

THE ACCOMPLISHMENTS OF THE  
NEW MEXICO TASK FORCE ON  
VICTIMS OF SEX CRIMES

AND THE

SEX CRIMES PROSECUTION AND TREATMENT PROGRAM

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# History of the Task Force on Victims of Sex Crimes

by Jane Foraker-Thompson, Chair

(Editor's note: Ms. Jane Foraker-Thompson is Project Manager, New Mexico Restitution Project, Criminal Justice Department, and was recently elected Chair of the Task Force. Other Task Force officers include: Vice Chair, Ann Coleman, Director, Alternatives, Inc.; and Secretary, Pat Caristo, U.N.M. Campus Police.)

The Task Force on Victims of Sex Crimes has been singularly successful in writing and getting passed some of the most progressive sex crimes legislation in the nation. In 1975, the old rape laws were replaced by a new "Sexual Offenses" statute that does not speak of rape at all but of criminal sexual penetration or criminal sexual contact, and defines the degree of felony according to the age of the victims, whether force was used, personal injury was sustained, etc.

Furthermore, the 1975 statute prevents a defense attorney from referring to a victim's past sexual conduct, or reputation for same, in court unless there has first been an *in camera* hearing held in the judge's chambers to determine if the evidence is admissible and material to the case. This was the first such protection for the victim provided in the State of New Mexico. Juries became less reluctant to find someone guilty of a sexual crime because the punishment fell more in line with the seriousness of the act under different circumstances. Prosecution of "rape cases" has been increasing since the law took effect.

In 1978, Task Force members, Department of Health and Environment and Criminal Justice representatives were the primary writers of a highly significant bill entitled, "Sexual Crimes Prosecution and Treatment Act." Written to "promote effective law enforcement and prosecution of sexual crimes and to provide medical and psychological assistance for victims of such crimes," this bill passed the 1978 legislature without a single change. For the first time, victims will not have to pay for their recovery costs. Coordination and implementation of this bill was placed under the auspices of the Behavioral Services Division of the Department of Health and Environment, which is mandated to "develop, with the cooperation of the Criminal Justice Department, other authorized law enforcement

agencies, and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes; to develop strategies for prevention of such crimes; to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes; and to provide medical and psychological treatment to victims of such crimes."

The Task Force on Victims of Sex Crimes came into being in 1973, as an informal self-appointed group of people from various care-giving agencies, criminal justice agencies, private attorneys, and the Albuquerque Rape Crisis Center. Its purpose was to develop inter-agency communication so that victims of sex crimes could be provided uninterrupted care during their period of crisis and so that follow-through with prosecution of rapists could be accomplished without further traumatizing the victim. In August of 1974, Governor Bruce King formally acknowledged the Task Force.

The Task Force arranged the first statewide conference on "Sex Crimes and the Citizen," which was held at the Albuquerque Convention Center in December, 1974, to educate citizens about the facts of sex crimes, who may become a victim, how to treat a victim, and the need for inter-agency cooperation. A second statewide conference was held in April of 1976, sponsored by the Bernalillo County Mental Health/Mental Retardation Center; and a third in January of 1978, co-sponsored by the Albuquerque Rape Crisis Center, Alternatives, Inc., Governor's Council on Criminal Justice Planning, the Department of Corrections, Department of Hospitals and Institutions, the New Mexico State Police, and the Albuquerque Police Department.

The Task Force of Victims of Sex Crimes continues to function as an independent citizen sounding board, responsive to the needs expressed by both representatives from various agencies at different levels of government, individual citizens, and the grass roots and community-based victim treatment programs. It acts as an advisory body to the Coordinator of the Sex Crimes Prosecution and Treatment Program, and assists that office in accomplishing the goals set out in the Sex Crimes Prosecution and Treatment Act.

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STATE OF NEW MEXICO  
SEXUAL CRIMES PROSECUTION AND TREATMENT PROGRAM  
REPORT TO THE LEGISLATURE  
DECEMBER 15, 1978

Submitted By

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SEXUAL CRIMES PROSECUTION AND TREATMENT PROGRAM  
REPORT TO THE LEGISLATURE  
DECEMBER 15, 1978

The Behavioral Health Services Division presents its first report to the Legislature on the progress of the implementation of the Sexual Crimes Prosecution and Treatment Act which was passed unanimously in the 1978 session. Section six of the Act requires a report on "all aspects of the sexual crimes prosecution and treatment program and specifically the administrator's conclusions and recommendations regarding the effectiveness of the sexual crimes prosecution and treatment program implemented throughout the state."

Since the program has only been in existence five months, statistical data has not been able to be fully assembled and therefore may not reflect the program's performance accurately. Data concerning prosecutions is almost completely lacking due to the six to twelve month average delay in bringing a case to trial.

I. THE PROBLEM ADDRESSED BY THE ACT

The New Mexico Criminal Code Pertaining to Sex Crimes defines sexual crimes in three main categories: criminal sexual penetration, criminal sexual contact and indecent exposure. Criminal sexual penetration (the unlawful and intentional penetration of any orifice by any object) is more commonly referred to as rape, and is the most frequently reported form of sexual crime.

The crime of rape is reported to be the fastest growing violent crime in America. The FBI has estimated that only one in ten rapes committed is ever reported to law enforcement. Victims of rape may be male as well as female and range in age from infancy to old age. The resulting risks of bodily injury, disease, pregnancy and emotional disturbance can extend the trauma of the assault for many months and years. A victim's family can also be profoundly affected and may in a sense be considered "victims" of the assault as well.

Rape is a crime of recidivism in several senses. It is not uncommon to find that when a suspect is apprehended and brought to trial, the publication of his name brings forth victims from previous rapes. It is believed by many experts in the field that the repeat rate among convicted and released rapists is quite high and there is also increasing evidence that with each succeeding rape, some assailants grow more violent toward their victims.

The insidious effects of a rape both physically and psychologically on the victim and his/her loved ones is unnecessarily compounded and accentuated by the ensuing investigations and trial. Rape is the only crime for which the victim is often tried. Myths, prejudices and lack of physical evidence brings the victim's credibility into question. Often those who initially come into contact with a rape victim take it upon themselves to determine whether a rape has occurred at all and pursue further investigation on that basis. Only a jury in a court of law may decide if beyond reasonable doubt a rape has occurred and that the defendant is the offender. All activity leading up to a trial must have as its goal the gathering of objective evidence and testimony that will aid the jury in its deliberations.

These alarming statistics of the increase in the incidence of rape, the recidivism rate of assailants and the increase in violence in each succeeding rape, and the trauma of prosecution for the victim prompted the State Legislature to pass in 1975 a progressive criminal code pertaining to sexual crimes. Even with this improved criminal code, the incidence of rape continued to increase and successful prosecutions were dismally few. Acknowledging this, the 33rd New Mexico Legislature in 1978, passed a landmark bill, Senate Bill 20, the SEXUAL CRIMES PROSECUTION AND TREATMENT ACT.

II. SUMMARY OF THE SEXUAL CRIMES PROSECUTION AND TREATMENT ACT

The Sexual Crimes Prosecution and Treatment Act (SCPTA) confronted the complex and often ignored trauma of victims of sex crimes. The purpose of the SCPTA as stated in the Act is "to promote effective law enforcement and prosecution of sexual crimes and to provide medical and psychological assistance for victims of such crimes. Implementation of the Act will serve to assist existing community based victim treatment programs, to provide inter-agency cooperation, training law enforcement, criminal justice and medical personnel and to effect proper handling and testing of evidence in sexual crime offenses." It is believed that this comprehensive approach will in time have significant effect on the incidence and prevalence of sexual crimes by assisting the victims and increasing the number of prosecutions.

The Act provided for the following allocation of funds:

\$120,000.....	psychological services
\$ 60,000.....	medical services
\$ 35,000.....	criminal justice (evidence kits, lab equipment, serologist)
\$ 9,600.....	expert witness fees
\$ 93,000.....	state coordinator's office
\$317,600.....	Total

III. IMPLEMENTATION OF THE ACT

A. Administration

The responsibility for coordinating the implementation of this Act was given to the Health and Environment Department (HED), Behavioral Health Services Division (BHSD). The administrator of the Act is the director of the BHSD, Scott H. Nelson, M.D. The Sexual Crimes Prosecution and Treatment Program is located in the Community Mental Health Section of the Mental Health Bureau of the Division. Marshall Fitz, M.D. is chief of the Mental Health Bureau; Christine Pederson is chief of the Community Mental Health Section.

The staff of the State Coordinator's office consists of:

Carol L. MacAllister.....	Coordinator
William Wengs.....	Training Specialist
Augusta Farley.....	Management Analyst
Mary Jane Vigil.....	Secretary

Statewide support of local programs and agencies concerned with the treatment of sexual crimes victims is provided through the allocation and monitoring of funds as designated in the Act, dissemination of pertinent literature and information, standardizing data collection across the state and across the service systems involved, and the organization and provision of training for individuals, both professional and non-professional, concerned with the treatment of these victims. The state office will offer informational and training support to all programs and agencies serving

victims of sexual crimes, not only those receiving funding under the Act.

A state plan specifically pertaining to the Sexual Crimes Prosecution and Treatment Program is presently in draft form, to be finalized by January 15, 1979. This plan details, expands and further documents each section reported herein.

The Department also has a Joint Powers Agreement with the Criminal Justice Department for the compilation, distribution and analysis of evidence kits (see State Plan appendix for formal agreement). The Administrative Office of the Courts administers the funding for expert witness fees in sex crimes cases.

The New Mexico Task Force on Victims of Sex Crimes was founded in 1973 by concerned citizens who recognized the need for increased support for the treatment of sex crimes victims. The Task Force addresses issues which are raised by representatives from various governmental agencies, individual citizens, and by community based programs. It also serves in an advisory capacity to the coordinator of the Sexual Crimes Prosecution and Treatment Program.

#### B. Regulations

On July 25, 1978, a public hearing was held concerning the new regulations for providers funded under the SCPTA to deliver psychological services to victims of sexual crimes. These regulations were formally adopted by the Department on September 6, 1978 and may be found in the State Plan appendix.

#### C. Psychological Services

From May through July, 1978, proposals for the provision of psychological services to victims of sexual crimes were reviewed and funds awarded. Seventeen proposals were received requesting a total of \$229,521 for a projected 1,452 victims to be served in 1978-79. Awards were made to fifteen programs, distributing the \$120,000 allocated in the Act. All health planning districts and all major cities now have a sexual crimes program and most although not all are funded through the Act. At the present time ten community programs have reported serving 184 victims. Only four of these have been operational for the full five months.

#### D. Medical Services

In late July, letters and applications were sent to over 200 medical facilities inviting each to participate in the sexual crimes program. The initial response was low; therefore individual contact with the facilities' administration was made by the local sexual crimes program coordinator and then by the State SCPTP Coordinator, to encourage and assist in the application process. To date, HED has contracted with twelve facilities for the reimbursement of medical services to victims of sex crimes. Physicians in private practice licensed by the State of New Mexico are also encouraged to participate. No formal application is required of them.

#### E. Training

On October 26, 1978, training commenced in the proper use of the evidence collection kits, the nature of sexual crimes in New Mexico and the goals of the Sexual Crimes Prosecution and Treatment Program. In 26 working days, Mr. William Wengs, then a State Police Crime Lab serologist and Ms. Carol MacAllister, State Coordinator, traveled 3,800 miles giving

a two hour presentation in 17 cities and a similar program at a "Crimes Against Person Seminar" held by the New Mexico District Attorneys' Association in cooperation with the National College of District Attorneys.

These training sessions have been met with enthusiastic response, reaching a total of 634 individuals (psychological counselors, medical personnel, law enforcement officers, district attorneys and legislators).

#### F. Data Collection

A comprehensive, standardized data collection system is being implemented to evaluate the Sexual Crimes Prosecution and Treatment Program as well as provide general information regarding sexual crimes in New Mexico. At present, the available data is fragmented among numerous agencies and the raw data is often of questionable value due to differing definitions and methods of collection.

The SCPTP has designed forms which focus on the accurate, standardized collection of data and which provide an opportunity for inter-agency cooperation. Analysis of the data will allow the SCPTP to document qualitative and quantitative changes in services available to sexual crimes victims.

#### G. Cooperation With Other Agencies

##### 1) Administrative Office of the Courts

The Administrative Office of the Courts was allocated \$9,600 for expert witness fees in sexual crimes cases. The announcement of these funds and instructions for their procurement were sent to each District Attorney in the twelve Judicial Districts on August 4, 1978. As of December 10, 1978 four District Attorneys have requested a total of \$3,655.51 for expert witness fees.

##### 2) Criminal Justice Department

A Joint Powers Agreement between HED and the Criminal Justice Department was formalized on July 21, 1978. Preliminary planning with the Criminal Justice Department for the training of law enforcement officers began October 4, 1978 and implementation of that training is expected in the spring of 1979.

A serologist was added to the State Police Crime Laboratory on October 1, 1978, and simultaneously, assemblage of the evidence collection kits began. At least 1,000 kits will be made and distributed during FY 1978-79. Statewide distribution of these kits was coordinated with training in their proper use.

The New Mexico State Police Crime Laboratory reports that it has handled 145 sexual assault cases from January through November, 1978 which represents a 15% increase from 1977. Additionally, since early 1978 the quality of evidence collected in sexual assault cases has improved steadily. The publicity resulting from the passage of the SCPTA is credited with much of this improvement.

The NM State Police report 305 forcible rapes and attempted forcible rapes from January through June, 1978 which represents a 33% increase from the same period in 1977 for all reporting law enforcement jurisdictions. It is unclear whether or not this substantial increase is due to an actual increase in rapes committed or an increase in rapes reported because of increased public awareness and service agencies' increased ability to respond to rape victims. However, there are examples of cases where the coordinated and cooperative efforts among the four main service groups responding to victims--psychological, medical, law enforcement, and judicial--have resulted in the

sensitive treatment of the victim and successful prosecution--the two goals of the Sexual Crimes Prosecution and Treatment Act. (See Attachment A for an example of such a case.)

IV. CONCLUSIONS AND RECOMMENDATIONS

Though only in existence five and a half months, the SCPTP has made substantial strides in meeting the goals of the Act. Most new victims are now being provided with treatment and referral services. The SCPTP is already highly visible throughout the state and over 600 individuals have been trained in evidence collection. It is too early in the program to have conclusive data on prosecutions but our belief is that the cooperative approach to sexual crimes among treatment and law enforcement personnel will result in an increase of successful prosecutions similar to that illustrated by the case history.

Plans for the coming year include specialized training for each of the four service groups responding to victims--psychological, medical, law enforcement and judicial--and will deal not only with the female victim but also the male and incest victim.

A statewide conference on sexual crimes will be held and community education with an emphasis on prevention reaching into schools, churches and civic groups is also planned. Treatment services will be refined and improved through consultation and site visits.

Information received by the Department in proposals submitted in May, 1978, projected that approximately 1500 victims would need services in 1978-79. Since funding for 1978-79 was based on an estimated 600 victims, the Department has requested an expansion of \$130,000 for the next fiscal year.

This document next year will report complete and comprehensive data regarding sexual crimes in New Mexico and the impact of the program. The response to the victims of these crimes and the number of resulting prosecutions will be well documented, and recommendations for any needed changes in the program will be ready for the Legislature at that time.

Pursuant to Section Six of the Act, I hereby conclude that there is every indication that the Sexual Crimes Prosecution and Treatment Program is effective and recommend that it continue for the indefinite future.

*Scott H. Nelson M.D.*

SCOTT H. NELSON, M.D., DIRECTOR  
BEHAVIORAL HEALTH SERVICES DIVISION  
DECEMBER 15, 1978



APPENDIX A  
CASE HISTORY

The victim, a 30 year old single woman, returned from a business trip late in the evening. On the drive to her home, in her employer's business van ( a vehicle unfamiliar to her), the van stopped due to a separated fuel line. Thinking she was only out of gas, she accepted a ride from a passerby to a gas station where he purchased gasoline putting it into a plastic container from his trunk. On the return trip to her car, he turned onto a side road and repeatedly raped her vaginally, anally and orally over the next six hours, threatening to tear up her face with a screwdriver if she refused to cooperate. Her one escape attempt was unsuccessful and she was injured as a result.

After the assault, she was left on the road and eventually contacted friends who took her home. She arrived home at 7am and her first thought was to contact her doctor who was acquainted with the local rape crisis center. The doctor was responsive to her emotional distress, which he documented along with his observations of her physical condition. The rape crisis center's victim advocate brought a rape evidence collection kit to his office and he collected the potentially valuable physical evidence from her body while examining her. The same day of the assault, in the afternoon, the rape crisis advocate took the evidence and the victim to the District Attorney where the victim was informed of the requirements of a prosecution. When she agreed to prosecute the police were called in. The policeman was exemplary in his responsiveness to the victim. He took six hours to take her statement, showing great sensitivity at moments when the details of the sexual assault were painfully embarrassing by allowing the victim to write the details herself. This sensitivity and time given to the victim resulted in a very detailed statement from the victim which allowed the officer to quickly locate the scene where the car was parked during the assault and made available many more items of valuable evidence.

The following day, all the evidence from the crime scene and the victim was transported to the crime lab. The police officer, district attorney and rape crisis center worker also accompanied the victim to the lab to have her injuries photographed. Incredibly, five minutes after leaving the lab, the suspect pulled out of an intersection in front of these individuals. He was stopped and arrested immediately and all his clothing and car were impounded as evidence.

The district attorney in preparing for the case in court had evidence as complete and objectively collected as possible from the doctor, rape crisis advocate, police officer and the crime lab. To this he added a psychologist's evaluation of the victim's emotional trauma; this was done both for the court and for the psychological help that could be given the victim.

When the case came to court four and a half months after the assault, the victim testified for a full day and was an excellent witness, having been continually informed of what she was to face. Then the police officer, doctor, rape crisis advocate, psychologist and crime lab analyst testified as to their observations and examinations which substantiated the victim's assertions that she had been raped and that the suspect was the man who assaulted her.

APPENDIX A  
page 2

The defense chose to claim that the intercourse had been consensual (the other common defense in rape cases--"it wasn't me"--had been negated by the physical evidence). The defense witness was a former cellmate of the suspect from the state penitentiary. He was quickly discredited when the prosecutor caught him in false testimony about the gas container he supposedly gave the suspect after the alleged assault. The accused, who was suspected of having raped several women previously, was found guilty of four counts of criminal sexual penetration, second degree, one count of kidnapping and one count of robbery and sentenced to 52 to 260 years in the penitentiary.

# ARTICLE 11

## Sexual Crimes Prosecution and Treatment Act

Sec.

29-11-1. Short title.  
29-11-2. Purpose.  
29-11-3. Definitions.  
29-11-4. Fund created; administration.

Sec.

29-11-5. Sexual crimes prosecution and treatment program.  
29-11-6. Report.

### 29-11-1. Short title.

This act [29-11-1 to 29-11-6 NMSA 1978] may be cited as the "Sexual Crimes Prosecution and Treatment Act."

History: 1978 Comp., § 29-11-1, enacted by Laws 1978, ch. 27, § 1.

### 29-11-2. Purpose.

The purpose of the Sexual Crimes Prosecution and Treatment Act [29-11-1 to 29-11-6 NMSA 1978] is to promote effective law enforcement and prosecution of sexual crimes and to provide medical and psychological assistance for victims of such crimes. Implementation of the Sexual Crimes Prosecution and Treatment Act will serve to assist existing community-based victim treatment programs, to provide interagency cooperation, training of law enforcement, criminal justice and medical personnel and to effect proper handling and testing of evidence in sexual crime offenses.

History: 1978 Comp., § 29-11-2, enacted by Laws 1978, ch. 27, § 2.

### 29-11-3. Definitions.

As used in the Sexual Crimes Prosecution and Treatment Act [29-11-1 to 29-11-6 NMSA 1978]:

A. "administrator" means the director of the behavioral health services division of the health and environment department, or such person or office as the administrator may designate to act in his stead;

B. "evidence" means that evidence relating to the commission of a sexual crime;

C. "medical and psychological treatment" includes that medical, mental or emotional treatment provided a victim of a sexual crime. In addition to the improved physical and emotional condition of a victim, such treatment should result in the improved ability of a victim to make informed and rational choices about serving as a witness in the prosecution of a suspect of a sexual crime; and

D. "sexual crime" includes any act which may be alleged to be a sexual offense or an attempted sexual offense under the provisions of Sections 30-9-10 through 30-9-16 and 30-10-3 NMSA 1978.

History: 1978 Comp., § 29-11-3, enacted by Laws 1978, ch. 27, § 3.

### 29-11-4. Fund created; administration.

A. There is created in the state treasury the "sexual crimes prosecution and treatment fund." Money appropriated to the fund shall be used to carry out the purposes of the Sexual Crimes Prosecution and Treatment Act [29-11-1 to 29-11-6 NMSA 1978].

B. The fund shall be administered by the administrator.

History: 1978 Comp., § 29-11-4, enacted by Laws 1978, ch. 27, § 4.

Appropriations. — See same catchline in notes to 29-11-5 NMSA 1978.

## 29-11-5. Sexual crimes prosecution and treatment program.

A. The administrator shall develop, with the cooperation of the criminal justice department, other authorized law enforcement agencies and existing community-based victim treatment programs, a statewide comprehensive plan to train law enforcement officers and criminal justice and medical personnel in the ability to deal with sexual crimes; to develop strategies for prevention of such crimes; to provide assistance in the assembly of evidence for the facilitation of prosecution of such crimes; and to provide medical and psychological treatment to victims of such crimes. This plan shall include, but not be limited to:

(1) education and training of law enforcement officers and criminal justice and medical personnel;

(2) collection, processing and analysis of evidence which facilitates prosecution of suspects of sexual crimes; and

(3) medical and psychological treatment of victims of such crimes.

B. The comprehensive plan shall be implemented throughout the state, and the administrator may contract with appropriate persons, entities, agencies or community-based programs to provide the services to be rendered pursuant to Subsection A of this section and may pay a reasonable fee for such services.

C. Nothing in this section shall be construed to require criminal prosecution of a suspect of a sexual crime by the victim to whom services are rendered pursuant to the provisions of the Sexual Crimes Prosecution and Treatment Act [29-11-1 to 29-11-6 NMSA 1978].

D. Training for law enforcement officers in the proper treatment of victims of sexual crimes and collection of evidence and coordination among agencies shall be incorporated in the regular training program for recruits by the New Mexico state police division; the basic course taught by the training and education bureau of the criminal justice department or by other authorized law enforcement agencies. Already-commissioned officers and sex-crime investigators shall receive advanced training through in-service programs.

History: 1978 Comp., § 29-11-5, enacted by Laws 1978, ch. 27, § 5.

## 29-11-6. Report.

By December 15 of each year, a report shall be filed with the governor and the legislative council by the administrator concerning all aspects of the sexual crimes prosecution and treatment program and specifically the administrator's conclusions and recommendations regarding the effectiveness of the sexual crimes prosecution and treatment program implemented throughout the state.

History: 1978 Comp., § 29-11-6, enacted by Laws 1978, ch. 27, § 6.

Effective date. — Laws 1978, ch. 27, § 8, makes the act effective on July 1, 1978.

Appropriations. — Laws 1978, ch. 27, § 7A, appropriates \$180,000 from the general fund to the sexual crimes prosecution and treatment fund for the purposes set out in the Sexual Crimes Prosecution and Treatment Act in the sixty-seventh fiscal year and provides that any unencumbered or unexpended balance shall revert to the general fund.

Laws 1978, ch. 27, § 7B, appropriates \$93,000 from the general fund to the behavioral health services division of the health and environment department to pay salaries and expenses in carrying out the provisions of the Sexual Crimes Prosecution and Treatment Act in the sixty-seventh fiscal year and provides that any unencumbered or unexpended balance shall revert to the general fund.

Laws 1978, ch. 27, § 7C, appropriates \$35,000 from the general fund to the sexual crimes prosecution and treatment fund to equip the state crime laboratory with additional personnel and equipment, as well as sexual crime evidence collection kits for law enforcement agencies and hospitals throughout the state, in the sixty-seventh fiscal year and provides that any unexpended or unencumbered balance shall revert to the general fund.

Laws 1978, ch. 27, § 7D, appropriates \$9,600 from the general fund to the administrative office of the courts to provide for expert witness fees pursuant to the Sexual Crimes Prosecution and Treatment Act in the sixty-seventh fiscal year and provides that any unexpended or unencumbered balance shall revert to the general fund.

## ARTICLE 9

### Sexual Offenses

Sec.

30-9-17. Videotaped depositions of alleged victims who are under sixteen years of age; procedure; use in lieu of direct testimony.

#### 30-9-11. Criminal sexual penetration.

"Intentional causing." — The wording of this section was not meant to impose the additional requirement of showing specific intent. The intent

which must be present to perform the act satisfies the "intentional causing" provision in this section. State v. Keyonnie, N.M., 571 P.2d 413 (1977).

#### 30-9-17. Videotaped depositions of alleged victims who are under sixteen years of age; procedure; use in lieu of direct testimony.

A. In any prosecution for criminal sexual penetration or criminal sexual contact of a minor, upon motion of the district attorney and after notice to the opposing counsel, the district court may, for a good cause shown, order the taking of a videotaped deposition of any alleged victim under the age of sixteen years. The videotaped deposition shall be taken before the judge in chambers in the presence of the district attorney, the defendant and his attorneys. Examination and cross-examination of the alleged victim shall proceed at the taking of the videotaped deposition in the same manner as permitted at trial under the provisions of Rule 611 of the New Mexico Rules of Evidence. Any videotaped deposition taken under the provisions of this act [this section] shall be viewed and heard at the trial and entered into the record in lieu of the direct testimony of the alleged victim.

B. For the purposes of this section, "videotaped deposition" means the visual recording on a magnetic tape, together with the associated sound, of a witness testifying under oath in the course of a judicial proceeding, upon oral examination and where an opportunity is given for cross-examination in the presence of the defendant and intended to be played back upon the trial of the action in court.

C. The supreme court may adopt rules of procedure and evidence to govern and implement the provisions of this act.

D. The cost of such videotaping shall be paid by the state.

E. Videotapes which are a part of the court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim.

History: 1953 Comp., § 40A-9-27, enacted by Laws 1978, ch. 98, § 1.

## Impact of a Community Health Approach to Rape

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### *The Problem*

Rape is the fastest rising violent crime in the United States today.<sup>1</sup> In light of the subsequent disruption of the health of its victims and implied illness of the offenders, rape is growing as a public health problem. Much attention has recently focused upon the need for improved health care of the rape victim.<sup>2-4</sup> Various victim treatment models have been presented.<sup>5-7</sup>

However, the total health needs of the victim cannot be dealt with in isolation from the environment in which this crime occurs. Legal, social, political, and economic forces in the community contribute heavily to the etiology of rape, the willingness of victims to report their assault and seek help, and the likelihood of arresting, convicting, and treating the rapist.

No matter how effective the model of treatment is in preventing subsequent physical and emotional damage to the victim, helping services still only reach an estimated 10 to 20 per cent of all rape victims nationally.<sup>1</sup> Thus, the vast majority of victims do not receive supportive services. Further, low rates of victim reporting yield few apprehensions and convictions of rapists. This fact is especially disturbing, for while rapists have one of the highest rates of recidivism (above 70 per cent), their crime is among the most amenable to treatment. Treatment programs for rapists have been shown to reduce recidivism to approximately 15 percent.<sup>8</sup>

The following article describes a community health approach to the problem of rape. After implementation of and

intense publicity about improved services and procedures for rape victims, an attempt was made to assess the impact of these publicized programs on both rape victim reporting and arrests and convictions of sex offenders.

### *Methods: Community Wide Task Force*

Recognizing the importance of the problem, various agencies concerned with sex crimes, predominantly within Albuquerque and surrounding Bernalillo County, formed the New Mexico Task Force on Victims of Sex Crimes. Participating members represented such groups as the local Rape Crisis Center, City and County law enforcement agencies, County district attorney's office, County hospital, State medical school, and County sex offender treatment program.

The purpose of the Task Force was twofold. First, to develop, improve, and coordinate existing facilities, skills, and services to better meet the needs of New Mexico citizens in regards to rape; second, to provide community education about rape.

In the past two years, the Task Force was successful in either establishing or encouraging the following developments:

1. Passage of progressive sex crimes legislation. This protected the victim on the witness stand against the harassment of having to reveal her past sexual history, and offered graded penalties to match the severity of sex crimes, a measure found elsewhere to increase the willingness of juries to convict sex offenders.<sup>9</sup>
2. Expansion of counseling and educational services at the Albuquerque Rape Crisis Center. This includes a 24-hour telephone crisis hot line.
3. Free emergency and follow-up medical care for rape victims at the Bernalillo County Medical Center (BCMC) subsidized by the City of Albuquerque and County of Bernalillo.<sup>10</sup> It is estimated that BCMC treats over 80 per

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cent of all rape victims receiving medical care in the County.

4. Establishment of a Rape Contact Team, on-call 24 hours a day, at the County hospital, supervised by the staff at the University of New Mexico's Family Practice Clinic.
5. Establishment of a protocol for emergency room medical treatment of rape victims and provision of a special rape evidence kit to insure thoroughness and uniformity of evidence collection.
6. Law enforcement investigation by women detectives from Sex Crimes Units established in both the Albuquerque Police Department and the Bernalillo County Sheriff's Department of sexual assaults.
7. Expanding referrals to and consultation from Alternatives, Inc., a community-based, sex offender treatment program for Bernalillo County. One of 14 such programs in the country, it has provided judges and prosecutors with options for pre-prosecution evaluation of alleged rapists. After conviction, Alternatives, Inc. provides both evaluations and recommendations before sentencing and continued group and individual counseling while the rapist is in the penitentiary and during parole. For first offenders convicted of third degree rape, the program provides community-based treatment as an alternative to incarceration. Preventive care is also provided. Up to 20 per cent of referrals to Alternatives, Inc. emanate from County mental health workers requesting early treatment of their clients before they run afoul of the law.

Beginning in the spring and early summer of 1975, the work and accomplishments of the Task Force became widely publicized throughout Albuquerque and surrounding Bernalillo County. Information was disseminated through newspaper articles, television news reports, radio talk shows, conferences and lectures in the community. In addition, information concerning arrests for sexual assault and outcomes of subsequent criminal court proceedings are regularly reported in the press.

Objective measures of the impact of Task Force supported programs on victim reporting, and arrests and conviction of sex offenders were sought. While data on program impact on absolute incidence of sexual assaults would be ideal, the exceedingly low rates of reporting of this crime makes these data unobtainable. Data available to us included: number of patients reporting sexual assault at hospital emergency rooms in the County, number of inmates booked into the County jail charged with sexual assault, and number of successfully prosecuted sex assault cases tried before the County's criminal court.

## Results

### Data on Rape Victim Reporting to Hospitals

Data in Figure 1 summarizes reported rapes on a monthly basis for three twelve-month periods (July-June) 1972-73, 1974-75, 1975-76. BCMC Emergency Room records for the latter half of 1973 are missing, so the year encompassing this time period is not included in the analysis. The data were subjected to a two-way analysis of variance. The observed

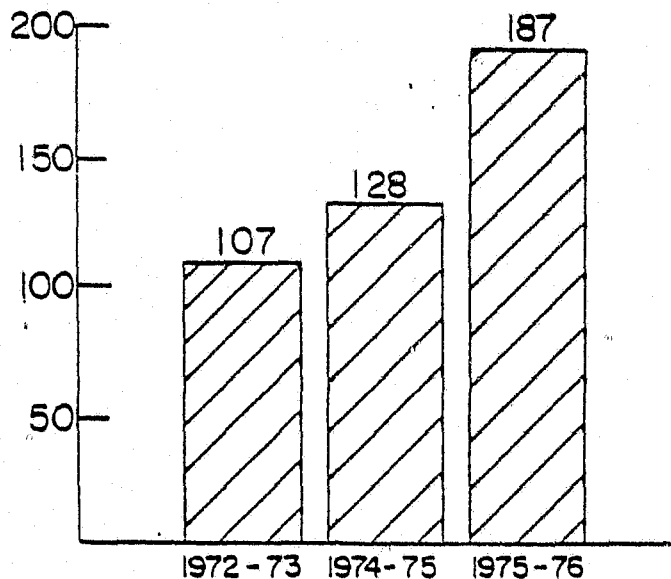


Figure 1—Alleged Rape Victims Treated at the Bernalillo County Medical Center Emergency Room

F-value was  $F_{(2,21)} = 13.627$ , which is significant at  $p < .005$ . Further analysis using the Newman-Keuls test showed that for the two periods, July, 1972—June, 1973 and July, 1974—June, 1975 the number of rapes reported did not differ significantly, however both of these periods had significantly fewer rapes reported than during the period July, 1975—June, 1976 ( $p < .005$ ). A telephone survey of other hospital emergency rooms in Albuquerque revealed that while relatively few victims had been seen each year, no decrease was noted in the 1975-76 period when BCMC was treating a significantly increased number.

### Data on Arrests of Alleged Sex Offenders

Quarterly tabulations of inmates incarcerated for sex offenses before and after the 1975 summer publicity campaign were requested. Monthly reports for one earlier comparable quarter were obtained (Figure 2). A six-and-a-half fold increase in arrests was observed in the last quarter.

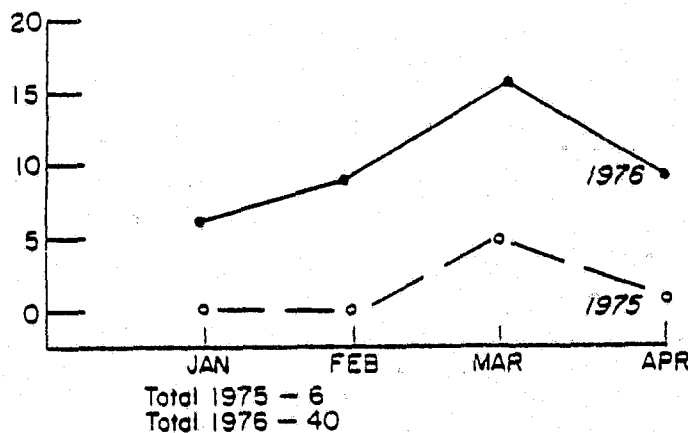


Figure 2—Sex Offenders Booked into the Bernalillo County Jail

### Data Obtained from the Bernalillo County Courts

Criminal court records revealed a projected two-fold increase in convictions for sexual assault in 1976 over 1975 (Table 1). Similar information concerning prior years was not available to us.

TABLE 1—Outcome of Sex Assault Cases in Bernalillo County Courts

	1975 (12 Months)	1976 (6 Months)	Projected (12 Months)
Trial Convictions Pleaded Guilty to Charge	10	7	14
	3	7	14
Total	13	14	28

### Conclusions

Preliminary data from Bernalillo County in New Mexico indicate that a well publicized, broadly sponsored comprehensive program to improve services for rape victims encourages increased victim reporting. This, in turn, appears to yield increased arrests and subsequent convictions of alleged sex offenders.

Isolation of single variables associated with program success is difficult. However, our records suggest that increased reporting of sex assaults can be encouraged by several factors: an anonymous telephone counseling service, economic incentives, and intensive advertising by victim-serving agencies. But increased victim reporting will not necessarily lead to increased arrests and convictions of sex offenders unless there is well publicized legal protection pro-

vided for the victim, availability of long-term health and legal counseling, and evidence of successful prosecutions of sex offenders widely reported in the news media.

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