

# Washington Post

Friday, September 3, 2004

## **Bryant Case Is Called a Setback: Recent Rape Victims Cite Confidentiality Breach, Advocates Say**

**By Blaine Harden, Washington Post Staff Writer**

Rape victim advocates say the experience of Kobe Bryant's accuser – whose name and sexual history were disclosed in the past year – signifies a major setback in a three-decade effort to persuade women to report rape and to stop defense lawyers from attacking a victims' credibility with details of their sexual histories.

"I feel like we have stepped back in time 30 years, back to a time when confidentiality was not guaranteed and when the victim's sex life was up for scrutiny," said Diane Moyer, legal director of the Pennsylvania Coalition Against Rape, a 29-year-old group.

The case has exposed loopholes in rape shield laws in Colorado and across the country, according to the Colorado Coalition Against Sexual Assault. As a direct result, California this summer passed a tougher shield law that prevents defense lawyers from disclosing a rape victim's sexual history in pretrial motions.

Already, however, young women in Chicago who have been sexually assaulted are telling counselors they are afraid to go to the police as a result of what happened to Bryant's accuser. Moyer predicts that fallout from the Bryant case will "create an atmosphere that will allow sexual offenders to move around more freely and arrogantly."

The most serious consequence of the Bryant case, Moyer predicts, will be the unwillingness of women to come forward with accusations because of the fear of losing confidentiality.

"Perception is often as good as reality in America, especially among people who are victims of trauma," Moyer said. "If women think their personal information is going to become public, then that is their new reality."

After more than a year of pretrial arguments and sometimes sensational publicity about the case, a single charge of rape against the Los Angeles Lakers superstar guard was dropped Wednesday when his accuser decided she did not want to testify. Bryant apologized to the woman, who is still pursuing a civil lawsuit against him.

Because of mistakes by court staff in tiny Eagle, Colo., information about the accuser was inadvertently released.

At Rape Victim Advocates, a Chicago group that serves 16 hospitals and is the largest rape crisis center in the Midwest, some rape victims are bringing up Bryant in their initial counseling sessions, according to Sasha Walters, director of advocacy services.

“They say, ‘I don’t want to talk to the police because I have seen what has happened in the Bryant case, and I don’t want to put myself in that position,’” Walters said.

“It already has had a chilling effect on reporting rape,” Walters said, though she acknowledged that her group has no figures yet to back up the impression of its rape counselors. “The visibility of this case in particular has made it obvious that victim-blaming is a real problem.”

Walters and other victim advocates singled out for criticism the decision by the Colorado judge in the Bryant case to allow into evidence information about the accuser’s sexual activity in the days surrounding her encounter with Bryant on June 30, 2003.

“This decision will be seized on by defense attorneys around the country,” Walters said. “It will take us back to when the emphasis in a trial was on the actions of the victim.”

The Bryant case resonates with large numbers of women because of the prevalence of sexual intimidation and violence against women in the United States.

A National Violence Against Women Survey in 1998 determined that 18 percent of American women have been raped, with six out of seven rapes involving people who knew each other. The Justice Department has estimated that about 28 percent of rapes are reported to police. Other studies put the figure at just 5 percent to 16 percent.

Lesser sexual offenses against women are relatively common occurrences, with nearly half of the women in the United States reporting that they have encountered indecent exposure during their lifetimes, according to a 1999 study

Mary P. Koss, a University of Arizona professor of public health who specializes in sexual violence, says that in the real world of non-celebrity sex crimes, assaults against women are usually not reported and those that are reported are frequently not prosecuted.

“In some ways, it would be hard for the atmosphere in rape prosecutions to get more chilled than it already is,” Koss said. “It is important for women to understand that very few complaints go to trial; they usually result in a plea agreement.”

Koss’s research in Pima County, Ariz., found that of the 709 sexual assaults reported in 2000, half were investigated and 18 percent resulted in arrests. Recent research in Minnesota has determined that when rape cases reached prosecutors, only 25 percent were accepted for prosecution.

Koss said that the Bryant case, for all its faults, did produce something that almost all victims of sexual abuse desperately want but rarely receive: a public apology.

On Wednesday, after the charge against Bryant was dismissed, his attorney read the apology, in which Bryant said, "I can only imagine the pain she [his accuser] has had to endure."

"Typically, women who are raped by someone they know do not want to see the guy go to prison," Koss said. "They want to feel safe, they want to be able to tell their story, and they want an apology."

While legal scholars agree that sexual assault is an under-reported crime, they note that laws against rape have been toughened considerably in recent years and that there is research showing a high percentage of false accusations.

"You have a terrible combination, and that can create a very frightening situation for an accused man," said Paul Campos, a University of Colorado at Boulder law professor who has been studying sexual assault law in the state for five years. "Overzealous prosecutors of sex crimes are legion because of political pressure."

Campos said that the Bryant case, as much as anything, is a "cautionary tale" about prosecutorial excess. Campos said the district attorney in the case, Mark Hurlbert, had "an extremely thin and dubious case" but pressed forward anyhow.

"If you are not Kobe Bryant, if you don't have unlimited resources for lawyers, you could find yourself in a case where you may well have to negotiate a plea in order to avoid spending the rest of your life in prison," Campos said.

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