

Winter 4-25-2019

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The Controversy of Sexual Violence in the University Setting: Are College Athletes given a
Lighter Sentence due to their “Status”

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Winter 2019

Abstract

The following paper investigates sexual violence on university campuses. It discusses the role of the Title IX of the Education Amendments of 1972 along with a Dear Colleague Letter enacted by the United States' federal government to all public institutions regarding how to respond when complaints and allegations of sexual violence are made. The paper addresses the statistics and common misconceptions surrounding sexual violence on college campuses before focusing specifically on student-athletes' involvement in sexually violent crimes. It then looks into three highly publicized cases where student-athletes are the alleged perpetrators of sexual violence. The three cases analyzed are: the University of Montana football team and player Beau Donaldson, Brock Turner from the Stanford University swim team, and the Duke University Lacrosse team. After the events of the cases are highlighted, the question of whether the student-athletes were given lighter sentences due to their status is posed and discussed. The paper concludes with the general feeling that yes, student-athletes are often given privilege when their punishments are considered for sexual violence. However, this is a topic where more investigation and analysis of specific cases is needed to come to a widely accepted and complete conclusion.

The Controversy of Sexual Violence in the University Setting: Are College Athletes given a Lighter Sentence due to their “Status”

It is no secret today’s college campuses are facing the unfortunate reality that issues of sexual assault, sexual harassment, and rape are becoming more common and much more publicized. Over the past decade it seems that there has been a rise in the number of incidences, and that may be true, but in no way are the challenges surrounding sexual assaults and rapes new or unheard of. Rather, it’s the newfound confidence of the victims who have been able to speak out and share their experiences that has brought these crimes to the forefront of the public’s mind.

Throughout this paper sexual violence will be used as the overarching term in reference to rape, sexual assault, sexual battery and sexual coercion. Sexual violence is formally defined as any physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the use of drugs or alcohol, as well as a possible intellectual or other undefined disability (Ali, 2011).

Reports and allegations regarding sexual violence on university campuses across the United States now seem to be an almost daily occurrence, so much so some have termed it an “epidemic” (Krakauer, 2015, p. 9). However, there is still little knowledge among the general population about the typical characteristics of sexual violence. Misconceptions surrounding the type of perpetrator, appearance of the victim, as well as the typical events during an attack are common, and there is a great need for these misconceptions to be discredited, and the true characteristics of sexual violence to be published.

A typical perpetrator is not a masked man hovering in a dark alley waiting for his next victim to walk by, rather 60% of sexually violent attacks are committed by acquaintances: someone the victim will know (Kerner, Kerner, & Herring, 2017). Nor is sexual violence occurring in a dark alley way. It was reported in 2016, after a 10 year study conducted in Massachusetts, of all the sexual violence reported among the state's universities 81% occurred in campus housing (Kerner et al., 2017). In addition to assaults occurring in dormitories, an equally common environment for sexual violence is during a typical campus party with alcohol involved. Multiple studies have shown 76-81% of sexual assaults and rapes occur when the victim is intoxicated, and not because she has been forcefully drugged, but by her own choosing (Kerning et al., 2017). Voluntary alcohol intoxication has been found to be one of the greatest risk factors increasing the chances for a victim to be taken advantage of by a potential perpetrator.

One in four women on college campuses will be a victim of sexual violence, and of those 25% , most commonly it will be first and second year students (Kerner et al., 2017). First and second year students are often more vulnerable and easily persuaded when it comes to participating in a university's typical 'Welcome Week' party scene and the general campus party culture. Upperclassmen tend to view the naïve, new students as potential prey within this setting, and as difficult as it is to accept this relationship between students it's often more true than not.

During a sexually violent attack victims become overwhelmed with an incredible sense of fear; often questioning everything in the moment: Why is this happening? Did I want this? If I scream will it get worse? Maybe, if I stay quiet and don't struggle it will be over sooner (Krakauer, 2015). This is one of the most common misconceptions surrounding sexual violence. When attacks are reported police officers, investigators, prosecutors, and lawyers often ask,

“Well, why didn’t you yell or scream or fight back?” when in reality they do not understand the victim’s paralyzing fear at the time of the attack.

Even with more and more victims beginning to speak out, the start of the #MeToo movement, and the harsh reality that one in four women on any given college campus will be the victim of a sexual assault or rape, there are still many acts of sexual violence going unreported (Kerner et al., 2017). Surveys, studies, and statistics from recent years have discovered fewer than 20% of sexually violent incidents go unreported, and many researchers believe this could be an overly generous number (Kerner et al., 2017). Oftentimes, many victims choose not to report the crime due to a fear of others knowing about the incident, fear of retaliation from the perpetrator, belief that there is insufficient evidence to report, uncertainty about how to report, and uncertainty about whether a crime was committed or harm was intended (Kerner et al., 2017). Along with these fears and uncertainties victims have seen time and time again that there are no repercussions or actions taken against the accused perpetrator (only six out of every 1,000 accused rapists will be convicted and sentenced to prison time) which tremendously lowers a victim’s desire to report the sexual violence (Kebodeaux, 2017).

Picture this: It’s Welcome Week at a typical university. There are the new freshmen and 2nd year students along with upperclassmen milling about with friends, drinking, laughing and dancing at a house party. An upperclassman male has spotted a freshman female alone, pouring herself another drink. He walks up to her and starts a conversation. She is immediately taken by his charm and warm smile. She recognizes him; maybe he is one of her friends’ siblings’ friends; he is definitely a familiar face. As the night goes on the two continue to talk, continue to drink, and become closer. Before she knows it she is drunk. He offers to walk her back to her residence hall, and she thinks nothing of it but as a thoughtful gesture to see that she makes it

home safe. She lets him come up to her room. Before she can say another word she is being taken advantage of, but makes no move to scream or fight because what if that only makes it worse. Then, it is over. He leaves and goes back to the party. She is left in her bed, feeling broken and confused as to whether that was something she had wanted, or if that was wrong.

As hard as that scenario is to read; it is more often than not the most common sequence of events when it comes to sexual violence, evidenced by the statistics and studies previously discussed. The victim is a new college student who chooses to drink for herself that night, the perpetrator is an upperclassman making the conscious choice to seek out this victim, the attack occurs in the school's dormitories, the victim makes no effort to stop the perpetrator during the attack, and the victim questions all intentions after the attack is over. Purposefully left out of this scenario is whether or not the victim chooses to tell someone of the sexual violence. It would be wishful thinking to believe that she does, but maybe she is one of the few victims who decides to tell authorities, and thus begins the difficult conversation among her university's officials to question if sexual violence on their campus is an issue, and how they can move forward to bring awareness and stop the problem.

Universities have begun to acknowledge the lack of appropriate action, investigation and punishment in regards to reports of sexual violence and have reevaluated their responsibilities as outlined in federal laws and amendments. With the increased awareness of this problem comes the need to reiterate laws and regulations previously passed regarding the proper way to deal with sexual violence complaints and claims among schools. The most relevant of these pertain to the Title IX of the Education Amendments of 1972 and a Dear Colleague Letter released in 2011 by the Office of Civil Rights; both discuss the role a post-secondary institution plays in handling sexual violence, and the specifics of these obligations are discussed below.

The Title IX of the Education Amendments of 1972 is the law that defines, addresses, and prohibits sexual discrimination in all federally funded educational settings across the United States. This includes over 16,500 local school districts and 7,000 post-secondary schools, charter schools, for-profit schools, museums, and libraries (United States Department of Education [DOE], 2015). All educational programs under Title IX have obligations and compliance requirements in the areas of, but not limited to: recruitment, admissions, counseling, financial assistance, athletics, discipline and employment (DOE, 2015). When allegations are made against an institution for the infraction of Title IX, specifically in regards to sexual discrimination, it's the duty of the Office of Civil Rights to evaluate, investigate, and resolve the allegation and all complaints made.

Also under the scope of Title IX are issues involving sexual harassment, and all actions labelled as sexual violence fall under this category (Ali, 2011). Under Title IX, when university officials are made aware of sexual violence they have always been obligated to:

1. take immediate action, when they have become aware of sexual violence
(immediate action meaning taking appropriate measures to investigate and determine the series of events)
2. take prompt and effective steps to end the sexual violence, prevent recurrence, and address effects whether or not it is a criminal investigation
3. put in place protection and privacy for the victim if necessary
4. create a grievance procedure for students to file complaints of sexual discrimination, including sexual violence, with equal opportunity for both parties to present witnesses and evidence for the university

5. rule based on a “preponderance of evidence” standard to resolve grievances and complaints
6. notify both parties of the outcome (DOE, 2011)

While universities were able to implement all of the above, not all institutions were functioning effectively. In addition, due to the recent worries about sexual violence on college campuses nationwide, in 2011 the assistant secretary of the Office of Civil Rights released a “Dear Colleague Letter” to all institutions addressing concerns regarding the “epidemic” and to clarify how schools should proceed in rectifying the problem. This Dear Colleague Letter emphasized over and over again the importance in universities taking immediate action when a complaint of sexual violence is made. It also made sure to distinguish the role of criminal investigations along with the school’s responsibility to investigate the complaint. The Letter then continues to clarify the definition of sexual violence, what actions are considered sexual violence, and what, how and when consent can be given, all of which are stated earlier in this paper.

The newest additions to the Title IX procedures that the Dear Colleague Letter made were in regards to publishing new policies about sexual violence on campuses, so students are aware of their role (Ali, 2011). These additions included:

1. publishing overall sexual violence university policy and adopting and publishing grievance procedures
2. designating a Title IX coordinator to ensure universities are following all obligations outlined under the Title IX of the Education Amendments of 1972

3. understanding the roles of Title IX, Family Educational Rights and Privacy Act (FERPA), and the Clery Act as it relates to the victim's complaint, the outcome, and possible sanctions facing the perpetrator
4. providing examples of remedies and enforcement strategies that schools may use in response to sexual violence

It is good to outline the responsibilities universities have under Title IX, but it's more important for there to be evidence of universities implementing plans of action and publishing the specific strategies of prevention for their student populations. Wayne State University, for example, located in Detroit, Michigan, publishes a very clear and user friendly website for their students and staff to access whenever a concern or question regarding sexual violence may arise. The website outlines Wayne State's policies, plans and goals to eliminate the issue of sexual violence on their campus. It defines their university policies on what constitutes sexual violence under the scope of Title IX, where the university's jurisdiction lies when incidences are reported, and the steps they will take to investigate the claim (Wayne State University [WSU], 2018). The website also offers a unique opportunity for all students and staff to become 'trained' on how to identify potential sexual violence.

Through interactive videos the staff/faculty training module walks through the basics of sexual violence, offers a brief questionnaire, and discusses bystander intervention. The staff specific module also describes the employees' responsibilities when it comes to sexual violence, what action to take when a student reports an incident, as well as what not to do, and where to report if a student discloses a claim (WSU, 2018).

The student oriented training module similarly uses interactive videos to discuss sexual violence, however it works through difficult topics encompassing the culture of sexual violence from the students' perspective. For example, the module outlines the goals for students to know when and how to safely intervene in challenging situations, to understand how personal biases may influence relationships with others, and to learn about other difficult topics impacting college life: hazing, intimidation, alcohol, and drugs (WSU, 2018). These modules are an invaluable resource to the Wayne State campus population, and should be implemented in some way as a requirement for all students and staff enrolled at the university. They also serve as an example for other colleges across the country on how to simply offer educational training and resources to their campus populations.

Given the general statistics, scenarios and topics discussed up to this point, the issues of sexual violence on university campuses is very clear. University officials and governing bodies are continually working to better understand the specifics of sexual violence and with that comes acknowledgement of areas in which improvements can still be made. Whether those improvements be in safety for victims, better equipping campus police to handle claims, or adjusting the university court system to fairly represent victims and perpetrators. However, officials still need to garner a greater understanding and awareness when it comes to actions involving student-athletes. The rest of this paper will address just that: student-athletes involved in sexual violence, and more specifically whether student-athletes are given special treatment when they are accused of committing sexual violence.

Student-athletes are defined as intercollegiate athletes "that represent their college or university in athletic events that are coordinated by an authoritative body (e.g., National

Collegiate Athletic Associate [NCAA]), against other colleges or universities (Young, Desmarais, Baldwin & Chandler, 2017).

Student-athletes are often revered on their respective campuses. It is typically easy to pick out an athlete from the regular student population: wearing their team's apparel or carrying themselves with a little more confidence. The athlete status also comes with several benefits: priority when choosing housing, priority when registering for classes, and extra academic aid and services. Many athletes use these benefits to help them be the most successful student-athlete they can. However, some athletes will take advantage of their reverence and status to help them out of trouble, specifically when trouble comes in the form of an accusation of sexual violence.

Accusations against student-athletes committing sexual violence have become a common news story in the past decade because of, as stated above, their status and reverence as simply an athlete. Due to the seemingly larger number of cases involving student-athletes versus a "normal" university student many have wondered whether athletes are more inclined to commit acts of sexual violence. Studies investigating this are few and far between, but one of the most recent studies on the subject was published in 2017 by Belinda-Rose Young, Sarah Desmarais, Julie Baldwin, and Rasheeta Chandler. Entitled *Sexual Coercion Practices Among Undergraduate Male Recreational Athletes, Intercollegiate Athletes, and Non-Athletes*, the study looked into preconceived views towards women and sexual coercion practices among three differing groups: recreational/intramural athletes, intercollegiate athletes, and "normal" students (Young et al., 2017). Highlighted within the study is reference to the most recent survey of college campuses by Crosset, Benedict, and MacDonald (1995) which reported 19% of all sexually violent cases involved male student-athletes, but only 3% of a campus population is comprised of athletes. The larger study conducted by Young et al. (2017) also discusses other

findings from previous studies regarding the relationship between student-athletes and sexual violence. Previous studies have concluded there to be a higher likelihood that student-athletes will commit sexual violence compared to non-athlete students, while another study looked at a large scale analysis of behaviors and attitudes supporting sexual aggression between non-athletes and student-athletes on campuses (Young et al., 2019).

The information garnered from previous studies is important in understanding student-athletes and sexual violence, however more data is still needed to fully comprehend the relationship which is where the study done by Young et al. (2017) comes into play. Their study not only adds to the previous data on student-athletes, but widens the scope to include recreational/intramural athletes. Recreational/intramural athletes are defined as those who “play sports recreationally in college...who compete in a group sport or individual sport within the college setting or the local community...they include students who train 1-4 times a week during their respective sport season, do not compete nationally or internationally, and are not members of any intercollegiate team. These students also are not undergoing professional athletic training” (Young et al., 2017). The general term ‘athlete’ will be used to include intercollegiate and recreational groups of student-athletes for the remaining discussion of Young et al.’s (2017) study. Their study included 379 male students, athletes and non-athletes, who participated in a series of online surveys asking them to respond to questions regarding their thoughts, beliefs and feelings towards women, as well as report whether they ever participated in sexual coercion practices with a partner (Young et al., 2017).

Before completing the online survey participants were given the following definitions of “attitudes toward women” and sexual coercion (Young et al., 2017). “Attitudes toward women” refers to the traditional gender roles with males and masculinity being superior to females and

femininity. For the researchers this was an important concept to gather further research on because previously it has been seen that male student-athletes have a higher likelihood of accepting traditional gender roles, and thus putting them at higher risk for committing sexual violence (Young et al., 2017). Also defined for the study participants was sexual coercion. According to Young et al. (2017) sexual coercion is “the use of verbal and/or physical means to pressure or force an individual into engaging in unwanted sexual activity.” They emphasized sexual coercion practices in much of the study, again, because previous studies have shown evidence that the use of verbal sexual coercion often leads to physical sexual coercion, and males who only use verbal sexual coercion are likely to commit more serious forms of physical sexual coercion in the future (Young et al., 2017).

The results from the study were very consistent with previous studies conducted on similar topics. Young et al. (2017) found there to be more significant acceptance of traditional gender roles among the athletes surveyed compared to non-athletes. It’s also interesting to note there was no statistically significant difference in the acceptance of traditional gender roles between intercollegiate and recreational athletes (Young et al., 2017). When it came to survey responses about sexual coercion, 46% of all participants indicated using some form of sexual coercion with 54% of athletes and 38% of non-athletes responding positively (Young et al., 2017). Young et al. (2017) found athletes to be 1.77 times more likely to report engaging in sexual coercion than their non-athlete peers. Also, athletes were found to report committing more severe practices of sexual coercion, such as using force and threats of harm, compared to non-athletes. Again, no significant differences were discovered between intercollegiate and recreational athletes when looking at sexual coercion (Young et al., 2017).

Overall, Young et al. (2017) concluded there to be a greater association between “attitudes toward women”, sexual coercion practices and athletic status. They confidently report athletes showing a higher likelihood of committing sexual violence given their greater acceptance of traditional gender roles and reports of engaging in sexual coercion compared to non-athletes (Young et al., 2017). Their findings are consistent with previous studies that have indicated “attitudes toward women” being a typical risk factor for committing sexual violence. Young et al. (2017) also discussed the importance of creating intervention programs for university athletes as well as the general campus population to work towards decreasing the correlation rates between “attitudes toward women”, sexual coercion practices, and the likelihood of committing sexual violence.

The study conducted by Young et al. (2017) along with studies done previously, are important evidence to support the issue of student-athletes engaging in sexual violence at a greater proportion compared to non-student-athletes. It’s important to keep in mind that there is some difficulty in finding specific examples and statistics regarding non-student-athletes’ participation in sexual violence because an athletes actions, especially those deemed negative, are typically much more publicized. However, this does not discount that student-athletes may be given more privilege when it comes to punishments and consequences after accusations of sexually violent behavior due to their ‘status.’ The final portion of this paper will look closely into a few specific cases involving student-athletes and sexual violence, and whether these student-athletes were given special treatment when it came to their punishments.

The first example will be that of the University of Montana football team between the years of 2008-2012, but more specifically the case involving player and star running back Beau Donaldson.

The University of Montana is located in the city of Missoula with a population of less than 70,000, and the university's football team is the inarguable pride and joy of the citizens (Krakauer, 2015). However, this opinion began to slowly change along with new feelings of disbelief after several football players were accused of sexual violence between the years of 2008-2012. When allegations were first made against a few of the football players, the university president at the time, Royce Engstrom, chose to involve the Montana Supreme Court along with the U.S. Department of Justice to investigate the claims against the players as well as several other cases of sexual violence on campus that had been reported. In the published reports it was found that at least 80 rapes had been reported to local officials within a three year period, and the university had done an inadequate job responding to and handling these complaints (Krakauer, 2015). Among the 80 rape cases reported, Beau Donaldson's was at the top.

Beau Donaldson had grown up in Missoula along with Allison Huguet, and he often referred to her as his "little sister." Allison shared the same sentiments describing Beau as the "brother she never had" (Krakauer, 2015, p.5). Unfortunately, this relationship took a drastic turn one night in September 2010 when the two attended a house party in Missoula during a school break (Krakauer, 2015). That night Beau Donaldson took advantage of and raped Allison Huguet while she was sleeping (Allison did awake in the middle of the attack but remained frozen in fear until Beau stopped). After the rape, Allison was very hesitant as to whether to report the incident as she was in denial that someone she trusted and saw as a dear friend could do this to her. She even went as far as giving Beau the opportunity to apologize, seek counseling and change his ways, and if he agreed to do so she would not report him to law enforcement (Krakauer, 2015).

One should notice that the rape of Allison Huguet is much like a typical sexually violent attack described earlier in this paper: perpetrator and victim are acquaintances, occurs in a party scene with alcohol involved, victim remains motionless during attack out of fear, and victim is questioning the motives after the event.

Allison finally chose to report the rape involving Beau Donaldson to the Missoula Police in December 2011, and Beau was arrested a few days later in January 2012 (Krakauer, 2015). When Beau's arrest became public many University of Montana football fans took to the internet to state their disbelief. Their posts included messages such as: "It cannot be true, he is from Montana!" and "I know nothing about the facts...but my instincts tell me that he didn't rape anyone." and "First off, chicks exaggerate rape. Second off, she could [sexual acts] and still got rape just because she didn't want it later on...and a lot of people lie." (Krakauer, 2015, p.53-54). It was clear the public had already made up their mind on whether Beau Donaldson was guilty of the rape of Allison Huguet: he was not. He could not be guilty; he was a University of Montana football player after all! Beau's status as a college athlete with his amazing talent on the football field gave him the support of the public. The Missoula community now deemed Allison Huguet a liar and attention-seeker.

Despite his support from the community Beau Donaldson plead guilty to raping Allison Huguet in January 2013 and was sentenced to 30 years in the Montana State Prison with the possibility of parole after ten (Krakauer, 2015). While Beau's conviction is considered a success for Allison and all victims of sexual violence, yet it demonstrates the advantage that the status of athlete can give someone when it comes to criminal investigations and sentencing. Beau was able to use his athletic status to lie and garner support from friends and family about the true circumstances surrounding the rape. He labeled Allison as a liar. His defense team testified

about the exemplary character he displayed at practice around his teammates and coaches, but no one testified about how this character changed when alcohol or drugs were involved. He was able to use his status as a University of Montana football player to drag out his sentencing for two years after Allison first reported the incident.

While this case did end in a just conviction, it was only one of the several cases involving University of Montana football players that did. In December 2010, four football players were accused of gang-raping a student but because they testified it was consensual none were charged with the crime. In December 2011, three more football players were accused of drugging and sexually assaulting two students, but none were convicted (Krakauer, 2015). Even in 2013, quarterback Jordan Johnson was declared not guilty for the rape of a pharmacy student (Kelderman, 2015). Some of the players received punishments delegated by the university for their actions including suspension and/or removal from the football team, however not all did, making the school's policies regarding sexual violence confusing and contradictory – the policies have since been revised (Kelderman, 2015). The University of Montana sexual violence epidemic, and the cases surrounding the football team are full of skepticism, contradiction, and nuances, but it is hard to fully believe that the players on the football teams of 2008-2012 were not given some 'relief' due to their status.

One of the most recent and controversial cases involving sexual violence would be that of Brock Turner. Brock Turner grew up as a star-athlete, student and son in an upper middle class, affluent white family. However, his status as a successful student-athlete would change in one night due to a poor decision, but yet, this status would seemingly affect his punishment.

In January 2015, Brock, a swimmer for Stanford University, was convicted of three counts of felony sexual assault and sentenced to six months in county jail with possibility of release in three months on good behavior (Kebodeaux, 2017). His case follows the typical pattern of sexual violence as described earlier and similar to the case of Beau Donaldson and Allison Huguet.

The swimmer and his victim found themselves at campus parties that fateful night, both drinking heavily, but neither interacting until the attack. Two exchange students at Stanford University witnessed the assault behind a campus dumpster in the middle of the night, watched Brock flee the scene and took the unconscious victim to the hospital (Lombardo, 2016). His victim remembers very little of that night, only waking up in the hospital the next morning and reading about what happened to her in the local news.

Despite the victim's raw and utterly honest confession about her struggles coping with her new identity as a victim of sexual violence during the trial, as well as the two exchange students' testimonies for witnessing the attack, Brock Turner was given a sentence of only six months. The judge presiding over the case, Judge Aaron Persky, defended his choice in Brock's sentence because he felt a 20 minute mistake made under the influence of alcohol should not define a young man's life, a young man with great potential (Lombardo, 2016). What many described as an overly lenient sentence for the severity of Brock's crime sparked national outrage and debate. Millions signed a petition to have Judge Persky recalled, and in response the state of California passed a bill imposing a mandatory minimal sentence for perpetrators of sexual violence (Kebodeaux, 2017).

Even with the positive outcomes and laws passed due to this case, it is important not to overlook the possible effect Brock's student-athlete status had on his lenient punishment. During her confession read in court, the victim states "How fast Brock swims does not lessen the severity of what happened to me, and should not lessen the severity of his punishment...The fact that Brock was an athlete at a private university should not be seen as an entitlement to leniency, but as an opportunity to send a message that sexual assault is against the law regardless of social class" (Lombardo, 2016). But yet, his punishment was just what she hoped it would not be. The district attorney assigned to the case, Jeff Rosen, echoed the disappointment with the lenient sentence by saying, "The punishment does not fit the crime...The predatory offender has failed to take responsibility, failed to show remorse and failed to tell the truth. The sentence does not factor in the true seriousness of this sexual assault, or the victim's ongoing trauma" (Lombardo, 2016). The victim and district attorney's sentiments were shared among many who followed the proceedings and watched the case unfold. One could not 100% confidently state that Brock Turner's six month sentence to county jail was influenced by his student-athlete status, however it is difficult to argue against it when a judge rules based on the precedent that more jail time would have a negative impact a young man's future.

The final example discussed involving student-athletes and sexual violence will be that of the Duke University men's lacrosse team beginning in the year of 2006.

Duke University is located in North Carolina with a majority of its students coming from upper class, affluent, white families, and this is reflected in the campus' culture (Gill, 2007). The men's lacrosse team demographic is no different. There are a total of 47 players on the team, all of whom have contributed to or are joining a sports program with a long history of success. Up until the year of 2006 the lacrosse team had won three ACC championships and

were beginning to leave their mark on the national stage (Gill, 2007). However, Duke's 2006 lacrosse team's successful status was overshadowed by one poor decision.

After beating Loyola College's lacrosse team 9-7 a couple days earlier, on March 13, 2006 many of the players chose to celebrate and began drinking that afternoon (Gill, 2007). As the day wore on and the drinking continued, a few of the team's upperclassmen decided to hire two exotic dancers to come entertain the players into the night (Gill, 2007). While there, the dancers later told police officials the student-athletes became extremely rowdy yelling profanities and making sexual gestures; the two women refused to continue their performance and left the party (Gill, 2017). Over the next couple of days, when university and police officials were made aware of the team's party, meetings were held between the players, coaches and officials.

It wasn't until March 28, 2006 when the rest of the team's season was postponed, and university administrators acknowledged the events of the players' party publicly. This two week period between the party and announcement was due to the "code of silence" instituted by the student-athletes and university officials until further investigation of the events could be conducted (Gill, 2007). The lacrosse coach resigned when the party became national news, one member of the team who was seen as the instigator was expelled from the university (but later reinstated), and Duke's president created several committees to investigate the lacrosse team's culture, the athletic departments culture, and the general campus culture (Gill, 2007). All in all, the university believed the situation was handled, and the proper punishments and precautions were established to ensure a similar event would not happen again.

Duke University's hopes however, were only wishful thinking. Within a few days of the party, one of the hired dancers came forward and accused three of the student-athletes of dragging her into the bathroom and raping her (Fox News, 2007). She then recognized her accused perpetrators from a photo lineup, and the three players, Reade Seligmann, Collin Finnerty, and David Evans, were indicted on charges of rape, kidnapping and sexual assault (Fox News, 2007). DNA evidence was requested and taken from all three players, but none matched the DNA found on the victim, and subsequently the rape charges against them were dropped (Fox News, 2007). However, the case did not simply end, but rather took a drastic and very controversial turn.

The District Attorney assigned to the case, Mike Nifong, omitted evidence during the trial of DNA found on the victim from several other men, none of which was linked to the accused players (Fox News, 2007). While the investigation against the student-athletes continued, another one was started by the North Carolina Bar Association against Mike Nifong for misleading comments made against the players, withholding evidence, and lying to the court (Fox News, 2007). Due to this subsequent investigation the District Attorney asked for removal from the Duke Lacrosse case, and the Attorney General, Roy Cooper, took over (Fox News, 2007). Roy Cooper then dropped all charges against the student-athletes, and the case was closed (Fox News, 2007).

Many still have trouble accepting the conclusion to the Duke lacrosse scandal, but seemingly there was no DNA evidence connecting the players, and those accused of the sexual violence have never admitted to committing the crime. So, maybe they received the punishment they deserved: no judicial punishment at all. However, the consequences they received from the university regarding the party that instigated the entire case continue to be controversial. The

Duke lacrosse team's national success, their white, upper class demographic, and their overall status as athletes appear to play a role in the consequences of hosting a "wholly inappropriate" party (Gill, 2007). The conclusion of the team's season was cancelled in 2006, but the team was reinstated and resumed playing the following season in 2007 (Gill, 2007). The players who were suspended and expelled from the university were welcomed back at the conclusion of the scandal (Gill, 2007). One can fairly question whether these consequences for the student-athletes involved were just and sufficient for their actions.

The cases discussed throughout this paper: the University of Montana football team, Brock Turner, and Duke lacrosse, are only a small percentage of cases involving student-athletes and sexual violence. Yet, each of these instances can easily lead one to believe that student-athletes are given privilege when their punishments for sexual violence are being considered, and ultimately they are receiving lesser sentences because of their status. This paper was written with the goal of starting the discussion regarding student-athlete privilege in cases of sexual violence and giving a brief look into the possibility that it might be a true injustice. There are dozens of other cases still needing to be analyzed for the above statements to be widely accepted conclusions, but this is a starting point.

Regardless of whether a complaint of sexual violence involves a student-athlete or whether a just punishment was mandated, it is important to acknowledge the effort federal, state and university governments have made to lessen the severity of sexual violence taking place on campuses in the first place. They have passed laws to eliminate sexual discrimination at public institutions; they have clarified these laws when many schools demonstrated inconsistent procedures when responding to sexual violence, and they have enacted programs to help educate and train all students and staff in cases of sexual violence. Yet, even as universities continue to

work toward eliminating sexual violence on campuses, and as more cases and complaints are brought to light, some confusion and controversy still surround the issue. There is still much work to do if one hopes for perfect justice for all victims and perpetrators of sexual violence.

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