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COURT WATCH

RIGHTS FOR THE RAPE VICTIM: LIFTING STATUTE OF LIMITATIONS FOR PROSECUTION OF VIOLENT CRIMES

BY SUZANNE M. KNIGHT

Rape is a crime that traumatizes its victims long after the attack. According to The Rape, Abuse and Incest National Network (RAINN) the U.S. Department of Justice estimates that in 1996 over 307,000 women were raped in the United States.¹ Rapists are often successful in eluding arrest and prosecution for their violent crimes. Currently, in New York State there is a five year statute of limitations on all crimes except murder and first-degree kidnapping.² The statute of limitations limits the police and prosecution from solving rape crimes that are beyond the current five year limit. New York State is not alone in changing its laws to protect its citizens. "Advocates, prosecutors and survivors are working together in states across the county to change law and statutes."³

The strict adherence to the current statute of limitations allows the rapist to continue to violate their victims without fear of punishment. At the start

of the 21st century New York State is finally starting to address the statute of limitations problem with a landmark and controversial proposal. New York State Governor George Pataki has proposed the lifting of the statute of limitations on violent felony crimes. "As part of the plan, Pataki also proposes to eliminate the statute of limitations, or the period of time prosecutors have to bring charges, on a range of violent felony crimes, including rape and manslaughter."⁴

Prosecutors and New York Assembly leaders are very supportive of Pataki's initiative. Erie County District Attorney Frank Clark recently commented that "...removing the statute of limitations on crimes like rape will allow prosecutors to solve crimes that in the past would go unpunished."⁵ State Assembly Republican Leader John J. Faso (R-Kinderhook) has stated that "there are a significant number of rapists who could be prosecuted if the statute of limitation was suspended. Those rapists could well be prevented from raping more innocent women as a result of this change."⁶

What prompted New York State, through its Governor, to review its statute of limitations for certain crimes? "DNA evidence has become an important tool in the hands of both prosecutors and defense attorneys. Its value is that it can establish to a virtual certainty the presence or the absence of a defendant at

¹ Bureau of Justice Statistics, U.S. Department of Justice. *National Crime Victimization Survey 1997*, (visited Mar. 1, 2000) <<http://feminist.com.rainn.htm>>.

² Editorial, *Fighting Rape With Science*, New York Post, Feb. 11, 2000 available in 2000 WL 3902129.

³ Rape, Abuse & Incest National Network (visited Mar. 3, 2000) <<http://feminist.com.rainn.htm>>.

⁴ Michael Beebe, *Pataki seeks DNA tests of all criminals*, The Buffalo News, Feb. 25, 2000 at A1, A5.

⁵ *Id.*

⁶ *ASSEMBLY REPUBLICANS PROPOSE BILL TO PROSECUTE RAPISTS* (visited Mar. 2, 2000) <New York State Assembly <http://www.nysa-gop.org/news/RAPE%20STATUTEOF%20LIM2-9-00.htm>>.

the scene of the crime.”⁷

The lifting of the statute of limitations follows a recently enacted and expanded New York State DNA Law. “The new measure expands the number of convicted felons, who will be required to provide DNA samples to approximately 65 percent of the State’s convicted felons.”⁸

The expanded DNA database will aid law enforcement officials in their investigation of rapes and related sex offenses. “Matches to known offenders from crime scene evidence make law enforcement’s investigative capabilities more efficient and effective and allow suspects to be either identified or exonerated early in the investigative process.”⁹

There is no argument that DNA technology makes it possible to solve cases that would until recently be considered unsolvable. Other states have instituted their own DNA databases with a large degree of success. The DNA Analysis Unit of the FBI Laboratory reported that “six unknown subject sexual assault cases that occurred in Washington D.C. have been confirmed as linked to three sexual assault cases under investigation by the Jacksonville, Florida Sheriff’s Office.”¹⁰

The Governor’s statute of limitations initiative has come under fire by defendant’s attorneys and the criminal

rights groups. “Predictably, the criminal-rights lobby and defense lawyers are sounding alarm bells to Pataki’s proposal...they say that lifting the statute of limitations hurts defendants’ abilities to collect evidence in years-old cases—which, they say is why the statute was first instituted.”¹¹

The lifting of the statute of limitations for violent felonies will insure that violent rapists and sex offenders are punished and the public is safer. “The New York State Assembly is committed to ensuring that violent criminals receive severe punishments, and that all New Yorkers feel safer—whether they’re on the streets, at home, at school, or in the workplace.”¹² This new law will assist in offering rape victims hope that their nightmare will be over once the perpetrator is prosecuted and punished.

⁷ Spiros A. Tsimbinos et al., *NEW YORK’S EXPANDED DNA DATABASE*, 37 N.Y. Crim.L.News 1 (1999).

⁸ *Id.*

⁹ *Id.*

¹⁰ FBI National Press Office, U.S. Department of Justice Federal Bureau of Investigation Press Release, *First “Cold” Hit Recorded in National DNA Index System!* (visited Feb. 26, 2000) <www.fbi.gov/pressrm/pressrel199/coldhit.htm>

¹¹ *Fighting Rape With Science*, New York Post, Feb. 11, 2000 available in 2000 WL 3902129.

¹² Sheldon Silver, Speaker of the Assembly and Joseph Lentol Chair, Assembly Codes Committee, *The Toughest Crime Laws in a Generation: A summary of recent significant criminal justice laws passed by the New York State Assembly February 2000*.