

TO THE BAR ATTORNEY ADVERTISING FEE REPORT

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Justice Complex New Jersey 08625 bert D. Lipscher ministrative Director of the Courts

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25 to 29, 1983

is digest of opinions d for publication prepared by the Ad- itive Office of the for the information bar. Copies of the s have been sent to mnty law library, and publication in the sheets, any member r may secure a copy opinion in a particu- e upon written re- the Administrative f the Courts, Justice x, CN-037, Trenton, 325, Att: Committee ions. A request for inion should be ac- ied by a stamped, dressed envelope postage in the

How New Jersey Prosecutors View The New Sexual Offense Statutes

By Charles P. Nemeth, Esq. Professor of Law/Justice Glassboro State College

I. Introduction

Translating reform ideology into practical reality is no easy task. Even more taxing is attempting to change public perceptions and attitudes on a controversial topic such as rape law and legislation. No other area of law is as dynamic and has been as successful in changing public and legal perceptions as the law of rape. With few exceptions, all states have revised, reformulated and redefined rape in the last 20 years. The legislatures have been overwhelmed by dedicated reformists from all sectors of society, and from both genders, who perceive the need for drastic reform-

mulation in the law of rape. Leigh Beinen notes,

The law leads and the law follows. Activists lobbying for rape reform persuade the legislators, who when they pass rape reform legislation are themselves leading public opinion in the direction of accepting the need to reform. Feminists have been able to make headway with solid legal arguments and by appealing to the legislators as lawyers. Legislators have been reluctant to come down on the side of a traditional rape statute when the philosophical basis of that statute has been pointed out.

The success of rape reform basically results from the reformists' cogent remedies to past legal inequities. Examples include:

Real Practice

- 1.) Victims' Sexual Behavior Impeachable While Defendant's Previous Sexual Offenses Irrelevant.
- 2.) Only Women Suffer Sexual Abuse and Rape.
- 3.) Utmost Resistance by Victim of Sexual Assault.

Reform Solution

- Both Victim's and Defendant's Sexual Behavior is Equally Irrelevant.
- Adopt Sex-Neutral Legislation Which is Not Discriminatory Towards Men or a Violation of the Equal Protection Clause and Will Protect Males From Sexual Abuse.
- Victim Does Not Have the Burden of Proving Her Honesty or Her Innocence.

The reformist's position is simply too lucid to shrug off, and the end result is passage of new legislation which will incorporate and attempt to codify the reform ideology. Most critically that ideology will also be tested in the

arena of prosecutorial behavior since "rape law was reformed in large measure to enhance the effectiveness of prosecution." In short, what looks good on the chalkboard does not always score

(Continued on page 6, col. 1)

Digests Of Recent Opinions

Every Opinion Approved for Publication Is Digested In The New Jersey Law Journal

Let the center of this controversy

The New Sexual Offense Statutes

(Continued from page 1)

points on the field. New Jersey passed a comprehensive reform package entitled, *Sexual Offenses* in 1979. The statute includes nearly all reform designs including: sex-neutral eligibility, definitional changes in rape, abolition of the resistance requirement, elimination of any spousal exemption defense and mistake of age defense and amended rules on character evidence. But how is this new statute working? Can it be labeled a reform effort which really has effect or is it simply words without substance? How do New Jersey prosecutors feel about this statute? Are they pleased with its construction? Does its design make the adjudication of rape claims easier or more equitable? Do prosecutors see the reform ideology working in the daily litigation of sexual offenses? If anything does the statute assist the prosecutor in his or her efforts to clear the streets of sexual offenders? Do they perceive the new *Sexual Offense* statute as being a success or simply an ideological dream? The queries posed form the basis for this work in hopes that some measurement of prosecutorial perceptions can be made concerning New Jersey's reform statute.

II. Method and Procedure

This research makes no claim for scientific or statistical infallibility, but instead merely surveys by percentage the number of responses and comments from a constructed questionnaire (Appendix A). The questionnaire was mailed to all 21 County prosecutors throughout the state of New Jersey and was forwarded with a cover letter (Appendix B) explaining the purpose of the study. A response deadline was noted in that letter. A second notice was mailed out again requesting a quick response. Phone calls to the few remaining counties were made periodically thereafter. The response rate was over 85% with all New Jersey county prosecutor offices re-

A. Questionnaire

Various areas of rape reform were reviewed in the questionnaire and include:

1. Change in Terminology: From Rape to Sexual Offenses (Question 1)
2. Sexual Neutrality: Rates of Male Utilization (Question 2, 3, 4, 9)
3. Penetration: New Standards in Law (Question 5, 6, 9)
4. Resistance Requirements and Consent (Question 7)
5. Marital/Spousal Rape (Question 8)
6. New Reform Suggestions (Question 10)

Essentially, each prosecutor was asked his or her opinion on these given topics and then asked to make a short comment. As will be clearly seen, the comment sections of the questionnaire produced most enlightening thoughts on this legislative reform and the project will incorporate many of them. Responses to each given question were then tabulated and will be presented in rounded percentage form.

III. Results of the Survey

A. Change in Terminology: From Rape to Sexual Offenses

Advocates of rape reform often propose the complete elimination of the term "rape" from reform legislation. Past history and underlying emotions about "rape" are so deeply tainted that a new term might foster new attitudes or at least less prejudiced feelings about the crime.⁵ In addition, the term "rape" is automatically associated with female victims and any statute purporting to be sex-neutral would have an inherent bias to overcome. Thus, in some states the crime of rape is labeled, "criminal sexual conduct"⁶ or as in New Jersey and other states, "sexual assault."⁷

The change in terminology was also favored since it would protect wider groups of people equally, as well as prosecute more types of criminal deeds. "A major problem

punished only ment engaging in unlawful vaginal intercourse, and did not punish forcible anal or oral sexual acts against males or females."⁸ Granted other statutes like lewdness and sodomy existed, but a quick perusal of their content manifest less stringent enforcement powers and more lenient penalties. Aside

* * * * *

TABLE

Change in Terminology: From

No Difference
Less Prejudice from Jurors
Improvement in Ease of Presentation

* * * * *

The responses indicate at least the awareness that the older term "rape" was fraught with negative emotion and unrealistic for this era. Comments from the prosecutors stressed the sensibility of the change, characterizing "sexual offenses" as a broader definition which is more appropriate and realistic. Another prosecutor stated, "the new definition appears to be clearer; it also covers just about every manner in which a sexual offense could be committed."⁹ Those who argued that the new definition made no difference gave little explanation except one prosecutor who noted that the jury is given a full explanation of the change by the judge. Hopefully, in time, there will be no need to explain.

B. Sexual Neutrality: Rates of Male Utilization

Traditional rape laws concern themselves with women as victims and men as perpetrators of the offense. Reform advocates argue that the degradation of sexual invasion and humiliation can be suffered just as easily by

* * * * *

TABLE

Sexual Neutrality/In

No Significant Change
Marked Increase by Males
Less Serious View of Women's Case

TABLE

Sex-Neutral Designation/Numl

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Announcement

Janice Davis Miller has opened her office at the Soho House, Shrewsbury Ave., Red bank 07 (201) 741-6769.

M. K. Schlesinger Joins Carteret Savings Advisory Board

Marvin K. Schlesinger, a resident of Livingston, N.J. Boca Raton, Fla., has been elected to the southeast Florida Advisory Board of Carteret Savings and Loan Association. The announcement was made by Robert B. O'Brien, Jr., chairman of the \$3.8 billion-asset Carteret Savings and Loan Association.

Schlesinger is a principal in the Newark law firm of I. Schlesinger & Breitman, which he joined in 1926. In 1980 he was attorney in charge of the formation of Carteret Building and Loan Association, president of Carteret Savings, and participated extensively in other savings institutions formation and mergers.

A member of the Essex County, New Jersey and American Bar associations, Schlesinger was appointed Special Master of the Chancery and admitted to practice before the U.S. Supreme Court. He received his political and legal degrees from Rutgers University Law School.

As an Advisory Board member, Schlesinger is responsible for keeping Carteret's management apprised of the needs of its 12 branch offices in Palm Beach and Broward counties, assisting with the development of the association's local business. Carteret also operates branches in Lake, Manatee, Pinellas and Polk counties, as well as offices in New Jersey.

NALS Announces Regional Seminars

punished only ment engaging in unlawful vaginal intercourse, and did not punish forcible anal or oral sexual acts against males or females."⁸ Granted other statutes like lewdness and sodomy existed, but a quick perusal of their content manifest less stringent enforcement powers and more lenient penalties. Aside

from 14th Amendment questions of equal protection, the new terminology of sexual offenses would hopefully ease the task of prosecution. How New Jersey prosecutors view the change in terminology seems clear enough. When asked whether the new definition assisted them in the presentation of cases the responses were:

* * * * *

TABLE I
Change in Terminology: From Rape to Sexual Offenses

	Number	Percentages
No Difference	5	28%
Less Prejudice from Jurors	0	
Improvement in Ease of Presentation	13	72%

* * * * *

The responses indicate at least the awareness that the older term "rape" was fraught with negative emotion and unrealistic for this era. Comments from the prosecutors stressed the sensibility of the change, characterizing "sexual offenses" as a broader definition which is more appropriate and realistic. Another prosecutor stated, "the new definition appears to be clearer; it also covers just about every manner in which a sexual-offense could be committed."⁹ Those who argued that the new definition made no difference gave little explanation except one prosecutor who noted that the jury is given a full explanation of the change by the judge. Hopefully, in time, there will be no need to explain.

B. Sexual Neutrality: Rates of Male Utilization

Traditional rape laws concern themselves with women as victims and men as perpetrators of the offense. Reform advocates argue that the degradation of sexual invasion and humiliation can be suffered just as easily by

men and young male children, and while the frequency of criminal acts may be less in number, the severity and odious results are the same for both sexes. There is no justification for the perception that the "female is a unique creature, harmed in some unique way by untoward sexual behavior..."¹⁰ The realities of prison life, incestuous fathers and mothers and other assorted scenarios call for a sex-neutral statute. New Jersey is one of over 35 states which¹¹ apply their prescriptions equally to both genders.

The questionnaire hoped to measure prosecutor opinion on the efficacy and impact of this sex-neutral redesignation. First, the size of the caseload was reviewed and overwhelmingly no significant change occurred:

Question 3 addressed male utilization of the new statute. The findings apparently demonstrate little hard evidence that males are taking advantage of the neutrality.

If anything the majority of prosecutors with comments clarified the question by noting that most who utilize are young boys.

* * * * *

TABLE II
Sexual Neutrality/Impact on Caseload

	Number	Percentage
No Significant Change	17	94%
Marked Increase by Males	1	6%
Less Serious View of Women's Cases	0	

TABLE III

Sex-Neutral Designation/Number of Males Utilizing Statute

	Number	Percentage
0	4	22%
1-5	9	50%

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Marked Increase by Males
Less Serious View of Women's Cases

Number	Percentage
17	94%
1	6%
0	

TABLE III
Sex-Neutral Designation/Number of Males Utilizing Statute

	Number	Percentage
0	4	22%
1-5	9	50%
5 or above	5	28%

The Committee On Opinions

1982-83 Court Year (1st Half)	1981-82 Court Year (1st Half)	1980-81 Court Year (1st Half)
387	422	367
164	145	163
551	567	530

VED	93(24.0%)	88(20.9%)	88(24.0%)
4:	59(36.0%)	54(35.2%)	41(25.2%)
ge)	152(27.6%)	142(25.0%)	129(24.3%)

s	Reviewed	Recom- mended	Approved
	1,350	13	7

	32	23	19
dge)	93	88	88
dge)	7		
	59	54	41
	191	165	148

Opinions can publish two-judge opinions only
opinion below is published, or if specifically
publication by the Part with approval of the
Administration.

There have been no cases in-
volving male adult victims.
No members of our squad can
recall a case involving an
adult male victim in the last
several years. We have had
many cases involving sexual
abuse of juvenile males. There
were also many of these cases
under the old law.¹²

Other significant comments in-
cluded a reference to the new
statute merely replacing old
statutes like sodomy and de-
bauchery of minors which were
just as effective. In fact this
frequently occurred in the com-
ments since prosecutors who have
extensive experience can make
the comparison between the old
and new, and they rightfully
question whether the new legis-
lation does anything but replace
the old. In some prosecutor's eyes
legal reform is just changing the
packaging or labels of the under-
lying product.

This portion of the survey lastly
sought to see whether or not the
rape reform legislation was help-
ful to the state's efforts to prose-
cute male sexual child abuse.
Again, penalties and societal
judgment on sexual abuse on male
children has been somewhat less
severe. Proponents of rape reform
hoped to remedy that injustice by
adopting statutes which would
be enforced equally. The results
appear slightly conclusive that
prosecutors are pleased with the
construction of the sex-neutral
legislation.

(Continued on page 18, col. 2)

ScreenScan
Carteret also operates branch
in Lake, Manatee, Pinellas
Polk counties, as well as
offices in New Jersey.

**NALS Announces
Regional Seminar
Saddle Brook**

The National Association
Legal Secretaries Internati-
(NALS) will sponsor a contin-
legal education seminar this
in Saddle Brook, New Jersey
September 10 at the Saddle B
Marriott Hotel.

The seminar will consist
sessions on:

Products Liability—what
wrong and what to do about
ERTA & TEFRA—how the
affect you; Career Developme
the staircase to success;
Controlling the paper c
through systems.

The "Products Liability"
"Tax Law" sessions will run
currently from 8:30 a.m. to
noon, followed by a ca
luncheon. Afternoon session
include "Career Development"
1:30 to 2:45 p.m. and "Syst
from 3:00-4:30 p.m.

The seminars will give pa
pants an opportunity to hear
experts on each topic, ask ques
and discuss issues relatir
their own job responsibilities.

Registration fees, which in-
speaker handout material
NALS binder, luncheon an
beverage breaks, are \$6
NALS members and \$80 for
members. There is a \$10 la
for registrations received
than 20 days prior to the sen
Registration at the door is
space available basis only
requires payment of fee, incl
late charge.

For more information co
NALS Headquarters, 30
Skelly Drive, Suite 120,
OK 74105; (918) 749-6423.

The New Sexual Offense Statutes

(Continued from page 6)

TABLE IV

Sex-Neutral Designation/Factor in Reducing Male Child Abuse

	Number	Percentage
Yes	9	50%
No	7	39%
No Response	2	11%

C. Penetration/New Standards in Law

Rape statutes have historically been defined narrowly, making it difficult for the prosecution to win its case, and incredibly easy for the defendant to manipulate the language of the law. A smart rapist knows how the law is written and will keenly plot his acts accordingly especially in the realm of penetration of a particular bodily orifice. The term "penetration" usually encompasses vaginal-penal contact, but rape reform has broadened that definition to include "cunnilingus,

fellatio, or anal intercourse between persons or insertion of the hand, finger or object into the anus or vagina either by the actor or upon the actor's instruction. The depth of the insertion not be relevant . . ."

The reform effort appropriately makes the distinctions of orifice ludicrous and recognizes the sanctity of the human body and that any brutal sexual invasions are to be treated with harsh results.

New Jersey's legislation has the support of its prosecutors in this specific area.

TABLE V

New Definition of Penetration/Ease of Prosecution

	Number	Percentage
Easier to Prosecute	13	72%
No Difference	3	17%
No Response	2	11%
More Difficult to Prosecute	0	0%

The popularity of the new provision on penetration appears throughout the comments with the prosecutors noting,

Lay persons are surprised to learn that penetration can result from an object in addition to a penis.¹⁴

Certainly these new definitions of penetration have widened the scope of sexual offense prosecutions.¹⁵

In general the responses indicate

an appreciation for latitude and flexibility in rape definitions, something grossly lacking in the antiquated versions of rape legislation.

Question 6 in the survey attempts to compare the negative responses in Question 5 with the utilization of the new legislation. The results indicate at least inferentially, that a prosecutor who utilizes the new "object" or instrument of the legislation will tend to see its value.

TABLE VI

Penetration by Object/Instrument/Utilization

	Number	Percentage
Yes	12	67%
No	6	33%

D. Resistance Requirements

to make resistance an unreasonable or possibly unlikely choice

on the part of the victim especially if manifested by physical injury.²¹

New Jersey prosecutors cannot live the reform dream since, "regardless of the law, a jury, as a practical matter, still wants to see proof that the victim resisted."²⁴

E. Marital/Spousal Rape

Nothing is more controversial than marital rape and the legal commentary of this dilemma is magnanimous²⁵. Numerous rationales are put forth in the reform position including a woman's sexual integrity and right to deny sexual access, the invalidity of the male property argument, and the rapid increase

TABLE VII
Spousal Rape/Potential for Eff

	Number
Yes	14
No	4

Obviously, the numbers portray an allegiance to the statutory scheme, and as the comments make known, at best manifest a hopeful optimism that a case is possible. A typical comment was,

While prosecution for spousal rape is possible in New Jersey, as a practical matter, it is virtually non-existent . . . the only circumstances in which I can envision a successful prosecution is where the victim suffers serious injury or where the couple though legally still married, have been separated for a long time . . . Apart from these situations, I simply do not believe that juries have any desire to interfere in the marital relations or disputes of a husband and wife.²⁸

Generally, the insights provided by the prosecutor seem to characterize the general public and the jury system as highly prejudicial

TABLE IX
Other Suggested I

- Redefinition or Reclarification of A Mental Defective or Person Incapacitated by Age
- No Changes
- Problem of Competent Child

D. Resistance Requirements and Consent

New Jersey's legislation at 2C:14-5(a) makes a straightforward statement on the role resistance plays in rape adjudication:

The prosecutor shall not be required to offer proof that the victim resisted, or resisted to the utmost, or reasonably resisted the sexual assault in any offense proscribed by this chapter.¹⁶

Resistance requirements have long been part of a virtuous woman's rape survival kit, at least in the pre-reform era. Prove resistance and it follows that consent did not occur and therefore a rape occurred. The following reasoning has been exhaustively reviewed.¹⁷ "Rape laws are unique in requiring self-help by the victim to establish commission of a crime."¹⁸

The absence of resistance can be justified in diverse ways: first, recent studies of rapists and appropriate responses by victims clearly demonstrate that resistance is the worst choice of tactics¹⁹; second, police agencies and rape task forces are now uniform in their hesitancy to recommend resistance²⁰; third, the socialization processes women experience tend

to make resistance an unreasonable or possibly unlikely choice of responses, since the victim has "developed a view of femininity which becomes a part of her self image and includes the qualities of being gentle, kind and emotionally supportive, protective, understanding and above all, physically nonaggressive."²¹ Lastly, the resistance requirement assumes that there is a norm or objective pattern in which people respond to crisis situations. It assumes that the passive personality becomes aggressive; that the weak person becomes herculean, and that all victims confront the rapist rather than blotting them out of mind, space and time. Requiring resistance, or evaluating its quality is a simple response to a deeply subjective state of mind.

Plainly, New Jersey's legislation makes proof of resistance completely unnecessary, and the reform identity has been translated into law. Realistically, the prosecutors know that juries march to a different beat, subliminally still wanting and hoping that some resistance comes forth from the victim. With little disagreement, the prosecutors feel that the elimination of the resistance standard has made no difference.

TABLE VII

New Resistance Standards/Amount of Proof by Prosecution

	Number	Percentage
More Evidence	0	
Less Evidence	3	17%
No Difference	15	83%

Prosecutors generally praised the reform language but routinely stated "juries still want evidence of resistance."²² Another posed this thought,

Regardless of the statute it seems that the overall chance for a successful prosecution is enhanced by proof of resistance

A Mental Defective or Person Incapacitated by Age
No Changes
Problem of Competent Child Witnesses
Redefinition of Agg. Sexual Assault

Specifically the comments exhibited displeasure for the wording and construction of the statute for victims who are mentally incapacitated, mentally defective or physically helpless but who are not covered by varied provisions in the reform statutes.

In essence "there is certainly a gap in the sexual offense statutes regarding protection of "mentally defective" persons, as defined in N.J.S.A. 2C:14-1(A)(h). The only protection that these people have after the age of 16 is in two narrow situations. The first, under N.J.S.A. 2C:14-2(A)(5)(B) occurs when an actor has intercourse with a mentally defective person and is aided and abetted by one or more persons. The second, under 2C:14-2(C)(3), occurs when an actor has intercourse with a mentally defective person and the actor has some supervisory or disciplinary relationship with the victim.

Apart from these circumstances, a mentally defective person, no matter how incapable they may be of understanding what is going on, is not protected unless the case can be prosecuted under the statutes involving age difference or force.^{23,20}

The survey was filled with other equally eloquent comments, and the project was greatly enhanced by their inclusion.

One final note on the questionnaire is necessary. Question 9 was included primarily to verify the validity of the responses

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Percentage
50%
39%
11%

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2	11%
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* * * *

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Percentage
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33%

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woman's sexual integrity and
right to deny sexual access, the
invalidity of the male property
argument, and the rapid increase

* * * *

TABLE VIII
Spousal Rape/Potential for Effective Argument

	Number	Percentage
Yes	14	78%
No	4	22%

* * * *

Obviously, the numbers portray
an allegiance to the statutory
scheme, and as the comments
make known, at best manifest a
hopeful optimism that a case is
possible. A typical comment was,

While prosecution for spousal
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marital relations or disputes
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Generally, the insights provided
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jury system as highly prejudicial

* * * *

TABLE IX
Other Suggested Reforms

	Number	Percentage
Redefinition or Reclarification of A Mental Defective or Person Incapacitated by Age	6	34%
No Changes	10	56%
Problem of Competent Child		

in battered women and domestic
violence. "The repeal of the
spousal exception has been one
of the most difficult issues to
lobby through state legislatures.
The idea of a woman's approp-
riate place is, for most people,
inextricably linked with concepts
of marriage."²⁶

New Jersey has fostered the
reform doctrine by holding that,
"no actor shall be presumed to be
incapable of committing a crime
under this chapter because of . . .
marriage to the victim."²⁷

Question 8 asked the prosecu-
tors to evaluate their chances for
success under the reform legisla-
tion.

against this set of facts. Public
attitudes have advanced marked-
ly in the law of rape, but seem
hesitant to cross the threshold of
internal family relations.

Case law which exists on the
new legislation concerns the
issues of spousal rape, and some
excellent opinions have come
forth from the New Jersey Su-
perior Court.²⁹ Instead of creating
legal turbulence, it appears the
statute is being accepted and
tested without significant contro-
versy.

F. New Reform Suggestions

One of the chief justifications
for performing this study was to
derive new ideas and legal in-
sights into how this reform legis-
lation can be bettered. It would
appear that New Jersey prose-
cutors are generally content with
the statute's design. However
some major points for review were
posed.

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indicate at least in part that a prosecutor who has a new "object" or in other words the legislation will be of value.

Utilization

Percentage
67%
33%

... assistance an unreasonable, possibly unlikely choice, since the victim has a view of femininity as a part of her self which includes the qualities of gentle, kind and emotionive, protective, understanding and above all, physical resistance. Lastly, the requirement assumes that resistance is a norm or objective which people respond to in various situations. It assumes that the weak comes herculean, and victims confront the offender rather than blotting them out, space and time. Resistance, or evaluation of quality is a simple and deeply subjective kind.

New Jersey's legislative proof of resistance is unnecessary, and the methodology has been translated into law. Realistically, the jurors know that juries are on a different beat, subtly still wanting and that some resistance comes from the victim. With agreement, the proposal that the elimination of the resistance standard has made sense.

Proof by Prosecution

Percentage
17%
83%

... regardless of the statute it is a small chance for a successful prosecution is ended by proof of resistance

of a husband and wife. Generally, the insights provided by the prosecutor seem to characterize the general public and the jury system as highly prejudicial

appear that New Jersey prosecutors are generally content with the statute's design. However some major points for review were posed.

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No Changes	10	56%
Problem of Competent Child Witnesses	1	6%
Redefinition of Agg. Sexual Assault	1	6%

Specifically the comments exhibited displeasure for the wording and construction of the statute for victims who are mentally incapacitated, mentally defective or physically helpless but who are not covered by various provisions in the reform statute.

In essence "there is certainly a gap in the sexual offense statutes regarding protection of "mentally defective" persons, as defined in N.J.S.A. 2C:14-1(A)(b). The only protection that these people have after the age of 16 is in two narrow situations. The first, under N.J.S.A. 2C:14-2(A)(5)(B) occurs when an actor has intercourse with a mentally defective person and is aided and abetted by one or more persons. The second, under 2C:14-2(C)(3), occurs when an actor has intercourse with a mentally defective person and the actor has some supervisory or disciplinary relationship with the victim.

Apart from these circumstances, a mentally defective person, no matter how incapable they may be of understanding what is going on, is not protected unless the case can be prosecuted under the statutes involving age difference or force."

The survey was filled with other equally eloquent comments, and the project was greatly enhanced by their inclusion.

One final note on the questionnaire is necessary. Question 9 was included primarily to verify the validity of the responses

concerning sex-neutral designation, and the new penetration definition. No negative responses came forth on either category. Answer (c) on the admission of character evidence did receive 2 negative comments. When one considers the present constitutional dilemma posed by the confrontation clause and rape shield provisions, adverse comments are not surprising."

IV Conclusion

At the heart of reform law in rape is pure emotion with people striving to make right a sad history. The impetus for rape reform continues because for all practical purposes women have to prove that they are worthy of our laws. Defendants in this crime are really quasi plaintiffs while women who assert the act must prove it."

New Jersey's bold attempt to soothe past wounds appears to be working a little bit at a time. "Inevitably, reform statutes will accomplish less than their drafters had hopes." But the passage of New Jersey's law is a strong political and social statement. The prosecutors of New Jersey who daily toil with the reform seem quite contented and eager for more. That is a success story in itself, for the reform has permeated the institutions partially responsible for the historical inequities. There is new blood and new mind-sets. Incredible as it may seem there was near un-

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1. 410 to art 2 Supp 27.78 Cum Ann. 1980 3122 1981 *22-2 Code 1974 Code (Sup 2. Juro Psyc 3. Stud 556 MEM ANI TER Suri cuto 1977 4. (Wes 5. Upo RUT berg the 103 5. and sup 6. 750. Min Sup (sup 7. (We * 32 8. fen: 197 151 9. Que Sex Raj as sea con

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