

Op-Ed Criminal rape cases should not be on a ticking clock



Bill Cosby departs the Montgomery County Courthouse after a preliminary hearing in Norristown, Pa. on May 24. (Matt Rourke / Associated Press)

By **Gloria Allred**

SEPTEMBER 2, 2016, 5:00 AM

More than 50 women have accused Bill Cosby of rapes or sexual assaults as early as the 1960s and stretching for decades beyond. Only one criminal case has been filed, however. It is pending in Pennsylvania.

Why have no other criminal rape or assault charges been filed? In many cases, accusers never filed a police report. In others, prosecutors may not have believed that the available evidence would convince a jury beyond a reasonable doubt. But for most of these accusations, it was simply too late for a prosecutor to even consider them. That came as shocking news to many of the women who have bravely come forward in recent years. If they were willing to testify under oath before a jury, they ask, why couldn't Cosby be hauled into criminal court?

ADVERTISING

“

The Justice for Victims Act (Senate Bill 813) would [eliminate] the statute of limitations for criminal prosecution of rape and sexual assault.

The answer is that California and many other states have a statute of limitations for the prosecution of crimes, including sexual assault and rape. A statute of limitations is a legal deadline before which prosecutors must file a criminal case, or be forever prevented from proceeding to prosecute it. Under California law, rape and other felony sex crime cases generally can be filed only within 10 years — a deadline that is extended only if there is DNA evidence. (Pennsylvania’s statute of limitations for sexual assault is 12 years, allowing the one case against Cosby to go forward there.)

From the moment of assault, the clock starts ticking. This, of course, is true not only for Cosby’s accusers. There are statutes of limitations for all crimes in California except murder and embezzlement of public funds. That’s right: Theft of public funds is always prosecutable, but acts of sexual violence against women or children are not.

The Justice for Victims Act (Senate Bill 813) would remedy that by eliminating the statute of limitations for criminal prosecution of rape and sexual assault. The California Legislature passed the bill, and it is now on Gov. Jerry Brown’s desk. He should sign it.

Sixteen other states already have taken this step. Getting rid of such deadlines sends a message to sexual predators that they should fear criminal consequences for a rape or sexual assault; even if there is no DNA evidence, they still may be prosecuted, convicted and imprisoned.

The Justice for Victims Act would have made a difference for Cosby’s accusers in California if it had been enacted 60 years ago.

Charlotte Fox, for instance, has made a public statement accusing Cosby of engaging in non-consensual sexual activity with her in Beverly Hills in the 1970s while she was incapacitated. Another accuser said Cosby violently

forced her into a sexual act in Hollywood while interviewing her for a role in a movie in the 1970s.

Judy Huth filed a civil lawsuit in California alleging she was victimized by Cosby in the 1970s when she was 15. She is within the existing statute of limitations to litigate a *civil* case against Cosby because the lawsuit alleges child sexual abuse. It is, however, too late for a criminal case — even if the prosecutor thought guilt could be proved beyond a reasonable doubt.

Those who represent defendants often oppose eliminating the statutes of limitations. The theory goes that the fairness of a trial is compromised by the passage of time, so prosecutors shouldn't sit on evidence of a crime and wait to charge a person once memories have faded, documents have been thrown out and alibis get hard to prove. This is why other criminal charges — with rare exception — have time limits, they argue, and rape and sexual assault should not be treated differently.

Rape and sexual assault *are* different, however. Other crimes are much more likely to be reported quickly, but we know that victims of sexual violence often take years to come forward because they may feel ashamed, mistakenly blame themselves for what happened or fear they will not be believed. Police and prosecutors aren't holding onto evidence; they haven't been informed that there was a crime.

For constitutional reasons, the Justice for Victims Act would not be retroactive; it can't re-open the door to criminal courts that statutes of limitations already have slammed shut. But it will help victims of rape and sexual assault in the future.

If Gov. Brown signs this bill into law, statutes of limitations no longer will be a sexual predator's best friend and a victim's worst enemy.

Gloria Allred is a victim's rights attorney in Los Angeles who represents 33 women who have accused Bill Cosby of rape or sexual assault.

Follow the Opinion section on Twitter @latimesopinion and Facebook

Copyright © 2016, Los Angeles Times