

The Campus Rape Myth

By Cheryl Annenberg

In the United States today, there has developed an idea that college campuses are unsafe for women. Modern-day feminists and social justice warriors alike have complained about a so-called "rape culture" pervading college campuses, offering statistics about how one in five women is sexually assaulted on college campuses. However, K.C. Johnson and Stuart Taylor's new research - *The Campus Rape Frenzy: The Attack On Due Process At America's Universities* - calls into question the idea of a "rape culture" on college campuses, and their results show how this myth has had a detrimental impact on due process rights.

Here are several important things one needs to know about the campus rape epidemic myth.

Documentaries such as "The Hunting Grounds" assert that one in five college women are victims of sexual assault. This one in five statistic is a distorted interpretation of a wide range sexual contacts. The statistic is questionable, because it would mean that there are 400,000-500,000 annual sexual assaults; and yet there have only been 4,558 to 5,335 reported sexual assault incidents on college campuses per year from 2012-2014. The fact is that campus sexual assaults reports have declined nationwide by over 50 percent from 1997 to 2013.

The reason for this contradiction is because the one in five statistic was produced from questionable studies that used small sample sizes and faulty line of questioning.

What was the line of questioning that led to the result that so many college women were assaulted? The interviewers do not ask these respondents, these women, "Have you been raped?" They do not ask, "Have you been sexually assaulted?" Instead, they ask questions like, "Have you ever had sex with someone when you were intoxicated?" And if the answer is yes, they check that as a sexual assault (Because alcohol made the act "unchosen, therefore unfree.) Another common question is: "Have you ever had sex with somebody when you didn't really want to," whether or not you told him you didn't really want to. If the answer to that is "yes," they check it as a sexual assault. In other words, the biased interviewers include a whole range of unwise sexual choices that neither the law nor common understanding would classify as rape or sexual assault.

[The Bureau of Justice Statistics (BJS), a more reliable source than the surveys that produced the one in five statistic, has estimated the rate at which women have been sexually assaulted on college campuses is actually one in 40.]

These unreliable questions were used as the basis for policy under the Department of Justice – and they amount to a violation due process rights. In April 2011, the

Department issued a letter to campuses nationwide that compelled them to do the following:

1. Lower the standard of proof for sexual assault and rape from a "clear and convincing evidence," to a "preponderance of evidence" standard;
2. Essentially eliminating cross-examination of the accuser;
3. Allowing double jeopardy—the accuser can ask for the college to try the case again if the college rules against the accuser;
4. Subjecting people accused of sexual assault to "interim measures," such as being removed from their dorms, before the investigation commences.

In total, the above measures have severely curtailed due process rights and have resulted in dire consequences for many college students.

Many of those who are accused have begun to fight back in the legal arena. Over one hundred lawsuits have been filed by college students who claim that they were falsely accused of sexual assaults and denied due process rights. Taylor and Johnson's research provides 40 examples of this, but one of the most egregious examples that took place at Amherst College in February 2012. Two students, identified under the pseudonyms Michael Cheng and Alice Stanton, began kissing each other on the lips in front of a crowd people and ended up taking their actions to a room, where Stanton performed oral sex on Cheng.

There was just one problem: Michael Cheng was the boyfriend of Stanton's roommate, who was out of town for the weekend. Stanton's actions resulted in ending Cheng's prior romantic relationship. This act led Stanton to be ex-communicated from her circle of friends. She became angry. About a year and half later, Stanton took advantage of the Justice Department guidelines to claim that Cheng sexually assaulted her.

Ironically, it was actually Cheng who could claim to have been sexually assaulted because "he was passed out drunk" when their sexual encounter occurred, while she was only "slightly tipsy." But the lack of due process in the campus's investigation resulted in Cheng being expelled from the campus. Cheng and his attorney were later able to pull together Stanton's text messages to prove that her story was false, but Amherst College refused to re-open the case.

Many people – even policy makers – claim that it isn't a big problem that some students are kicked off campus for being falsely accused of sexual assault. For instance,

Congressman Jared Polis said in a 2015 congressional hearing, "If there are ten people who have been accused, and under a reasonable likelihood standard maybe one or two did it, it seems better to get rid of ten people than to risk sexual assault on our campuses." The congressman added, "We're not talking about depriving them of life or liberty, we're talking about them being transferred to another university, for crying it out loud."

But Polis is vastly understating the consequences of being falsely accused of sexual assault. The fact is that it's actually incredibly difficult for someone who's been smeared across campus and in media headlines as a sexual assaulter to rebound from it, because it becomes difficult for such a person to get into another college. They will be ostracized socially and professionally.

The media has a bad habit of overhyping false stories of sexual assault. No example illustrates this better than the infamous *Rolling Stone* magazine article about an alleged rape at the University of Virginia. In 2014, reporter Sabrina Erdely published a story about Jackie Coakley, who claimed that she was gang-raped and brutally assaulted by seven members of University of Virginia's Phi Kappa Psi fraternity. Erdely's ideological determination to prove the existence of campus rape culture resulted in sloppy journalism on her part, as she took Coakley's word at face value and only interviewed those who were sympathetic to the campus rape culture narrative. Erdely failed to interview the accused fraternity members.

Erdely's published article went viral and was widely hailed by the media as an exceptional piece of journalism. When others began questioning the obvious holes in the story, the media mocked them as truthers. The problem was that eventually it was discovered that Coakley had concocted the tale of the gang-rape in a vain attempt to win over a male student in whom she had a romantic interest. *Rolling Stone* eventually had to retract the story.

Contrary to the accepted narrative of a campus rape culture, athletes on campus do not routinely get away with sexual assault. To be sure, there are star athletes who "sometimes receive favorable treatment by schools." However, the fact is that "athletes' visibility provides perverse incentives" for universities to make examples out of them. One example is that last fall, Yale kicked out its basketball captain in the middle of one of the greatest seasons they've ever had on a questionable allegation. The woman, it turns out, was unhappy with a sexual encounter she freely entered. At first, she didn't want to make a complaint. Yale authorities pushed her to make a complaint.

States have abetted the kangaroo court systems on college campuses through "affirmative consent" laws. And affirmative consent basically means that there's a presumption that every sex act was a crime on the part of the male unless he can demonstrate that every step of the way he explicitly asked for permission. So, "May I touch you here? May I touch you there? May I touch you in the other"— is the accepted procedure. If one fails to say "May I touch you in the other place" and you touched her in the other place, That may be a sexual assault under these laws.

All in all, the new climate of opinion concerning college sexuality creates a situation where unhappy romantic experiences are likely to be confused with genuine sexual assault. As a consequence, the valued idea that a person is to be presumed innocent until proven guilty of a crime is sacrificed on the altar of false ideas about sex and violence.