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Rape Victims Often Held Responsible for Attack When Consent Uncertain

By Pete Bosak, The Centre Daily Times

July 2 – Dora McQuaid knows the horror only a rape survivor could understand. “It’s a death,” said McQuaid, a Penn State professor who dedicated her life to helping sexual-assault victims pick up the pieces and move on after she survived sexual assault and domestic violence years ago.

“It’s the death of life as you knew it before the rape.”

Advocates for rape survivors say it’s perhaps the only crime in which society tends to blame the victim. Why didn’t she fight back? Why didn’t she cry out for help? Why didn’t she just say no?

The question of whether the victim consented to sex often lies at the heart of rape cases that make it to trial, as juries examine conflicting reports from the accused and the victim, often with little other evidence before them.

That issue led a judge to dismiss a sexual-assault charge against former Nittany Lion football player Scott Paxson, when the judge found the alleged victim did not do anything to indicate she did not want to have sex. Paxson still faces charges of aggravated indecent assault and indecent assault.

Another trial in May ended when a jury, faced with evidence that both the accused and the accuser were intoxicated at the time of the alleged assault, was unable to agree upon a verdict.

That frustrates counselors, police and victim advocates, who decry society’s expectations that a victim should have fought back, should have screamed, should have said “no.”

Most victims do not fight – they just try to get out alive, those advocates say.

“Sexual assault is the most under-reported of all crimes,” said Peggy Lorah, a counselor with the Center for Women Students at Penn State, which sees almost 100 sexual-assault victims every year. “And that is because society and the victim think (victims) are somehow responsible for what’s happened to them. Think of a robbery victim. We don’t ask victims of other crimes what they did to have brought about what happened to them.”

With the media attention given some recent sexual-assault cases in Centre County, experts and police say it is time for a public discussion of the issue of “consent.”

It’s a word that’s not as easily defined as some might think, they contend.

“If you look at consent in any communication life, if you don’t want to do something, there are lots of ways you can communicate that verbally and physically,” said Anna Seip, with the Pennsylvania Coalition Against Rape. “But it’s when sex is involved that the issue becomes confused.”

It’s About Survival

“Society blames the victim,” said Corey Cook, director of education and outreach with the Centre County Women’s Resource Center. “The victims blame themselves – ‘Why didn’t I fight back?’”

Experts express frustration over the expectation that sexual-assault victims should fight to prevent the attack. The majority of rape victims do not fight and counselors say there’s a simple reason – fear, Cook said.

“It is very common for the victim not to fight, not to say no,” Cook said. “But complying is not consent.”

In almost 85 percent of sexual assaults, the victim knows her attacker, statistics show. And that makes the attack all the more shocking and may be another reason why many victims do not fight, Cook said.

“There is that conventional wisdom that victims should fight and kick and scream,” Lorah said. “Most victims actually freeze when the terror kicks in, an almost out-of-body-type of experience, a disassociative kind of thing. Some victims fight and kick and scream and that gets them even more seriously hurt – it gets them beaten.”

“Frozen fright is what it’s called,” Cook said.

People seem to forget too that men almost always are larger and stronger than women, experts said.

“It’s great to say, ‘I would fight,’” said veteran State College police Detective Chris Weaver, who has been investigating sexual-assault cases for seven years. “But when it’s someone you know, someone you respected, everyone responds differently. There is no stereotypical response to a sexual assault.”

McQuaid, based on her own experience, agrees the most common response is to do nothing.

“You think to yourself, if someone is raping me right now, is he also capable of killing me?” McQuaid said. “When people are terrorized, they are frozen.”

But if the typical response is to freeze and do nothing, what is a man to think? And how do jurors decide guilt or innocence if the defendant tells them, truthfully, that the victim kissed him, or let him touch her, then did not resist intercourse?

“Just because the victim doesn’t say ‘no,’ it doesn’t mean she wants to have sex,” Lorah said.

Communication is the key in so-called hookups or encounters between relative strangers that might lead to sex, experts said.

“Consent, in my mind,” McQuaid said, “and the legal definition of consent, is a verbal agreement. It’s not just that someone is seeming to go along, it’s a spoken agreement that, yes, I’m a willing participant.

“What’s wrong with having that conversation, especially if it prevents someone from being violated? Why does communication break down when the consequences can be so damaging for both parties? Why is that such a hard conversation for two people to have?

“It’s tricky,” McQuaid said. “And it shouldn’t be.”

Seip agreed, saying when sex is involved, consent becomes a difficult thing to define. Getting a definitive, verbal “yes” is the thing to do, Seip said.

“It sounds extreme, but if consent is the issue, if I were a young man, I’d want to have my bases covered,” Seip said.

Often times in a college town such as State College, alcohol plays a part in sexual assaults, experts said. In some cases, women have been so intoxicated they’ve been unable to comprehend what’s happening.

“That’s one of the things that make consent impossible,” Lorah said.

Most Cases Unreported

The Centre County Women’s Resource Center handles 300 to 400 cases per year, even as the “overwhelming” majority of sexual assaults go unreported, Cook said.

Very few of the cases that are reported ever result in prosecution, Weaver said.

“Only a small percentage ever make it to us,” the detective said. “And an even smaller percentage make it through to court. Just reporting it is an unbelievably huge step.”

Victims fear they will not be believed. Or they see high-profile cases in the media, such as those involving NBA star Kobe Bryant or the lacrosse team at Duke University, and fear they may get run over by the legal system.

They are afraid their names will be made public in news reports, Cook said. The Centre Daily Times' policy, and that of most newspapers, is to not report the names of alleged sexual-assault victims.

Another reason victims do not report their assailants is an overwhelming sense of shame and guilt. Despite the facts, victims often tell themselves, "There must have been something I could have done. I could have prevented this," Cook said.

Telling themselves that gives victims a sense of control, a sense that there really was "something" they could have done to stop the assault when, in almost all occasions, they could not have done so, say experts with the Centre County Women's Resource Center.

And then there is denial, experts said.

"When anything bad happens, you want to turn back the clock," said Debra Greenleaf, with the Centre County Women's Resource Center. "You pretend it never happened and go on with your life."

That often leads to more trouble down the line.

Rape, or any type of sexual abuse, has lasting effects that stay with victims for the rest of their lives, advocates say.

"Almost all victims describe their lives as being changed forever," Cook said. "You lose the ability to trust. We hear that from victims all the time, that their ability to trust is just destroyed."

So many victims remain silent, tormented and alone.

"What victims tell us, we find out that many victims don't tell anyone," Lorah said. "Only years down the line. This is the one crime where victims feel responsible for the crime – and so incorrectly so."

Over time, sexual-assault victims can heal, McQuaid said.

"The No. 1 thing is, the thing I've said over and over again is that any violence you sustain ... it will forever change you. It's indelible. It becomes part of the fabric of who you are. But it doesn't have to determine who you are. You feel broken. But we're not broken. We're changed. But we're not broken."

Pete Bosak can be reached at 814-235-3928.

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