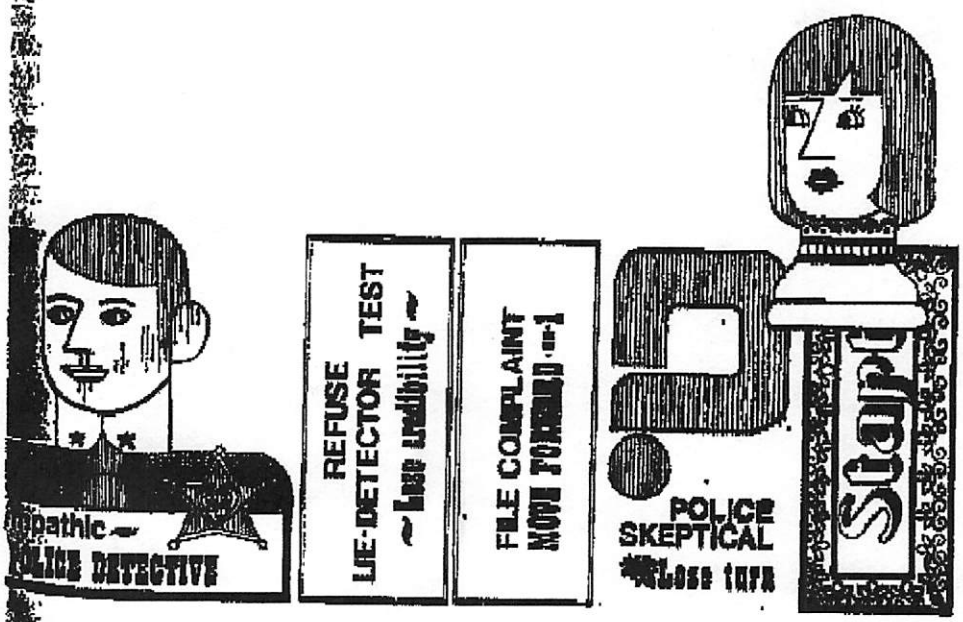
# TWICE TRAUMATIZED:
## the rape victim and the court

I'll send a hard copy of this S.R.

by Carol Bohmer and Audrey Blumberg

The nature of the testimony required to prove a rape charge, as well as the role of the victim as prosecutrix in the court process, cause rape to be viewed as a unique crime.[1] There is little serious literature on either topic. This article will focus on the role of the victim in the court system. It is the outcome of research which is part of a larger project studying all aspects of the post-rape adjustment of the victim. Its purpose is not to develop systematic hypotheses but rather to sensitize the reader to the problems involved and to suggest social and legal



changes which might reduce the problems the rape victim encounters during her interaction with the criminal justice system, particularly the court.

To obtain in-depth data on the victim's court experience, it was clear that the best two possible techniques were: (1) interviewing the personnel with whom the victim came in contact to determine their attitudes and behavior[2] and (2) observation by trained personnel in the courtroom itself.[3] Our observers were trained to note verbal and non-verbal communication in the courtroom and to assess its impact on the victim. We used only women observers because we felt that they might have greater insight into the impact of any interaction or non-verbal cue on a female victim.

Because of the bureaucratic complexity of the criminal justice system, selection of cases proved a serious problem. It was impossible to select certain victims and observe those trials because of the incredible amount of time that would involve for very little return. Cases are continued for a myriad of different reasons, thus, even being told by the victim that she w... to go to court on a particular day mea... very little. The chances that the ca... would be tried on that day were minima... We finally decided, for this pilot proje... to select random cases by defendant, rat... er than matching cases with the victims ... the sample. Even that proved time co... suming because the court personn... themselves never knew if a case would g... to trial. Many tedious hours were spent ... court waiting, an experience which ga... the observers some idea of the experienc... the victim had to undergo.

We finally observed a total of seventee... complete rape trials, which we feel we... randomly selected as well as fairly repr... sentative of rape cases in general.[4] Th... table gives some information in suppor... of the representativeness of our sampl... as well as some useful information. W... also observed, for comparative purpose... six cases involving juvenile rapes an... other cases of personal violence.

The role of the victim in a criminal tri... is misunderstood by most people, inclu... ing victims. Legally the victim is simp... the major witness for the prosecution a... as such has no standing in court. On... she has filed her complaint with the p... lice, it becomes the obligation of the sta... to prosecute the offender. Theoretically... the crime has been committed against t... state, and it is the district attorney's jo... as representative of the state, to m... every effort to obtain a conviction. Th... unlike the defendant (or the plaintiff i... civil case) she has no lawyer. The dis... attorney is acting in the interest of t... state and not in her interest. In situati... where there is a conflict of interests, ... feelings and needs of the victim are ... ondary to the need of the state to pre... strong case. The victim is not told ... and may wonder why "her" lawyer ... the district attorney) is not protectin... from onslaught by the defense attor...

1. Although corroboration of Law is not required in almost all states, it is required in fact. For the nature of corroboration expedient relevant, *See* Carol Bohmer, *Judicial Attitudes Toward Rape Victims*, 57 JUDICATURE 303-308 (1974). Note also, "[Rape] is an accusation easily to be made and hard to be proved and harder to be defended by the party accused though never so innocent." I. HALE, PLEAS OF THE CROWN, 1778. Variants of this statement have been referenced since it was made two centuries ago. It is used constantly by judges, attorneys and the police to support their view of the importance of a particularly high standard of proof in rape cases.

2. *See* Bohmer, *supra* note 1, for a report of interviews with judges. Interviews with attorneys and police were also conducted but the findings have not yet been published.

3. The court observer remained as anonymous as possible during the trial to reduce the influence of the investigator as a variable in the research, a problem faced constantly in the major project. However, the use of observation as a research technique had long been recognized in anthropology. More recently, ethnomethodology was developed as a technique to collect data unamenable to research by other methods; see, for example, HAROLD GARFINKEL, STUDIES IN ETHNOMETHODOLOGY, (Prentice Hall, 1967), and AARON CICOUREL, METHOD AND MEASUREMENT IN SOCIOLOGY, (The Free Press, 1964).

4. See MENACHIM AMIR, PATTERNS IN F... RAPE, University of Chicago Press, 1971, a... at 43 and 337.

yone else.[5]

Criminal trials take place in a bureaucracy, with all the frustrating inefficiencies characteristic of such institutional organizations. Delays which can be accepted philosophically as the ordinary functioning of a somewhat inefficient system are for the victim of a crime, particularly a rape, a source of increased anxiety and further trauma. The effort of gathering together all the appropriate people for the trial is such that the case may be continued a number of times. Lawyers may have other cases, policemen may be on vacation, the judge may be in another courtroom, a witness may be ill; all these are normal events in the functioning of the legal system. For the victim, however, they may mean preparing herself psychologically for her testimony only to find such preparation was in vain and she must return home and wait until she is called again. This, of course, is not peculiar to a rape trial; what is peculiar to the rape trial is the fear and anxiety the victim may feel in confronting her attacker again and in being required to detail publicly all the elements of an event likely to be particularly embarrassing to her.

In addition, the delay in the court process presents further problems for the victim of rape. First, the complainant is often called upon to account months or years later for words and phrases she included or omitted in her original statement to the police. An almost universal defense tactic is to pick on minor discrepancies in the police statement or transcript from the preliminary hearing to impugn the victim's credibility. In a number of the trials observed, the defense attorney conducted a rather lengthy cross-examination of the complainant based on the fact that she hesitated to

[5] In fact quite the contrary. A manual published by the Philadelphia based organization Women Organized Against Rape talks about "your" attorney, when they refer to the district attorney (p. 5). They also suggest to the victim that she hire her own lawyer (p. 7) without mentioning how limited would be his role in court given the victim's lack of standing at the trial.

**Summary of Cases Observed**

| | |
|---|---|
| 1. Outcome: | |
| (a) Conviction | 10 |
| (b) Acquittal | 7 |
| 2. Defendant incarcerated at time of trial | 11 |
| Not incarcerated at time of trial | 6 |
| 3. Victim's past reputation introduced | 10 |
| Victim's past reputation not introduced | 7 |
| 4. Defense based on consent | 11 |
| Defense based on mistaken identity | 3 |
| Defense based on other factors (including fabrication of whole fact situation, or continuation of first two options) | 2 |
| 5. Defendant testified | 7 |
| Defendant did not testify | 10 |
| 6. Defendant had prior record | 12 |
| Defendant had no prior record | 4 |
| Unknown | 1 |
| 7. Defendant took stand with prior record | 4 |
| 8. District Attorney: | |
| (a) Male | 14 |
| (b) Female | 3 |
| 9. Defense Counsel: | |
| (a) Male | 17 |
| (b) Female | 0 |
| 10. Judge: | |
| (a) Male | 14 |
| (b) Female | 3 |
| 11. Defense Attorney: | |
| (a) Public Defender | 10 |
| (b) Private | 6 |
| (c) Both (2 defendants) | 1 |
| 12. Trial: | |
| (a) by jury | 13 |
| (b) on a waiver | 4 |
| 12. Victim knew defendant prior to incident | 6 |
| Victim did not know defendant prior to incident | 11 |
| 14. Both Black | 12 |
| Both White | 2 |
| Black offender/white victim | 3 |
| White offender/Black victim | 0 |
| 15. Offense was part of burglary | 3 |
| Offense was not part of burglary | 14 |

report acts of sodomy committed in conjunction with the rape. If, for any reason, a woman does not immediately report all the details of the assault contained in the charges, the defense attempts to use this to demonstrate lack of prompt outcry or falsification of testimony. Several defense attorneys were heard to question the victim as to why she did not report that she had been raped and sodomized to the police officer during her initial complaint. It must be emphasized here that the rape victim often gains a legal sophistication between her first encounter with the authorities and her final appearance at the trial. She learns, often painfully, the terminology and specifics of the law describing sexual assault. She comes to see that what she initially classified as "rape" may be any or all of the following: (1) assault with intent to ravish, (2) forcible rape, (3) assault with intent to commit sodomy, (4) solicitation to commit sodomy, (5) sodomy, (6) assault and battery, (7) aggravated assault and battery.

Emphasis during the trial on statements made and details described some time in the past may have marked psychological effect on the victim. Often the nature of her examination by the prosecution and defense serves to stir up fears, insecurities, embarrassment and irrational guilty feelings that her behavior somehow precipitated the rape. Thus, during the legal procedure, in addition to everything else, the rape victim must deal with her own ambivalence about her behavior throughout the assault.

It is theoretically possible that the court process may have a cathartic and hence positive effect on the victim. It may be beneficial to her psychologically that justice is done and that it is seen to be done. One factor which reduces the likelihood of such a benefit stems from the fact that, contrary to the assertion of the district attorney's office, in Philadelphia, a victim is not generally informed of the date sentencing is to take place nor of the sentence a convicted defendant receives. In fact if she is not in court when the jury brings in the verdict, she is dependent on information relayed to her by the district attorney, who may not always be readily upon to advise her.

The victim also risks being in court and seeing her attacker acquitted of the charge of rape, though her sequestration during the trial may mean that she is not in the courtroom when the verdict is announced. Two cases were observed in which the complainants were present when the defendants were acquitted.

Central to any rape case is the question of consent. The definition of this concept creates distinct problems in a rape trial not found in any other criminal trial. It is as if the credibility of the victim is being questioned as well as that of the defendant. Here controversy rages between the law and legal practice, and the feelings of victims about the inappropriateness of some of the questions they are required to answer on the witness stand.

Any discussion of the issues involved here must begin with the premise that legal, psychological and public attitudes toward the meaning of consent may differ and in fact contradict each other. What may be considered evidence of consent in the minds of jurors is likely to differ vastly from that seen as behavioral indicators of attitudes by psychiatrists and psychologists, and the difficulties of fitting either of these views into the apparently simple wording of the law are vast.

The social mores of a jury are those which govern the weight given to various factors adduced in evidence. The fact, for example, that a woman meets her eventual assailant in a bar, that she agrees to let him drive her home, that she goes to his apartment with him are all invariably used by defense attorneys as indicators of consent, and may be accepted as such by the jury. From a psychological point of view, however, these events may have a vastly different meaning for one or both of the parties involved.

This issue of consent becomes crucial in ambiguous cases. Clearly if a woman is raped in what might be called the "cla

nner" by a stranger who leaps out from dark alley and drags her into the alley at npoint, the issue of whether or not she nsented is not likely to be of major portance in the trial. (However, observ- saw defense attorneys try to suggest sible consent even in cases such as se.) Evidence of actual or threatened olence coupled with the feeling that the tim, wherever possible, fought off the ack (just short of endangering her life) what seems to convince the court that woman involved was, in reality, aped".

In a less clearcut case, however, the sue of consent is likely to figure prom- ently in any defense. Problems with the plementation of such a concept arise in uations where, for example, the victim young and inexperienced, and has not t learned effective ways of "putting off" n. Such inability may be interpreted as nsent by the defendant, or he may, via his lawyer, take advantage of her youth d indecisiveness to use her alleged con- nt as a defense.

It is because of the difficulty of legally termining the issue of consent that oss-examination will be so much more rrowing for a rape victim than for a secuting witness in another type of minal case. The question of what is ally relevant (and therefore admissible court) becomes clouded. Thus enthusi- ic defense attorneys may be able to question the victim about a large number details about her past life and her ions at the time of the alleged rape that uld not be considered remotely rele- t in other kinds of cases.

It is often said that the private nature of crime of rape makes it difficult to ve because corroboration by external dence is less available. While it is true rapists rarely conduct their criminal ivities in public view, the situation is ally more complex. First, evidence of e kind other than just the word of the plainant against that of defendant is ally available. Also, a number of es other than rape take place in pri- vate, and while this is considered important in the proof of any such crime, it is given far more predominance in rape cases. This is because both the general public and criminal justice personnel consider it more likely that women would fabricate a charge of rape than would complainants of other crimes.[6]

Lie detectors are used as a means of checking the veracity of complaints. In fact, a strong belief in the machine's infallibility makes the lie detector test a very important factor in the decision to prosecute by the police. By definition almost, being asked to submit to such a test means to the victim that the police do not believe her story. However, her unwillingness to take the test need not, as the police seem to assume, automatically mean that she is lying. She may simply be balking at another indignity so close to the rape incident. The element of her feelings of guilt discussed earlier may also make her unwilling to take such a test for fear that the machine will corroborate her suspicions, however unrealistic, that she did something to bring the rape on herself. Thus, even though the lie detector results are not generally admissible as testimony in court, they are an important part of the police decision to pursue a

6. This possibility was reiterated a number of times in interviews with police and judges. See Bohmer, *supra* note 1. Also "false" accusations of sex crimes in general, and rape in particular, are generally believed to be much more frequent than untrue charges of other crimes. . . . Normally our law relies on a jury to distinguish truth from falsehood after hearing evidence on both sides and giving weight to the truth that a man must be considered innocent unless proven guilty beyond a reasonable doubt. It is normally assumed, not that false accusations never occur, but that they will not mislead a jury into convicting. When the crime is rape, it is unsafe to rely on that assumptions Note, *Corroborating Charges of Rape*, 67 COLUMBIA LAW REVIEW 1137, (1967) at 1138 cf.

This appears to be a particularly American belief. Interviews conducted in England by the senior author asked policemen how they dealt with the possibility of fabricated charges. They had no set policy, as that possibility was not considered at all important. In contrast, a detective interviewed in Philadelphia asserted that about 40 per cent of rape complaints in his district were what he defined as "unfounded", i.e. not a rape and therefore not pursued by the police.

complaint and as such can have an important and possibly detrimental effect on the victim's post-rape adjustment.[7]

Given the difficulty of obtaining clear cut and objective corroborative evidence to support the complainant's allegation of rape, the district attorney will be forced to rely on proof of circumstantial factors to substantiate the fact that the incident indeed occurred and that intercourse was non-consensual. It is this circumstantial evidence that is likely to be most difficult for the victim in court. Objective testimony such as medical testimony and torn clothing may be introduced into evidence without greatly affecting the victim.[8] However, a victim is likely to find it traumatic to be asked to detail her prior sexual experience, or to hear other evidence of her "reputation".[9] This happened in a number of the cases we observed. Similarly, victims in several cases were asked traumatic and marginally relevant questions about the incident itself. In several cases the victim was asked specifically if she "enjoyed" the intercourse which was the subject of the rape charge.

Other circumstantial evidence is considered relevant by judges and attorneys. For example, the location of the rape and the means by which the victim reached that location is important. If the victim went willingly to the defendant's apartment or invited him to hers, the court will view the allegation of non-consent with much scepticism. If the victim was drinking in a bar when she met her assailant and accepted a ride in his car, that evidence will also reduce the chances for conviction. Circumstantial factors which go to the good faith of the complainant such as the speed with which she filed the complaint, the reasons she decided to file the complaint, and the amount of cooperation she offers legal authorities for the prosecution are frequently considered important. For example, judges often feel that a complainant who changes her mind about her willingness to testify has herself placed doubt on the credibility of her allegation. According to this view, a complainant who does not cooperate fully in judicial proceedings must be lying. The fact that she may simply have had enough of the legal system, or that she feels she is not psychologically strong enough to undergo continued contact with the authorities does not occur to the judges. This attitude is shared by the legal profession as evidenced by responses given by district attorneys and defense attorneys to the senior author in interviews.

It would not be sufficient to discuss the effects of the court experience on the victim without specifically referring to the people she deals with in her experience with the legal process. The key personnel are the police detective, the assistant district attorney, the defense attorney and the judge. We did not observe a uniform approach toward the victim by these personnel, but we were able to isolate various factors and attitudes which affected the way she was dealt with.

The police detective was deemed by most of the women to be the most sympathetic person involved in the trial. This is hardly surprising when one considers that the victim is in contact with the detective from the beginning of her ordeal up until the trial; that he is often her main source of information, however sketchy, and that he, by the time of the preliminary hearing, has demonstrated

7. *See*, however the BRIDGEPORT EVENING NEWS, March 13, 1974, at 1, in which the report indicated that lie detector tests of the defendant were admitted in a situation where the defendant agreed.

8. Medical testimony can prove recent intercourse as well as any general physical or vaginal trauma. Except for evidence of bruises or severe vaginal tearing, it is not particularly helpful in dealing with the issue of consent. Absence of the existence of spermatozoa also does not necessarily mean that intercourse (consent or otherwise) has not taken place.

9. Courts apparently reason that a reputation of "loose moral character" probably has a basis in fact and that a woman who has such a reputation is more likely to consent to intercourse in any given instance. *See*, for example, People v. Abbot 19 Wend. 192, 195 (N.Y. 1838) "[Will] you not more readily infer assent in the practised Messalina, in loose attire than in the reserved and virtuous Lucretia?"

that he too is interested in pursuing case. The detective is a witness for the osecution and testifies to support the tim's testimony. He often prides him- lf on being able to weed out the "real pes" from the "phony" complaints and is, therefore, usually sympathetic to- rd the victim once the decision to pros- ite has been made. This kind of sympa- tic almost paternal behavior toward women was observed in all but one of cases we observed.

The assistant district attorneys were metimes, but not always, perceived by victims as friendly and sympathetic. almost all cases where information uld be obtained concerning the prepa- ion the victim received from the dis- t attorney, it appeared to be inade- ate. Often the preparation received nsisted of a five to ten minute session mediately preceeding the opening of trial. The attitudes of the district attor- varied from sympathetic to indiffer- t. The female district attorneys worked rticularly well with victims. They often efaced questions with apparently con- ned statements such as "I know this is fficult for you," and "Take your time." the other extreme, one male district torney was heard in an aside to refer to victim as "the silly bitch". Another ale district attorney went so far as to ask victim of a rather vicious gang rape w she enjoyed anal intercourse. With a nge of behavior and attitude such as is, it is not surprising that the victim's ceptions of "her" lawyer vary depend- g in part on how sympathetically she is ated.

For the most part, the defense attorney med to see his task as one of breaking wn the credibility of the complainant whatever way possible. When all else led, a harsh undermining tone of ques- ning was employed. However, one or o attorneys did seem to detach them- ves from their perceived task and sym- hize with the victim. In one case the fense attorney went out of his way to mmiserate with the victim (which was also tactically clever since there was no doubt on the evidence that this woman had been brutally abused). In still another case, a court-appointed attorney seemed genuinely upset with his task and several times apologized to the complainant for having to ask her difficult questions.

The effect on the victim of the judge's interaction with her is perhaps the most difficult to assess. First, the actual role of the judge during the trial is defined by whether or not the defendant waives jury trial. If the defendant chooses to waive his right of trial by jury, the judge acts as fact finder during the course of the trial and his participation may then be extensive. On the other hand, the degree of participation associated with the judge in a jury trial may vary, depending on the judge, from almost none (other than his required voir dire and charge as to the law) to extensive questioning of the witnesses.

The judge's neutrality in a jury trial, intended to exercise no undue influence either in favor of the defense or the Commonwealth, may be perceived by the victim as antagonism. The very fact that the judge allows the defense attorney to ask her distasteful questions may be perceived as antagonism by her. Also, when overruling the objections of the district attorney, the judge's behavior may be interpreted by the victim as bias in favor of the defendant. However much the judge may, in reality, wish to protect the victim, there is little he can do which will not jeopardize the court's position of neutrality. Thus it is usually only in extreme cases of browbeating, and sometimes not even then, that the judge steps in to stop a particular line of questioning. The victim does not know why the judge remains silent during most of the trial. She knows nothing about legal practice and sees the robed man "on high" as judging her as well as the defendant.

Three of the judges observed in our study (two female, one male) seemed to be particularly concerned about the treatment of the victim in rape trials. At the

other end of the spectrum, at least one judge expressed the attitude that he himself could not conceptualize "rape"; in his words "a hostile vagina will not admit a penis," unless there existed proof of extensive physical trauma. One female judge, however, displayed a grave concern for the rights of women in the case of rape and did not allow such questions as those concerning her prior sexual experience. Another, a male judge, called the victim (a woman with a drug problem) up to the bench following the trial and expressed a sincere desire to help her in any way possible. In most cases, however, the atmosphere in court appeared to place the woman in the position of having to prove herself innocent of soliciting the assault in some way. In one particular case, after the defendant was found guilty by the judge on a waiver, the judge spent approximately fifteen minutes discussing in her presence the "immoral character and upbringing" of the sixteen year old victim.

The small number of cases observed make it impossible for us to make any conclusive statements about factors in the victim's personality make-up which affect her reaction to the court process. We await the outcome of the full research project for such results.

However, we can speculate on several factors. The older the woman is, the more likely she is to be able to withstand the court process and especially the ordeal of giving testimony. It is also obvious that support from family and friends is likely to reduce the trauma associated with police interviews, the preliminary hearing and the trial itself.

Furthermore, it is our feeling that the women who comprise a large proportion of victims, the poor, black and young, are unfortunately used to being abused by social systems so that this experience loses some of the impact it might otherwise have. Middle class victims do *appear* to be more sensitive to the aspersions passed on their character, less used to being pushed about by bureaucratic procedures, less accepting of not knowing what is happening in the courtroom, and therefore better able to defend themselves in court. In one case when a young black victim took the witness stand and was not readily audible, the judge raised his voice to the point of yelling, to tell her that if she wanted the court to take heed to her story, she had better "speak up or [she] might as well get down and leave right now." This victim did not make any overt response to such behavior. In contrast, a 24 year old apparently middle class mother of two indignantly told the defense attorney while on the stand that if he thought she enjoyed being there and having gone through all she had he was not very bright. Personality factors may, however, ultimately be decisive here. Women who are more assertive, more vocal and less easily intimidated are more likely to be able to respond to any perceived ill treatment.

As mentioned elsewhere, this was a pilot study to attempt to assess the impact of the legal system on the post-rape adjustment of rape victims. Its importance is self-evident; one cannot fully study the victim's post-rape adjustment without careful analysis of the effect of the single most important external circumstance on that adjustment, viz., the criminal justice system. This analysis concentrates heavily on the observations made in court on the conduct of the rape trial in those cases which actually go to trial. Adequate scientific conclusions can only be drawn when the sample whose cases go to trial are compared in a controlled study with those cases which, for one reason or another, do not result in a trial.

Despite sampling and other methodological difficulties, which cannot be ignored, it is felt that this kind of in-depth ethnographic research is the only method available to determine the impact of the court process on the victim.

It is the opinion of the authors, based on the study, that the extent of the trauma suffered by the victim in her contact with the legal system is in large measure due

e attitudes and consequent treatment of e victim by the law enforcement and ourt personnel with whom she deals. We old this opinion despite knowledge of e importance of the adversarial system f justice under the United States Consti- tion. We recognize the overriding im- ortance of this system may at times make e victim's feelings a secondary consid- ation, but we feel that the victim faces ore than the unavoidable trauma of the plementation of constitutional guaran- es.

In the light of our experiences with the urt system, and bearing in mind the mitations of our experience and of the gal system we suggest the following gal and practical changes to improve the perience of the victim in her contact ith the legal system:

1. Increased participation of women within the system, as judges, attorneys nd police officers.

2. Changes in the law and its imple- entation regarding use of reputation nd other evidence which allegedly goes o the issue of consent but which is in fact ither marginally relevant or irrelevant.

3. Greater control of attorneys by judg- s in their questioning of victims to refuse o permit browbeating or asking ques- ions mentioned in (2) above.

4. Better procedures for keeping the ictim informed of what is happening roughout the entire court process.

5. A more efficient court system which educes, as far as possible, the number of imes a victim has to make fruitless and nxiety-provoking trips to court.

6. The appointment of an attorney for he court to act as a kind of guardian for he victim. Given the legal situation whereby the victim is merely a witness, albeit the prosecution's star witness, some procedure could be instituted to have someone whose role is to:

a. explain the court procedure as it pro- gresses

b. act as protector of the victim, and to make objections to questions considered irrelevant and inadmissible if such objec- tion is not made by other attorneys.

There have been suggestions made that there be a policewoman or a social worker in the district attorney's office available for the purpose of keeping the victim informed and simply being with her dur- ing the trial. Such suggestions have the problem of reflecting on the competence of the district attorney's office and are therefore unlikely to be well received by them. There has been a marked increase in this activity by rape crisis centers, but at present they appear not to be able to handle all cases on a consistent and official basis.

It is our suggestion that the person be a neutral party and not allied with either the police or the prosecution, and that it be a court appointed attorney. We also consider that it is legally possible to ex- tend the court's power under *amicus curi- ae* procedure to appoint a person who has standing in court, i.e. the legal authority to intervene in the court process. At pres- ent, a victim gets little assistance if she hires an attorney to represent her, as he has no standing in court to act on her behalf. An attorney should preferably be appointed at the preliminary hearing level so that he can fulfill the function of keeping the victim informed of the status of her case, a service at present sorely lacking and desperately needed. Because rape is viewed as a "special" crime we feel that special measures to protect the victim are warranted and that instead of being treated in a way analogous to that of an offender, she be offered social and legal support to minimize the impact of the traumatic event and to aid in her post-rape adjustment. □

*CAROL BOHMER is an assistant professor at the Rutgers University School of Law. At the time of this research, the authors were Research Attorney and Research Assistant at the Center for Rape Concern in Philadelphia. AUDREY BLUMBERG is presently completing her Ph. D. at the Graduate Center, City University of New York in Sociology.*

## Rape Study Recommendations In 'Judicature'

Chicago, Illinois — Special measures are needed in the criminal justice system to protect victims of the "special crime" of rape, according to a study made by two researchers at the Center for Rape Concern, Philadelphia.

The profound shock to the victim of the rape itself can be compounded by the subsequent experiences she must undergo in the investigation and prosecution of the alleged attacker, in the opinion of Carol Bohmer and Audrey Blumberg.

Under the present judicial system, they point out, a rape victim, legally, is simply the major witness for the prosecution and has no standing in court. She has no lawyer to represent her, is subjected to anxious and frustrating delays in the trial, often is not told what is going on as the case progresses, and may not even be advised when a verdict is reached or sentence pronounced.

Writing in the current issue of Judicature, the publication of the American Judicature Society, Bohmer and Blumberg propose several steps which might be taken to ease the plight of the rape victim in her subsequent dealings with law enforcement and court personnel:

1. Increase participation of women within the system, as judges, attorneys and police officers.

2. Appoint an attorney for the court to act as a kind of guardian for the victim. He could object on the victim's behalf to irrelevant or improper questioning, and keep her informed about court procedures.

3. Tighten rules to prevent browbeating of the victim by attorneys and to limit some areas of questioning, such as those delving into the defendant's previous reputation.

4. A more efficient court system to reduce the number of times a victim has to make fruitless and anxiety-provoking trips to court.

"Instead of being treated in a way analogous to that of an offender, she (should) be offered social and legal support to minimize the impact of the traumatic event and to aid in her post-rape adjustment," the researchers assert in the Judicature article.

As research attorney and research assistant for the Philadelphia Center for Rape Concern, Bohmer and Blumberg based their survey on observation and study of 17 complete rape trials. Bohmer is now an assistant professor at the Rutgers University School of Law and Blumberg is completing Ph.D. studies in sociology at the Graduate Center, City University of New York.

98 N.J.L.J. 464 (1975)