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City of Detroit
CITY COUNCIL

MARYANN MAHAFFEY
PRESIDENT PRO TEM

January 10, 1980

Mr. Walter Douglas, Chairman
Police Board of Commissioners
1300 Beaubien
Detroit, Michigan 48226

Dear Mr. Douglas:

Important advances have been made for women in general and sexual assault victims in particular with the institution of the Michigan Criminal Sexual Conduct Code and the Sex Crimes Unit Rape Counseling Center in the Detroit Police Department. I designed the Rape Counseling Center with the assistance of many and after lengthy national research. It has been a standard setter in the country. The practice of giving lie detector tests to rape victims represents a serious and dangerous threat to these advances. It places the burden of proof on the victim which is in direct contradiction to the Criminal Sexual Conduct Code. Once again, the victim is on trial. It legitimizes the myth that the woman who reports rape, especially if she knew the assailant, is lying in order to get revenge.

The discriminatory nature in which rape victims are treated is augmented by the use of the detectors in the pre-warrant stage. ~~Criminal Sexual Conduct is included in the proposed practice of giving lie detector tests.~~ In a random survey of one Recorder's

January 10, 1980

Court Judge's dispositions over the last year, one-on-one crimes included robberies, carrying a concealed weapon, assault and battery, possession of heroin, and extortion. In each case, it was the complainant's word against that of the defendant; yet, the complainant was not required to take a lie detector test. Where is the equity in singling out the one crime where victims are overwhelmingly women--and in Detroit, Black women.

The argument that lie detector tests in rape cases is a "necessary investigative tool", aside from implying that all victims lie, implies that police officers are thereby relieved of their responsibility of effective and thorough investigation. Replacing such investigation with an unscientific and unreliable method is grossly irresponsible. The fact that the results of the lie detector test are not admissible as court evidence is partly a result of their high rate of inaccuracy. The sociopathic rapist can easily pass the test, while the nervous intimidated victim can easily fail it. Thus, the safety of other women is jeopardized as rapists are often repeaters and become more brutal with each victim.

It is significant to me that none of the rape investigation training manuals and films for prosecutors and police that I reviewed either advocate or even mention the use of lie detectors. Rather, they stress the importance of securing and preserving easily perishable evidence at the scene of the crime. They equally stress the importance of positive relationship between the victim, and police and legal personnel. The Procedural Manual for Law Enforcement, Human Services, and Legal Personnel from

January 10, 1980

Minnesota states that "although each victim responds to the sexual assault in a different way, every victim will need the strong support from legal personnel in order to play an effective role in the prosecution of the case. In addition, the victim's emotional adjustment to the sexual assault may be helped or hindered by the quality of his or her contacts with legal personnel." The quality of contact with legal personnel is obviously hindered by the implication that the victim's credibility must be tested by a machine. It's a crude and sure way to alienate and antagonize an already traumatized person, and thus jeopardizes the prosecutor's goal-- to convict a criminal.

I submit that the problem does not lie in women who cry rape for revenge or attention, but in a need to strengthen already existing policies, laws and institutions, and the changing of others. A representative from the Hennepin County District Attorney's office in Minnesota informs me that lie detector tests on victims in investigation actually hinders rather than helps a case. Their experience has shown that while assailants passed the test and victims failed, all other evidence pointed to the fact that the assault did indeed occur. What they find infinitely more effective is a strong network of cooperation between police, district attorney, social work, counselor, doctor, and sensitization of judges. The evidence kit that doctors are required by law to use has proven to produce some of the most important and decisive evidence in court.

This medical evidence kit is similar to the one developed by the Michigan State Police but is not used at Detroit General

January 10, 1980

Hospital because we are told the Detroit Police Department criminal lab personnel won't process it. Instead, a much less thorough and inadequate procedure is performed at Detroit General Hospital. During the short period that the Prosecutor's Repeat Offenders Bureau was handling all rape cases in the warrant and preliminary examination stages, there were notable improvements in the prosecution of rape cases. Prosecutor's Repeat Offenders Bureau attorneys made a point to establish a positive relationship with the complainants before their testimony, encouraged and supported cooperation between Prosecutor's Repeat Offenders Bureau, Sex Crimes Unit and the Rape Counseling Center and was usually successful in creating an atmosphere that respected the victim's privacy and emotional state. But budget cuts and priorities of those setting policies has reduced Prosecutor's Repeat Offenders Bureau attorneys' involvement in Criminal Sexual Assault cases to the warrant stage if at all.

This is a policy issue, not procedure. I remember my fight to get the Police Department to place a higher priority on rape than on bunco games in the alley. Rather than adopting a policy that produces evidence inadmissible in court and further intimidating and antagonizing a potentially cooperative client, we need to establish policies that will increase our conviction rate and encourage reporting. The knowledge that a person may have to bear the burden of proof by taking a lie detector test can only discourage reporting. This body must recognize that the issue of lie detector tests for rape victims is one of policy. It is a

January 10, 1980

policy that is discriminatory and backward. This body must develop policies that have positive results such as resuming Prosecutor's Repeat Offenders Bureau's involvement, remedying the problem the crime lab has in its inability to process the Michigan State Police medical evidence kit, encouraging a network of support among prosecutors, judges, social work, counselors, police and doctors, and assist the community in becoming more aware of the myths versus realities of rape so we'll have well-informed jurists.

Sincerely,

Maryann Mahaffey, ACSW

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