

WHEN YOU'RE ASKED ABOUT THE KOBE BRYANT CASE

By Jackson Katz *

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(Note: The following points are intended to give anti-rape advocates and educators ideas about how to think about and respond to various aspects of the Kobe Bryant rape case. This is the first in what will likely be a series of bulletins presented by Jackson Katz and the California Coalition Against Sexual Assault (CALCASA) over the coming months. For more information and anti-rape resources, contact the CALCASA Rape Prevention Resource Center at www.calcasa.org).

- 1.) Because of its high-profile nature, the Kobe Bryant rape trial presents a rare teachable moment. There is and will continue to be a deluge of media attention that exploits the salacious aspects of the case: sex, violence, race, and celebrity. But the case also provides the opportunity for anti-rape educators and activists to educate the public about rape. How? Through media interviews, television specials, newspaper articles, and trainings for journalists. Also, by raising the issue in middle school, high school, and college classrooms across the country.

Television coverage in these sorts of cases tends to emphasize the contentious legal issues: e.g. defense attorneys and former prosecutors arguing endlessly about rules of evidence, who is or is not an effective witness, etc. We should try to broaden the conversation to talk about the societal context within which rape is so common. Some questions we should raise whenever we get the chance: why is the rape rate so high in the U.S.? Why do so many men rape women? If over 99% of rape is perpetrated by men – whether the victims are female or male – why is rape considered a “women’s issue?” What is going on with American men – whether we’re star athletes or just average guys – that causes so many of us to assault women? Do men who are not rapists contribute to the problem – or to its solution? What role is played by friends, family members, classmates, and teammates?

We should also educate people about connections between rape-supportive attitudes and real acts of rape. An example of rape-supportive attitudes: saying, as some have in this case, that a woman “should know what to expect” when she goes up to a man’s room late at night; defending some men’s sexist or degrading comments about women; or laughing uncritically at jokes about rape and other forms of men’s violence against women.

- 2.) Kobe Bryant is a wondrous athlete and a phenomenal basketball player. His exploits on the court and his public image off the court have won him millions of fans, presumably most of whom want to believe he is not guilty of anything beyond adultery and incredibly poor judgment. It is important to note that before this incident, many of his fans included women and men in the anti-rape movement, as well as rape survivors.

But people who know a lot about rape – from the perspective of victims as well as the perspective of the criminal justice system – know that false reports of rape are rare. Rarer

still is the situation where a victim falsely reports a rape, then sticks to her/his story long enough for a district attorney to file charges and commence the prosecution of a case. It is understandable that Kobe Bryant fans are hoping their hero will be exonerated. But if they have any sense of fairness, these fans have to support a fair trial, and withhold judgment until all of the evidence is presented in a court of law.

- 3.) It is important to emphasize that this case is *The People of Colorado vs. Kobe Bryant*. It is not a “he said, she said” case, or the entertainment-like “Kobe vs. the Cheerleader.” When people say it’s a “he said, she said” case, we need to correct them by pointing out the following: on the morning of July 1, 2003, the alleged victim went to the police and reported that she had been raped by Kobe Bryant the night before. Soon thereafter, Eagle County Sheriff Joe Hoy approached a judge, who signed an arrest warrant. Two weeks later, Eagle County district attorney Mark Hurlbert, after reviewing the physical and testimonial evidence he had available to him, made the decision to prosecute Kobe Bryant on one charge of felony sexual assault. If people have a problem with the charge, they should address their concerns/complaints to the duly elected and appointed authorities in Colorado. It was, after all, the district attorney who made the decision to prosecute – not the alleged victim.

It is simply not true that this case pits one person’s word against another’s. Kobe Bryant most assuredly deserves a fair trial on the charge against him. No one would deny him his right to defend himself to the best of his ability in a court of law. But let’s be clear. Calling the case a “he said-she said” is part of an attempt by Kobe Bryant’s defenders to discredit the alleged victim before a jury has even seen or heard the evidence. It also fits a larger pattern where some men – and women – seek to reduce the serious felony charge of sexual assault to a matter of poor communication or an unhappy sexual encounter. This fundamentally misstates the gravity of what is alleged to have happened, which is an egregious violation of one person’s bodily integrity by another.

- 4.) Media commentators and others have been referring to the 19-year-old alleged victim as Kobe Bryant's "accuser." This is an inappropriate usage because the term "accuser" subtly but powerfully undermines the credibility of the alleged victim, and furthers the mistaken impression that this is a "he-said-she said" case. Imagine if every time people said Bryant's name, they referred to him as "the accused," or "the accused rapist" Kobe Bryant. As Los Angeles Commission on Assaults Against Women Executive Director Patti Giggans and others have maintained, referring to her as the "alleged victim," or the "victim-witness," and him as "Kobe Bryant," or "the defendant," is a much more fair and even-handed way to describe the principals in this case. Rape crisis advocates have also traditionally used the term “rape survivor” and “victim/survivor” when referring to rape and sexual assault victims.
- 5.) There has been a lot of victim-blaming and victim-bashing on talk radio and in parts of the male sports culture over the past few weeks. But it is not accurate to make blanket statements about the tone of the commentary. In fact, there have been a number of thoughtful pieces written by men – including men of color – that have explored some of the issues of this case with sensitivity and balance. A couple of examples: Kevin Jackson, the

coordinating editor of ESPN.Com, wrote a widely circulated piece around July 29 called “Who’s the Victim Here?” Jack McCallum wrote a cover story in the July 28 issue of *Sports Illustrated* called “The Dark Side of a Star.”

If you’re a woman and want to deflect criticism that you’re “biased” or somehow don’t understand the “men’s perspective” (these are sexist assumptions), you can reference some of these male writers to support your position.

- 6.) Race will continue to be a factor in the popular conversation about this case – whether it’s spoken aloud or not. Depending on the strategy chosen by the defense, it might also be a factor in the courtroom. It is important for anti-rape advocates and educators to bring up the racial subtext whenever possible – or at the very least be prepared to discuss it when others raise it. The defendant is an African American man, and the alleged victim a white woman. Our country has a long and sordid history of racism. Rape and racism have been the pretext for untold numbers of lynchings and other racist outbursts on the part of whites. It is important to acknowledge this history and denounce it.

It is especially important to acknowledge the “whiteness” of the environment where the crime allegedly took place – and where the trial is likely to be held – because the defendant is an African American man. You should condemn racism in all its forms. But then you can say that we need to focus on the facts of *this* case, because justice demands that we do our utmost for the rights of everyone concerned: the victim, the community, and the defendant.

It might be useful to point out that men and women of color have been among the many thoughtful commentators about the Bryant case in the past few weeks (e.g. Kevin Jackson on ESPN.Com.). It might also be useful to mention that there have been other high-profile rape trials involving professional athletes where the racial aspects have been different, but some of the sexist arguments have been eerily similar to this case. For example, the Mike Tyson rape trial evoked charges of racism from some quarters – but the victim was also African American. (Tyson was convicted.) In the Mark Chmura rape trial, Chmura, a tight end for the Green Bay Packers, who is white, was charged with raping a 17-year-old white girl at a prom party in April 2000. (He was acquitted.) In both of those cases, the victim was described – by people who didn’t know her and had never met her – as a “golddigger” out to take advantage of a wealthy man through a false allegation. If you want more info on either of those cases – to show the similarities of the sexism in different racial contexts – go to Google.com or another search engine. Attached with this mailing is a link to information about the Chmura case (<http://www.geocities.com/SiliconValley/Haven/5613/chmura/index.html> -- Mark Chmura rape trial proceedings) (<http://lawlibrary.ucdavis.edu/LAWLIB/nov94/0386.html> – Mike Tyson rape trial transcripts).

- 7.) There are some national data which suggest that male athletes are more likely than non-athletes to assault women. One oft-cited study of 10 large universities and colleges in 1995

found that male student-athletes comprised 3.3% of the male student population, yet accounted for 19% of reported perpetrators of sexual assaults. Clearly, much more study in this area is required. But even if it could be proven conclusively that male athletes are more likely to commit sexual assault than non-athletes, we're still left with the fact that the vast majority of sexual assaults are perpetrated by non-athletes. So while it might be useful to know why some (male) athletes assault women, this knowledge alone wouldn't help us much in trying to figure out why stockbrokers, teachers, priests, auto mechanics and Ivy League students also commit rape.

Rapists are mostly non-athletes. They come from every socioeconomic class, racial, and ethnic group. They can be slight of build or big and powerful. The most important characteristic rapists have in common is their gender: approximately 99% of rapists are men.

- 8.) There has been a lot of talk in the past few weeks about women who use false allegations of rape to extort money from professional athletes. Men who make this claim often do so with the slightly self-inflated air of someone who wants you to think they're privy to valuable insider information, like they're members of the club. Some men who travel in elite sports circles claim to know that it's a common practice. But how do they know? Has it ever happened to them, or someone they know? And even then, how do they know that extortion is what actually happened? Presumably, in the rare instances when there is an out-of-court cash settlement between an athlete and a woman who alleges that he raped her, one condition of the settlement is a public gag order. So we don't know if he actually raped her and then bought her silence, or if they had consensual sex as part of her scheme.

One way to respond to people who claim that "false rape accusations for the purpose of extortion are common" is to ask: Can you cite statistics on how prevalent this is? Can you provide the names of women who have done it, or the athletes who've been extorted? If not, then what is the basis for your belief that there is a widespread problem of women falsely accusing men? Rumors?

- 9.) Rape shield laws apply to the type of information that is admissible as evidence in a court of law. Among other things, they prevent defense attorneys from turning a case away from a debate about the merits of the evidence of an alleged crime by the defendant and into a referendum on the alleged victim's prior sexual history. But there are no rape shield laws on the streets, around the water cooler at work, or in the lounge in a college dormitory. Media commentators are not bound by rape shield laws. In other words, outside of the courtroom, people can say what they want about the alleged victim – and some people have been saying some nasty things about the 19-year-old Eagle, Colorado woman at the center of this storm.

It is important to remember that one group of people who will be watching this case closely is rape victims. Most never report the crime, in part because they fear the type of vilification (albeit on a much smaller scale) that Bryant's alleged victim is encountering. Many victims never disclose their stories to people around them. (Do you know every detail of the life histories of people around you?) We can support these silent victims – in some cases they are our family members and friends – by speaking up and interrupting trash-talking about

Bryant's alleged victim whenever possible. Suggested retorts: "Do you know her?" "How can you say something like that – do you have some sort of inside knowledge of what went on that night?" "How would you feel if it was your sister or your friend who reported a rape?" "It takes a lot of guts for a victim to come forward." But every time one does, it makes it that much harder for the culture of rape to continue.

- 10.) Some have argued that for high-profile male athletes, the most important lesson of the Kobe Bryant case is: "Don't have *sex* on the road with women you don't know," (because of how supposedly vulnerable these high-profile men are). This feeds into the inflated fear on the part of some prominent male athletes that there are all sorts of women out seeking to extort money from men by falsely accusing them of sexual assault.

But the most powerful lesson of the Bryant case to high-profile athletes – indeed, all men – is: **DON'T EVER FORCE A WOMAN (OR A MAN) TO HAVE SEX WITH YOU.** If you don't force yourself on anyone, you are highly unlikely ever to be charged with a crime. If you do have sex with someone against her will – regardless of how many other women might willingly have sex with you – you are committing rape. You may or may not ever be charged with a crime. Contrary to some men's inflated fear of being falsely accused, the vast majority of rapes are never reported. But you'll know in your heart that you've committed a terrible crime, and you'll have to live with yourself. And you do run the risk of facing criminal charges, which will turn your life upside down and potentially threaten everything you've worked so hard to achieve.

*** For more information, go to: www.jacksonkatz.com**

Jackson Katz
Director
MVP Strategies: gender violence prevention education and training
3860 Brayton Avenue
Long Beach, CA 90807
MVPStrategies@aol.com