of the victim's reputation. Pennsylvania case law provides that evidence of bad reputation for chastity is admissible on a rape charge as substantive evidence bearing on the question of the female's consent. Therefore, although proof of a victim's virginity or promiscuity is inadmissible, hearsay testimony of the victim's "reputation" in her neighborhood or community is considered to be adequate to discredit the charge that the attacker had intercourse with his accuser without her consent.

One of the most common misconceptions relating to the rape issue is the motivation behind the crime. Traditionally, both legal institutions and the general public have viewed rape as a crime of passion--an act of sexual frustration by depraved individuals. FBI data, studies in criminology, and psychological research have shown that rape is a violent act and like other violent acts it is motivated by hostility and rage.

In a 1971 study of rape in Pennsylvania entitled Patterns in Forcible Rape, it was discovered that 85% of all reported rapes were accompanied by some form of overt violence, including roughness, beating and choking. Sexual penetration was simply another form of aggression perpetrated upon the victim.

Rape is an overwhelmingly premeditated act. According to the same study mentioned above, directed by Dr. Menachem Amir, 71% of all rapists planned their attacks in advance--another 11% were partly planned. The greatest number of premeditated rapes occurred among the 45% of all rapes that were committed by groups of men. Of these groups, 90% were planned in advance.

The statistics and citings contained herein, are unsettling to say the least. With the age of rape victims ranging from 18 months to 84 years old, any female is susceptible to the savagery of this crime.

Obviously there is a necessity for a reform of the rape laws in the Commonwealth. It is the responsibility of the Pennsylvania Legislature in general, and this committee in particular to take initiatives in this direction.

(The purpose of this report has been to provide the members of the Select House Committee to Study the Situations and Circumstances of Victims of Rape an insight into the basic problems with which they will be dealing during the remaining weeks of the '73-'74 Session.)