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## Defining Acquaintance Rape: College Students' Perceptions of Sexual Consent and Coercion

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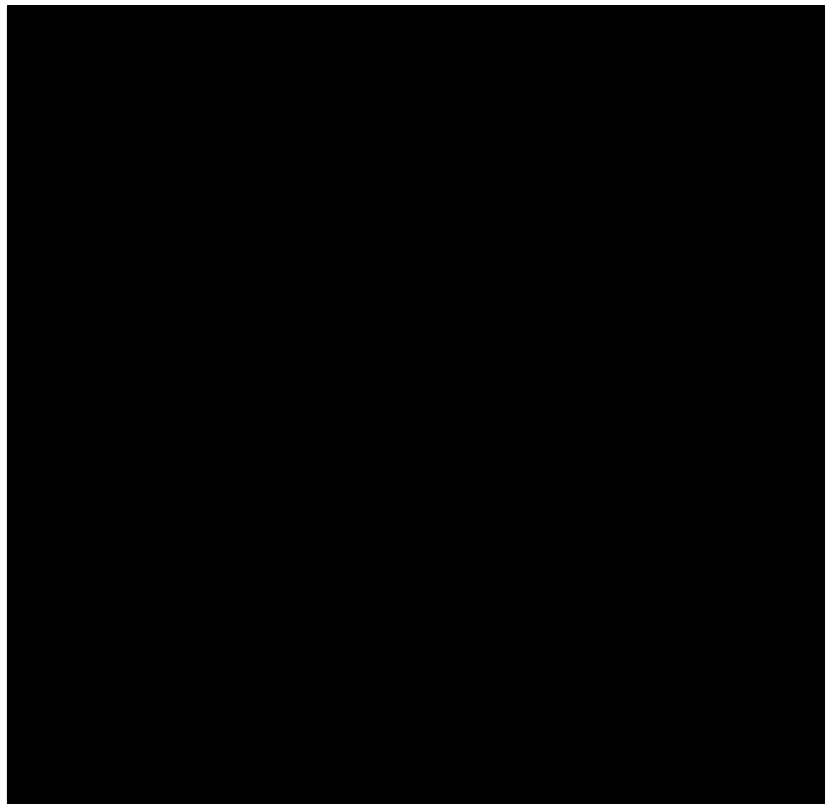
DEFINING ACQUAINTANCE RAPE:  
COLLEGE STUDENTS' PERCEPTIONS OF SEXUAL CONSENT AND COERCION

by

Sara E. Buck Doude

A Dissertation  
Submitted to the Graduate Studies Office  
of The University of Southern Mississippi  
in Partial Fulfillment of the Requirements  
for the Degree of Doctor of Philosophy

Approved:



May 2008

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The University of Southern Mississippi

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## ABSTRACT

### DEFINING ACQUAINTANCE RAPE:

#### COLLEGE STUDENTS' PERCEPTIONS OF SEXUAL CONSENT AND COERCION

by Sara E. Buck Doude

May 2008

Perceptions of rape have evolved dramatically over the past decade. Prior to the second wave of the feminist movement, rape was perceived to be committed by a psychotic man against a woman. The feminist movement brought the term “acquaintance rape” into the popular lexicon and into the forefront of women’s consciousness. As a result, throughout the 1970s and 1980s state governments enacted laws to prohibit “sexual assault,” or expanded existing rape laws to include a variety of relationships or sexual acts. However, public perceptions of rape did not evolve as rapidly. Despite legislative efforts, there is no universally understood definition of rape. As a result there is great confusion over what constitutes rape. The purpose of this study is to examine how college students perceive acquaintance rape.

Focusing on common elements of anti-rape movement legislation, the researcher developed a survey to assess perceptions of acquaintance rape through scenarios involving verbal non-consent and verbal coercion, in a variety of sexual acts. Survey scenarios depicted same-sex offenders and victims, female offenders/male victims, and male offenders/female victims engaging in various types of sexual acts under the influence of alcohol. Survey participants were to determine if the scenario was acquaintance rape or consensual sexual contact. The researcher hypothesized that variation in gender of offender and victim affect whether an individual labels an event

“acquaintance rape” or “consensual sex”. Moreover, participants were asked to assign blame (offender, victim, or alcohol).

Analyses revealed that individuals do have differing perceptions of acquaintance rape. Study participants, both male and female, were more likely to label the male offender/female victim scenario as acquaintance rape and label all other scenarios as consensual sex. Male and female participants differed in their designation of the acquaintance rape label, with female participants significantly more likely to label the male offender/male victim and female offender/male victim scenarios as acquaintance rape. The designation of acquaintance rape did not necessarily correspond to the presence of coercion and lack of consent. Moreover, the designation of acquaintance rape did not necessarily respond to offender responsibility and the lack of responsibility on behalf of the victim.

## DEDICATION

This dissertation is dedicated to all of the victims of acquaintance rape (past, present and future) that do not convince themselves they have been wronged until it is too late. In addition, I dedicate this dissertation to all of those individuals who believed in me when I refused to believe in myself.

## ACKNOWLEDGMENTS

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## CHAPTER I

### INTRODUCTION

The feminist movement has brought crimes such as rape and domestic violence to the forefront of women's consciousness. Women have been shown to fear rape and to indicate that it is very likely to occur in their lifetimes (Chasteen, 2001). Due to anti-rape reforms of the feminist movement, the definition of rape has evolved from a uniform one (typically that of the stranger rape) to that of a crime that occurs in a variety of situations and relationships. The anti-rape reforms of the feminist movement forced both state legislatures and the general public to acknowledge rape does occur in acquaintance, dating, and marital relationships, as well as in stranger situations. The crime of rape in personal relationships has been reframed as a public wrong as opposed to a problem strictly dealt with in the private sphere (Sanday, 1996).

Because of rapid change in the cultural understanding of rape, defining rape has focused on specific elements (e.g. presence of force, non-consent, and specific sexual acts). Various governmental entities (both federal and state) define rape in numerous ways. Some states and governmental entities acknowledge rape in the acquaintance rape situation, in which little physical coercion is necessary, and others focus on aberrant uses of physical coercion by the offender. Aside from coercion, definitions of rape also focus on the issue of consent on behalf of the victim. Some states have expanded sexual offenses to include sexual assault to acknowledge those situations in which consent is not affirmative, little or no physical coercion is used, and penetration is not vaginal (e.g. oral, anal, or with an object).

The definition of rape is uncertain and ambiguous (Luddy & Thompson, 1997), especially in situations in which participants know one another. Because of variations in the definition of rape it is difficult for a potential rape victim to know if their experience qualifies as rape. This document focuses on the evolution of the idea of rape, from that of the stranger rape to that of the acquaintance rape. More specifically, it asks if college students label scenarios involving the lack of consent, the presence of verbal coercion and oral or vaginal penetration among differing genders of offenders and victims as acquaintance rape or regretted sex.

### Prevalence of Rape

Since the 1970's, research on sexual victimization has indicated that rape is a common experience for American women. Koss, Gidycz, and Wisniewski (1987) report 27.5% of college women state they have experienced an act that meets the legal definition of rape or attempted rape since the age of fourteen. Other nationwide surveys reveal one in six women report experiencing an attempted or completed rape at some time in their lives (Tjaden & Thoennes, 2000). Despite social science research that has shown that sexual victimization is relatively common for women, the National Crime Victimization Survey and the Uniform Crime Reports report that incidents of rape are relatively low. Discrepancies between social science and "official" data are attributed to differing definitions of the crime of rape and underreporting among victims.

The Federal Bureau of Investigation collects the Uniform Crime Report (UCR) yearly. Figures represent the number of incidents of violent and non-violent crime reported to policing agencies. The UCR defines forcible rape as "the carnal knowledge of a female forcibly and against her will" (Federal Bureau of Investigation, 2004). With

this definition, the number of reported rapes in 2004 was 94,635, up .8% since 2003.

There were 63.5 rape victims per 100,000 females. Roughly 92% were completed rapes with attempted rape composing the remaining 8%. Lastly, approximately 42% of forcible rapes were cleared (i.e. offender identified and arrested) nationwide (FBI, 2004).

The National Crime Victimization Survey (NCVS) is a survey administered annually through the Bureau of Justice Statistics. NCVS data reflect the number of victimization incidents reported by U.S. residents ages 12 or older over a 12-month period. Data is collected from a nationally representative sample of U.S. households and reflects both crimes reported to the police and crimes not reported to the police. The NCVS defines rape as:

Forced sexual intercourse including both psychological coercion as well as physical force. Forced sexual intercourse means vaginal, anal or oral penetration by the offender(s). This category also includes incidents where the penetration is from a foreign object such as a bottle. Includes attempted rapes, male as well as female victims and both heterosexual and homosexual rape. Attempted rape includes verbal threats of rape (National Crime Victimization Survey, n.d.).

Sexual assault is defined separately. The NCVS defines sexual assault as:

A wide range of victimizations, separate from rape or attempted rape. These crimes include attacks or attempted attacks generally involving unwanted sexual contact between the victim and offender. Sexual assaults may or may not involve force and include such things as grabbing or fondling. Sexual assault also includes verbal threats (NCVS, n.d.).

NCVS data indicate that there were 204,370 incidents of rape/ sexual assault in 2004, which is over twice the number of incidents the UCR reports for the same year. More specifically, females were raped/ sexually assaulted at a rate of 1.6 victimizations per 1,000 persons ages 12 and older (Catalano, 2005).

Aggregated NCVS data from 1992-2000 show that persons over the age of 12 experienced an average of 140,990 completed rapes annually. Ninety-four percent of

completed rapes were committed against females and six percent were committed against males. Thirty-six percent of completed rapes were reported to the police with the remaining 63% of completed rapes not being reported to the police. Victims failed to report completed rape incidents to the police because the incident was considered a “personal manner” (23.3%); fear of reprisal (16.3%); and fear of police bias (5.8%) (Rennison, 2002).

Victimization research from 1994 indicates that victims reported about one rape or sexual victimization of a female victim for every 270 females in the general population. For both 1994 and 1995, the percentage of rape or sexual assault victimizations reported to a law enforcement agency was 32%. The most common reason cited for reporting the crime to the police is to prevent further crimes by the offender against them. The most common reason cited for not reporting the crime to the police is that it was considered a “personal matter.” Victims of rape and sexual assault report that in nearly three out of the four incidents, the offender is not a stranger. The Bureau of Justice Statistics states that about 80% of rape victims are under the age of 30. Approximately two-thirds of victims ages 18-29 report that they had a prior relationship with the offender. Offenders are seven times as likely to have been acquaintances as family members (Greenfeld, 1997).

### *Rape on College Campuses*

Colleges and universities, once thought of as safe and relatively crime-free, have been shown to be a location where sexual victimization is common (Fisher, Sloan, Cullen, & Lu, 1998). The college social scene has been shown to be hostile toward women. Fisher, Cullen, and Turner (2000) assert that the majority of college women



experience some form of sexual victimization, (i.e., sexual harassment, stalking, attempted rape, and/or rape). In addition, women under the age of 24 account for the majority of victims of rape. Other studies indicate that victimization is higher among college-aged women than any other age group (Brener, McMahon, Warren, & Douglas, 1999; Fisher, Sloan, Cullen, & Lu, 1998).

Fisher et al. (1998) surveyed 3,472 randomly selected college students and found that 37% had experienced at least one victimization since the beginning of the 1993-1994 academic year. The most common types of victimization included simple assault and sexual assault. Thirty rapes and sexual assaults per 1,000 students were reported, with 16.7 rapes per 1,000 occurring on-campus, and 13.3 rapes per 1,000 occurring off-campus. Further, "compared to the overall rate per 1,000 persons aged 20 to 24, the students' rates for on-campus rape/sexual assault were 3.3 and 3.1 times higher for 1993 and 1994." (p. 699).

Analysis by Fisher et al. (2000) concludes that an average of 350 rapes occur annually on campuses that have more than 10,000 female students. Furthermore, less than five percent of rapes are reported to law enforcement officials. Almost half (48.8%) of women who are raped do not consider themselves to be victims of rape. Fisher et al. (2000) define rape as the unwanted penile, oral or object penetration of a woman by force or threat of force. The researchers determined that most sexual victimizations occur when college women are alone with a man they know, at night, and in the privacy of their home. Most women attempt to take protective actions but are unwilling to report assaults to the police. The following factors appear to increase the risk of victimization: living on

campus, being unmarried, getting drunk frequently, and experiencing prior victimization (Fisher et al., 2000).

The U.S. Department of Education (2001) reports that in 1999 the overall number of sex offenses reported on college campuses was 2,469, which is an increase of six percent since 1998. The researchers note the increase could reflect improvement in the rate of reporting rather than a true increase in rape incidence. Of the 2,469 incidents reported, 52% occurred on the campuses of four-year public colleges and universities, and ten percent occurred on the campuses of two-year public institutions. The other sectors of post-secondary education (i.e., private institutions) accounted for less than five percent of sex offenses. In 1999, the national rate of sex offenses on college campuses was 14.8 per 100,000 students. This rate is dramatically lower than the overall rate for sex offenses nationally. The national rate was 32.7 rapes per 100,000 people.

#### *The Clery Act*

Recognizing the risks of criminal victimization on college campuses, the U.S. Congress passed the *Student Right to Know and Campus Security Act of 1990*. This act requires that colleges and universities participating in federal student aid programs “prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report” containing campus security policies and campus crime statistics for that institution.<sup>1</sup>

Many additions have been added to *Student Right to Know and Campus Security Act of 1990* throughout the 1990s. Congress amended the act in 1992 to include the

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<sup>1</sup> See 20 U.S.C. 1092 (f)

*Campus Sexual Assault Victims' Bill of Rights*. This amendment requires colleges and universities to develop and publish as part of their annual security report their policies regarding the awareness and prevention of sexual assaults and to afford basic rights to sexual assault victims. In 1998, the act was amended to include additional reporting obligations, including extensive campus security related provisions, and the requirement to keep a daily public crime log. The 1998 amendments became known as the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act*.<sup>2</sup>

*The Clery Act* requires that schools publish an annual report by October 1st that contains at least three years worth of campus crime statistics and certain policy statements. Policy statements include sexual assault policies, which assure victims' rights, the law enforcement authority of the campus police, and where students should go to report crimes. The report is to be made available automatically to all current students and employees, and prospective students and employees are to be notified of its existence and afforded an opportunity to request a copy. A copy of the statistics must also be provided to the U.S. Department of Education.

Each school must disclose crime statistics for the campus, unobstructed public areas immediately adjacent to or running through the campus and certain non-campus facilities including Greek housing and remote classrooms. The statistics are to be gathered by the campus police or security, local law enforcement, and other school officials who have "significant responsibility for student and campus activities" such as student judicial affairs directors.<sup>3</sup>

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<sup>2</sup> See 34 C.F.R. § 668.40 and 668.46

<sup>3</sup> See 34 C.F.R. § 668.46 (a)

Crimes are reported in the following seven categories: criminal homicide, sex offenses, robbery, aggravated assault, burglary, motor vehicle theft and arson. Sex offenses are defined by the following typologies:

Sex Offenses—

- a. Forcible sex offenses (including rape) – any sexual act directed against another person, forcibly and/or against the person’s will; or not forcibly against the person’s will where the victim is incapable of giving consent. This category includes forcible rape, forcible sodomy (including oral and anal), sexual assault with an object, and forcible fondling.
- b. Nonforcible sex offenses— unlawful, nonforcible sexual intercourse. This category includes incest and statutory rape.<sup>4</sup>

In November 1999, the U.S. Department of Education issued final guidelines on the 1998 amendments to the Act. The new regulations require the report of criminal victimization of students in off-campus housing that has school affiliation, and on public and private property located off campus but adjacent thereto. Schools are also expected to make a “good faith” effort to obtain crime report information from local police.<sup>5</sup>

Janosik and Gehring (2001) report that slightly more than one-fourth of students surveyed are aware of the Act. Furthermore, students report that the information or programs would only increase their likelihood of reporting the crime in 51% of the cases. Only 24% of the students remember receiving the crime summary in an admission packet and only eight percent of the students report that the summary influenced their enrollment decision.

More recently, some schools have been found to be in violation of *The Clery Act* by understating violent crimes. More significantly, colleges have been shown to understate the extent of the campus crime problem specifically when it comes to sexual assault. Seward (2006) found that when comparing *Clery* data to FBI data, some

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<sup>4</sup> See 34 C.F.R. § 668.46 (a)

<sup>5</sup> See 34 C.F.R. § 668.46 (c)

university and colleges understate crimes such as burglary and sexual assault. Since 1998, less than a dozen universities and colleges have admitted to reporting error-ridden statistics and paid fines to the Department of Education. Salem International University was fined \$200,000 for underreporting sex offenses and robberies. In 2004, Yale University was accused of failing to report sexual assaults. Lastly, some university and colleges have been accused of misclassifying burglaries as larcenies in an effort to make campuses look safer.

### Statement of Problem

In order to explore discrepancies in social science data, official data, and public perceptions of the prevalence of rape, the researcher will examine the perception of acquaintance rape among both male and female undergraduate students. Are legal definitions of rape congruent with social definitions of rape? Furthermore, the study seeks to understand if willingness to use the label of “rape” reflects differing perceptions between males and females. In order to assess the perception of rape, the researcher will examine the following variables: coercion, consent, alcohol usage of victims and offenders, and gender of victims and offenders in relation to the designation of rape. The researcher will examine perceptions through a survey composed of questions regarding consent, coercion, and culpability of victim, offender, and/ or alcohol and the designation of acquaintance rape in relation to several rape scenarios.

### Purpose of Study

The purpose of this study is to examine the way in which those most affected by acquaintance rape understand it. By using the definition of rape as given by *The Clery Act* in scenarios depicting a sexual encounter, the researcher can examine the perceptions

of respondents by examining verbal coercion, non-consent by the victim, alcohol usage of the victim and the offender, and the gender of the victim and offender. By examining the perception of acquaintance rape in this way, the researcher can determine if legal definitions of rape are congruent with the social definitions of acquaintance rape. In addition, the researcher can determine if variables (e.g. gender of victim and offender; alcohol usage of victims and offenders; presence of coercion; and/ or absence of consent) determine if the situation is labeled acquaintance rape.

#### Research Questions and Hypotheses

Research Question 1: Do variations in gender of offender and victim affect whether an individual labels an event “acquaintance rape” or “consensual sex”?

Hypothesis 1: Scenarios involving same-sex victims and offenders (male offender/ male victim; female offender/ female victim), and female offenders and male victims affect whether an individual labels an event as acquaintance rape or consensual sex.

Research Question 2: Are individual definitions of acquaintance rape uniform?

Hypothesis 2: The demographic variable, gender, is a statistically significant predictor of whether or not a respondent will designate a scenario as acquaintance rape or consensual sex.

#### Definitions

1. Acquaintance: Is defined by Merriam-Webster’s Dictionary as “a person whom one knows but who is not a particularly close friend” (Merriam-Webster Collegiate Dictionary, 1995).

2. Acquaintance rape: Is defined by Merriam-Webster’s Dictionary as “rape committed by someone known to the victim” (Merriam-Webster Collegiate Dictionary, 1995).

3. Coercion: Is defined by Black's Law Dictionary as "compulsion by force or threat" (Garner, 1996). Within the reference of this study, coercion will include a myriad of behaviors including verbal pressure in order to secure sexual contact, verbal insults in order to secure sexual intercourse, physical restraint in order to secure sexual contact, and threat of physical restraint in order to secure sexual contact.

4. Consent: Is defined by Black's Law Dictionary as "agreement, approval, or permission to some act or purpose" (Garner, 1996). Within the reference of this study, lack of consent will include a myriad of behaviors including verbal non-consent (i.e. victim says "no", victim says, "I don't want to"), and physical non-consent (i.e. pushing the offender off of the victim's person, victim attempting to get away from the offender).

5. Perception: Is defined by Merriam-Webster's Dictionary as "a mental image" (Merriam-Webster Collegiate Dictionary, 1995).

6. Rape: Is defined by Black's Law Dictionary as "unlawful sexual intercourse with a person without his or her consent" (Garner, 1996). The researcher will use rape as defined by

*The Clery Act.*

Forcible sex offenses (including rape) – any sexual act directed against another person, forcibly and/or against the person's will; or not forcibly against the person's will where the victim is incapable of giving consent. This category includes forcible rape, forcible sodomy (including oral and anal), sexual assault with an object, and forcible fondling.<sup>6</sup>

#### Delimitations

The researcher imposed a number of delimitations in this study, which produced subsequent limitations on the findings of this study. The first delimitation and limitation is that this study was limited in that it only assessed the perceptions of acquaintance rape

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<sup>6</sup> See 34 C.F.R. § 668.46 (a)

of students currently enrolled in criminal justice and sociology classes at the University of Southern Mississippi and Georgia College and State University. These findings cannot be generalized to the student population outside of these two universities. The second delimitation and limitation is the fact that the survey instrument is primarily quantitative and will not be able to provide an explanation as to why students perceive acquaintance rape the way they do. A limited amount of qualitative data was collected and analyzed. Lastly, the researcher acknowledges that a person's experience with acquaintance rape will impact how they perceive it. The researcher did not include a question regarding prior experience with acquaintance rape. This omission was made due to the intrusiveness of such questioning and the potential harm of such questions would outweigh any potential benefit. The absence of such questions is acknowledged as a limitation of this study.

#### Assumptions

For the purposes of this research, the following assumptions will be made:

1. The students who participate in this study will complete the survey instrument truthfully and sincerely.
2. The survey instruments will be administered as intended and answered as completely as possible.

#### Justifications of the Study

A survey of scholarly journal articles pertaining to the issue of acquaintance rape indicated that most data in this realm were relatively dated with most being at least ten or more years old. Current research on acquaintance rape typically focuses on psychological characteristics of the victim and/or offender and has not focused on those



who have not identified themselves as victims. Interestingly, research on the social construction of rape has been examined among women from all age groups (Chasteen, 2001) and incarcerated rapists (Monahan, Marolla, & Bromley, 2005). In order to fill the void of prior research, the researcher proposes an exploratory study into the perceptions of acquaintance rape based on definitions provided by *The Clery Act* among male and female college students enrolled at two universities in the Southeastern United States.

## CHAPTER II

### REVIEW OF RELATED LITERATURE

#### *“The personal is political”*

The history of how rape is defined is interwoven with a given society's attitudes toward sexuality, virginity, and marriage (Hansel, 1999). Societal attitudes toward rape are reflected in law, conventions, and customs. The act of rape is documented in many historical texts, including the Bible, the Koran, and the Code of Hammurabi (Brownmiller, 1975). Up until the past century, the crime of rape has remained relatively homogeneous in definition and victims of rape were highly suspect. Historically, the law of rape only recognized one form of rape, that of the stranger rape. Since women were not perceived as equal under law, other harms against women (i.e. acquaintance rape) were not recognized as harms. The resulting legal definition of rape held female victims to incredibly high standards in order to prove that they had indeed been raped (McGregor, 2005). The legal development of rape has evolved from the concept of women as property or chattel, to women as autonomous beings with rights to their bodies (Brownmiller, 1975; Sanday, 1996).

A vast amount of literature has been written on rape since the second wave of the feminist movement during the 1970s. Beginning in the 1970s, researchers focused on the incidence of rape and lifetime victimization rates. Currently, research on rape has covered “causes, consequences, social and psychological costs, and prevention” (Sanday, 1996, p. 185). Research on rape has typically focused on male offenders and female victims; however recent attention has focused on male offenders and male victims (typically in the prison setting) (Sanday, 1996). Research on rape has highlighted a

variety of topics both at the micro and macro levels such as: psychological motivations of rapists, typologies of convicted rapists, psychological treatment of rapists, psychological consequences of rape, techniques to prevent rape, marital rape, prison rape, stranger rape, acquaintance rape, law enforcement's response to rape, and drug facilitated rape. This document focuses on the feminist conception of acquaintance rape and college students' understandings of acquaintance rape.

#### Personal rape: Definitions of rape prior to 1970

Brownmiller (1975) analyzes the history of rape from Babylonian civilizations to the Common Law of England in *Against Our Will: Men, Women, and Rape*. She maintains that under the system of "*lex talionis* an eye for an eye – woman were unequal before the law" (p. 16). A woman's status was that of chattel. Once a male and a female joined as a pair, the man became responsible for the protection of the female from rape by other men. Rape against a woman was conceptualized as a crime against the male estate (i.e. husband, father, or brother). Further, "the historic price of a woman's protection by man against man was the imposition of chastity and monogamy" (p. 17). Marriages between men and women were established by "bride capture", which is the actual seizure of a woman by the man.

Ancient Babylonian and Mosaic Law deemed women as property of men, so rape became a property crime against men (Brownmiller, 1975). As a reward for war, the practice of "bride capture" was acceptable outside the city limits, if the female was unwed and a virgin. However, inside the city limits a social morality prevailed. Within the city, a dowry of 50 pieces of silver was paid to the father in place of brute force in order to wed the daughter, who was presumably a virgin. It was socially acceptable for

the accused to pay the dowry to the father and marry the accuser if she was a virgin prior to the rape. "Theft of virginity" was committed against the father of the female and her potential husband, not the state. The practice of "bride capture" lasted until the 15<sup>th</sup> century in England (Brownmiller, 1975).

The 12<sup>th</sup> century brought about the codification of English common law. Judges among the circuits established laws common to the whole country and their judicial decisions could be altered based on local practices. Under Henry II, the common law of England allowed a raped virgin to file a civil suit under very strict situations. A raped virgin could bring about a civil trial with a jury as opposed to a duel or some other form of combat. Brownmiller (1975) cites Bracton as being an authority on law and rape during the thirteenth century. Bracton asserts,

she must go at once and while the deed is newly done, with the hue and cry, to the neighboring townships and there show the injury done to her by men of good repute, the blood and her clothing stained with blood, and her torn garments (as cited in Brownmiller, 1975, p. 26).

If the accused claimed an alibi or defense, male juries were responsible for examination of the victim's body and clothes. Law-abiding women were responsible for a gynecological examination in which they determined virginity or defilement. A finding of virginity indicated innocence for the accused and the woman was taken into custody for being a false accuser. Correspondingly, defilement provided circumstantial evidence, which proceeded to the trial of the accused. Offenders were permitted defenses which included: the victim was a concubine to the accused before the alleged crime, the victim had given consent prior to the crime and the accusations are the result of jealousy or hatred of another woman for which he is married to or has taken as his concubine, and/or the accused could make the claim that he was out of the jurisdiction on the given day of

the crime, in addition to other defenses (Brownmiller, 1975). Both English common law and American criminal law reflect this conceptualization of women as property.

Much of American criminal law is directly linked to English common law and the 19<sup>th</sup> Century English legal philosopher, William Blackstone. Blackstone defined rape as “the carnal knowledge of a woman forcibly and against her will” (Blackstone, 1796, p. 506). Definitions of rape and what acts constitute rape were uniform during this period of time. Based on his writings, the common law definition of rape was typically worded as “a man commits rape when he engages in intercourse with a woman not his wife; by force or threat of force; against her will and without her consent” (Estrich, 1987, p. 8). Elements of the common law crime of rape include (1) sexual intercourse (vaginal penetration by a penis) (2) with a female (who is not the wife of the offender) by a male, (3) due to coercion (typically physical) or threat of coercion by the offender, (4) without consent (typically defined as verbal and physical resistance) of the victim. Each element was essential in proving the crime of rape. Rape covered only sexual acts that included the vaginal penetration of a woman by the penis of a man who was not her husband. Common law rape did not cover sexual acts such as oral or anal penetration or penetration by objects. In addition, the crime of rape could only be committed against women by men. Men could not be victimized by the crime of rape. Lastly, under the common law of rape, husbands could not rape their wives. Since women were chattel, the marriage contract implied that the wife was obligated to sexual relations and could not say no to sexual advances by the husband (Reddington & Kreisel, 2005).

### *The Corroboration Requirement*

An allegation of rape has always been a very serious matter, as it was a capital crime under English common law carrying the death penalty. In the United States, death sentences for the crime of rape were imposed up until the late 1970s (Reddington & Kreisel, 2005). The Supreme Court halted death sentences for rape in 1977 with the *Coker v. Georgia* (433 U.S. 584) case. The Supreme Court reasoned that a death sentence was grossly disproportionate for the rape of an adult woman. Blackstone remarks on the seriousness and suspiciousness of women who claim rape.

If she be of evil fame and stand unsupported by others, if she concealed the injury for any considerable time after she had the opportunity to complain, if the place where the act was alleged to be committed was where it was possible she might have been heard and she made no outcry, these and the like circumstances carry a strong but not conclusive presumption that her testimony is false or feigned (as cited in Brownmiller, 1975, p.30).

Blackstone notes that, to be seen as a legitimate victim, a woman had to be an upstanding citizen, not of “evil fame.” In addition, she needed to have corroboration in order for her statement to be regarded as serious and legitimate. The corroboration requirement was thought to prevent women from making false allegations out of malice or spite.

Corroboration required that women would have to provide additional evidence that a rape had taken place (Reddington & Kreisel, 2005).

As Blackstone notes, she needed to voice resistance and report immediately. Otherwise, the victim was likely to not be believed initially by policing agencies and then by judges and juries. It was assumed that if a woman failed to report the offence in a timely manner, then she “was having second thoughts about her consensual sexual activity” (McGregor, 2005, p. 31). Estrich (1987) maintains that the reasoning behind the

prompt complaint is to prevent a vindictive woman from turning an unwanted pregnancy or bitterness over an ended relationship, in which she was a willing participant, into rape.

*The False Accuser*

Further suspicion of rape victims can be seen in the use of cautionary instructions given to juries. Sir Matthew Hale gave the first cautionary instructions in the 17<sup>th</sup> century. Hale cautioned juries that

rape is a most detestable crime, and therefore ought severely and impartially to be punished with death; but it must be remembered that is an accusation easy to be made, hard to be proved, but harder to be defended by the party accused, though innocent (as cited in Sanday, 1996, p. 58).

Hale's jury instructions had a profound impact on the development of the victim being perceived as a false accuser. His jury instructions were used in American courts up until the reform of rape laws throughout the 1970s (Sanday, 1996).

The expectations of false accusers, according to Brownmiller (1975) dates back to Biblical stories. The idea became infused into the English common law and further into American criminal law. Until the mid 20<sup>th</sup> century, in American law schools, evidence textbooks "cautioned against the female's tendency to lie" (Brownmiller, 1975, p. 228). Other scholars suggested women fantasized about rape or were neurotic. Legal scholars suggested that alleged rape victims should take polygraph tests (McGregor, 2005). Freud, among other scholars discussed the alleged "rape fantasy" (Estrich, 1987). Such authors assert that women have the

desire to be forcibly ravished, to "enjoy" sex without taking responsibility for it, to be passive participants in sexual ecstasy which, when [they] are spurned in the relationship or caught in the act and forced to explain, [they] call "rape" (Estrich, 1987, p. 5).

The assumption was that a woman's quest for sexual stimulation allows her to instinctively desire forceful sex, and since sex is forceful by its nature, it was thought that by claiming rape, the woman does not have to feel guilt for willingly participating (Estrich, 1987). These myths further exasperated racial tensions in the south, when researchers claimed that white women fantasized about black men (Brownmiller, 1975). Estrich (1987) asserts "the history of rape in the United States is clearly a history of both racism and sexism" (p. 6). Other attacks on the character of the victim were commonplace; how the victim was dressed, the victim's sexual past, and the drinking behavior of the victim (Estrich, 1987; McGregor, 2005; Sanday, 1996).

#### *Consent and Coercion*

Consent and coercion are the essential elements in determining whether a sexual act is legitimate sexual intercourse or rape. Coercion involves words or actions by the offender toward the victim. On the other hand, consent involves words or actions by the victim toward the offender. The American criminal justice system has deemed legitimate sexual intercourse as a situation in which the victim consents to sexual intercourse with or without the presence of coercion (Estrich, 1987). Despite the independent and interdependent nature of consent and coercion, American criminal law has judged both consent and coercion "by the amount of resistance the victim offered during the attack" (Reddington & Kreisel, 2005, p. 237). Courts utilized the utmost resistance requirement to evaluate the elements of coercion and consent (Reddington & Kreisel, 2005).

#### *Utmost Resistance*

Prior to the anti-rape reforms of the 1970, to prove the elements of consent and coercion beyond a reasonable doubt, the victim needed to resist to the utmost if she truly



did not want to have sexual intercourse. Proving utmost resistance was relevant to consent, in that a reasonable woman would fight back to uphold her reputation and chasteness. This requirement mandated that the victim resist the offender to the “utmost” both physically and verbally before the sexual interaction could be labeled rape. “Utmost resistance” was defined as the victim physically exerting all of her power to prevent the offender from penetration (Reddington & Kreisel, 2005). The medical institution also promoted the idea that women could physically prevent rape “by using hands, limbs, and pelvic muscles” (McGregor, 2005, p. 31). The victim had a more credible rape claim if she was bruised and battered indicating that she physically fought back (Reddington & Kreisel, 2005). American courts used the utmost resistance standard as the method juries would utilize to objectively and behaviorally interpret non-consent on behalf of the victim.

A woman’s resistance was thought to be the behavioral expression of her non-consent. The utmost resistance standard assumes that women, if they are worthy of protection by the law, will defend their bodies and reputations by undergoing physical harm, including death, in order to defend themselves from rape. Estrich (1987) states, “there must be the most vehement exercise of every physical means or faculty within the woman’s power to resist the penetration of her person, and this must be shown to persist until the offense is consummated” (p. 30). However, this assumption did not apply to other crimes such as burglary, robbery, etc. Rape is the only crime in which the victim must demonstrate “their non-consent through physical resistance” (McGregor, 2005, p. 32). Moreover, the implication is that women who do not resist are not worthy of protection by law (Allison & Wrightsman, 1993). McGregor (2005) asserts “utmost

resistance was considered to be the natural response of a virtuous woman, and therefore not an imposition on any woman” (p. 29). A proper woman was thought to physically resist and not consent because she is preserving her virginity for her future husband. The implication of the utmost resistance requirement is that “successful penetration meant that the woman was willing” (McGregor, 2005, p. 31), thereby making consent a non-issue.

Proving non-consent was relevant to the idea that women do not say what they mean especially during sexual encounters. Estrich (1987) maintains that Hale’s jury instructions indicate the fear is not only that women are dishonest about rape, “but that many women do not know what they want, or mean what they say-- at least when they say no to a man they know” (p. 40). Moreover, “her behavior is not always an accurate guide to her true desires, for it may suggest resistance when in fact the woman is enjoying the physical struggle” (Estrich, 1987, p. 87). Law journals during the 1950s and 1960s reflected this attitude towards women. Women were thought to “require force to have a ‘pleasurable’ experience” (McGregor, 2005, p. 32). Perceptions of women included the idea that they needed to be persuaded into sexual relations (Brownmiller, 1975; Reddington & Kreisel, 2005). The law treats women as spectators to sexual relations. Estrich (1987) asserts

the woman who dates a man or talks to him, is effectively held, absent affirmative evidence (resistance) to the contrary, to assume the risk of unwanted sex in the same way that baseball fans assume the risk of fly balls (p. 41).

The law of rape among individuals who know each other before the second wave of feminist movement framed rape as the woman’s responsibility. In order for a “no” to be

taken as a real “no” women needed to resist in order for the male to know that sexual intercourse is truly unwanted.

Interestingly, the utmost resistance requirement was not equally applied to all cases of rape. When the offender was black and the victim was white, white male juries and judges assumed that a white woman would not consent to sexual relations therefore she need not resist to the utmost (Allison & Wrightsman, 1993; Estrich, 1987).

Brownmiller (1975) analyzes the image of the black rapist extensively. She maintains “the white man has used the rape of ‘his’ women as an excuse to act against black men” (p. 255). Ample evidence has shown that such rapes were very rare and often fabricated by whites as an excuse to lynch someone (often after the lynching was done) (Chasteen, 1998). The rape accusation was used as a social control mechanism to keep black men acting “appropriately” within racial guidelines for behavior. Lynching was a method of punishment for breaking racial rules for behavior. Lynchable offenses include “whistling at a white woman, entering a white woman’s home or talking ‘inappropriately’ around white women” (Chasteen, 1998, p. 30).

Historically, black men were more likely to serve heavier sentences and more likely to be executed by the state or lynched if they raped a white woman in comparison to white men. Punishment during the colonial south was especially harsh. In Virginia, the punishment for a slaves’ raping of a white woman was dismemberment. The black man raping a white woman was perceived as the “ultimate purpose of the slaves’ revenge” (Brownmiller, 1975, p. 237). Black men were perceived to be getting back at white men for a variety of injustices by raping “their” white women. Moreover, Brownmiller (1975) asserts “the recurrent nightmare in the eighteenth- century

slaveholding south had been the white male dream of black men rising up to rape 'their' women, and in the second half of the twentieth century the black man in his fiercest rhetoric seems intent on fulfilling that prophecy" (p. 252). After slavery, the lynching of black men increased. Public conceptions of black men included the view that they were biologically predisposed to criminal behavior and wanted destroy white womanhood in order to avenge themselves against white men (Chasteen, 1998).

An interesting dilemma arose when a black man raped a white woman with a questionable past. Mitigating circumstances in these situations included the presence of mulatto children, socializing with free blacks, and a general reputation of being sexually free. Women with bad reputations, whether virginal or not were perceived as damaged property. "From slavery onward, the black man's fortune was inextricably and historically linked to the white woman's reputation for chastity" (Brownmiller, 1975, p. 221).

Other circumstances when the utmost resistance requirement was not strictly followed included rapes that fit the stranger rape scenario. The stranger rape is one in which the offender is not known to the victim, is insane, and/or armed. In these cases, the utmost resistance requirement was relaxed for the victim. When the victim was beaten, she was deemed more credible. The utmost resistance requirement was strictly interpreted when it came to the most common rapes, those rapes that involve acquaintances and little or no physical coercion (Allison & Wrightsman, 1993; Estrich, 1987).

Prior to rape legal reforms of the 1970s, no consistent standard applied to all women. Sexual expectations of women varied by racial and ethnic grouping, age and

societal standing. Generally, women were expected to resist acquaintances, men in the same age and racial groups, and men of lower classes than themselves to their utmost ability. Estrich (1987) asserts “the broadened sexual access permitted by the resistance requirement generally applied only in ‘appropriate’ relationships” (p. 36). Further,

Strangers need not be resisted, even if unarmed; dates must be. A stepdaughter is not required to resist her stepfather, but she is required to resist the boy or man next-door. Adult women are required to resist when the man is an adult neighbor, but not when he is a drunken youth. White women are not required to resist black men, but black women are (Estrich, 1987, p. 36).

### *Chastity*

In addition to utmost resistance and non-consent, rape trials often involved the victim proving chastity. Protection of white male access to women took the form of the requirement of chastity. Chastity was valued as it was a method to ensure lineage of children. “By elevating sexual control to the highest of human virtues, female chastity became the symbol of human morality” (Sanday, 1996, p. 89). Millet (1969) asserts “as head of the family, the father is both begetter and owner in a system in which kinship is property...kinship is acknowledged only through association with the male line” (p. 46). “Female chastity was worth a lot to fathers interested in marrying off their daughters and to husbands wishing to ensure that children were biologically theirs” (McGregor, 2005, p. 29). Proving chastity was relevant to consent on the basis that chaste women did not consent to sex with strangers (Brownmiller, 1975; Reddington & Kreisel, 2005). Moreover, she had to have virginity that was worth taking. She needed to be at the least a white middle to upper class woman who was worth money through inheritance and/or property. Her virginity was equated with her worth. Black women were not afforded protection of the law (Brownmiller, 1975). The most valuable asset a woman had was

her chastity; it was assumed that if she didn't protect her chastity till her death, she must have consented to sexual intercourse (McGregor, 2005). One could assume that unvirtuous women, including married women, could not be raped.

The full force of the law was unwilling to protect any woman who was not virtuous and virginal. Rapes were seen as less severe if the woman had sexual intercourse with many partners (Estrich, 1987). "Attacking the victim's credibility on account of past unchastity was the defendant's right; but having his similarly attacked was unduly prejudicial" (Estrich, 1987, p. 52). The American criminal justice system, in regards to the crime of rape, has put the burden of proof at trial on the victim, not the offender (Brownmiller, 1975; Estrich, 1987; Reddington & Kreisel, 2005).

The social system valued chastity in women; however, it was often assumed that a woman had to say no to sex, even if she wanted to, to ensure her reputation. Estrich (1987) asserts that, "chastity may have been celebrated but consent was presumed" (p. 31). Aspects of the simple rape that women had to prove included: non-consent through physical resistance to unwanted sex, a substantial amount of physical coercion, and corroborative evidence to support both elements. Lastly, the female needed to prove that was she worth the protection of law by being chaste and having social status. These practices of the American criminal justice system led to the conceptualization of rape by a uniform definition, thereby excluding simple or acquaintance rape.

### *The Classic Rape*

The American criminal justice system has exclusively recognized one form of rape, that of the stranger rape. Estrich (1987) proposes that rape is more likely to be acknowledged by the justice system if it is "'aggravated' rape... cases with extrinsic

violence, multiple assailants, or no prior relationship between victim and offender” (p. 20). Estrich (1987) focuses her analysis on “simple” rape rather than stranger rape. She distinguishes “simple” rape from stranger rape.

The man is not the armed stranger jumping from the bushes- nor yet the black man jumping the white woman, the case that was most likely to result in the death penalty prior to 1977, and the stereotype that may explain in part the seriousness with which a white male criminal justice system has addressed “stranger” rape (Estrich, 1987, p. 8).

Estrich (1987) further asserts that the American criminal justice system highlights specific distinctions between stranger rape and the “simple” rape. She asserts that the “simple” rape led to the distrust of women and was “incorporated into the definition of the crime and the rules of proof” (p. 29). “In spite of the law’s supposed celebration of female chastity, a woman’s body was effectively presumed to be offered at least to any appropriate man she knows, lives near, accepts a drink from, or works for” (p. 41). Essentially, a woman’s body was open to sexual intrusion by any male she knew (Estrich, 1987). The male dominated legal system protected all men’s sexual access to females and protected them from prosecution by setting assumptions and standards such as resistance and consent very high, thereby excluding the female perspective in regards to such matters (McGregor, 2005). In American courts, victims of acquaintance rape were treated as defendants and the offenders were often treated as plaintiffs. Stranger rape became the idea of rape, therefore leaving acquaintance rape as regretted sex.

#### The Politics of rape: Definitions after 1970

The second wave of the American feminist movement was an outgrowth of profound societal change that occurred during the 1960s and 1970s. This point in American history also brought about various other social movements such as the anti-war

movement associated with the unpopular war in Vietnam, the sexual revolution, and the civil rights movement. The term “feminist” is “used to refer to all those who seek, no matter on what grounds, to end women’s subordination” (Jagger, 1983, p. 5). Feminists recognize

that every aspect of social life is governed by gender... All of social life is structured by rules that establish different types of behavior as appropriate to women and men. Feminists subject these rules to critical scrutiny, arguing that, in many cases if not all, they are oppressive to women (Jagger, 1983, p. 21).

One implication of the feminist movement is the general notion that “the adult white male can no longer be taken to represent all of humanity, nor the adult white male experience to encompass all that is important in human life” (Jagger, 1983, p. 22). This implication raises important questions in relation to the American criminal justice system and the rule of law, as the white male has dominated these institutions. The feminist movement called into question the “reasonable man standard” as the point of view of all juries and judges in relation to the charge of rape. Further, the “reasonable man” does not have the same perspective of rape as the “reasonable person” or more importantly the “reasonable woman” (Hubin & Haely, 1999). Dahl (1996) as cited in McGregor (2005) asserts,

the subordination of women [is] institutional and enforced by an overwhelming array of the most powerful forces available [including] individual and collective terror and violence, official and unofficial; law, custom, and convention; and social and economic structures [and is] backed up by the state itself (McGregor, 2005, p. 19).

Law, more specifically rape law, written by the “reasonable man” accomplishes the subordination of women. Further, “the law’s treatment of rape, and society’s view of rape, illustrate this institutionalized and enforced subordination of women” (McGregor, 2005, p. 19).



The feminist movement of the 1970s focused on a variety of issues primarily affecting women including the establishment of equal legal rights for women in both public and private spheres, rape law reform, the procurement of legal abortion, and legal acknowledgement of wife battering and domestic violence. On paper this movement seems to have a united idea of the female experience and established a uniform purpose; however the movement consists of various forms of feminist ideals and theories. Four main categories of feminist thought have been outlined and include: liberal feminism, Marxist feminism, radical feminism, and socialist feminism (Jaggar, 1983). This project will focus on the liberal feminist conception of rape law and radical feminist conceptions of rape and anti-rape reform.

### *Liberal Feminism*

Liberal feminist theory is an outgrowth of traditional liberal political theory. Liberal political theory asserts that human beings are rational and have free will to determine their futures. Theorists such as Locke maintain that a person's capacity to reason and act rationally affords them political rights (Jaggar, 1983). Moreover, each individual has just as much capacity for reason and rationality as any other individual. Liberal theorists diverge from one another as to what constitutes reason. Some (i.e. Rousseau) focus on rationality as the principle of an innate morality. Other theorists (i.e. Bentham and Hobbes) focus on utilitarian behaviors (e.g. making decisions based on an individual's calculation of actions that will bring the most pleasure and the least pain). Regardless, two major assumptions of human nature are characterized by liberal theory. The notion of "abstract individualism" views human beings as having separate desires and needs that are distinct from other individuals. Secondly, liberal theorists assume that

humans always inhabit an “environment of relative scarcity” (Jaggar, 1983, p. 30). The limited resources of a given society dictate the gaining of such needs and desires. From these assumptions, liberal theorists assume individuals are dictated by “universal egoism,” the view that human nature is “motivated by the desire to secure as large an individual share as possible of all available resources” (Jaggar, 1983, p. 30).

Liberal political theory focuses on human beings as autonomous agents and on their individual self-fulfillment. Autonomy is meant to convey the “right of each individual to establish her or his own interpretation of truth and of morality, uncoerced by established authority” (Jaggar, 1983, p. 174). Because of these assumptions, liberal political theory focuses on “political egalitarianism: if all individuals have intrinsic and ultimate value, then their dignity must be reflected in political institutions that do not subordinate any individual to the will or judgment of another” (Jaggar, 1983, p. 33). Therefore, a “good society must protect the dignity of each individual and promote individual autonomy and self-fulfillment” (Jaggar, 1983, p.33). Liberal political theory proposes that the state is to protect citizens’ property and person while “guaranteeing the maximum freedom from interference to each individual” (Jaggar, 1983, p. 33). Because of the dual goals of liberal political theorists, they assert that the state can intervene in the public sphere and cannot intervene in the private sphere (Jaggar, 1983).

Liberal political theory is the foundation of the Declaration of Independence, the Constitution and the Bill of Rights and therefore the entire American criminal justice system. The role of the legal system is to protect and ensure individual autonomy (McGregor, 2005). Criminal law outlines wrongs in the public sphere; serious harms are those that violate personal autonomy (e.g. murder, rape). These criminal offenses

include those “offenses against the body and personal property, actions that undermine our capacities to choose rationally, including undermining our sense of self-respect and self-worth” (McGregor, 2005, p. 15). In addition, “wrongful harms are those that someone has not consented to” (McGregor, 2005, p. 83). Despite the goals of equality, liberty, and justice that are reflected in the major documents that guide our democracy, the American criminal justice system has historically only protected the autonomy of and granted political rights to white males in possession of property, thereby excluding the protection of the law to women, non-whites and non-property owners.

The liberal feminist movement of the 1970s focused on gaining equal rights for women as they had already been granted to white men. Liberal feminists of that era asserted that the treatment of women in American society breached all assertions of the liberal political philosophy that is at the basis of democracy (e.g. equality, justice, and liberty). Liberal feminists maintained that women are oppressed on the basis of their sex. Further, “most discrimination against women is not mandated by the legal system but is rather informal or based on custom” (Jaggar, 1983, p. 176). Discrimination against women not only occurs in the public sphere but also in the private spheres such as sexual norms. Liberal feminists asserted, “women have always had less sexual liberty than men” (Jaggar, 1983, p. 179). In regard to sexual liberties, women are subjected to a “sexual double standard, that requires women to be passive rather than active in sexual encounters and that condemns women who want a variety of sexual partners while admiring men who seek the same” (Jaggar, 1983, p. 179). Furthermore, liberal feminists asserted that society expects women to be titillating and sexually available, yet unwilling

in an effort to protect her reputation. This objectification of women “provides a covert legitimization of rape” (Jaggar, 1983, p. 179).

### *Anti-Rape Movement*

The anti-rape movement was born out of the sexual revolution of the 1950s and 1960s and became a very important issue of the second wave feminist movement. During the 1950s and 1960s, researchers (e.g. Kinsey) asserted that male sexual aggression was natural and should not be penalized by the criminal justice system (Sanday, 1996). Sexual relationships required men to be forceful and women had to say “no” to protect their reputations. According to Sanday (1996, p. 168), this period of time was marked by gender roles that mandated “male sexual aggression and female passivity”. She further asserts that the sexual revolution centered on the male experience of sexuality and “sexual freedom was synonymous with male control of female sexuality” (p. 161). The feminist vision was of self-definition and an end to the definitions of womanhood by others, namely men. In addition, they “sought sexual freedom by struggling for female sexual choice and control over their bodies” (Sanday, 1996, p. 165). Feminists argued that rape was less about biologically compelled force on behalf of the male; it was instead about societal determinants of sexual practice and gender roles (Sanday, 1996).

Radical feminists brought the rape issue to the forefront with consciousness-raising groups throughout the late 1960s and early 1970s. The issue was both personal and dramatic. At speak-outs, women spoke about their rapes and treatment by the justice system if they reported. From these speak-outs on rape, it became apparent that sexual abuse as a child and as an adult was a common experience for many women. Many

women experienced shame and guilt, which led to silence on the issue. Most women described men they knew as their rapist; others described strangers. Early consciousness-raising groups and speak-outs led to the realization that rape could happen in the context of acquaintances (Sanday, 1996).

The politics of sexuality were elaborated on in Millet's groundbreaking book, *Sexual Politics* (1969), in which she asserted, "male-defined sex [is] obsessed with power" (Sanday, 1996, p. 173). Millet (1969) was one of the first feminist authors to distinguish between the biological "sex" and the socially and politically constructed "gender." She argues the patriarchy is the "birthright priority where males rule females" in which "sexual dominion... [is] the most pervasive ideology of our culture and provides its most fundamental concept of power" (p. 33). Further, she states that our culture is a patriarchy, evidenced by "every avenue of power within the society, including the coercive force of the police, is entirely in male hands" (p. 34). Millet (1969) argues that social roles are not biologically determined, but instead "sexual politics obtains consent through the 'socialization' of both sexes to basic patriarchal politics with regard to temperament, role, and status" (p. 35). The patriarchy allows for the social construction of sexuality to include male aggressiveness and female passivity (Millet, 1969). Sanday (1996, p. 26) expounds upon this idea: "to maintain a belief in the exclusively biological (or natural) determinism of sexual behavior, against which society or the law is powerless, is itself part of the politics of male sexual dominance."

Patriarchal cultures deem the male and masculine experience as the norm, thereby making the female and feminine experience the "other." The female station in our society is "the function of the male's sexual antipathy... to prove a means of control over

a subordinate group and a rationale” (Millet, 1969, p. 65). Further, Millet maintains that all patriarchal societies have relied on the legal institution as a means of force to implement the institutionalized social control of women:

Patriarchal force also relies on a form of violence particularly sexual in character and realized most completely in the act of rape... In rape, the emotions of aggression, hatred, contempt, and the desire to break or violate personality, take a form consummately appropriate to sexual politics (Millet, 1969, p. 61).

Millet equates the ultimate issue of patriarchy, misogyny, with the “expected traits of minority status: group self-hatred and self-rejection” (Millet, 1969, p. 78). She compares the status of being a woman to that of being black, in that they both suffer the same “common opinion” of

inferior intelligence, an instinctual or sensual gratification, an emotional nature both primitive and childlike, an imagined prowess in or affinity for sexuality, a contentment with their own lot which is in accord with a proof of appropriateness, a wily habit of deceit, and concealment of feeling (Millet, 1969, p. 80).

In patriarchal culture women are perceived as objects to “entertain, please, gratify, satisfy and flatter men with their sexuality” (Millet, 1969, p. 81). One of the ways in which patriarchal culture persists is “through its successful habit of passing itself off as nature... when a system of power is thoroughly in command, it has scarcely need to speak itself aloud...” (p. 81).

Millet’s work was revolutionary and served as the impetus for the anti-rape movement (Sanday, 1996). In 1971, a group of radical feminists from New York asserted the following points in regards to rape.

1. All women are subject to rape wherever they go. Rape is an act of violence and contempt against women and not a sexual act. Women are most subject to rape by the average man, not by some strange sex fiend.

2. Girls are socialized to be passive and not to protest or tell about being raped. Female children are the great majority of the victims in incest and child molestation cases.
3. Women are made to feel guilty if they are raped. To exculpate themselves, men imply women really want to be raped.
4. The law reinforces secrecy and the sense of shame by requiring the testimony of another person in addition to the victim. This is because of the myth that women want to fantasize about being raped and also that men are entitled to obey their impulses because women have seduced them.
5. Women are seduced into sleeping with their male therapists, having been told this is part of the “cure” (as cited in Sanday, 1996, p. 174).

Radical feminism highlighted the issue of rape until 1973, when the National Organization for Women (NOW) held their sixth conference. The groups came together to form the “National Task Force on Rape.” Due to activism on behalf of NOW and other organizations (e.g. American Civil Liberties Union and the League of Women Voters) almost every state reformed rape statutes from 1973-1980. Many states eliminated the corroboration requirement, the “utmost resistance” requirement, the prompt reporting requirements and the questioning of the victim’s chastity. In addition, states’ expanded sexual acts included and genders of offenders and victims (Sanday, 1996).

### *Sexual Autonomy*

Liberal political theorists assert that in the private sphere the government should not make personal decisions relating to sexual intercourse; those decisions pertaining to who and what kind of sexual intercourse to have and other matters pertaining to sexual autonomy are best left to the individuals they affect (McGregor, 2005). Despite the liberal viewpoint of private matters, liberal feminists criticize the traditional doctrine of rape law and find modern justification for rape laws in female sexual autonomy (Brownmiller, 1975; Estrich, 1987; Sanday, 1996). The impetus for rape reform is based

on the idea that women should have control over their own bodies and with whom they have sexual intercourse. They assert that the law does not ensure women's interests at the same level that the law protects men's interest. If the criminal law does not protect women's sexual autonomy, then it does not protect women from other harms. Because of this lack of protection of women, the law thereby advances women's unequal status in society (McGregor, 2005). Further,

the baseline assumption of consent, the corroboration rule, the routine introduction of a victim's sexual history, force and resistance, and the marital exemption illustrate the protection of men's interest in sexual access and not the protection of women's sexual choice" (McGregor, 2005, p. 35).

Women should "consent when they want and withhold consent when they don't. They should not require the state's intervention or protection from unwanted sexual experiences with acquaintances" (McGregor, 2005, p. 94).

Dripps (1992) maintains "sexual autonomy is meant to convey the freedom to refuse to have sex with anyone for any reason" (p. 4). Estrich (1987) elaborates on female sexual autonomy by stating that the law does not recognize rapes that occur between acquaintances when overt physical aggression is usually not present and the victim verbally expresses non-consent. The legal and philosophical acknowledgement of positive sexual autonomy would instead predict that a persons' lack of consent or affirmative non-consent to sexual intercourse would mean that sexual intercourse would not occur. Instead the law is highly suspicious of victims of simple rape. Further, the law only recognizes stranger rape in which extrinsic violence is usually present. "Simple rape includes cases in which none of these aggravating circumstances is present" (Estrich, 1987, p.20). Acquaintance rape (as Estrich refers to as "simple" rapes) typically occurs when both victim and offender are involved in the social world of dating.



With acquaintance rape, the victim (typically female) is usually faulted for participating in the social world with the offender (e.g., she goes back to his apartment after drinking together, or they drink at a party together.). The victim may not perceive forced sex as rape “reflecting an understanding of rape that discounts the ‘simple’ case” (Estrich, 1987, p. 13). Ward, Chapman, Cohn, White, & Williams (1991) propose that

women need to understand that consensually entering the social world does not require their relinquishing of their right to turn down sexual advances and their right to make their feelings well known either verbally or physically. Men also need to understand this (p.71).

Feminists heavily criticized the overwhelmingly male criminal justice system for women’s lack of protection from males, as most rapes involve a male offender and a female victim (Estrich, 1987).

In rape the male standard defines a crime that, traditionally by law and still predominately in practice, is committed only by men against women. The question of whose definition of ‘force’ should apply, of whose understanding should govern, is critical (Estrich, 1987, p. 60).

Moreover, “the force and resistance requirements embodied typical male perceptions, attitudes, and reactions rather than female ones” (McGregor, 2005, p. 35). Some feminists asserted that rape law reflected “expectations of proper female behavior, and their expectations of impermissible force, actually served to enhance male opportunities for sexual access” (McGregor, 2005, p. 35). Aside from the male dominated criminal justice system’s defining terminology pertinent to the crime of rape (i.e. force, consent, penetration), victims felt as though they were raped a second time by an American criminal justice system through police practices and trial tactics (McGregor, 2005; Schwartz & DeKeseredy, 1997). McGregor (2005) elaborates

the standard trial tactic was for defense attorneys to ‘put the woman’ on trial, asking questions about her previous sexual experiences, whether she used birth

control, whether she went to bars, what she wore, either suggesting that she consented to the sexual events or that she 'got what she deserved' (p. 36).

Essentially, the goal of the rape trial was to find a way to blame the victim for her behavior thereby negating any responsibility on behalf of the offender.

### *Rape Law Reform*

Feminists hoped by establishing a legal expectation of female sexual autonomy, a conviction for rape would be easier to obtain. Legal methods for assuring this goal were to eliminate any prejudice toward the victim (i.e. taking the focus off the victim) by reforming American legal practices in regards to rape by the discontinuation of the following legal practices: the corroboration requirement, the "utmost resistance" requirement, the prompt reporting requirement and the questioning of the victim's chastity. Further, reforms focused on the expansion of sexual acts and genders of victims.

Many states examined the resistance standard in relation to the crime of rape. Reforms eliminated the "utmost resistance" requirement and replaced it with the "earnest resistance" requirement. Some states later did away with "earnest resistance" and "emphasized the importance of establishing 'forcible compulsion' and the victim's fear of 'immediate death or physical injury'" (Sanday, 1996, p. 181). Many states examined the issue of force, which was defined as physical force. Such states extended the element of force to include " 'coercion and intimidation by the alleged rapist' ... These changes added additional components, such as fear of death or injury, to the definition of force" (Reddington & Kreisel, 2005, p. 239). Some states utilize "forcible compulsion" to indicate "physical force that overcomes reasonable resistance or a threat, express or implied that places a person in reasonable fear of death, serious injury or kidnapping of

such person or another person” (Reddington & Kreisel, 2005, p. 239). McGregor (2005) maintains that “forcible compulsion” is used

as a trustworthy guide to when women had not consented. Submission, usually in cases with overwhelming violence, was legitimate. However submission through intimidation, threats, or deception is not legitimate sexual conduct, and force continues to this day to play a major part in the understanding of rape (p. 34).

From this focus on force, McGregor asserts “laws continue to see rape as only a violent attack, and then only if the woman resists. Nonconsensual sex outside these parameters was not protected” (McGregor, 2005, p. 35). Sanday (1996) notes “nowhere was rape explicitly defined in terms of nonconsensual penetration alone. Force had to be present or evidence of a person’s nonconsent...” (p.181). She further concludes “the law is ambivalent about the importance of explicit consent, finding its absence definitive of rape only in cases of physical helplessness” (p. 182).

Rape law reforms attempted to reduce skepticism toward the victims of rape by removing cautionary jury instructions (Sanday, 1996). Feminists argued that cautionary instructions place undo prejudice on the victim. Cautionary instructions to the jury were abolished both in law and practice (Reddington & Kreisel, 2005). Other methods to focus on the offender rather than the victim included the elimination of the corroboration requirement. All states removed this requirement through the reforms of the end of the 1970s (Reddington & Kreisel, 2005). In order to eliminate skepticism toward victims of rape, many states enacted rape shield statutes. The aim was to “protect the victim while on the stand, and to limit the information she could be asked about while on the stand” (Reddington & Kreisel, 2005, p. 244). In current practice,

rape shield statutes usually limit the discussion of the victim’s sexual past to: consensual sexual acts between the accused and the accuser, or to demonstrate that the accused was not the cause of semen, impregnation nor responsible for

giving the victim a sexually transmitted disease, or to attack the credibility of the victim (Allison & Wrightsman, 1993 as cited in Reddington & Kreisel, 2005, p. 244).

The anti-rape movement then focused on changing the definition of rape, so a greater variety of sexual acts could be included, in addition to gender-neutral assumptions about victims and perpetrators. Gender neutrality of statutes were sought in order to promote the ideal of equality at law, by extending legal protection to male victims and all female victims who are raped by male and female offenders. In addition, gender neutrality would eliminate the idea of “utmost resistance” in order to protect female chastity if applied to both sexes (McGregor, 2005).

Gender-neutral statutes were established to acknowledge female offenders and male victims; both groups were not visible in rape law. Estrich (1987) points out that “male victims are invisible because of the stigma attached to homosexuality and homosexual rape. Women defendants were invisible because there is no evidence that many women in fact commit rapes” (p. 81). Gender-neutral rape statutes are criticized because “rape is not generally a gender-neutral crime; men rape, not women” (McGregor, 2005, p. 37). Estrich (1987) goes further by arguing that power is not gender-neutral in a patriarchal society in which males have power and females do not have power. Gender neutrality does not acknowledge, “the different ways men and women understand force and consent” (Estrich, 1987, p. 82). McGregor (2005) argues that women will be disadvantaged if gender-neutral statutes mean the retention of “male norms and reactions to rape scenarios” (p. 37).

### *Defining Rape*

As a result of rape legal reforms associated with the anti-rape movement, most states' statutory language generally define rape as sexual intercourse, including oral or anal penetration, due to force, the threat of force or by taking advantage of a person's incapacity to consent (Sanday, 1996). Elements of the crime of rape after the rape reforms of the 1970s and 1980s include (1) sexual intercourse (vaginal, oral, or anal penetration) (2) of a male or female victim by a male or female offender (3) due to force or threat of force (typically defined as physical force) (4) without consent (typically verbal non-consent) or by taking advantage of a person's inability to consent due to alcohol and/or drugs (Sanday, 1996).

Hubin and Haely (1999) make the assumption that, "force is not a defining element of rape" (p. 114). They point out that an additional element of the crime of rape is intent or *mens rea*. In order to establish criminal liability, a criminal state of mind or the intent to commit rape must be present. MacKinnon (1989) states that the *mens rea* element raises an obstacle for proving the crime because "the injury of rape lies in the meaning of the act to its victim, but the standard for its criminality lies in the meaning of the act to the assailant" (MacKinnon, 1989, p. 180 as cited in Hubin and Haely, 1989, p. 121). Hubin and Haely (1999) argue that the injury of rape lies in whether the victim consents and not whether the offender has the intent to rape. In order to establish intent, they argue that intent should be graded in the same way intent is graded in the crime of homicide. Rape should be graded in culpability making the "*mens rea* for rape... intent, knowledge, recklessness or even (perhaps) negligence" (p. 126).

After the rape reform efforts, some states eliminated the label of “rape” and changed the name of the crime to sexual assault or sexual battery to reflect the idea proposed by feminists that the crime was about violence as opposed to sex (Hansel, 1999). McGregor (2005) asserts that “to see rape as violence is to recognize that sex should be inconsistent with violent assault in law” (p. 38). “A message which is needed precisely because violence in sex has been accepted by so many as normal, and even justified, because of its supposed desirability to women” (Estrich, 1987, p. 83). With the focus on rape as violence, the message is sent that “you are not trying to prohibit all sex and that violent men must be incapacitated as dangerous criminals, not treated as only sexually aberrant” (Estrich, 1987, p. 82-83). Redefining rape as sexual assault or sexual battery is not without criticism. As Estrich (1987) points out “to label rape as a form of assault... may obscure its unique indignity” (p. 81). The rape as violence approach obscures acquaintance rape, “forced sex in the absence of conventional violence” (Estrich, 1987, p. 83). Further, “rape as sexual assault focuses on women’s sexuality for being particularly susceptible to attack, and hence in need of special protection” which may “cast women back into the position, of victim” (McGregor, 2005, p. 40).

### *States’ Definitions*

There is a vast amount of diversity among states’ rape and/or sexual battery codes. The state of Georgia defines rape, sexual battery, and aggravated sexual battery. Rape in Georgia is a crime only committed against females; however sexual battery is gender neutral and a variety of sexual acts are considered.

Rape: (a) A person commits the offense of rape when he has carnal knowledge of (1) a female forcibly and against her will; or (2) a female who is less than ten years old. Carnal knowledge in rape occurs when there is any penetration of the female sex organ by the male sex organ... (O.C.G.A. § 16-6-1).

**Sexual Battery:** (a) For the purposes of this Code section, the term “intimate parts” means the primary genital area, anus, groin, inner thighs, or buttocks of a male or female and the breasts of a female. (b) A person commits the offense of sexual battery when he or she intentionally makes physical contact with the intimate parts of the body of another person without the consent of that person... (O.C.G.A. § 16-6-22.1).

**Aggravated Sexual Battery:** (a) For the purposes of this Code section, the term “foreign object” means any article or instrument other than the sexual organ of a person. (b). A person commits the offense of aggravated sexual battery when he or she intentionally penetrates with a foreign object the sexual organ or anus of another person without the consent of that person... (O.C.G.A. § 16-6-22.2).

Mississippi uses both “rape; assault with the intent to ravish” and “sexual battery” to describe rape and other assaults of the sexual nature. Rape in Mississippi only applies to female victims of a “previous chaste character”, however the “sexual battery” statute uses a gender-neutral language.

Mississippi defines rape and sexual battery as:

**Rape: assault with intent to ravish:** Every person who shall be convicted of an assault with intent to forcibly ravish any female of previous chaste character shall be punished by imprisonment in the penitentiary for life... (Miss. Code Ann. § 97-3-71).

**Sexual Battery:** (1) A person is guilty of sexual battery if he or she engages in sexual penetration with: (a) another person without his or her consent; (b). a mentally defective, mentally incapacitated or physically helpless person... (Miss. Code Ann. § 97-3-95).

Sexual penetration is defined separately:

Sexual penetration includes cunnilingus, fellatio, buggery or pederasty, any penetration of the genital or anal openings of another person’s body by any part of a person’s body, and insertion of any object into the genital or anal openings of another person’s body (Miss. Code Ann. § 97-3-97).

Interestingly, the state of Tennessee defines the crime of rape in a remarkably different manner. This statute is both gender neutral and encompasses a wider range of damaging situations.

(a) Rape is unlawful sexual penetration of a victim by the defendant or of the defendant by a victim accompanied by any of the following circumstances: (1) Force or coercion is used to accomplish the act; (2) The sexual penetration is accomplished without the consent of the victim and the defendant knows or has reason to know at the time of the penetration that the victim did not consent; (3) The defendant knows or has reason to know that the victim is mentally defective, mentally incapacitated or physically helpless; or (4) The sexual penetration is accomplished by fraud (Tenn. Code Ann. § 39-13-503).

The crime of rape is confounded and confused by the addition of the term “sexual battery.” Of the three Southern states chosen for analysis, Tennessee had the most comprehensive of the rape statutes. Further, this statute incorporates the idea that acquaintance rape is “real” rape. From these statutes one can ascertain that consent and coercion are still the imperative components of rape.

Anderson (2005) notes that 43 state rape (and/or sexual battery) statutes and the District of Columbia’s law require that the “defendant use force against his victim” (p. 629-630). Further, “eight of these forty-four statutes appear to require only non-consent, they include the use of force in the definition of ‘non-consent’ (Anderson, 2005, p. 630). Sexual penetration that is without force and non-consensual is penalized in 16 states and the District of Columbia; over half of these states designate the crime as a misdemeanor. Anderson (2005) points out that acquaintance rape (as she refers to as the “All American Crime”) under a majority of state statutes (27 states) “is no crime at all” (p. 633). The stranger rape scenario “is the official story of rape in this country” while acquaintance rape “is suppressed” (Anderson, 2005, p. 633).

The focus on force and non-consent of states’ rape and sexual battery statutes give rise to two important issues: “to focus on the man and seek a broader definition of force; or to focus on the woman and rely on her word as to nonconsent (not saying yes, or at least saying no)” (Estrich, 1987, p. 84). McGregor (2005) elaborates:



We may define rape as sexual activity without consent and, thereby, give a meaningful account of consent. This route emphasizes rape as an account of consent. This route emphasizes rape as a crime against sexual autonomy and focuses on a woman's rightful control over her body and over her sexual self-determination. An alternative strategy is to define a range of behaviors which are wrongful because they are violent, abusive, or in other ways inappropriate. This route focuses on the violent nature of rape (p. 48).

Estrich (1987) asserts that most rape reform statutes have focused on masculine definitions of force. Further, "the woman's lack of consent is irrelevant to the determination of criminal liability" (p. 87). Estrich (1987) elaborates on the issue of the rape reform statutes and a common understanding of them:

After all, the problem has never been so much the terms of statutes as our understanding of them: it is not that "consent" is the right test and "force" the wrong one, or vice versa, but that both can be interpreted to require women to resist, and to protect the simple rapists. Interpretation is key... (p. 90).

Further, "changing the words of statutes is not nearly as important as changing the way we understand them" (Estrich, 1987, p. 91). Schulhofer (2005) elaborates on this issue nearly twenty years later; "the laws do not very successfully prevent the abuses that they are supposed to prevent. Part of the reason is that fundamental change in our culture is still very incomplete" (p. 415). The ultimate question is how do people understand consent, coercion, rape and/ or sexual battery.

### *Consent and Coercion*

Legal rulings on rape involve many issues; the definitions of force and non-consent are addressed in a variety of ways rendering very different decisions. The New Jersey Supreme Court ruled in 1992 "any act of sexual penetration engaged in by the defendant without the affirmative and freely given permission of the other victim to the specific act of penetration constitutes the offense of sexual assault" (Sanday, 1996, p. 265). However, the Pennsylvania's Supreme Court ruling in 1994 interpreted a similar

rape law in the opposite direction, making it harder for women to charge rape. Saying “no” the court declared, is not sufficient ground for a woman to prove she was raped (Glazer, 1994; McGregor, 2005).

From the judicial decisions of Georgia and Tennessee, one can ascertain that consent and coercion are very different constructs. In Georgia, consent and coercion are two separate elements, however they intricately linked. Force is defined as both physical force and threats of “serious bodily harm which overpower the female and cause her to yield against her will.”<sup>1</sup> According to Georgia case law, “‘forcibly’ means acts of physical force, threats of death or physical bodily harm, or mental coercion, such as intimidation.”<sup>2</sup> “Intimidation may substitute for force—lack of resistance, induced by fear, is not legally cognizable consent, but constitutes force.”<sup>3</sup> Further, “talking the victim into having sex [is] not sufficient.”<sup>4</sup> “Lack of consent is a necessary element of the offense of rape.”<sup>5</sup> In statute, the element of non-consent is represented by the term “against her will” which “means without consent.”<sup>6</sup> However, offenders are “not required to ‘read the victim’s mind’ or understand her internal thought processes; he is only required not to impose sex upon her without her free consent.”<sup>7</sup> Further, “the crime of rape is not proved if the evidence shows that the female at any time consented to the act of sexual intercourse.”<sup>8</sup> Georgia’s rape statutes recognize force to include not only physical force but also intimidation. However, “talking a victim into having sex” is not

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<sup>1</sup> *McNeal v. State*, 228 Ga. 633, 187, S.E.2d 271, 1972; O.C.G.A. § 16-6-1

<sup>2</sup> *Pollard v. State*, 260 Ga. App. 540 S.E.2d 337, 2003; O.C.G.A. § 16-6-1

<sup>3</sup> *Walker v. State*, 157 Ga. App. 278 S.E.2d 487, 1981, O.C.G.A. § 16-6-1

<sup>4</sup> *Howard v. State*, 281 Ga. App. 797, 637 S.E.2d 448, 2006; O.C.G.A. § 16-6-1

<sup>5</sup> *Evans v. State*, 191 Ga. App. 364, 381 S.E.2d 760, 1989; O.C.G.A. § 16-6-1

<sup>6</sup> *Pollard v. State*, 260 Ga. App. 540 S.E.2d 337, 2003; O.C.G.A. § 16-6-1

<sup>7</sup> *Clark v. State*, 197 Ga. App. 318, 389 S.E.2d 377, 1990; O.C.G.A. § 16-6-1

<sup>8</sup> *Jackson v. State*, 225 Ga. 553, 170 S.E.2d 281, 1969; O.C.G.A. § 16-6-1

intimidation. In order for consent to be legitimate, it must be freely given. Further, consent to sexual intercourse is not retractable if a victim consents at any point.

Tennessee case law interprets consent and coercion very differently than Georgia case law. “In prosecutions for rape and sexual battery, evidence that the defendant threatened to tell people that one of his victims was a homosexual if he did not cooperate was sufficient for the jury to find the element of coercion.”<sup>9</sup> A similar ruling in *State v. Fults* (2006) came to the same conclusion.

Evidence was sufficient to sustain a rape conviction because defendant performed oral sex on the victim and the victim testified that before defendant committed fellatio on the victim the first time, defendant warned him not to say anything or he would tell all of the victim’s friends that the victim was homosexual.<sup>10</sup>

As far as consent is interpreted,

Evidence was sufficient to sustain rape conviction because the victim testified that defendant forcibly penetrated her despite her protestations and demands him to stop, and defendant admitted that he held the victim down and penetrated her in disregard to her objections....<sup>11</sup>

A similar case interpreted consent the same way:

Evidence was sufficient to support defendant’s rape conviction, as the victim testified that defendant sat down on the couch beside her and repeatedly asked her to have sex with him, she refused, and he then picked her up and pushed her into a laundry room, where he forced her against a dryer and sexually penetrated her.<sup>12</sup>

The case law of both Georgia and Tennessee reveal that consent and coercion are the most imperative issues in regards to the definition of rape. Both states interpret what behaviors constitute the force element in very different ways. Coercion in Georgia includes “mental coercion” but not “talking the victim into having sex.” Further, the defendant is only required “to not impose sex upon her” unless of course she agrees. In

<sup>9</sup> *State v. McKnight*, 900, S.W.2d 36, 1994, Tenn. Crim. App. LEXIS 759; Tenn. Code Ann. § 39-13-504

<sup>10</sup> *State v. Fults*, - S.W.3d -, 2006, Tenn. Crim. App. LEXIS 520; Tenn. Code Ann. § 39-13-504

<sup>11</sup> *State v. Osborne*, -S.W.3d -, 2006, Tenn. Crim. App. LEXIS 790; Tenn. Code Ann. § 39-13-504

<sup>12</sup> *State v. Anderson*, -S.W.3d-, 2004, Tenn. Crim. App. LEXIS 751; Tenn. Code Ann. § 39-13-504

Tennessee, coercion can be defined as exploitation as in the case of the offender threatening to “tell all of the victim’s friends that the victim was homosexual.” Verbal non-consent seems to be enough to satisfy the element of non-consent.

Schulhofer (2005) asserts “it is a familiar problem that there can be a large gap between the law in the books and the law in action. In the area of rape law, that gap is more of a chasm” (p. 415). The courts necessitate “aberrational physical force, something that goes beyond what the courts can see as the physical actions of normal sex” (Schulhofer, 2005, p. 416). Legally recognized sex “can entail a lot of force” (McGregor, 2005, p. 48). There has been a strong disinclination to label non-consensual sex as rape. Estrich (1987) elaborates that “in noncriminal sex, physical contact, if not ‘force’ is inherent” (p. 59). McGregor (2005) argues that the public perception of rape entails violence, specifically more force than is normally required during sexual intercourse. Estrich (1987) goes further, arguing

force is the key to making a simple rape criminal, but force—even force that goes far beyond the physical contact necessary to accomplish penetration—is not itself prohibited. What is required, and prohibited, is force used to overcome female nonconsent” (Estrich, 1987, p. 60).

Estrich (1987) maintains that force and resistance requirements reflect male perceptions and attitudes toward physical aggression rather than female perceptions and attitudes. Further, “‘prohibited force’ is defined in terms of the victim’s response to the situation. That response must be resistance, and resistance is interpreted to mean physical resistance and not merely verbal protests” (McGregor, 2005, p. 40). Focus is put on the victim’s behavior in order to determine if she is truly a rape victim, not the behavior of the offender. Estrich (1987) asserts that the male definition of force is that of a physical fight. Since most women do not physically resist or put up a fight, then

“real” rape did not occur. This “protects male access to women where guns and beatings are not needed to secure it” (Estrich, 1987, p. 62). With acquaintance rape, the “social context” allows “a man [to be] free to proceed regardless of verbal nonconsent” (Estrich, 1987, p. 63). In the acquaintance rape situation, “this ensures broad male freedom to ‘seduce’ women who feel themselves to be powerless, vulnerable, and afraid. It effectively guarantees men freedom to intimidate women and exploit their weakness and passivity, so long as they don’t ‘fight’ with them” (Estrich, 1987, p. 69). McGregor (2005) criticizes the male perspective of rape law. She maintains, “the law has not demanded enough of men’s behavior toward women and that it has been too ready to excuse, condone, and sympathize with men’s behavior” (p. 56).

McGregor (2005) proposes that the law focuses on physical force rather than various power relationships in which women may feel vulnerable. Further, “being isolated, without transportation, with someone you hardly know who is physically more powerful than you are, possibly someone in a role of authority, all could contribute to a person feeling threatened and thereby being forced into sex” (p. 41). Women are socialized to avoid conflict, especially physical conflict. “They are brought up to be passive, especially around men and particularly men they know” (McGregor, 2005, p. 41). Further, as Schulhofer (2005) asserts “in our culture, or in parts of our culture, physically aggressive advances are often seen as the normal way for a man to show his affection for a woman” (p. 416). The question becomes, what exactly is considered coercive in acquaintance rape context and how is it related to consent?

Coercion within the context of acquaintance rape is often ambiguous. Discussions of force within the acquaintance rape scenario typically do not include verbal coercion (verbal pressure to have sex). McGregor (2005) explains ambiguity within courtship:

Men and women perceive certain behaviors and communication as meaning very different things in the sexual situation, even excluding when they are not being honest about events.... Men are taught to be the aggressors and to be persistent, and women are taught to be passive and appear reluctant (p.7).

Lessig (1995) as cited in Baker (1999) maintains sexual relations are full of unstated intentions and norms.

The lines between pressure and force, strength and violence, and reluctance and refusal are not as clear as the law would like them to be. Lack of effective communication makes it particularly hard for men and women to tell the difference between sex and rape. Cultural confusion regarding the bounds of appropriate conduct also makes it very difficult for prosecution teams to prove non consent beyond a reasonable doubt because any trial inevitably focuses on events that we do not interpret uniformly (Baker, 1999, p. 664).

Consent is integral in the case of rape as it has historically been the determinate of the amount of force used by the offender. In the courts, consent is presumed and non-consent has to be proven by the victim and is therefore the hinge in which the crime of rape rests on (McGregor, 2005). Further “what counts as consent in our culture is very slippery” (Schulhofer, 2005, p. 420). Cultural definitions rape and nonconsensual intercourse appear to be dependent on both recognized force and the nature of the relationship. “Empirical data show that the vast majority of nonconsensual sex takes place with a person that the victim knew and without any legally recognized force” (McGregor, 2005, p. 23). In the acquaintance rape situation, the question of consent is the essential component. Reddington & Kreisel (2005) argue that acquaintance rape is not about force but instead about exploitation. Exploitation is in the form of the power to consent or not consent to a sexual encounter. “This is the most difficult area to clearly

prove and creates a 'grey zone' for those trying to determine if rape in fact exists" (Reddington and Kreisel, 2005, p. 43). Schulhofer (2005) asserts "it is crucial to focus on these edges because there is a Twilight Zone where sex is unwanted, but not illegal" (p. 415-416). Further "the stereotype of the stranger with a weapon, which formed the basis for the elements of rape does not help us grasp this problem" (McGregor, 2005, p. 23).

McGregor (2005) elaborates on the role consent plays in the protection of autonomy and asserts that "consent is the vehicle through which we express our autonomous wishes, so by getting consent one does not wrong the person" (p. 16). Dripps (1992) notes that consent is only a label we attach to sexual intercourse that is deemed lawful. The law does not require consent for other crimes of a serious nature. In application to other violent crimes, murder victims cannot consent to their own murder because conceptually that would constitute assisted suicide, which is illegal in nearly all states. In regards to the crime of robbery, there is a conceptual difference between giving someone \$100.00 versus someone taking \$100.00. McGregor (2005) asserts, "assaults are normally not consented to in law... consensual assault remains assault" (p. 39). Estrich (1987) maintains that the definition of force in the crime of rape is different than other crimes, "certainly if a thief stripped his victim, flattened that victim on the floor, lay down on top, and took the victim's wallet or jewelry, few would pause before concluding forcible robbery" (p. 59).

Dripps (1992) maintains that the law classifies sex into consensual and non-consensual cases. Further, "the law then superimposes the requirement of force on the non-consensual cases to identify cases of rape" (p. 1788). Sex without consent is not rape according to law, "men in these cases can be considered seducers, because they

didn't use force" (McGregor, 2005, p. 61). "A woman's submission can only mean one of two things: either she is sub-par as women go and/or she was complicit in the intercourse" (Estrich, 1987, p. 69). In addition, non-consent is very difficult to prove, especially in acquaintance rape scenarios, as it is often the victim's response to the offender in an intimate situation, which typically happens without the presence of witnesses (McGregor, 2005).

### *Labeling Rape*

Ward et al. (1991) maintain that research has conceptualized rape as either "stranger" or "acquaintance/date" rape, leaving out many other situations in which rape may occur, which may further confuse victims. They state, "neither of these concepts of rape takes into account the more anonymous type of sexual victimization that occurs when women meet men at various social functions that are part of the traditional college social scene" (p. 66). The crucial difference between these strangers and the stranger of the traditional rape stereotype is that these individuals are often involved in the same social network (Ward et al., 1991).

Ward et al. (1991) propose that rape be categorized into four types: stranger rape, party rape, acquaintance rape, and date rape. True stranger rape occurs on college campuses, as it does off-campus in the general population. It is the stereotypical rape propagated by the media and other social institutions (e.g. law) in which a stranger abducts an individual he has never met and then rapes her. Party rape involves a man with whom the woman was not previously acquainted. These individuals typically come into contact with one another in a non-threatening social situation, but she is not acquainted with him. She has agreed to interact with him despite not knowing him from



previous situations. Sampson (2006) defines party rape as a form of acquaintance rape that “occurs at an off-campus house or on-or off-campus fraternity and involves... plying a woman with alcohol or targeting an intoxicated woman” (p. 6). Ward et al. (1991) state,

the sexual norms of the college social scene are that such unwanted contact is not seen as serious; it is part of the ‘scoring’ game, which is typical and normal male behavior, especially if the man has had too much to drink (p.70).

Armstrong, Hamilton, and Sweeney (2006) assert that “party” rape is accomplished through

low levels of coercion- a lot of liquor and persuasion, manipulation of situations so that women cannot leave, and sometimes force (e.g. by blocking a door, or using body weight to make it difficult for a woman to get up)... This systematic and effective method of extracting non-consensual sex is largely invisible, which makes it difficult for victims to convince anyone—even themselves—that a crime occurred. Men engage in this behavior with little risk of consequences (p. 492).

Ward et al. (1991) sampled 524 college women and 337 college men and found that party rape was the most common type of rape that occurs on college campuses. Female respondents indicated that “men commonly ignored the women’s protests and used verbal coercion; physical force was less frequent...” (p. 69). Armstrong et al. (2006) assert that the ambiguity of the definition of rape “demonstrates the usefulness of alcohol as a weapon; her intoxication is undermined her ability to resist sex, her clarity about what happened, and her feelings of entitlement to report it” (p. 491).

Acquaintance rape occurs when a woman knows a man as a casual acquaintance or a non-romantic friend. This type of incident can involve alcohol as does the party rape, but in addition, there is the element of misread sexual cues. The date rape incident involves a woman and man who are actually dating one another. Ward et al. (1991) explain date rape:

misperceptions of sexual cues are coupled in this type of incident with a more general norm of male dominance and female passivity in sexual relations. When a man and woman are dating, he feels a sense of entitlement to sex, especially when the woman has consented to some preliminary degree of intimacy. Consent is not an issue to a man who feels entitled to sex, and the woman's protests can be dismissed as the expected way to react rather than a true indication of her feelings (p.70).

Victims of rape often feel ambiguity in defining their experience as a "real rape".

Koss et al. (1987) administered self-report surveys to 6,159 students at 32 randomly sampled institutions of higher education and found that of the 3,187 college women, "53.7% of women respondents revealed some form of sexual victimization"<sup>13</sup> (p. 166). Further, over 15% of sampled college women report experiencing an act that meets the legal definition of rape since the age of fourteen and 12% report experiencing an act that meets the legal definition of attempted rape. Of those identified as rape victims by the researchers, only 27% label their experiences as rape. Eighty-four percent of these rape victims knew their offender and 57% of the offenders were dates. If the victim knew the perpetrator, victims were reluctant to label what transpired as rape (Koss et al., 1987).

Another aspect of ambiguity that is unique to rape is the discrepancy between the perceptions of the victim and the offender. Koss et al. (1987) also sampled nearly 3,000 college men about their perpetration of sexual aggression. The authors concluded that there is a substantial gap between the reports of males and females. The percentage of females who report having been victimized is twice the percentage of males who report

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<sup>13</sup> Koss et al. (1987) divide sexual victimization into four areas: sexual contact, sexual coercion, attempted rape and rape. Based on Ohio rape statutes, they define rape as unwanted sexual intercourse arising from the use of force or threats of force and other unwanted sex acts (anal or oral intercourse or penetration by objects other than the penis) arising from the use of or threat of force, or the use of drugs or alcohol. Koss et al. (1987) define sexual coercion more broadly as unwanted sexual intercourse arising from the use of menacing verbal pressure or the misuse of authority. The lowest level of victimization, sexual contact includes "individuals who had engaged in or experienced sexual behavior such as fondling or kissing that did not involve attempted penetration subsequent to the use of menacing verbal pressure, misuse of authority, threats of harm, or actual physical force" (p. 166).

having been involved in some sort of victimization of women. Roughly 25% of sampled college men reported perpetrating some form of sexual aggression, with 10.2% perpetrating sexual contact, 7.2% perpetrating sexual coercion, 3.3% perpetrating attempted rape and 4.4% perpetrating rape. The authors note that sexual aggression perpetrated by men do not account for the number of victimizations reported by women. The authors conclude that “it may be that some men fail to perceive accurately the degree of force and coerciveness that was involved in a particular sexual encounter or to interpret correctly a women’s nonconsent and resistance” (Koss et al, 1987, p. 169).

Fisher, Daigle, Cullen & Turner (2003) analyzed rape acknowledgement among a national sample of female college students. They specifically analyzed 1,318 sexual victimizations involving 691 females. Of those victimizations, 6.2% of women considered the incidents to be rape. Less than half (46.5%) of completed rape victims label the event rape. Further, 48.8% did not consider themselves to be victims of rape; and 4.7% did not know if the event should be labeled rape. Over 16% of completed rape victims were repeat victims. Further, few (3.4%) incidents that did not meet the legal definition of rape were labeled rape by the victim. Factors that contribute to incidents being labeled rape include prior victimization, physical force used by the offender (including threat of force), forceful verbal resistance on behalf of the victim, completed penetration, presence of a weapon and sustaining an injury. Further, incidents that did not happen recently were more likely to be labeled rape (Fisher et al., 2003).

If women do label their experience rape, they still face the issue of reporting the incident. Koss et al. (1987) found underreporting to be commonplace with 42% never reporting the incident to anyone. Further, only 5% sought victim services, and 5%

reported the incident to the police. Analyzing NCVS data from 1992-2000, Rennison (2002) found 36% of the average annual 131,960 completed rapes were reported to the police. Therefore, 63% of completed rapes were not reported to the police. Further, 5.8% cited police bias as a reason for not reporting the offense to the police.

McGregor (2005) maintains that victims of acquaintance rape do not report due to fear that no one will believe them (including the criminal justice system) and the fear that they are blameworthy and could have controlled what occurred. Rape victims' fears are realistic. Police exercise vast amounts of discretion in filing complaints as either founded or unfounded. Reddington and Kreisel (2005) cite a 2002 Federal Bureau of Investigation report, which asserts that unfounded rape reports compose 8% of all reported rapes and rape is the most underreported violent crime. Further, "rape cases may be unfounded because the purported victim's contributory negligence, and by her perceived immorality" (Reddington & Kreisel, 2005, p. 257). The perceptions of law enforcement officers (e.g. victim-blaming attitudes, negative attitudes toward sexual assault victims, rape myth acceptance) may lead to secondary victimization. This secondary victimization may also come in the form of not following up with an investigation (Reddington & Kresiel, 2005). Lastly, prosecutors exercise discretion in determining which complaints go to trial in order to secure a conviction (Estrich, 1987; McGregor, 2005).

### *Perceptions of Rape*

Bourque (1989) as cited in Reddington and Kresiel (2005) asserts "definitions of rape can vary with the defining person's social standing, education, perceptions of, and attitudes towards violence and sexuality" (p. 30). By viewing "real" rape as stranger

rape, this allows individuals not to acknowledge the reality of the more common acquaintance rape. Reddington & Kreisel (2005) assert “the patriarchal order has socialized women to believe that sexual acts not deemed inappropriate by the traditional, stringent definition of rape does not equate to sexual victimization” (p. 14). By narrowing perceptions of rape, many offenders and victims, as well as reasonable persons, may not realize they rape or have been raped (Reddington & Kreisel, 2005). Few theories attempt to explain this occurrence and no theory is conclusive. One such theory is the “just world” hypothesis. The “just world” hypothesis is the one-dimensional view “that a person gets what they deserve in life” (Reddington & Kreisel, 2005, p. 33). This viewpoint allows individuals to place blame on the victim of acquaintance rape by stating that he or she gets what they deserve by being naïve, sexy, dumb, or generally making poor life decisions or any other attribute or behavior. Essentially the victim deserves their fate on the basis of their attitudes and behaviors and warrants becoming a victim of a crime. Burt (1980) asserts “such a belief protects the believer from sensing his or her own vulnerability to similar coerced events” (p. 218). Such rationalizations become the basis of rape myths (Reddington & Kreisel, 2005).

### *Rape Myths*

Burt (1980) defines rape myths as “prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists” (p. 217). Burt (1980) identifies the following rape myths: “only bad girls get raped”; “any healthy woman can resist a rapist if she really wants to”; “women ask for it”; “women ‘cry rape’ only when they’ve been jilted or have something to cover up”; and “rapists are sex-starved, insane, or both” (p. 217). Other rape myths include: “the majority of rape claims are false”; “the majority of rapes are committed by

strangers”; “rape is a black-on-white crime”; “when a woman says ‘no’ to sex, she really means ‘yes’; and “men cannot be victims of rape” (Reddington & Kreisel, 2005, p.16-21). Burt (1980) found that indeed many individuals believe in rape myths. “Rape attitudes are strongly connected to other deeply held and pervasive attitudes such as sex role stereotyping, distrust of the opposite sex (adversarial sexual beliefs), and acceptance of interpersonal violence” (p. 229). Estrich (1987) states that a person holding these beliefs often feel as if he or she can differentiate between “real rape” and other events such as regretted sex. Rape myths allow individuals to blame the victim, asserting that they themselves would have known better than to get themselves in the rape prone situation. Research on rape myth acceptance (RMA) has shown that “men are more likely to adhere to rape myths than women” and “several studies have noted significant relationships between RMA and sexually aggressive behaviors” (Reddington & Kreisel, 2005, p. 15).

### *Rape Scripts*

Research by Murnen and Byrne (1991) found college women who had traditional attitudes regarding women’s rights and roles reported more total victimization experiences than women who had non-traditional attitudes. Byers (1996) analyzed the “traditional sexual script” (TSS) among college students. Scripts provide a “cognitive framework” for expected and appropriate behavior in social situations. Scripts are “learned through socialization” (Byers, 1996, p. 9). “The ‘traditional sexual script’ supports and condones male sexual coercion against women and that sexual script remains that normative dating script in North American society” (Byers, 1996, p. 8). The “traditional sexual script” prescribes “different expectations for men’s and women’s

behavior and attitudes in sexual situations” (Byers, 1996, p. 9). The “traditional sexual script” stipulates (1) “sexual relationships be heterosexual”; (2) the depiction of “men as oversexed” and “women as undersexed”; (3) “women’s perceived worth and status” is “decreased by sexual experience whereas men’s worth and status” is improved by sexual experience; (4) men are “initiators in sexual situations and women” are “recipients”; and (5) women are to limit sexual activity and men are to “try to remove women’s restrictions to enhance their own worth and meet their own sexual needs” which “legitimizes men’s use of a variety of coercive and noncoercive influence strategies” (Byers, 1996, p. 9-10). Byers (1996, p. 10) asserts that other aspects of the “traditional sexual script” contribute to sexual aggression but are not limited to sexual relations:

The dating and gender role scripts dictate that women’s worth is enhanced by being in a romantic relationship. Thus, within the TSS, a woman is expected to restrict sexual access but to do so in a way that does not cause the man to decrease his romantic interest in her. To accomplish this, she should not be too assertive or aggressive in refusing sexual advances, she must appear sexy, and must convey (through low levels of sexual activity) that satisfying sex will occur in the future if the man remains in the relationship.

Other aspects of our culture that support the “traditional sexual script” in non-sexual situations include the gender roles in which women are “expected to be emotional, sensitive, and nurturing in interpersonal relationships” and men are “expected to be unemotional, relatively insensitive, and self-focused”. This leads to sexual coercion, in that “men need not take into account the woman’s feelings or reluctance to engage in sexual activity.” Summarizing the “Traditional Sexual Script”, Byers (1996) asserts:

The TSS pits the oversexed, aggressive, emotionally insensitive male initiator who is enhanced by each sexual conquest and taught not to accept “no” for an answer against the unassertive, passive woman who is trying to protect her worth by restricting access to her sexuality while still appearing interested, sexy, and concerned about the man’s needs. Sexual coercion is believed to be learned and maintained through widespread socialization for this behavioral script, traditional

gender roles, and attitudes and beliefs that support, condone, and legitimize sexual coercion in at least some circumstances (p. 11).

Byers' analysis reveals some support for the "traditional sexual script"; however, findings were not conclusive. Byers (1996) found "men who reported having engaged in both consenting and nonconsenting sex tended to hold more traditional views of women's roles as well as to subscribe more strongly to coercion-supportive beliefs" (p. 19). Further, "more active daters were more likely to have experienced consenting intercourse and to have used verbal coercion.... More active daters were less likely to have used physical force" (p. 19). Other relevant findings include the lack of relationship between the use of verbal coercion and the use of physical coercion. Byers (1996) states "verbal coercion and physical force are not two manifestations of a continuum of coercive behavior within the same dating script" (p. 19). Men with certain traits such as "men who hold strongly to particular beliefs or men with hypererotic orientation -- may cross the line between verbal pressure and use of physical force" (Byers, 1996, p. 19). However, "we found that men and women typically agree about the desired level of sexual activity" (Byers, 1996, p. 15). In conclusion, "results suggest that the TSS contributes to sexual coercion in that both coercion-supportive and traditional gender role beliefs, as well as active dating, were independently associated with coercive sexual behavior" (Byers, 1996, p. 20).

Ryan (1988) analyzes rape scripts and seduction scripts among 20 male and female undergraduate students and found that most participants, when describing rape describe a "blitz" rape. A "blitz rape" is described as a woman being attacked by a mentally ill or socially unfit male, who was angry and aggressive toward her. Rape scripts more often described the offender as physically unattractive and of lower social



status when compared to the seduction scripts. The rape scripts frequently occurred at night, in the outdoors, and between strangers. Whereas the seduction scripts occurred indoors and frequently involved alcohol usage among both the parties. The seduction scripts used conversation as a method of persuasion and there was very little aggression or resistance (Ryan, 1988).

Ford, Liwag-McLamb, & Foley (1998) analyzed perceptions of rape through scenarios varying the sex and the perceived sexuality of victims. The authors analyzed attitudes towards blameworthiness of the offender and victim on the basis of the sex and sexual orientation of the victim. Their findings conclude that female victims are blamed more if they are heterosexual and male victims are blamed more if they are homosexual. Heterosexual females are perceived to be more at fault than homosexual females. Conversely, homosexual males are perceived to be more at fault than heterosexual males. Moreover, males are more likely to label the incident as rape if the victim is a heterosexual female than if the victim is a heterosexual male. In addition, males are more likely to label the incident as rape if the victim is a homosexual male than a heterosexual male. Females are more likely to label the incident as rape if the victim is a heterosexual female than if the victim is a homosexual male.

Ford et al. (1998) affirm, “both men and women appear to have stereotypes about the ‘typical’ rape victim” (p. 260). Males are more likely to label the incident as rape if the victim is a “sexual object for a man” (e.g., heterosexual females or homosexual males) (Ford et al., 1998, p. 261). On the other hand, females are more likely to label the incident as rape if the victim is a heterosexual female than a homosexual male. The authors conclude “women who have been perceived as ‘wanting it’ and men perceived as

'asking for it' were heterosexual women and homosexual men" (Ford et al., 1998, p. 261). Accordingly, images of rape include heterosexual females and homosexual males, not homosexual females and heterosexual males. Furthermore, "reactions to rape are largely based on stereotypes of rape, such as who the typical victim is...men and women differ in their perceptions of a rape victim" (Ford et al., 1998, p. 262).

Balsam, Beauchaine, and Rothblum (2005) analyzed lifetime victimization rates by sexual orientation and found that lesbian, gay, and bisexual individuals "were more likely to report a history of non-intercourse sexual coercion, coerced intercourse, and rape than heterosexual participants" (p. 481). Homosexual participants reported higher levels of lifetime victimizations when compared to heterosexual participants. Thirteen percent of bisexual men and 11.6% of gay males reported a history of rape in adulthood compared with 1.6% of heterosexual males. Correspondingly, 16.9% of bisexual females and 15.5% of lesbians reported a history of rape in adulthood compared with 7.5% of heterosexual females. When compared to heterosexual individuals, lesbian, gay, and bisexual individuals report "higher levels of psychological, physical and sexual violence in both childhood and adulthood" (Balsam et al., 2005, p. 483).

#### *Gender Differences in Perceptions of Rape*

Analyses of perceptions of sexual harassment have yielded interesting results and are applicable to perceptions of rape. Research on sexual harassment and the role of attribution concludes, "men and women evaluate social sexual behavior differently because they take different perspectives..." (Wiener, 1995, p. 173). Male and female participants were less likely to see a scenario as sexual harassment when they took the male perspective of the situation. This research also showed that when participants were

asked to view the scenario from the female victims point of view they perceived that the male offender was at fault (Wiener, 1995). These studies illustrate how crucial perspective is, especially when dealing with acquaintance rape.

Chasteen (2001) specifically examines women's perceptions of rape. She states "women do not define rape in a uniform way, and, moreover, they do not understand it in a homogeneous way" (p. 123). The ways in which women understand rape stems from varying life experiences and social positions. Chasteen's research uses the constructionist framework to examine women's perceptions of rape. Using an open-ended survey and a scenario to examine attitudes toward rape, she revealed that most women view rape as extremely likely and view it as a permanently devastating experience. Analogies used to describe rape varied by age group. Women in their twenties reported more dramatic images of sexual violence and used themes of personal destruction more often than other age groups. Women over the age of forty often used themes of social status to describe rape, indicating the social effects of being raped.

Further, women who had been raped were much less likely than others to say the woman in an ambiguous scenario was definitely not a victim of rape. Victims of rape were more likely to ignore the question or state that it depended on other factors. Women who had been raped used images of theft in the analogies, whereas women who had not been raped most often described rape in terms of personal destruction. The most graphic analogies came from women who had not been raped. Chasteen proposes that "for women who experience rape, the event becomes part of who they are and something they have survived, like a robbery of something 'sacred'..." (p. 121). Women who have not been assaulted indicate that rape remains a horrifying event. They imagine themselves

like “the butchered baby seals” (p. 121). They view themselves as unable to survive rape (Chasteen, 2001). This study illustrates the importance of definitions and how perceptions and fears affect the outcome of such an event. Women of all age groups have different conceptualizations of rape, depending on age and if they have experienced an event they would label rape.

Studies of male college populations indicate that the primary motivation for acquaintance rape is a desire for sex (McGregor, 2005; Sanday, 1990; Schwartz & DeKeseredy, 1997). Kanin (1967), as cited in Schwartz & DeKeseredy (1997), suggest that some men use rape as a means to have sex. Individuals that force sex on partners tended to have more extensive sexual histories than their peers and to persistently seek new sexual encounters. Such attitudes have been linked to the pleasure of orgasm and that men are biologically compelled to pursue sexual encounters (Thornhill & Palmer, 2000), which, feminist scholars reject. Other factors may include the fact that having sex, as much and as obviously as possible, is an esteem enforcing behavior specific norm for many young men.

Katz (2006) asserts that despite the progress of the feminist movement, “men continue to grow up with, and are socialized into, a deeply misogynistic, male-dominated culture, where violence against women... is disturbingly common. It’s normal!” (p. 9). Therefore, violence against women is rooted in our culture, more specifically through the acting out of gender roles (Katz, 2006). Stoltenberg (1989) goes further by asserting that gender roles are socially constructed phenomenon. He asserts, “the notion of manhood is a cultural delusion, a baseless belief” (p. 29). Further, our society constructs the self around reproductive capacities. “The penises exist; the male sex does not” (Stoltenberg,

1989, p. 30). Mutually exclusive sex categories and gender roles are a socially constructed phenomenon with political and social implications.

The male sex...is a political entity that flourishes only through acts of force and sexual terrorism. Apart from the global inferiorization and subordination of those who are defined as “non male,” the idea of personal membership in the male sex class would have no recognizable meaning” (Stoltenberg, 1989, p. 30).

Males (as he refers to as those individuals with penises) have an “urgency for a visceral and constant verification of their male sexual identity... as the driving force of their life” (Stoltenberg, 1989, p. 31). Further, this drive is based in the male identity ideal and the ideal gives this drive a social meaning.

Stoltenberg (1989) asserts that male sexual identity requires:

1. An unfailing belief in one’s own goodness and the moral rightness of one’s purposes, regardless of how others may value what one does:
2. A rigorous adherence to the set of behaviors, characteristics, and idiosyncrasies that are appropriately male (and therefore inappropriate for the female);
3. An unquestioning belief in one’s own consistency, notwithstanding any evidence to the contrary—a consistency rooted, for all practical purposes, in the relentlessness of one’s will and in the fact that, being superior by social definition, one can want whatever one wants and one can expect to get it (p. 16-17).

Male identity puts forth a social value system, which mandates:

certain acts... because they make an individual’s sexedness feel real and certain acts are eschewed because they numb it... That value system is the ethics of male sexual identity—and it may well be the social origin of all injustice” (Stoltenberg, 1989, p. 32).

Sexuality is expressed by feelings and actions (Stoltenberg, 1989). “For many people, for instance, the act of fucking makes their sexual identity feel more real than it does at other times” (p. 32). In order for the sexual identity to be real or true, the act and the feeling must be congruent. Stoltenberg (1989) makes the point that sexuality is not a gendered act or feeling; but instead sexuality creates gender. “Acculturated male sexuality has a

built-in fail-safe: either its political context reifies manhood or the experience cannot be felt as sexual. Either the sex act creates his sexedness or it does not compute as a sex act” (Stoltenberg, 1989, p. 33). One of the major tenants of Stoltenberg’s theory of male sexual identity is that males are to “identify with the class of males—that is, accept as one’s own the values and interest of the class” (p. 34). This aspect of male sexual identity mandates the non-identification with non-males, which are females. Male sexual identity “absolutely depends on the extent to which he repudiates the values and interests of the sex class ‘women’” (p. 34).

The male sexual identity prescribes a very narrow version of sexual expression. “Real men are aggressive in sex. Real men get cruel in sex. Real men use their penises like weapons in sex. Real men leave bruises. Real men think it’s a turn-on to threaten harm” (Stoltenberg, 1989, p. 35). Further, the male sexual identity stipulates that men exhibit and express power through heterosexual sex and women are deemed powerless. This prescribed type of sex is “sex men have in order to have a manhood” (p. 35). Pornography also helps the male sexual identity seem real. Stoltenberg (1989) asserts that the pornography industry is “dedicated to maintaining a sex-class system in which men believe themselves sex machines and men believe women are mindless fuck tubes” (p. 36). The relationship between men and women is further distanced through “rough” sex and pornography. Men are pushed to believe that they have nothing in common with women. Further, woman is presented as “an alien inanimate thing” (p. 36). Stoltenberg (1989) asserts that the message of the male sexual identity ideal is loud and clear:

If you’re the man, you fuck. And if you don’t fuck, you’re not a man... Fucking is the sex act, the act in which you act out what sex is supposed to be—and what sex you’re supposed to be (p. 39).

Sexual objectification, according to Stoltenberg (1989), is not normal and natural as so many have deemed it to be. Instead “male sexuality without sexual objectification is unimagined. Male sexuality without it would not be male sexuality” (p. 45). One of the purposes of sexual objectification is to make the person seem not real and not equal to that of the male. Sometimes the person being objectified “may be duped into feeling ‘flattered’... a dubious distinction often confused with being ‘desired’” (p. 48). Sexual objectification and male supremacy relate in “two mutually reinforcing ways: (1) Men’s habit of sexually objectifying serves in part to construct the male supremacy of culture, and (2) the male supremacy of culture urges males to adapt by adopting the habit of sexually objectifying” (p. 51). From this the “male supremacy of culture determines how penile sensations will be interpreted” (p. 53).

Sexual objectification within the male supremacy culture leads to sexual violence. “Once you have made a person out to be a thing, you can do anything to it you want” (Stoltenberg, 1989, p. 55). According to Stoltenberg (1989), male sexual identity mandates “it is right to be male; it is wrong to be female; therefore anything done against a woman to the purpose of one’s passion... is justifiable and good...” (p. 21). “If a man rapes a woman, the woman is responsible therefore the rape is not a rape” (p. 18). Further, “it is right to rape, it is wrong to be raped” (p. 20). The male sexual identity mandates victim blaming especially when dealing with rape. Katz (2006) maintains that the choices are easy when it comes to victim blaming. “If the (false) choice is between ‘she’s a vindictive slut who’s trying to take down one of my boys,’ and ‘My friend is a rapists’... it is less stressful to blame the demonized ‘other’ than it is to engage in self-

examination” (Katz, 2006, p. 29). Our culture conditions individuals to blame women and other subordinated groups for their own dilemma.

Supporting some of the notions put forward by Stoltenberg (1989), Schwartz and DeKeseredy (1997) suggest that college-aged men may rape to gain the esteem of others as well as demonstrating one’s masculinity. The norm of frequent sex supports the masculinity ideal. The strong adherence to the traditional sex roles within the college-aged male population supports this notion. The more definitively one exemplifies masculinity, the less confused one’s sexuality is perceived to be. Therefore, these individuals need sex, as it is a means of proving one’s heterosexuality and furthermore one’s masculinity. Proving oneself to be heterosexual is the equivalent of proving one to be masculine. They are one in the same act (Schwartz & DeKeseredy, 1997).

Luddy and Thompson (1997) compared perceptions of rape and gender traditionalism among fathers and sons. The analysis concluded that “rape definition was most dependent on men’s attitudes toward the toughness norms within a traditional masculinity ideology” (p. 470). This analysis suggests that “men mistakenly infer sexual meaning in others’ behavior and misperceive interaction within a sexual assault as similar to seduction and making love” (p. 472). Further, “masculinity ideology, more than generation, was found to have a strong effect on perceptions of rape” (p. 472).

Participants did not label the scenario as rape when

a crying woman resigned to the man’s demands for sexual intercourse after repeatedly protesting and saying ‘no’; when the woman did not initially object; and when the assault took place in the woman’s apartment and the man initiated and paid for the date (Luddy & Thompson, 1997, p. 473).



Significantly, this research supports the notion that “rape perceptions are subject to men’s conceptions of manhood (what men think men are like and what men ‘should be like’)” (Luddy & Thompson, 1997, p. 474).

### *College Social Scene*

Does the “rape culture” still exist in 2007? Do college students hold rape myths? A recent campus newspaper opinion article titled “Rape Only Hurts If You Fight It” by Petroski affirms the presence of both a rape culture and rape myths. Petroski (2007) argues, “rape is a magical experience that benefits society as a whole” (p. 7). Further, “if it weren’t for rape, Western Civilization might not exist as we know it today” (p.7). He reasons that if it weren’t for rape, “ugly women...would not know the joy of intercourse with a man who isn’t drunk” (p. 7). Petroski associates rape with pleasure when it comes to “ugly women”, illustrating the idea that only “beautiful” women are actually raped. With his statement, the myth that rape can be pleasurable is expressed. Lastly his ideas indicate that “ugly women” would not be able to have sex without rape and alcohol use among offenders. Essentially the author is saying that “fat/ugly” women are in need of rape to have sex. The editors of the newspaper associated with Central Connecticut State University argued that the article was meant as satire and that the author is a very talented satirist. Both the paper editor and Petroski apologized for the contents of the article (“Two Students Responsible”, 2007).

There are many myths, ideas, and beliefs about rape prevalent in today’s society and among all populations (Schwartz & Nograd, 1996); however, university populations are often targeted for research on rape. Pragmatic reasons for targeting this population include the fact that “they are a high risk group for rape because they are in the same age

range as the bulk of rape victims and offenders” (Koss et al., 1987, p. 163). Other research in the area of rape (e.g. sexual coercion) supports this notion.

Hogben, Byrne, and Hamburger (1996) surveyed 214 students and found “a higher proportion of men (41%) than of women (24%) reported having at least once coerced a partner sexually” (p. 73). Further, “a higher proportion of women (79%) than men (52%) reported having at least once been coerced by a sexual partner... Men reported more attempts to coerce women sexually...” (p. 73-74). Mills and Granoff (1992) sampled college students in Hawaii and found that 50% of men sampled said that women mean, “yes” when they say “no”. “Those who thought that women say ‘no’ when they mean ‘yes’ stated that a woman needs to say ‘no’ an average of 2.6 times before they would believe she really means it” (Mills & Granoff, 1992, p. 506).

Armstrong et al. (2006) assert that in the college social scene, institutional enforcement of alcohol violations and gendered social processes predict the likelihood of sexual assault. They performed an ethnographic study of a female “party” dorm and attempted to explain party rape. The authors interviewed 42 women who were interested in partying and were predominately white, unmarried, at least of middle class social status, and of the traditional college student age of 18 to 21 years. The authors assert that partying is expected within the context of the college social scene and gender inequality surfaces as a result of institutional regulations regarding alcohol consumption.

Party rape situations is the result of fun situations that shift- either gradually or quite suddenly- into coercive situations. Demonstrating how the production of fun is connected with sexual assault requires describing the interactional routines and expectations that enable men to employ coercive sexual strategies with little risk of consequence (Armstrong et al., 2006, p. 490).

One particular location where gendered expectations and partying intersect is at fraternity houses. Women interviewed state that they attend fraternity parties in order to meet men. Women express that meeting males is esteem-enforcing and establishes status. Having a high erotic status is valuable in this social scene. In order to achieve such status, they need to portray themselves as “‘hot’ but not ‘slutty’” (Armstrong et al., 2006, p. 488). Armstrong et al. (2006) state

...men derived status from getting attention from securing sex (from high status women), while women derived status from getting attention (from high status men). These agendas are both complementary and adversarial: men give attention to women en route to getting sex, and women are unlikely to become interested in sex without getting attention first (p. 488).

The authors assert that homogenous groups (e.g. fraternities) control parties in that they only allow desirable guests, control alcohol consumption, and control transportation. In these situations, women are expected to be indebted guests and to be particularly nice, when men are not expected to follow the same behavior.

Assigning women the role of sexual ‘gatekeeper’ relieves men from responsibility for obtaining authentic consent, and enables them to view sex obtained by undermining women’s ability to resist it as ‘consensual’ (e.g. by getting women so drunk that they pass out) (Armstrong et al., 2006, p. 491).

For women to fulfill this gendered script means that they are vulnerable to rape. Yet, as Armstrong et al. (2006, p. 491) point out, “women’s vulnerability produces sexual assault only if men exploit it.”

Colleges and universities are now required to take initiatives to combat the prevalence of acquaintance rape and underage drinking. Many schools change landscape and lighting and offer counseling or other services to aid victims of rape. This does not have an effect if rape victims do not even believe they have been raped or blame themselves for consuming alcohol. Furthermore, acquaintance (including date and party)

rape will not respond to more lighting on campus (Ward et al., 1991) because drinking alcohol is entrenched into the college social scene. Many colleges, such as Antioch, have implemented policies to such as the Antioch College Sexual Offense Policy. The Policy stipulates that if one person wants to initiate moving to a higher level of sexual intimacy in an interaction, that person is responsible for getting the verbal consent of the other person involved before moving to that level (Sanday, 1996). These policies seem drastic but affirmative consent may be necessary to eliminate ambiguity present within the college social scene (Smith, 2000).

The college social scene socially accepts and expects partying and dating. Many males and females receive ambiguous messages as to what constitutes acquaintance rape. The line between seduction and rape are vague especially in an environment fueled with alcohol and unstated gendered expectations. The goal of this study is to examine the definition of rape between both male and female college-aged individuals. This age group may have a narrow perception of rape that is limited to situations in which a crazed man jumps out of the bushes and physically attacks. Data from college campuses reveal that acquaintance rape is by far the most common occurrence of any type of rape. These experiences cannot all be explained as miscommunication on behalf of the dating parties. Lack of consent does not mean “yes.” There are many conflicting messages as to what coercion is; what constitutes consent; and how to define the crime of rape. The purpose of this study is to examine how those most affected by acquaintance rape understand it.

### CHAPTER III

#### METHODOLOGY

This is an exploratory study designed to identify perceptions of acquaintance rape, specifically sexual consent and coercion, held by university students at both a medium sized (approximately 13,000 students) public research university and a small (approximately 6,000 students) public liberal arts university in the Southeastern section of the United States. The goal of this study is to assess if students define acquaintance rape uniformly. More specifically, when students are given a sexual situation in which verbal consent is absent and both verbal coercion and alcohol are present, do they deem the event acquaintance rape or consensual sex? In addition, when placing blameworthiness, do students assign blame to the victim, offender, or alcohol? Is the designation of blameworthiness and the label of acquaintance rape affected by the gender of the victim and offender in the scenario and perceptions regarding sexuality (homosexual and heterosexual) of victims and offenders?

This study was loosely based upon the findings of a previous study (Chasteen, 2001), which illustrates the differences in definitions of rape among women of all ages. In addition, Chasteen found that women in their twenties, as well as women who had not been raped, gave the most graphic and dramatic images of rape in an open-ended survey. Based on these findings, the author seeks to analyze the designation of the rape label based on questions regarding the consent of the victim (i.e., Did Zack consent to sexual acts?) and coercion by the offender (i.e., Did Jared force Zack into doing sexual acts?) in scenarios that involve the presence of verbal coercion, the presence of alcohol, and the lack of verbal consent. *The Clery Act* defines rape as:

Forcible sex offenses (including rape) – any sexual act directed against another person, forcibly and/or against the person’s will; or not forcibly against the person’s will where the victim is incapable of giving consent. This category includes forcible rape, forcible sodomy (including oral and anal), sexual assault with an object, and forcible fondling.<sup>1</sup>

Based on *The Clery Act* definition of rape, the researcher presents an incident common to the college social scene (Ward et al., 1995). A situation in which the offender and the victim are in a non-threatening social situation in which alcohol is consumed and the victim has agreed to interact with the offender despite not having known one another from previous situations. The author is interested in how gender can affect the designation of acquaintance rape, blameworthiness of the offender and victim, as well as alcohol.

Based on findings from Ford et al. (1998), the researcher speculates that both male and female survey participants are more likely to label male offender and female victim scenarios acquaintance rape and label all other scenarios legitimate sex (i.e. male offender and victim, female offender and victim, and female offender and male victim scenarios). Male survey participants are more likely to blame homosexual male victims as opposed to heterosexual male victims and heterosexual female victims as opposed to homosexual female victims. Further, female survey participants are more likely to blame heterosexual female victims as opposed to homosexual female victims and heterosexual male victims as opposed to homosexual male victims.

### Research Design

The study is both exploratory and comparative in nature. The study is exploratory in that the researcher designed a scenario (see appendix A), which could be labeled acquaintance rape or legitimate sexual intercourse, in order to determine how students

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<sup>1</sup> See 34 C.F.R. § 668.46 (a)

responded. Each scenario lacked verbal consent on behalf of the victim and the offender verbally coerced the victim into sexual intercourse. Each situation varied in the gender of the offender and victim. The researcher seeks to determine how students define acquaintance rape and if the scenarios meet the designation of that label. This study is comparative in that the researcher will compare students based on gender (male versus female). The researcher surveyed a convenience sample of students from the University of Southern Mississippi and Georgia College and State University during the spring semester of 2007.

#### Survey participants

The researcher sought a total sample size of between 300 to 500 students, with a minimum of 150 students per school. An overall sample of 443 students was obtained, with 248 University of Southern Mississippi (USM) students and 195 Georgia College and State University (GCSU) students. The sample consisted of college students currently enrolled at the USM and GCSU in sociology and criminal justice classes. Universities were selected on the basis of their mission, size of student body, location, and student demographics.

#### *Institutional Demographics*

The University of Southern Mississippi (USM) is a public research university in Hattiesburg, Mississippi with approximately 13,000 undergraduate students. USM is located in an urban area with a campus located on 1,090 acres. USM costs approximately \$10,000 to \$15,000 per year to attend (America's Best Colleges, 2007). In the fall 2006 semester, 39% of students were male and 61% of students were female. Sixty-five percent of USM students are Caucasian; 29% are African American; 2% are Hispanic;

and 4% compose other racial/ethnic categories. Seventy-one percent of USM students are between the ages of 18 and 25 (Southern Miss Factbook, 2006-2007). Approximately 24% of undergraduate students live on campus in university sponsored housing. Approximately 10% of male undergraduate students and 11% of female undergraduate students are in Greek affiliated fraternities and/ or sororities. Approximately 10% of students stay on campus during the weekends (America's Best Colleges, 2007).

In contrast, Georgia College and State University (GCSU) is a public liberal arts university in Milledgeville, Georgia with approximately 5,000 undergraduate students. GCSU is located in an urban area with a campus located on 590 acres. GCSU costs approximately \$20,000- \$25,000 per year to attend (America's Best Colleges, 2007). In the fall 2005 semester, 39% of students were male and 61% of students were female. Eighty-three percent of GCSU students are Caucasian; 10.6% are African American; 1.4% are Hispanic; and 5% compose other racial/ethnic categories. Ninety-one percent of GCSU students are between the ages of 18-25 (Georgia College & State University Factbook, 2005). Approximately 40% of undergraduate students live on campus in university sponsored housing. Approximately 9% of male undergraduate students and 13% of female undergraduate students are in Greek affiliated fraternities and/or sororities. Approximately 35% of students stay on campus during the weekends (America's Best Colleges, 2007).

Lastly, the researcher considered incidents of sexual offenses and alcohol and drug violations at the respective universities reported to the U.S. Department of Education as required by *The Clery Act*. USM reported a total of five on-campus sexual assaults for the years 2003-2005. GCSU reported no sexual assaults for the years 2003-



2005. USM reported a total of 42 drug law violation arrests and 126 liquor law violation arrests for the years 2003-2005. GCSU reported a total of 32 drug law violation arrests and 269 liquor law violation arrests for the years 2003-2005 (OPE Campus Security, n.d.).

The two universities differed in comparison of campus size (with USM having over twice as many students), campus acreage, (with USM composing of nearly twice as many acres as GCSU), and price (with GCSU being twice as expensive as USM). As far as demographics, the two universities differed in most aspects. USM has almost three times as many African American students in comparison to G.C.S.U (29% versus 10.6%). GCSU has a higher percentage of the target age group of 18-25 in comparison to USM (91% versus 71%). Almost twice as many students live on the GCSU campus in comparison to USM (40% versus 24%); and more GCSU students stay on campus during the weekend in comparison to USM students (35% versus 10%). Lastly from 2003 to 2005, GCSU reports more alcohol violations when compared to USM (269 versus 126) and USM reports more sexual assaults in comparison to GCSU (5 versus 0) in accordance with *The Clery Act*.

#### Instrument

The researcher was unable to locate an appropriate survey instrument for the purposes of this study and therefore designed a survey instrument to assess student perceptions of acquaintance rape; a copy of the survey appears as Appendix A. The survey instrument was restricted in length to allow completion within a period of thirty minutes. The survey instrument was designed to measure perception of acquaintance rape through the use of scenarios depicting a sexual situation involving verbal coercion

and verbal non-consent. To assess face validity, the researcher consulted experts in the field of rape research, whom concluded the instrument assessed the ambiguous areas of sexual assault/rape. A pilot study involved 11 students from Georgia College and State University. Reliability of the instrument was determined using Cronbach's alpha (see Table 1). After recommendations were received, the appropriate alterations were made.

Table 1

*Reliability of survey instrument*

Variable across relationships	Alpha	Standardized Alpha
Acquaintance Rape	.826	.831
Consent	.615	.729
Coercion	.806	.825
Total	.876	.897

This instrument consisted of two sections. The first section of the survey consisted of four scenarios designed to measure student perceptions of consent and coercion in sexual situations. Each scenario depicts a sexual situation, which could be interpreted as either legitimate sexual contact or a possible acquaintance rape. Each scenario describes a sexual situation in which the offender and victim meet one another in a social setting common on college campuses and alcohol is present (i.e. at a bar, at a party). The offender verbally persuades or coerces the victim and the victim does not verbally consent to the highest level of sexual activity. Each victim has consented to some sexual activity; however victims have not consented to the highest level of sexual activity (i.e. oral sex, vaginal penetration with fingers, or vaginal/ penial intercourse).

Scenarios vary in gender of the offenders and victims; i.e. (1) between a male offender and male victim; (2) a female offender and male victim; (3) a female offender and female victim; and (4) a male offender and female victim. After each of the four scenarios, the participant is provided with a response scale of 1= *definitely no*, 2= *probably no*, 3= *probably yes*, 4= *definitely yes* and asked:

1. If the victim consented to sexual relations.
2. If the offender coerced the victim into sexual relations.
3. If this situation qualified as acquaintance rape.
4. If the victim was responsible for the incident.
5. If the offender was responsible for the incident.
6. If alcohol was responsible for the incident.

The second section of the survey consisted of 15 items, which address demographics. Survey participants are asked to respond to the following questions: (1) What is your gender? Male, female; (2) What is your age? Open-ended response; (3) What is your race? Caucasian, African American, Hispanic, Asian, Other; (4) What is your current academic classification? Freshman, sophomore, junior, senior, graduate, non-traditional student; (5) What is your current academic major? Open-ended response; (6) Which best describes the area your high school was in? Rural, semi-rural, suburban, urban; (7) Which best describes your current living situation? On-campus, off-campus; and (8) Do you belong to any of the following social groups? Greek affiliated, academic organizations, student government, collegiate athletics, intramural athletics, religious organizations, residence hall associations, political groups, special interest groups, others, or I am not currently involved in any social groups. In addition, each participant is asked:

In the past month, have you engaged in any of the following social activities? If so, how many times (frequency)?; (1) I have gone to a bar and consumed alcohol.; (2) I have gone to a private party and consumed alcohol.; and (3) I have gone to a fraternity/sorority party and consumed alcohol. General attitudes toward acquaintance rape are assessed by asking each participant their views of rape seriousness: (1) Acquaintance rapes are a common occurrence in the college social scene.; (2) Acquaintance rapes are underreported to campus police and other officials.; (3) Individuals who commit acquaintance rapes should be punished harshly.; (4) Individuals that commit acquaintance rape rarely get caught.; and (5) Acquaintance rape is a criminal manner. Survey participants are provided with a response scale of 1= *strongly agree*, 2= *agree*, 3= *neutral*, 4= *disagree*, 5= *strongly disagree*. Lastly, each survey participant is provided an area to give additional comments.

#### Procedure

Once approval was gained from the Human Subjects Review Committee at the University of Southern Mississippi (Appendix B) and Georgia College and State University (Appendix C), then administered the survey at the University of Southern Mississippi during the last week of January 2007. The researcher administered the survey in eight criminal justice and sociology courses over the course of two days. The researcher administered the survey at Georgia College and State University at the beginning of February 2007. The researcher administered the survey in seven criminal justice and sociology courses over the course of a week.

The researcher read an oral presentation and one of two consent documents was provided to all potential survey participants (Appendices D and E). Each university had a

separate consent document; each document contained a list of counseling resources that were free of charge to the students at that particular university in addition to counseling resources that may not be free of charge in the event that they wished to seek counseling after the completion of the survey.

Survey instruments were distributed inside a manila envelope. In addition, the envelope contained the two copies of the informed consent document and a pamphlet addressing acquaintance rape. The pamphlet included definitions of acquaintance rape and ways to avoid acquaintance rape for both men and women. A copy of the pamphlet appears as Appendix F.

#### Delimitations and Limitations

The researcher imposed a number of delimitations in this study, which produced subsequent limitations on the findings of this study. The first delimitation and limitation is that this study was limited in that it only assessed the perceptions of acquaintance rape of students currently enrolled in criminal justice and sociology classes at The University of Southern Mississippi and Georgia College and State University. These findings cannot be generalized to the student population outside of these two universities. The second delimitation and limitation is the fact that the survey instrument is primarily quantitative and will not be able to provide an explanation as to why students perceive acquaintance rape the way they do. A limited amount of qualitative data was collected and analyzed. Lastly, the researcher acknowledges that a person's experience with acquaintance rape will impact how they perceive it. The researcher did not include a question regarding prior experience with acquaintance rape. This omission was made due to the intrusiveness of such questioning and the potential harm of such questions

would outweigh any potential benefit. The absence of such questions is acknowledged as a limitation of this study.

### Data Analysis

The researcher entered all data derived from the surveys into SPSS. The data collected in this project was analyzed using version 11.0 of SPSS for Windows. Descriptive statistics were used to analyze the frequencies, percents, means, and standard deviations for the demographic information collected from the survey participants. Descriptive statistics were used to analyze the frequencies, percents, means, and standard deviations for Research Question 1: Do variations in gender of offender and victim affect whether an individual labels an event “acquaintance rape” or “consensual sex”? The researcher consulted a Repeated Measures ANOVA to assess Hypothesis 1: Scenarios involving same-sex victims and offenders (male offender/male victim; female offender/female victim), and female offenders and male victims affect whether an individual labels an event as acquaintance rape or consensual sex. A Repeated Measures ANOVA and associated independent samples t test was used to assess Research Question 2: Are individual definitions of acquaintance rape uniform? and Hypothesis 2: The demographic variable, gender, is a statistically significant predictor of whether or not a respondent will designate a scenario as acquaintance rape or consensual sex. Independent samples t test was used to analyze gender differences in response to questions on consent, coercion, offender and victim responsibility and alcohol responsibility. The results of these analyses and their associated tables are presented in the following chapter.

## CHAPTER IV

## RESULTS

Data were collected from The University of Southern Mississippi and Georgia College and State University. The researcher received a total of 443 survey responses, and more survey responses were returned from The University of Southern Mississippi than Georgia College and State University (see Table 2). Missing data accounted for 0.1-1.1% of all cases throughout the dataset.

**Table 2***University participation*

<b>University</b>	<b>n</b>	<b>%</b>
The University of Southern Mississippi	248	56.0
Georgia College & State University	195	44.0
Total	443	100

## Descriptives

Demographic data are provided in Table 3. The sample consisted of more females than males. In addition, the target age group of 18 to 20 years composed 54% of the sample. The mean age of the survey participants was 20.91 years with a standard deviation of 3.88 years. Approximately 73% of the sample was Caucasian and 22.6% were African American. The sample consisted of more freshman than any other academic classification.

In addition, Table 3 provides demographic data by university. With few exceptions, most of the university sample percentages reflect the larger population of the

university. Institutional data from both USM and GCSU report 61% of students are female and 39% are male. The USM sample was composed of more males than the researcher expected based on the population, whereas the GCSU sample was more reflective of the institutional population. Institutional data from USM reports 71% of the student population are between the ages of 18 and 25. The USM sample was composed of 86.3% of students between the ages of 18 and 24, which is larger than the researcher expected. Institutional data from GCSU reports 91% of the student population are between the ages of 18 and 25. The GCSU sample was composed of 95.4% of students between the ages of 18 and 24. USM and GCSU student samples were both similar to their institutional racial populations. Sixty-five percent of all students attending USM are Caucasian and 29% are African American. Eighty-three percent of all students attending GCSU are Caucasian and 10% are African American. Table 4 presents a correlation matrix between the participant's university and acquaintance rape scores. There is not a significant relationship between the participant's university and acquaintance rape scores.



**Table 3***Descriptive statistics for the sample population*

<b>Variable</b>	<b>n (%)</b>	<b>USM %</b>	<b>GCSU %</b>
<b>Gender</b>			
Male	206 (46.5)	48.8	43.6
Female	235 (53.0)	51.2	55.4
<b>Age</b>			
18-20	239 (54.0)	45.2	65.1
21-24	161 (37.0)	41.1	30.3
25-30	33 (7.0)	10.9	3.1
31-42	6 (1.0)	2.8	0.5
<b>Race</b>			
Caucasian	323 (72.9)	61.3	87.8
African American	100 (22.6)	35.1	6.7
Hispanic	6 (1.4)	1.6	1.0
Asian	4 (0.9)	0.0	2.1
Other	7 (1.6)	2.0	2.4
<b>Classification</b>			
Freshman	130 (29.3)	29.0	29.7
Sophomore	92 (20.8)	14.9	28.2
Junior	107 (24.2)	21.4	27.7
Senior	104 (23.5)	31.5	13.3
Graduate	6 (1.4)	2.4	0.0

Note. Missing data accounted for 0.8- 1.1% of the sample.

**Table 4***R square values and significance levels of acquaintance rape scores by university*

	Male/male	Female/female	Female/male	Male/female
Participant's University	.051 (.280)	.091 (.056)	.056 (.237)	.064 (.182)

#### Statistical Results

The researcher proposed two research questions and two hypotheses in this study.

Research questions 1 and 2 are addressed in the following sections.

**Research Question 1:** Do variations in gender of offender and victim affect whether an individual perceives an event acquaintance rape or consensual sex?

**Hypothesis 1:** Scenarios involving same-sex victims and offenders (male offender/male victim; female offender/female victim), and female offenders and male victims affect whether an individual perceives an event as acquaintance rape or consensual sex.

The researcher assessed perceptions of acquaintance rape through four scenarios describing a situation in which verbal coercion and verbal non-consent were present. Each scenario differed in the perceived sexuality of the offender and victim (e.g. male/male and female/female) and gender role expectations (e.g. female/male and male/female). In addition, each scenario included the consumption of alcohol on behalf of the offender and the victim. Each participant was asked if the scenario qualified as acquaintance rape. Judgments were made on a four-point scale (1= definitely not; 2= this probably not; 3= probably; 4= definitely).

*Is it acquaintance rape?*

Table 5 provides means for acquaintance rape scores across gender of the offender and victim in the scenarios. Survey participants were more likely to judge the scenario involving a male offender and female victim as acquaintance rape and least likely to judge the scenario involving a female offender and female victim as acquaintance rape. Approximately 63% of the sample stated the male offender and female victim scenario was *definitely* acquaintance rape. Approximately 54% of the sample stated the male offender and male victim scenario was *probably* acquaintance rape. Approximately 47% of the sample stated the female offender and male victim scenario was *probably* acquaintance rape. Lastly, approximately 42% of the sample stated the female offender and female victim scenario was *probably* acquaintance rape.

**Table 5**

*Overall mean of acquaintance rape responses*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	2.99	0.78
Female/female	2.65	0.89
Female/male	2.93	0.85
Male/female	3.44	0.87

A repeated measures ANOVA revealed a statistically significant difference in perceptions of acquaintance rape based on offender and victim gender with a  $F(3, 437) = 105.206, p = .001$ . Table 6 shows the contrasts in acquaintance rape scores by gender of offender and victim. The only scenarios that were not statistically significant from one

another were the male offender/male victim and female offender/female victim scenarios. The hypothesis was supported. Scenarios involving same-sex victims and offenders (male offender/male victim; female offender/female victim), and female offenders/male victims were the least likely to be defined as acquaintance rape. The most likely scenario to be defined as acquaintance rape was the male offender/female victim scenario. All other scenarios were more likely to be defined as consensual sex.

**Table 6**

*F values and significance of gender of offender/ victim acquaintance rape scores*

Gender of Offender/Victim	F value			
	Male/male	Female/female	Female/male	Male/female
Male/male				
Female/female	1.423			
Female/male	72.227***	46.943***		
Male/female	99.883***	109.942***	242.472***	

Note. \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

**Research Question 2:** Are individual definitions of acquaintance rape uniform?

**Hypothesis 2:** The demographic variable, gender, is a statistically significant predictor of whether or not a respondent will designate a scenario as acquaintance rape or consensual sex.

A repeated measures ANOVA revealed a statistically significant difference in the perceptions of acquaintance rape held by male and female survey participants with a  $F(3,437) = 5.218, p = .001$ . The hypothesis was supported and the researcher concluded

that change in mean acquaintance rape scores across gender of the offender and victim depends on the gender of the participant.

Table 7 provides acquaintance rape score means by gender of the participant. Female survey participants were more likely to label all scenarios as acquaintance rape in comparison to male survey participants. The researcher employed an independent samples t-test to further compare the means of acquaintance rape scores among the gender of the participant. Gender differences among the survey participants were found significant for male/male, female/female, and female/male scenarios. Male and female survey participants did not differ significantly in their perceptions of male/female acquaintance rape. Female survey participants were more likely to label the situation as acquaintance rape in all scenarios in comparison to male survey participants.

**Table 7**

*Mean acquaintance rape scores and independent samples t test values by gender of participant*

Offender/ Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	2.86 (.827)	3.10 (.709)	-3.255***
Female/female	2.43 (.907)	2.85 (.838)	-4.989***
Female/male	2.84 (.860)	3.02 (.816)	-2.218*
Male/female	3.43 (.873)	3.48 (.813)	-.668

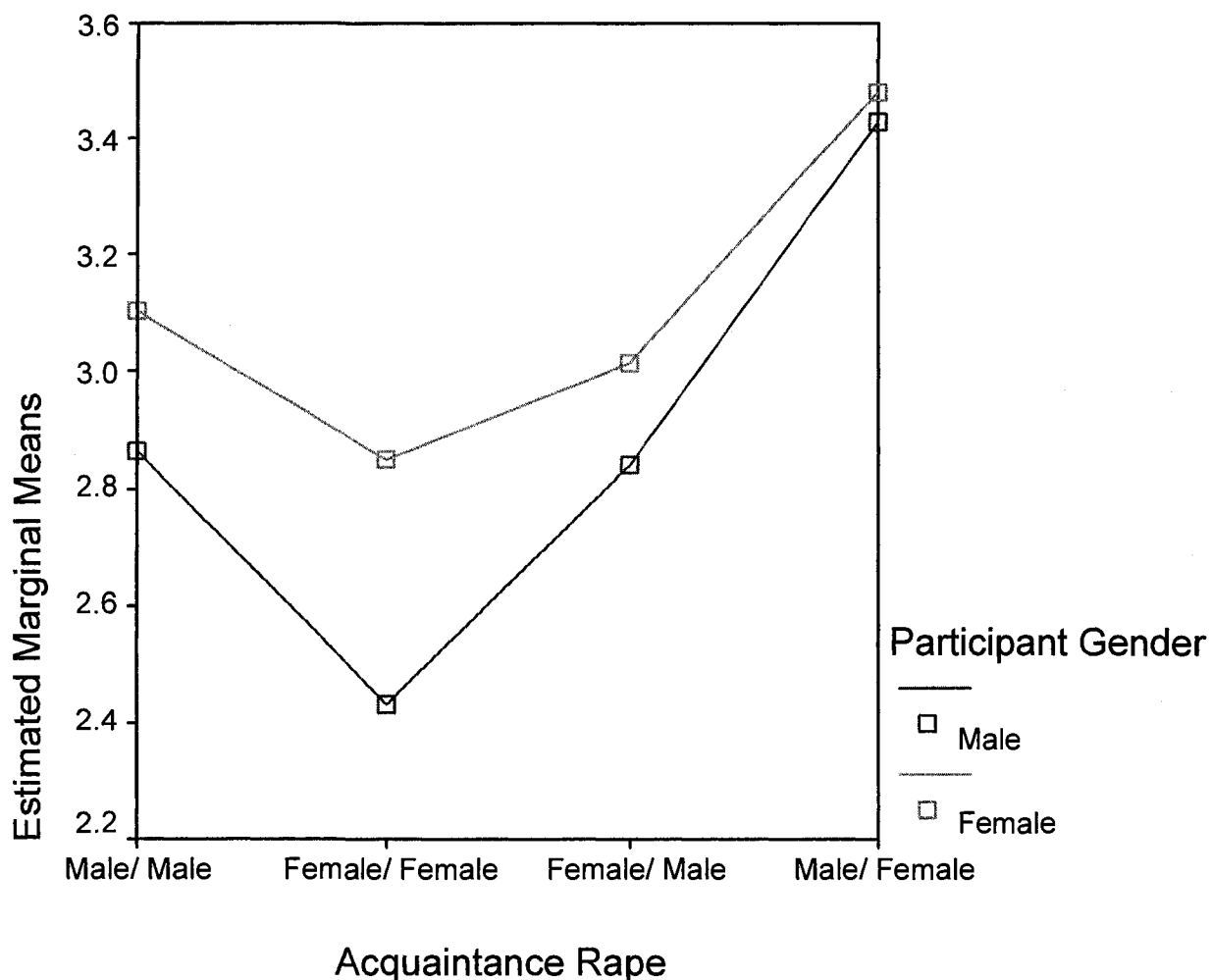
Note. \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

Figure 1 presents contrasts between acquaintance rape scores by gender of the participant. Significant gender differences exist when comparing female/male scenarios

to all other scenarios. Male and female survey participants were in agreement that the male/female scenario was acquaintance rape; whereas they were not in agreement for all other scenarios.

**Figure 1**

*Interaction between gender of offender/victim and gender of participant*



*Did the victim consent?*

The researcher assessed perceptions of consent through the four scenarios. Each participant was asked if the victim consented to sexual acts. Judgments were made on a 4-point scale (1= the victim definitely did not consent; 4= the victim definitely

consented). Survey participants mostly likely judged male victims in male offender/ male victim scenarios as not consenting to sexual acts (see Table 8). Approximately 61% of the sample stated the male victim *definitely* did not consent to the male offender.

Approximately 51% of the sample stated the female victim *definitely* did not consent to the male offender. Approximately 48% of the sample stated the male victim *definitely* did not consent to the female offender. Lastly, approximately 45% of the sample stated the female victim *definitely* did not consent to the female offender.

**Table 8**

*Overall mean of consent responses*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	1.57	0.84
Female/female	1.78	0.86
Female/male	1.67	0.77
Male/female	1.79	0.97

Table 9 provides mean consent responses by gender of the participant. Both male and female survey participants were least likely to state that the male victim consented to the male offender compared to all other scenarios but lacked statistical significance. Male survey participants were significantly more likely to state that female victims consented to female offenders. Female survey participants were significantly more likely to state that female victims consented to male offenders.

**Table 9**

*Mean consent scores and independent samples t test values by gender of participant*

Offender/Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	1.61 (.902)	1.53 (.775)	1.051
Female/female	1.90 (.889)	1.68 (.814)	2.737**
Female/male	1.74 (.794)	1.62 (.732)	1.671
Male/female	1.66 (.884)	1.92 (1.020)	-2.829**

Note. \*p < .05., \*\*p < .01, \*\*\*p < .001.

*Did the offender coerce the victim?*

The researcher assessed perceptions of coercion through the four scenarios. Each participant was asked if the offender forced the victim into performing sexual acts.

Judgments were made on a four-point scale (1= definitely did not coerce; 4= definitely coerced). Survey participants mostly judged male offenders as forcing female victims into performing sexual acts (see Table 10). Approximately 67% of the sample stated the male offender *definitely* coerced the female victim into performing sexual acts.

Approximately 59% of the sample stated the male offender *definitely* coerced the male victim into performing sexual acts. Approximately 45% of the sample stated the female offender *probably* coerced the female victim into performing sexual acts. Lastly, approximately 42% of the sample stated the female offender *probably* coerced the male victim into performing sexual acts.



**Table 10***Overall mean of coercion responses*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	3.44	0.82
Female/female	3.00	0.83
Female/male	3.23	0.80
Male/female	3.53	0.78

Table 11 provides the mean coercion responses by gender of the participant. Both male and female survey participants were least likely to state that the female offender coerced the female victim into performing a sexual act compared to all other scenarios. Both male and female survey participants were more likely to state that male offenders coerced female victims into performing a sexual act in comparison to all other scenarios. Results of an independent samples t test of coercion scores by participant gender are presented in Table 11. Female survey participants were significantly more likely to state that female offenders coerced female and male victims into performing sexual acts in comparison to male survey participants. In addition, female survey participants were significantly more likely to state that male offenders coerced male victims into performing sexual acts in comparison to male survey participants.

**Table 11**

*Mean coercion scores and independent samples t test values by gender of participant*

Offender/ Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	3.32 (.897)	3.53 (.729)	-2.730**
Female/female	2.80 (.886)	3.17 (.737)	-4.776***
Female/male	3.10 (.811)	3.35 (.739)	-3.404***
Male/female	3.54 (.794)	3.56 (.704)	-.321

Note. \* $p < .05$ . \*\* $p < .01$ , \*\*\* $p < .001$ .

*Is the offender responsible?*

The researcher assessed culpability of the offender through the four scenarios. Each participant was asked if the offender was responsible for the incident. Judgments were made on a four-point scale (1= definitely not responsible; 4= definitely responsible). Survey participants mostly judged male offenders as most culpable for the sexual incidents involving female victims (see Table 12). Approximately 70% of the sample stated the male offender was *definitely* responsible for incidents involving female victims. Approximately 59% of the sample stated the male offender was *definitely* responsible for incidents involving male victims. Approximately 54% of the sample stated the female offender was *definitely* responsible for incidents involving female victims. Lastly, approximately 51% of the sample stated the female offender was *definitely* responsible for incidents involving male victims.

**Table 12***Assignment of offender culpability in scenarios*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	3.46	0.77
Female/female	3.49	0.63
Female/male	3.40	0.73
Male/female	3.65	0.62

Table 13 provides the mean offender culpability responses by gender of the participant. Both male and female survey participants were least likely to state that the female offender is responsible in scenarios involving male victims compared to all other scenarios. Both male and female survey participants were more likely to state that male offenders were responsible in scenarios involving female victims in comparison to all other scenarios. Results of an independent samples t test of offender culpability scores by participant gender are also provided in Table 13. Female survey participants were significantly more likely to state that female offenders were responsible for incidents with both female and male victims in comparison to male survey participants. In addition, female survey participants were significantly more likely to state that male offenders were responsible for incidents with male victims in comparison to male survey participants.

**Table 13**

*Mean offender culpability scores and independent samples t test values by gender of participant*

Offender/Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	3.35 (.806)	3.54 (.729)	-2.545*
Female/female	3.38 (.686)	3.59 (.551)	-3.539***
Female/male	3.30 (.762)	3.51 (.643)	-3.143**
Male/female	3.64 (.616)	3.69 (.534)	-.899

Note. \* $p < .05$ . \*\* $p < .01$ , \*\*\* $p < .001$ .

*Is the victim responsible?*

The researcher assessed culpability of the victim through the four scenarios. Each participant was asked if the victim was responsible for the incident. Judgments were made on a four-point scale (1= definitely not responsible; 4= definitely responsible). Survey participants mostly judged female victims as most culpable for the sexual incidents involving female offender (see Table 14). Approximately 40% of the sample stated the female victims were *probably* responsible for incidents involving female offenders. Approximately 37% of the sample stated the female victim was *probably* responsible for incidents involving male offenders. Approximately 37% of the sample stated the male victim was *probably not* responsible for incidents involving female offenders. Lastly, approximately 36% of the sample stated the male victim was *probably not* responsible for incidents involving male offenders.

**Table 14***Assignment of victim culpability in scenarios*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	2.44	0.95
Female/female	2.45	0.86
Female/male	2.32	0.94
Male/female	2.27	0.90

Table 15 provides the mean victim culpability responses by gender of the participant. Male survey participants were least likely to state that the female victim is responsible in scenarios involving male offender compared to all other scenarios. Female survey participants were least likely to state that the male victim is responsible in scenarios involving female offenders in comparison to all other scenarios. Male survey participants were more likely to state female victims were responsible in scenarios involving female offenders in comparison to all other scenarios. Female survey participants were more likely to state female victims were responsible in scenarios involving male offenders in comparison to all other scenarios. Results of an independent samples t test of victim culpability scores by participant gender are also presented in Table 15. Male survey participants were significantly more likely to state that female victims were responsible for incidents with female offenders in comparison to female survey participants. Female survey participants were significantly more likely to state that female victims were responsible for incidents with male offenders in comparison to male survey participants.

**Table 15**

*Mean victim culpability scores and independent samples t test values by gender of participant*

Offender/Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	2.52 (.946)	2.37 (.954)	1.652
Female/female	2.56 (.846)	2.35 (.857)	2.583**
Female/male	2.36 (.893)	2.30 (.968)	.689
Male/female	2.17 (.881)	2.38 (.890)	-2.470*

Note. \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

*Is alcohol responsible?*

The researcher assessed culpability of alcohol use and/ or abuse through the four scenarios. Each participant was asked if alcohol use was responsible for the incident. Judgments were made on a four-point scale (1= definitely not responsible; 4= definitely responsible). Survey participants mostly judged alcohol use/ abuse as responsible in situations involving female offenders and male victims (see Table 16). Approximately 54% of the sample stated alcohol was *probably* responsible for incidents involving male offenders and male victims. Approximately 53% of the sample stated alcohol was *probably* responsible for incidents involving female offenders and female victims. Approximately 51% of the sample stated alcohol was *probably* responsible for incidents involving female offenders and male victims. Lastly, approximately 47% of the sample stated alcohol was *probably* responsible for incidents involving male offenders and female victims.

**Table 16***Assignment of alcohol culpability in scenarios*

<b>Offender/victim gender</b>	<b>Mean</b>	<b>SD</b>
Male/male	2.69	0.84
Female/female	2.73	0.85
Female/male	2.85	0.87
Male/female	2.75	0.94

Table 17 provides the mean alcohol culpability responses by gender of the participant. Male survey participants were least likely to state that alcohol use/abuse is responsible in scenarios involving female offenders and female victims compared to all other scenarios. Female survey participants were least likely to state that alcohol use/abuse is responsible in scenarios involving male offenders and male victims in comparison to all other scenarios. Both male and female survey participants were more likely to state that alcohol use/abuse is responsible in scenarios involving female offenders and male victims in comparison to all other scenarios. Results of an independent samples t test of alcohol culpability scores by participant gender are also presented in Table 17. Female survey participants were significantly more likely to state that alcohol was responsible for scenarios involving female offenders and both male and female victims in comparison to male survey participants. In addition, female survey participants were significantly more likely to state that alcohol was responsible for incidents with male offenders and female victims in comparison to male survey participants.

**Table 17**

*Mean alcohol culpability scores and independent samples t test values by gender of participant*

Offender/Victim Gender	Participant Gender		t value
	Male Mean (SD)	Female Mean (SD)	
Male/male	2.62 (.885)	2.75 (.796)	-1.654
Female/female	2.60 (.871)	2.84 (.811)	-3.010**
Female/male	2.75 (.906)	2.95 (.810)	-2.405*
Male/female	2.63 (.932)	2.88 (.907)	-2.848**

Note. \* $p < .05$ , \*\* $p < .01$ , \*\*\* $p < .001$ .

#### Summary of Findings

##### *Male offender/male victim scenarios*

Acquaintance rape scores for the male offender/male victim scenario was significantly different from the female/male and male/female scenarios, but not significantly different from the female/female scenario. Female survey participants were significantly more likely to label this scenario as acquaintance rape as compared with male survey participants. In regards to consent of the victim, there were no significant gender differences among the survey participants. However, female survey participants were significantly more likely to state the male offender coerced the male victim in comparison to male survey participants. In addition, female survey participants were significantly more likely to state the male offender was responsible for the incident in comparison to male survey participants. Lastly, there were no significant gender differences in responsibility assigned to either the victim or alcohol.



*Female offender/female victim scenarios*

Acquaintance rape scores for the female offender/female victim scenario was significantly different from the female/male and male/female scenarios. Acquaintance rape scores for this scenario were not significantly different from the male/male scenario. Female survey participants were significantly more likely to label this scenario as acquaintance rape as compared to male survey participants. However, both male and female survey participants were least likely to label this scenario as acquaintance rape (with means less than 3.0) in comparison to all other scenarios. In regards to consent of the victim, male survey participants were significantly more likely to state that the female victim consented to the female offender in comparison to female survey participants. Female survey participants were significantly more likely to state the female offender coerced the female victim in comparison to male survey participants. In addition, female survey participants were significantly more likely to state the female offender was responsible for the incident in comparison to male survey participants. Male survey participants were significantly more likely to state the female victim was responsible for the incident in comparison to female survey participants. Lastly, female survey participants were more likely to hold alcohol responsible for the incident in comparison to male survey participants.

*Female offender/male victim scenarios*

Acquaintance rape scores for the female offender/male victim scenario was significantly different from all other scenarios (male/male, female/female, and male/female). Female survey participants were significantly more likely to label this scenario as acquaintance rape in comparison to male survey participants. There were no

significant gender differences in regards to consent of the victim. Female survey participants were significantly more likely to state the female offender coerced the male victim in comparison to male survey participants. In addition, female survey participants were significantly more likely to state the female offender was responsible for the incident in comparison to male survey participants. There were no significant gender differences in regards to the victim's responsibility for the incident. Lastly, female survey participants were more likely to hold alcohol responsible for the incident in comparison to male survey participants.

*Male offender/female victim scenarios*

Acquaintance rape scores for the male offender/female victim scenario was significantly different from all other scenarios (male/male, female/female, and male/female). Both male and female survey participants were significantly more likely to label this scenario as acquaintance rape in comparison to all other scenarios. Female survey participants were significantly more likely to state the female victim consented to male offender in comparison to male survey participants. There were no significant gender differences in regards to coercion. In addition, there were no significant gender differences in regards to the offender's responsibility for the incident. Female survey participants were significantly more likely to hold the female victim responsible for the incident in comparison to male survey participants. Lastly, female survey participants were more likely to hold alcohol responsible for the incident in comparison to male survey participants.

## CHAPTER V

## DISCUSSION

## Summary

The second wave feminist movement of the 1970s exposed acquaintance rape in the United States as an important issue. Prior to anti-rape reforms, many variables influenced the designation of rape by offenders, victims, police, judges, and juries. Rape during this period focused on offenders' use of aberrant physical force and victims' use of forceful resistance. Moreover, qualities of the victim became integral at trial (e.g. chasteness, modesty). Anti-rape reforms of the feminist movement moved the term "acquaintance rape" into the popular lexicon. The feminist movement changed the perception of rape from the actions of psychotic strangers to that of acquaintances, friends, dates, and husbands. States enacted legislation that addressed the issue by prohibiting "sexual assault" or expanding existing rape laws to include a variety of relationships and sexual acts.

As a result of anti-rape reform, various governmental agencies and state legislatures define rape in diverse ways by focusing on different elements of the crime. Definitions of rape focus on variations of levels of coercion, non-consent, and specific sexual acts. The FBI focuses its rape definition on forcible compulsion and against the will of a female and covers only vaginal penetration by a penis (FBI, 2004). The NCVS defines rape and sexual assault separately with definitions focusing on psychological and physical coercion that do not require the non-consent element. Moreover, penetration may be vaginal, anal, oral, or by object (NCVS, n.d.). The *Clery Act* defines rape as

either forcible or against the person's will. Penetration may be vaginal, anal, oral, or by object (34 C.F.R. § 668.46 a).

As a result of rapid changes in rape legislation and the incorporation of rape forms not previously recognized (e.g. date, acquaintance, marital, prison), there is no universally understood definition of rape. Despite state and federal laws banning acts such as sexual assault and rape, perceptions of acquaintance rape are not understood. Since a universally understood definition of rape has yet to be conceived, there is vast confusion as to which acts constitute acquaintance rape. Furthermore, the "rape culture" of the college campus sends many conflicting messages as to what coercion is; what constitutes consent; and how to differentiate the crime of rape from regretted sex, especially when alcohol is involved. Therefore the purpose of this study was to examine how those most affected by acquaintance rape understood it. The need for this analysis was indicated by the written comments of survey participants. A 19-year-old Caucasian male wrote, "I really do not know what is considered acquaintance rape." A 30-year-old Caucasian male wrote, "I am unfamiliar with the term acquaintance rape."

#### *General Perceptions of Acquaintance Rape*

Generally, male and female survey participants in this sample agreed that acquaintance rape includes situations in which a male offender uses verbal coercion on a non-consenting female to secure vaginal intercourse. This finding lends support to the idea that the feminist movement has indeed changed the perceptions of rape. The idea of rape no longer fits the image of stranger rape. One of the goals of the anti-rape movement of the 1970s was to show that "women are most subject to rape by the average man, not by some strange sex fiend" (Sanday, 1996, p. 174). This finding indicates that

the goals of the anti-rape movement have been realized among younger generations. One, the way individuals understand rape has changed. Two, the definition of rape to include victims of acquaintance rape (instead of focusing on the aberrant violence of the stranger rape) has been achieved. Survey participants indicated that the typical acquaintance rape is that in which little physical coercion is necessary on behalf of the male offender and more imperative is the lack of consent on behalf of the female victim.

Survey participants in this sample acknowledged that rape is not limited to the stranger situation and instead can involve individuals who know each other. Despite the agreement among survey participants that male offender/female victim scenarios were acquaintance rape, differences among male and female survey participants were found to exist in all acquaintance rape scenarios. Presence of verbal coercion and verbal non-consent does not wholly correlate to the designation of acquaintance rape in all scenarios. Moreover, male and female survey participants perceive consent, coercion, and responsibility (offender, victim, alcohol) differently. Victims' perceived consent did not necessarily translate into victim responsibility, and offenders' perceived use of coercion did not always translate into offender responsibility. Meanwhile, perceptions of lack of consent and presence of coercion also did not uniformly equate with the perception of acquaintance rape.

This study expounds on previous research on rape perceptions (Bourque, 1989; Chasteen, 2001; Ford et al., 1998; Ryan, 1988). The results of this study confirm that individuals have varying perceptions of the term "acquaintance rape". The researcher hypothesized that scenarios involving 1) same-sex victims and offenders (male offender/male victim; female offender/female victim) and 2) female offender/male victim

scenarios would affect whether an individual perceives an event as acquaintance rape or consensual sex. The hypothesis was supported as survey participants mostly labeled the male offender/female victim as acquaintance rape and all other scenarios as consensual sex. The female offender/female victim scenario was labeled as consensual sex (not acquaintance rape). Further, all scenarios were labeled acquaintance rape significantly less when compared to the male offender/female victim scenario. These results indicate that the term “acquaintance rape” is mostly thought of in a very narrow sense. Generally, the term is thought to only involve heterosexual offenders and victims and specific sex acts. More specifically, the typical acquaintance rape scenario includes a male offender coercing a non-consenting female into vaginal intercourse.

#### *Gendered Perceptions of Acquaintance Rape*

Previous research by Ford et al. (1998) affirmed that men and women have stereotypes about acquaintance rape victimization. Based on those findings, this research hypothesized that participant gender would be a significant predictor of whether the scenario would be designated as acquaintance rape or consensual sex. Analyses supported the hypothesis, revealing that male and female survey participants are significantly different in their designation of acquaintance rape (with the exception of the male offender/female victim scenario). This finding affirms Ford et al. (1998) assertion that “both men and women appear to have stereotypes about the ‘typical’ rape victim” (p. 260). Male survey participants labeled the male/female scenario as rape and labeled all other scenarios as consensual sex. Meanwhile, female survey participants labeled the male offender/female victim, female offender/male victim and male offender/male victim scenarios as acquaintance rape and the female offender/female victim scenario as

consensual sex. Both male and female survey participants did not significantly differ on the male offender/female victim scenario, with both designating this scenario as acquaintance rape. For male survey participants the “typical” acquaintance rape included female victims of male offenders. For female survey participants the “typical” acquaintance rape was gender-neutral, with both males and females being victims of male offenders.

### *Traditional Sex Script*

Scenarios mostly deemed consensual sex violated the “traditional sex script” (TSS), which “supports and condones male sexual coercion against women” (Byers, 1996, p. 8). The traditional sexual script prescribes “different expectations for men’s and women’s behavior and attitudes in sexual situations” (p. 9). Same-sex victim/offender scenarios violate the stipulation that “sexual relationships be heterosexual” (p. 9). Survey participants mostly stated that male victims did not consent to male offenders, which appears to indicate that survey participants’ followed the TSS ban on homosexual behavior. The TSS also stipulates the depiction of “men as oversexed,” “women as undersexed,” and men as “initiators in sexual situations and women [are] recipients” (p.10). This assumption is violated in all scenarios except the male offender/female victim scenario. The effect that gender role expectations have on survey participant perceptions of female offender/male victim scenarios is also important. Survey participants may believe that women are “undersexed” and would never violate a man-- much less another woman. Conversely, survey participants may believe that men are “oversexed” and would never turn down sex, thereby making both male/male scenario and female/male scenario consensual sex.

In the same vein of gender role expectations, “the patriarchy allows for the social construction of sexuality to include male aggressiveness and female passivity (Sanday, 1996; Millet, 1969). Interestingly, survey participants primarily did not blame the female offender in female offender/male victim scenarios, but did blame alcohol use. Survey participants may have felt that behavior among female offenders was incongruent with gender role expectations, which proscribe that men physically dominate women; therefore, women cannot coerce men. Elaborating on this perception, a 20-year-old Caucasian male eloquently stated, “I like getting raped by chicks.” An 18-year-old Caucasian male added:

In all of these situations I think the people being harassed could have stopped what was happening to them especially the men in these situations. Guys can control what is happening to them a lot easier than a female can. And alcohol doesn't always end in rape.

Other aspects of our culture that support the “traditional sexual script” in non-sexual situations include gender roles in which women are “expected to be emotional, sensitive, and nurturing in interpersonal relationships” and men are “expected to be unemotional, relatively insensitive, and self-focused” (Byers, 1996, p. 10). This feminine behavioral expectation appears to be present in this study, as survey participants mostly held the female victim responsible in the female offender/female victim scenario responsible, but would not ordinarily acknowledge that the female offender coerced the female victim. These findings may reflect the belief that females cannot and will not coerce other females. Females should know how to respond to other females since the TSS-proscribed gender role expects women to be “emotional, sensitive, and nurturing in interpersonal relationships” (Byers, 1996, p. 10).



### *Homophobic Attitudes*

Homophobic attitudes may affect survey participants' perceptions of male offender/male victim and female offender/female victim scenarios. Gender-neutral statutes were established to acknowledge female offenders and male victims; both groups had not been visible in rape law. Estrich (1987) maintains that males are not perceived as victims due to the stigmatization of homosexuality, while females are not perceived as offenders because there is little evidence that females commit rape. Survey participants may acknowledge that "rape is not generally a gender-neutral crime; men rape, not women" (McGregor, 2005, p. 37). This attitude is reflected in a written comment from a 21-year-old Caucasian male, "Oral or getting fingered I consider not rape but scenario 4 [male/female scenario], it is rape."

Homophobic attitudes were expressed during data collection, participants verbally made comments. Verbal comments included laughing in all classrooms. Other comments included, "The male/male scenario scared the hell out of me." "Are these two boys?" and "It was a good survey but I could have done without all the gay stuff." However, a 19-year-old male wrote about the importance of the homosexual scenarios, "I have several gay friends who had stories identical to that of Zack and Jared [male/male scenario] and I know several girls who have had this occur and myself as well to a certain extent."

Explanations of homophobic beliefs are correlated to beliefs in traditional gender roles and religious attitudes. Other known correlates include the belief in the superiority of males and the inferiority of females (Whitley & Aegisdottir, 2000). Individuals who hold more negative attitudes toward homosexuality have been shown to have more

traditional gender role attitudes (Whitley & Aegisdottir, 2000). Gender roles proscribe certain activities and traits to be appropriately feminine and masculine, whereas violators of these roles are labeled homosexual. Heterosexuals ascribing to traditional gender role beliefs are presumed to have negative perceptions toward homosexual individuals due to perceptions “of cross gender traits, roles, and characteristics” (Whitley & Aegisdottir, 2000, p. 949).

In addition to positive correlations between homophobia and traditional gender role attitudes, individuals with negative attitudes toward homosexuality (homophobia) tend to be more religious, especially, fundamentalists and conservatives (Herek, 1984; Hunsberger, 1996 as cited in Schwartz & Lindley, 2005). Moreover, negative attitudes toward homosexuality have been shown to correlate to specific geographic areas (e.g. Southern and Midwestern sections of the United States) (Herek, 1984).

Robinson and Spivey (2007) elaborate on the role of religion and gender politics in the “Ex-gay Movement”, premised on the idea that homosexuality is malleable and reversible. Proponents of this movement include “nearly every major Christian Right organization” (p. 651). A meta-analysis of Ex-Gay literature reveals “social changes brought about by gay liberation and feminism have contributed to gender confusion and the demasculinization of men” (p. 365). This movement promotes strict gender roles, the admonishment of homosexuality, while concurrently considering homosexuality to be the lack of fulfillment of the appropriate gender role (specifically for males) and a consequence of an overbearing mother or absent father. The authors argue that the “ex-gay movement is not only an antigay countermovement but an antifeminist Christian Right men’s movement” (p. 669). Homophobia may account for attitudes toward the

male offender/male victim and female offender/female victim scenarios in this sample, as it was distributed in southern states where social and religious views tend to be conservative.

### *Just World Hypothesis*

Both male and female survey participants labeled the male offender/female victim scenario as acquaintance rape, but the female perception is perplexing. Male and female survey participant perceptions differed significantly with regard to 1) consent, 2) culpability of the offender and victim, and 3) alcohol in this acquaintance rape scenario. Results indicated that female survey participants mostly blamed female victims, while placing the least amount of blame on male offenders in male offender/female victim scenarios. Furthermore, significant differences were not found among male and female survey participants in perceived level of coercion in the male offender/female victim scenario. Lastly, female survey participants tended to believe that the female victim consented to the male offender in comparison to male survey participants. Interestingly, female survey participants also blamed alcohol use/abuse in this scenario.

The differences between males and females in the male offender/female victim scenario lends support for the assertion of McGregor (2005) and Estrich (1987) that males and females perceive certain behaviors very differently in sexual situations. Further, these results may lend support for the “just world hypothesis.” The “just world” hypothesis proposes that individuals place blame on the victim of acquaintance rape, stating that she gets what she deserves by being naïve, sexy, or dumb. Essentially, the victim deserves her fate on the basis of her attitudes or behaviors, thereby deserving

victimization. Burt (1980) asserts that this belief “protects the believer from sensing his or her own vulnerability to similar coerced events” (p. 218).

Further support for the “just world” hypothesis can be found in qualitative data with 9 of the 33 written comments relating to the victim’s lack of intelligence or the ability to defend him or herself. A 21-year-old African American female wrote,

I do feel acquaintance rape is a bad thing. I also feel that two people who are grown people should have sense enough not to put themselves in a situation they don’t know how to handle. The victims in all scenarios were not too intelligent. Don’t state one thing and act another, it sends mixed messages to people.

Similarly, a 20-year-old Caucasian female noted “I choose not to engage in sexual activity until marriage. I also choose not to consume alcohol because I am underage. Smarter choices in all scenarios could have prevented unwanted contact.” The ability of the victim to defend himself/herself also produced comments. According to a 19 year-old male,

Consideration should be given to genders involved. A male generally is more physically powerful than a female and can stop a female from committing rape. He also could more easily commit rape. Females do not have the ability to force someone away from them.

Eight of the written comments stated that both parties were to blame. However, comments tended to blame the victim more so. A 19-year-old Caucasian female wrote, “I believe both parties are guilty. A victim chooses to be a victim by drinking with someone and not being strong in their actions to avoid having something done that they don’t want done.” Seven written comments focused on alcohol. A 19-year-old Caucasian male wrote,

Alcohol isn’t really the largest factor or excuse. By choosing to drink, that person has accepted all following actions. If the person knows they will act in a certain way when intoxicated, they have the ability to state no. In these situations, all

victims had an opportunity to more harshly defend themselves (verbally, physically, etc.). However that means in no way that the 'attacked' was innocent.

A 20-year-old female stated that rape is the lack of consent, "I live in an apartment building that is 75% fraternity guys. So I see a lot of random hookups but never anything that isn't consented." Four survey participants focused their comments on the feelings of the offender and victim. A 20-year-old Caucasian male wrote, "I don't know what happened at the end of the stories, so it was hard to decipher what it would be classified as." A 21-year-old Caucasian male wrote,

I feel that the whole truth of an act would never be known. One side would have more weight when reported to authority. Does not take into context if the victim or victimizers feelings about each other (revenge, hate, etc.)

A 20-year-old Caucasian female had personal experience with the topic and wrote,

For the first time (in the past two weeks) I have found out one of my friends was raped when she was younger and it came out this year (five years later). Being forced to do something sexually is so scarring. I believe anyone who commits a sexual act on someone against their will- no matter what the situation- should be severely punished for their actions.

Perhaps female survey participants were more likely to relate to this scenario because it affects more people (the typical heterosexual acquaintance rape). Other possible explanations include female survey participants' adherence to rape myths. Female survey participants may believe that women really don't say what they mean in sexual relationships with men.

Victim blaming is participated in by both male and female survey participants; both blamed females, but in different scenarios. Interestingly, female survey participants blamed the female victim in the heterosexual scenario and male survey participants blamed the female victim in the homosexual scenario. This finding supports the assertion by Ford et al. (1998) that "reactions to rape are largely based on stereotypes of rape, such

as who the typical victim is.... men and women differ in their perceptions of a rape victim” (p. 262). However, contrary to Ford et al. (1998) findings that female victims are blamed more if they are heterosexual, females in this sample were blamed more, regardless of perceived sexual orientation, and were primarily perceived as consenting.

#### Limitations

There are four recognized limitations regarding the results of this study: (1) This study was delimited in that it only assessed current perceptions of students enrolled at The University of Southern Mississippi and Georgia College & State University. The findings therefore should not be generalized to student populations outside these universities. (2) The survey instrument was primarily quantitative and does not provide an explanation for why students perceive acquaintance rape in certain manners. (3) The survey was designed to be completed in thirty minutes or less; as a result, important questions pertaining to rape myth acceptance were not included. (4) The researcher omitted questions pertaining to personal experience with acquaintance rape because potential harm of such intrusive questions do not outweigh potential benefits. It is acknowledged, however, that a person’s experience with acquaintance rape may impact their perception of acquaintance rape (Chasteen, 2001). Therefore, the absence of such questions is a limitation.

#### Recommendations for Policy or Practice

Secondary and post secondary schools should consider the findings of this study when formulating acquaintance rape education programs. Since students in this study did not uniformly define certain scenarios as acquaintance rape (e.g. generally those involving same-sex offenders and victims), acquaintance rape prevention programs

should focus on educating students about specific acquaintance rape scenarios, including specific sex acts and offender/victim genders. Scenarios such as the ones presented in the survey used in this project should prove useful in providing a real-world context to the college social scene. Secondly, acquaintance rape prevention programs should focus on the issues of legitimate consent and coercion, and how the use or abuse of alcohol undermines consent. Programs should focus on specific acts that constitute coercion and meaningful consent to sexual acts. Lastly, a universally accepted term and definition must be adopted in order to eliminate uncertainty and confusion surrounding this issue. If state laws, the FBI, the NCVS, and *The Clery Act* had a uniform definition of the crime of rape, comparisons could be more easily made and a truer picture of the crime of rape would be possible.

#### Recommendations for Future Research

Many questions were raised during the course of this study. Most importantly, why do students perceive acquaintance rape the way they do? Why are some scenarios deemed acquaintance rape and others consensual sex? Specifically, where does the line between acquaintance rape and consensual sex lie? Does the designation of acquaintance rape in same-sex offender/victim scenarios depend on homophobic attitudes? Future research should investigate the role that homophobic attitudes contribute to the designation of acquaintance rape or consensual sex. Further, future research should focus on differing perceptions of consent, coercion, and offender and victim responsibility between males and females. Why do males and females assign blame or responsibility differently even when they agree that the scenario is acquaintance

rape? Another avenue of future research should focus on differing perceptions between Caucasian and African American students.

Other suggestions for future research involve the expansion and replication of Chasteen's (2001) qualitative study examining the social construction of rape among college men and women. This research would answer the most important question of why students believe what they believe about rape. Further, this expansion could answer important questions about the nature of underreporting associated with this crime. This research could have important policy and practice implications at the university level when dealing with the issue of acquaintance rape.



## APPENDIX A

### Survey Instrument

#### **A Survey of College Students' Perceptions of Sexual Consent and Coercion**

##### **Instructions for this survey:**

There are two sections to this survey. Both sections have been designed to assess your perceptions of consent and coercion in sexual situations. There are no right or wrong responses. The researcher is only interested in your perceptions. Please respond to each inquiry honestly. Please do not write your name on this survey, as this is an anonymous survey. Place the completed survey instrument in the provided envelope when you are finished. If you do not take the survey, please place it in the provided envelope.

##### **Section One**

The first section provides in depth scenarios between acquaintances and asks you to determine if the situation was coercive and if the victim consented to sexual acts. In addition, you will be asked which of the individuals in the scenario is responsible for each situation.

##### **Section Two**

The second section is comprised of demographic questions. In addition, you will be asked questions regarding your social activities and your attitudes toward sexual crimes.

**I sincerely thank you for your participation in this survey.**

## Section 1

Please read the following scenarios and respond honestly to the questions that follow each scenario.

## Scenario 1

Zack meets Jared at a friend's party. They hit it off once they realize that they are from the same rural area. After drinking a large amount of beer Jared says, "I am gay and I can tell you are too." Zack replies, "I am gay, I am just not out." Jared asks, "Are you in a relationship?" Zack replies, "No, not currently." Jared says, "Are you interested in hooking up?" Zack replies, "I don't just hook up with anyone." Jared says, "Well, I am not just anyone." Jared leans over and kisses Zack on the mouth. Zack says, "That was nice." Jared and Zack make out for about 20 minutes. Jared says, "Do you want to take this to the next level?" Zack says, "I like what we are doing now." Jared complies and they continue to make out. Jared says, "You are getting me so turned on, I just can't handle myself." Zack says, "I told you, I don't just sleep with anyone." Jared says, "Come on, it is obvious I am turning you on and you want me." Zack says, "I am turned on but..." Jared interrupts and says, "If you don't have sex with me, then I will out you to everyone on campus and our small town. Everyone will think you are a slut." Zack says, "Please don't out me, I am not ready for that. None of my friends or family know I am gay." Jared then pulls down Zack's boxer shorts and performs oral sex on him.

Use the following scale:

	<b>Definitely No 1</b>	<b>Probably No 2</b>	<b>Probably Yes 3</b>	<b>Definitely Yes 4</b>
1. Did Zack consent to sexual acts?	1	2	3	4
2. Did Jared force Zack into doing sexual acts?	1	2	3	4
3. Would this situation qualify as an acquaintance rape?	1	2	3	4
4. Is Jared responsible for what happened?	1	2	3	4
5. Is Zack responsible for what happened?	1	2	3	4
6. Was alcohol responsible for what occurred between Jared and Zack?	1	2	3	4

**Scenario 2**

Jody and Mike meet at a party of their mutual friends and have a great time dancing while drinking many bottles of wine. Around 2 a.m., Mike and Jody are kissing on Mike's friend's bed. After about thirty minutes of heavy making out on the bed. Jody tries to unzip Mike's blue jeans. Mike says, "I would rather you not do that." Jody responds, "I thought you liked me." Mike replies, "I like you, but I don't want to go all the way with you right now." They kiss more and Jody tries again to unzip Mike's pants. Mike distracts Jody's hands by moving them away from his crotch to his chest. Jody says, "If you don't want to have sex with me, then you must be gay." Mike replies, "That is not it, I am just not in the mood." Jody then unzips Mike's pants. Mike says, "I wish you wouldn't do this to me." Jody then performs oral sex on Mike.

Use the following scale:

	<b>Definitely No 1</b>	<b>Probably No 2</b>	<b>Probably Yes 3</b>	<b>Definitely Yes 4</b>
7. Did Mike consent to sexual acts?	1	2	3	4
8. Did Jody force Mike into sexual acts?	1	2	3	4
9. Would this situation qualify as an acquaintance rape?	1	2	3	4
10. Is Jody responsible for what happened?	1	2	3	4
11. Is Mike responsible for what happened?	1	2	3	4
12. Was alcohol responsible for what occurred between Jody and Mike?	1	2	3	4

**Scenario 3**

Melissa and Vanessa have been casual acquaintances for the past 2 months. One evening they agree to meet at a local bar to have fun and drink. At the bar, they both “do shots” to expedite their levels of intoxication. After many shots, they go to the bathroom together. In the bathroom, Melissa approaches Vanessa and kisses her on the mouth. Vanessa responds, “What was that about?” Melissa explains, “Come on, you have been flirting with me since I first met you. I can tell you are curious.” Vanessa says, “I have never really thought about being with a girl.” Melissa continues kissing Vanessa. Melissa says, “You seem to really like it. Just because you are doing this with me, doesn’t mean you are a lesbian.” Melissa pushes Vanessa into a bathroom stall and then removes Vanessa’s shirt and fondles her breast. Vanessa stops her and says, “I am not sure about this.” Melissa says, “Please, I want you.” Melissa then unzips Vanessa’s pants. Melissa says, “Please, I am so turned on.” Vanessa says, “I am not sure. I just don’t want to.” Melissa then puts her hands in Vanessa’s panties and penetrates Vanessa with her fingers.

Use the following scale:

	Definitely No 1	Probably No 2	Probably Yes 3	Definitely Yes 4
13. Did Vanessa consent to sexual acts?	1	2	3	4
14. Did Melissa force Vanessa into sexual acts?	1	2	3	4
15. Would this situation qualify as an acquaintance rape?	1	2	3	4
16. Is Melissa responsible for what happened?	1	2	3	4
17. Is Vanessa responsible for what happened?	1	2	3	4
18. Was alcohol responsible for what occurred between Melissa and Vanessa?	1	2	3	4

**Scenario 4**

Mandy and Will meet at a local bar undergraduates frequent. Will buys Mandy a few drinks and the two talk. Eight drinks later, Mandy and Will go to her apartment. After twenty minutes of heavy making out, Will encourages Mandy to get more comfortable. Mandy slips off her dress and Will takes off his shirt and shorts. Mandy says, "I just want to fool around. I am not ready to do it all with you." Will says, "I will do anything to get you to do it all. Come on, you want to do it with me. I can tell." Mandy and Will continue kissing. Will has his hands in her panties and Mandy has her hands in his boxer shorts. Will says to Mandy, "You are turning me on so much, you must have sex with me. It's not fair to get me this worked up and leave me here." Mandy says, "I told you I didn't want to do it all." They continue groping one another. Will says to Mandy, "Please, I am about to die for you. If you don't have sex with me, I will have to take it from you. You are the one who got me this excited" Mandy says, "I want this to be over. This is turning out bad." Will grabs Mandy's hips and pulls her onto his penis and has sexual intercourse with her.

Use the following scale:

<b>Definitely No 1</b>	<b>Probably No 2</b>	<b>Probably Yes 3</b>	<b>Definitely Yes 4</b>
19. Did Mandy consent to sexual acts?			
1	2	3	4
20. Did Will force Mandy into sexual acts?			
1	2	3	4
21. Would this situation qualify as an acquaintance rape?			
1	2	3	4
22. Is Will responsible for what happened?			
1	2	3	4
23. Is Mandy responsible for what happened?			
1	2	3	4
24. Was alcohol responsible for what occurred between Mandy and Will?			
1	2	3	4

**Section 2**

**Please respond honestly to the following questions.**

1. What is your gender?

- a. Male
- b. Female

2. What is your age?

\_\_\_\_\_

3. What is your race?

- a. Caucasian
- b. African American
- c. Hispanic
- d. Asian
- e. Other:

Please Specify: \_\_\_\_\_

4. What is your current academic classification?

- a. Freshman
- b. Sophomore
- c. Junior
- d. Senior
- e. Graduate
- f. Non-traditional student

5. What is your current major?

\_\_\_\_\_

6. Which best describes the area your high school was in:

- a. Rural (small town, population under 25,000)
- b. Semi-rural (town, population 25,000 – 49,999)
- c. Suburban (city, population 50,000-99,999)
- d. Urban (city, population 100,000)

7. Which best describes your current living situation:

On Campus

- a. Single sex dorm
- b. Co-ed dorm
- c. Greek affiliated (Fraternity/ Sorority) house/dorm
- d. Family housing
- e. Other: \_\_\_\_\_

Off Campus

- f. Apartment/ house, live alone
- g. Apartment/ house with roommate(s) of same sex(es)
- h. Apartment/ house with roommate(s) of opposite sex(es)
- i. Apartment/ house with roommate(s) of both sex(es)
- j. Apartment/ house with boyfriend/ girlfriend, fiancé, spouse
- k. Apartment/ house with my parents/ guardians
- l. Greek affiliated (Fraternity/ Sorority) house
- m. Other: \_\_\_\_\_

8. Do you belong to any of the following social groups? Circle all that apply.

- a. Greek affiliated social fraternities/ sororities.
- b. Academic organizations. For example: honor societies, academic fraternities, clubs related to your major.
- c. Student Government
- d. Collegiate athletic teams
- e. Intramural athletic teams
- f. Athletic clubs. For example: karate clubs, tennis clubs.
- g. Religious organizations. For example: Baptist student union, Reformed University Fellowship, Jewish student organizations.
- h. Residence hall associations.
- i. Political groups. For example: College republicans, college democrats,
- j. Special interest groups. For example: gay, lesbian, bisexual, transsexual organizations, feminist organizations.
- k. Others: \_\_\_\_\_
- l. I am not currently involved in any of the above social groups.

9. In the past month, have you engaged in any of the following social activities? If so, how many times?

Frequency	Activity
_____	I have gone to a bar and consumed alcohol.
_____	I have gone to a private party and consumed alcohol.
_____	I have gone to a fraternity/ sorority party and consumed alcohol.

**Please respond to the following statements. Use the following scale.**

Strongly Agree 1	Agree 2	Neutral 3	Disagree 4	Strongly Disagree 5
11. Acquaintance rapes are a common occurrence in the college social scene.				
1	2	3	4	5
12. Acquaintance rapes are underreported to campus police and other officials.				
1	2	3	4	5
13. Individuals who commit acquaintance rapes should be punished harshly.				
1	2	3	4	5
14. Individuals that commit acquaintance rape rarely get caught.				
1	2	3	4	5
15. Acquaintance rape is a criminal matter.				
1	2	3	4	5

Additional comments:

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**Your time and participation in this survey are greatly appreciated.**



## APPENDIX B

## USM Institutional Review Board



The University of  
Southern Mississippi

Institutional Review Board

118 College Drive #5147  
Hattiesburg, MS 39406-0001  
Tel: 601.266.6820  
Fax: 601.266.5509  
www.usm.edu/irb

**HUMAN SUBJECTS PROTECTION REVIEW COMMITTEE  
NOTICE OF COMMITTEE ACTION**

The project has been reviewed by The University of Southern Mississippi Human Subjects Protection Review Committee in accordance with Federal Drug Administration regulations (21 CFR 26, 111), Department of Health and Human Services (45 CFR Part 46), and university guidelines to ensure adherence to the following criteria:

- The risks to subjects are minimized.
- The risks to subjects are reasonable in relation to the anticipated benefits.
- The selection of subjects is equitable.
- Informed consent is adequate and appropriately documented.
- Where appropriate, the research plan makes adequate provisions for monitoring the data collected to ensure the safety of the subjects.
- Where appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of all data.
- Appropriate additional safeguards have been included to protect vulnerable subjects.
- Any unanticipated, serious, or continuing problems encountered regarding risks to subjects must be reported immediately, but not later than 10 days following the event. This should be reported to the IRB Office via the "Adverse Effect Report Form".
- If approved, the maximum period of approval is limited to twelve months. Projects that exceed this period must submit an application for renewal or continuation.

PROTOCOL NUMBER: **26092605**

PROJECT TITLE: **Defining Acquaintance Rape: College Students' Perceptions of Sexual Consent and Coercion**

PROPOSED PROJECT DATES: **08/01/06 to 04/01/07**

PROJECT TYPE: **Dissertation or Thesis**

PRINCIPAL INVESTIGATORS: **Sara Buck Doude**

COLLEGE/DIVISION: **College of Science & Technology**

DEPARTMENT: **Administration of Justice**

FUNDING AGENCY: **N/A**

HSPRC COMMITTEE ACTION: **Expedited Review Approval**

PERIOD OF APPROVAL: **10/16/06 to 10/15/07**

*Lawrence A. Hosman*  
Lawrence A. Hosman, Ph.D.  
HSPRC Chair

10-18-06  
Date

HUMAN SUBJECTS REVIEW FORM  
 UNIVERSITY OF SOUTHERN MISSISSIPPI  
 (SUBMIT THIS FORM IN DUPLICATE)

Protocol # 26092605  
 (office use only)

Name Sara-Buck Doude Phone (478) 451-5439

E-Mail Address saradoude@windstream.net

Mailing Address 141 Glenn Drive NE, Milledgeville, GA 31061  
 (address to receive information regarding this application)

College/Division Science and Technology Dept Administration of Justice

Department Box # 5127 Phone 266-4509

Proposed Project Dates: From August 1, 2006 To April 1, 2007  
 (specific month, day and year of the beginning and ending dates of full project, not just data collection)

Title Defining Acquaintance Rape: College Students' Perceptions of Sexual Consent and Coercion

Funding Agencies or Research Sponsors \_\_\_\_\_

Grant Number (when applicable) \_\_\_\_\_

5127 New Project

Dissertation or Thesis

\_\_\_\_\_  
 Renewal or Continuation: Protocol # \_\_\_\_\_

\_\_\_\_\_  
 Change in Previously Approved Project: Protocol # \_\_\_\_\_

Sara Buck Doude 9-19-2006  
 Principal Investigator Date

L. S. Ford 9/25/06  
 Advisor Date

L. S. Ford 9/25/06  
 Department Chair Date

**RECOMMENDATION OF HSPRC MEMBER**

\_\_\_\_\_  
 Category I, Exempt under Subpart A, Section 46.101 ( ) ( ), 45CFR46.

Category II, Expedited Review, Subpart A, Section 46.110 and Subparagraph (b).

\_\_\_\_\_  
 Category III, Full Committee Review.

\_\_\_\_\_  
 HSPRC College/Division Member DATE 10/05/2006

Lawrence O. Norman  
 HSPRC Chair DATE 10-18-06

## APPENDIX C

## GC&amp;SU Institutional Review Board



Georgia's Public Liberal Arts University

Institutional Review Board  
Campus Box 90  
Milledgeville, Georgia 31061-0490  
Phone (478) 445-0870  
Fax (478) 445-0856

November 15, 2006

Dr. Sara Buck Doude  
Department of Government and Sociology  
CBX 018  
Georgia College & State University  
Milledgeville, Georgia 31061

Dear Dr. Doude:

The proposal you submitted, *Defining Acquaintance Rape: College Students Perceptions of Sexual Consent and Coercion*, has been granted approval by the Georgia College & State University Institutional Review Board. You may proceed but are responsible for complying with all stipulations described under the Code of Federal Regulations 45 CFR 46 (Protection of Human Subjects). This document can be obtained from our web site at the following address:

<http://info.gcsu.edu/intranet/rgs/GGrants/Gdefault.htm>

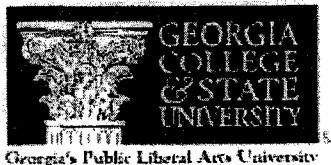
The approval period is for one year. After that time, an extension may be requested. It is your responsibility to notify this committee of any changes to the study or any problems that occur. You are to provide the committee with a summary statement. Please use the enclosed statement to request an extension, for reporting changes, or reporting the completion of your study.

Yours sincerely,

A handwritten signature in cursive script that reads "Martha Daugherty".

Martha Daugherty, Ed.D.  
Chair, IRB

MILLEDGEVILLE • MACON • WARNER ROBINS  
Georgia College & State University, established in 1889, is Georgia's Public Liberal Arts University.  
University System of Georgia



Georgia College & State University  
Office of Institutional Research  
Institutional Review Board  
Campus Box 90  
Milledgeville, Georgia 31061  
(478) 445-0870

**REQUEST FOR REVIEW OF HUMAN SUBJECTS RESEARCH**  
Cover Form (97.9-4)  
(Faculty Form - Thesis Included)

Primary Investigator Sara Buck Doude Phone: 445-4257  
Co-PI(s) \_\_\_\_\_ Phone \_\_\_\_\_  
\_\_\_\_\_ Phone \_\_\_\_\_  
\_\_\_\_\_ Phone \_\_\_\_\_

Department(s) Government and Sociology

Title of Research Project Defining Acquaintance Rape: College Students' Perceptions of Sexual Consent and Coercion.

\*\*\*\*\*

APPROVED AS IS None APPROVED WITH COMMENTS \_\_\_\_\_  
DISAPPROVED \_\_\_\_\_ REVIEW NOT APPLICABLE \_\_\_\_\_

COMMENTS: well done. I agree with the V. of S.M.,  
the risks are minimized and the benefits from  
such a study balance the risk.

\*\*\*\*\*

Martha Daugherty 11/13/06  
CHAIR, IRB DATE  
Michael P. Rose, Ph.D. 11/10/06  
MEMBER, IRB (Review Leader) DATE  
Quinton W. Sibbey 11/13/06  
DIRECTOR, LEGAL AFFAIRS DATE

## APPENDIX D

## USM Oral Presentation and Consent Document

THE UNIVERSITY OF SOUTHERN MISSISSIPPI  
CONSENT DOCUMENT AND ORAL PRESENTATION

## College Students' Perceptions of Sexual Consent and Coercion

**Purpose:** You are being asked to participate in a project designed to assess your perceptions of consent and coercion in sexual situations. This project is being conducted by Sara Buck Doude, a doctoral student under the direction of Amy Chasteen Miller, Ph.D. at the University of Southern Mississippi.

**Description of Study:** As a participant, you are being asked to complete a questionnaire designed specifically to evaluate your perceptions of consent and coercion in sexual situations as well as several demographic questions. Completing this questionnaire should take no longer than 25 minutes. If you encounter a question that makes you uncomfortable, you can stop taking the survey. You may choose at any time to stop the survey with no penalty of any kind.

**Benefits:** Although you may receive no direct benefit from your participation in this study, your responses may help social scientist better understand how individuals define consent and coercion in relation to sexual encounters.

**Risks:** Because this survey addresses questions related to sexual behavior and perceptions of sexual consent and coercion, there are some psychological risks associated with participation. If you feel that you need psychological counseling, The University of Southern Mississippi Counseling Center located at 214 Kennard Washington Hall provides free counseling for students. The University Counseling Center can be reached via telephone at (601) 266-4829. Other counseling resources, which may not be free of charge include: Gutsch Counseling Clinic (601) 266-4601; the USM Psychology Clinic (601) 266-4588; Pine Grove Recovery Center (601) 288-4800; and Pine Belt Mental Healthcare (601) 544-4641. In addition, you will receive a pamphlet addressing acquaintance rape and the effects of being raped.

**Confidentiality:** Completed questionnaires will be kept secure in the researcher's office. All information gained from individual questionnaires will be kept confidential, seen by no one other than the researcher and the faculty sponsor.

**Subject's Assurance:** Participation in this study is voluntary. You may refuse to participate at any time without penalty. Refusing to participate will in no way affect your standing as a student. If you have any questions about this study, you may contact the researcher, Sara Buck Doude, at (478) 445- 4257 or [sara.buck@usm.edu](mailto:sara.buck@usm.edu).

**This project has been reviewed and approved by the Human Subjects Protection Review Committee, which ensures that research projects involving human subjects follow federal regulations. Any questions or concerns about rights as a research participant should be directed to the chair of the Institutional Review Board, The University of Southern Mississippi, Box 5147, Hattiesburg, MS 39406, (601) 266-6820.**

You will be given a copy of this form to keep for your records.

In conformance with federal guidelines, we need your signature to show your consent to participate in this project. The University also requires that the date and the signature of the person explaining the study to you appear on the consent form.

My signing of this consent form conveys certification that I am at least 18 years old.

\_\_\_\_\_  
Signature of the Research Subject

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of the Person Explaining the Study

\_\_\_\_\_  
Date

## APPENDIX E

## GCSU Oral Presentation and Consent Document

GEORGIA COLLEGE AND STATE UNIVERSITY  
CONSENT DOCUMENT AND ORAL PRESENTATION

## College Students' Perceptions of Sexual Consent and Coercion

**Purpose:** You are being asked to participate in a project designed to assess your perceptions of consent and coercion in sexual situations. This project is being conducted by Sara Buck Doude, a doctoral student under the direction of Amy Chasteen Miller, Ph.D. at the University of Southern Mississippi.

**Description of Study:** As a participant, you are being asked to complete a questionnaire designed specifically to evaluate your perceptions of consent and coercion in sexual situations as well as several demographic questions. Completing this questionnaire should take no longer than 25 minutes. If you encounter a question that makes you uncomfortable, you can stop taking the survey. You may choose at any time to stop the survey with no penalty of any kind.

**Benefits:** Although you may receive no direct benefit from your participation in this study, your responses may help social scientist better understand how individuals define consent and coercion in relation to sexual encounters.

**Risks:** Because this survey addresses questions related to sexual behavior and perceptions of sexual consent and coercion, there are some psychological risks associated with participation. If you feel that you need psychological counseling, Georgia College and State University Counseling Services located at 122 Lanier Hall provides free counseling for students. The University Counseling Center can be reached via telephone at (478) 445-5331. Other counseling resources, which may not be free of charge include: Central Georgia Psychological Services (478) 452-4200, Greg Jarvie Ph.D. (478) 452-2600, Dulin Jeffrey Ph.D. (478) 452-2786, and William McDaniel (478) 457-7127. In addition, you will receive a pamphlet addressing acquaintance rape and the effects of being raped.

**Confidentiality:** Completed questionnaires will be kept secure in the researcher's office. All information gained from individual questionnaires will be kept confidential, seen by no one other than the researcher and the faculty sponsor.

**Subject's Assurance:** Participation in this study is voluntary. You may refuse to participate at any time without penalty. Refusing to participate will in no way affect your standing as a student. If you have any questions about this study, you may contact the researcher, Sara Buck Doude, at (478) 445- 4257 or [sara.buck@usm.edu](mailto:sara.buck@usm.edu) or [sara.doude@gcsu.edu](mailto:sara.doude@gcsu.edu).

**This project has been reviewed and approved by the Human Subjects Protection Review Committee, which ensures that research projects involving human subjects follow federal regulations. Any questions or concerns about rights as a research participant should be directed to the chair of the Institutional Review Board,**

**Georgia College and State University, Campus Box 90, Milledgeville, GA 31061,  
(478) 445-0870.**

You will be given a copy of this form to keep for your records.

In conformance with federal guidelines, we need your signature to show your consent to participate in this project. The University also requires that the date and the signature of the person explaining the study to you appear on the consent form.

My signing of this consent form conveys certification that I am at least 18 years old.

---

Signature of the Research Subject

---

Date

---

Signature of the Person Explaining the Study

---

Date



## APPENDIX F

## Acquaintance Rape Pamphlet



## Sexual Assault and Rape

### What defines sexual assault?

- Sexual violence is a sex act completed or attempted against a victim's will or when a victim is unable to consent due to age, illness, disability, or the influence of alcohol or other drugs.
- It may involve actual or threatened physical force, use of guns or other weapons, coercion, intimidation, or pressure.
- Sexual violence also includes intentional touching of the victim without their will or consent, voyeurism, or undesired exposure to pornography.
- The perpetrator of sexual violence may be a stranger, friend, family member, or often intimate partner.

### How often does it happen?

- According to the National College Women Sexual Victimization Study, between 1 in 4 college women experience completed or attempted rape during their college years.
- A recent National Crime Victimization Survey found that women were 16 times more likely than men to experience rape and sexual assault.
- In addition the survey found that 62% of rape and sexual assault victims knew the perpetrator. More than 40% of rapes and sexual assaults came at the hands of a person the female victim called a friend or acquaintance.
- Females ages 12 to 24 are at the greatest risk for experiencing a rape or sexual assault.
- Of the incidents of sexual victimization, the vast majority occurred after 6 p.m. in living quarters. For completed rapes, nearly 60 percent that took place on campus occurred in the victim's residence, 31 percent occurred in other living quarters on campus and 10 percent occurred at a fraternity.

### What can females do to prevent it?

- At parties, mix your own drinks and at bars, watch when the bartender makes your drink.
- When you go to a party, go with a group of friends. Arrive together, watch out for each other, and leave together.
- Be aware of your surroundings at all times. Don't allow yourself to be isolated with someone you don't know or trust.
- Think about the level of intimacy you want in a relationship, and clearly state your limits.
- Know that sex is not a male entitlement. You can say "no" at any time.
- If you feel pressured, afraid, or uncomfortable, leave, get help, or protest loudly.
- Be clear about your desires, limits, and expectations.
- Don't listen to persuasion. You don't have to give reasons and be assertive. Do not be afraid to set limits.
- Realize that consent to some sexual activity does NOT imply consent to all kinds of sexual activity.

### For more info:

- **Sexual Assault Center of Northeast Georgia, Inc.**- 706-353-1912
- **RAINN (Rape, Abuse, & Incest National Network)**- National Hotline Number 1-800-656-HOPE (4673)
- **Violence Against Women Office:**  
<http://www.ojp.usdoj.gov/vawo>

Safe Campuses Now, Inc. ♦ 337 S. Milledge Ave., Ste. 117 ♦ Athens  
706.354.1115 ♦ [www.safecampusesnow.org](http://www.safecampusesnow.org)  
Safe Campuses Now is an Athens non-profit dedicated to your safety.



## Sexual Assault and Rape Info & Resources for Men



### What are the issues?

- According to The National College Women Sexual Victimization Study, between 1 in 4 college women experience completed or attempted rape during their college years.
- In addition, the survey found that 62% of rape and sexual assault victims knew the perpetrator. More than 40% of rapes and sexual assaults were committed by a person the female victim called a friend or acquaintance.
- According to 2002 statistics compiled by the U.S. Department of Justice, Bureau of Justice Statistics, over 31,000 males over the age of 12 reported being the victim of rape or sexual assault.
- This number is likely to be only a small portion of the actual number of sexual assaults against males - as only 64% of all victims of both genders report sexual victimization.

### Need more info?

- **Men Can Stop Rape:** <http://www.mencanstoprape.org/>
- **Men Stopping Rape-**<http://men-stopping-rape.org/>
- **The National Organization Against Male Sexual Victimization:** <http://www.malesurvivor.org/>

### What can males do to prevent it?

- Take a stand! Stop another man if you see him verbally or physically violating a woman's space.
- Don't join in when other men physically or verbally harass a female.
- Do not use alcohol as a means to increase the likelihood of sex. If you see a woman in trouble at a party, don't be afraid to intervene.
- Know that sex is not a male entitlement. Never force, pressure, or coerce anyone to have sex. **Don't take silence as consent.**
- Don't make or laugh at degrading jokes about sexual victimization.
- Don't try to persuade or argue with a female who tells you no. Respect her "NO" whether it is verbal or physical request.
- Be interested in a woman because you are truly interested, not as a means of getting sex.
- Never blame a victim: "She shouldn't have gone there, wore that, gotten drunk, etc."
- Consent to some sexual activity (kissing, touching) does NOT imply consent to all sexual activity.
- Don't have sex with someone who is too drunk to make responsible decisions, has passed out, or is asleep. Legally, it's rape.
- Don't ogle, whistle, call names, or look at a woman in a way that would make her feel uncomfortable.
- Most importantly, remember that NO MEANS NO! Respect a woman and you will be treated with respect.

Safe Campuses Now, Inc. ♦ 337 S. Milledge Ave., Ste. 117 ♦ Athens  
706.354.1115 ♦ [www.safecampusesnow.org](http://www.safecampusesnow.org)  
Safe Campuses Now is an Athens non-profit dedicated to your safety

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O.C.G.A. § 16-6-1

O.C.G.A. § 16-6-22.1

O.C.G.A. § 16-6-22.2

Mississippi Code Annotated

Miss. Code Ann. § 97-3-71

Miss. Code Ann. § 97-3-95

Miss. Code Ann. § 97-3-97

Tennessee Code Annotated

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*Clark v. State*, 197 Ga. App. 318, 389 S.E.2d 377, 1990; O.C.G.A. § 16-6-1

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*Evans v. State*, 191 Ga. App. 364, 381 S.E.2d 760, 1989; O.C.G.A. § 16-6-1

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