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# Sexual Assault on College Campuses: An Epidemic and An Alternative Approach

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Sexual Assault on College Campuses: An Epidemic and An Alternative Approach

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## Introduction

In an era and society where crime is steadily declining, there is one crime that tends to be occurring steadily, if not increasing in rate. While sexual assault has been prevalent since the beginning of man, it was not until recent decades that it was recognized as a crime and societal issue that needed to be addressed and mended. While there have been major movements and legislative changes in an attempt to combat sexual assault, it is evident that sexual assault is still a major problem in The United States. In this paper, I will lay out exactly what sexual assault is and the numerous different types of sexual assault, as there are many. I will primarily focus on sexual assault that occurs on college campus as there is an epidemic of college students being sexually assaulted, and this stems from a number of circumstances including but not limited to the prevalence of alcohol, minimal supervision, and students adapting to life on their own for the first time in their lives. I will put in perspective the scope of the sexual assault problem with the help of sexual assault studies that were done on college campuses in order to better understand the problem that is at hand. We must be cautious with these studies, as one must be with any study, so I will also discuss problems with data that may occur when researching and dealing with sexual assault. I will then focus on the current systems that are in place that deal with sexual assault; the traditional criminal justice system and the internal school judicial board system. I will examine both systems and break down the flaws of each, which are possibly causing the sexual assault problem to continue at such a rate. I will then introduce an alternative justice approach known as

restorative justice, which I believe can be used to mend the current systems failures in dealing with sexual assault cases.

### What is Sexual Assault?

According to The United States Department of Justice, “Sexual assault is any type of sexual contact or behavior that occurs without the explicit consent of the recipient. Falling under the definition of sexual assault are the sexual activities as forced sexual intercourse, forcible sodomy, child molestation, incest, fondling, and attempted rape” (DOJ). Sexual assault is an extreme problem in our society in both public safety and public health and it is happening all around us in staggering rates. Sexual assault victims are subject to extremely stressful, violating experiences that may cause immediate and or long-term physical and mental health consequences. It is reported that of rape victims, 25% to 45% suffer from some form of non-genital trauma while another 19% to 22% suffer from genital trauma. A staggering 40% of rape victims end up with sexually transmitted diseases while between 1% and 5% become pregnant as a result of the rape. There are an estimated 32,000 rape-related pregnancies that occur in the United States annually (Krebs, Lindquist, Warner, Fisher, Martin, 2007). Along with physical health consequences that sexual assault victims suffer, they also suffer from a number of psychological and mental health problems that stem from being victimized in a sexual assault. According to the American Medical Association, four out of five rape victims suffer from chronic physical or psychological conditions following the sexual assault

(Strategies for the Treatment and Prevention of Sexual Assault, 1995). Rape victims are also 13 times more likely to attempt suicide compared to people who have not been victimized of any crime and 6 times more likely to attempt to take their life compared to victims of other crimes (Rape in America: A Report to the Nation, 1992).

Sexual assault itself is a very broad term, which makes it difficult for many people to grasp entirely the problem that is occurring in our nation and especially on our campuses. Sexual assault has numerous sub factors and there are a great many of different types of sexual assault. That being said, this leads to much confusion in data and understanding that will be examined in depth later on. Sexual assault may include, but is not limited to, attempted rape/ complete rape, which is often sexual penetration without the consent of both parties or as defined by the FBI as “penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.” Sexual assault may also include nonconsensual touching of another, child sexual abuse, incest, intimate partner sexual violence, and much more. For the sake of this research project, campus sexual assault usually occurs within distinct sub groups of sexual assault: Physically forced assault or threat of physical assault, which is the use of force or threat of force to overpower a victim and sexually assault them. Sexual assaults that are achieved through the incapacitation of the victim, or victims that are unable to give consent because they are incapacitated due to the effects of alcohol or drugs such as being unconscious or asleep. It is known that alcohol is prevalent in college lifestyle and is a part of campus life for most. This is why incapacitated assaults gain such attention on college campuses, as 55%

of sexual assaults involve alcohol assumption by the victims and 74% of sexual assaults involve alcohol being consumed by the perpetrators (Krebs, Lindquist, Warner, Fisher, Martin, 2007). Incapacitated sexual assault is broken down into four subcategories by authors Christopher P. Krebs, Ph.D. Christine H. Lindquist, Ph.D. Tara D. Warner, M.A. Bonnie S. Fisher, Ph.D. Sandra L. Martin, Ph.D. of The Campus Sexual Assault (CSA) Study. The first two subcategories deal with drug-facilitated sexual assault that is unwanted sexual contact that occurs when a victim is given a drug without the victim knowing or consenting. There is also suspected drug-facilitated sexual assaults, which occur in the same instance described above but the victims suspect that they had been given a drug rather than knowing for sure. The third type of incapacitated sexual assault is alcohol and/or other drug enabled sexual assault (AOD) that includes unwanted sexual contact when a victim voluntarily consumes drugs or alcohol to the point that they are unable to consent. The final subtype is other incapacitated sexual assaults, which essentially cover all other cases remaining such as a victim being asleep. These sexual assault subtopics are vital key terms in campus sexual assault research, as it is what most campus sexual assault surveys study as they are the cases that most frequently occur on college campuses.

### The Scope of the Problem

While crime in America has been on a steady decline for almost two decades, sexual assault still continues to be an epidemic that is occurring at rampant rates. Since 1998, there are an estimated total of 17.7 million women in our country that have been

victims of attempted or completed rape. An estimated 1 out of every 6 women has been a victim of completed or attempted rape in their lifetime (National Institute of Justice & Centers for Disease Control & Prevention, Prevalence, Incidence and Consequences of Violence Against Women Survey, 1998). There are 321,500 victims, per year (age 12 and older) of reported rape and sexual assault. Findings show that nearly 1 in 10 women have been raped by an intimate partner in their lifetime, which includes full forced penetration, attempted forced penetration, or alcohol/drug-facilitated completed penetration (Breiding, M.j., Chen J., &Black, M. C., 2014).

While these numbers may be staggering, it does not expose the full scope of sexual assault in our country as many victims are assaulted repeatedly by the same offender and many women do not report their sexual assault experiences which happens for various reasons. Approximately 63% of sexual assaults go unreported to the police (Hanson, R. F., Resnick, H. S., Saunders, B. E., Kilpatrick, D. G., & Best, C. , 1999). As mentioned before, these victims who survived their assault are forced to live with the traumatizing experience that will linger with them and haunt them for the rest of their lives. An excerpt of a letter from a rape victim to her attacker recalling the morning after waking up in a hospital with no recollection of her attack attempts to highlight what victims of sexual assault may go through:

“I stood there examining my body beneath the stream of water and decided, I don’t want my body anymore. I was terrified of it, I didn’t know what had been in it, if it had been contaminated, who had touched it. I wanted to take off my body like a jacket and leave it at the hospital with everything else.”

This is merely a glimpse of what women who experience sexual assault may go through in terms of dealing with what happened. These experiences have long-term lasting effects on these victims and can even change their lives completely. Many studies have been done in attempt to pinpoint how these assaults may alter a victim. 94% of women who are raped experience post-traumatic stress disorder (PTSD) during the two weeks following the assault (D.S. Riggs, T. Murdock, W. Walsh, 1992), while 30% of women continue to report symptoms of post-traumatic stress disorder 9 months after the assault (J. R. T. Davidson & E. B. Foa). Also, approximately 70% of rape or sexual assault victims experience moderate to severe distress disorders, marginally higher than victims of other crimes (Langton, L., Truman, T., 2014). It was also found that victims of sexual assault were also more likely to use drugs compared to the general public; victims of sexual assault were found to be 3.4 times more likely to use marijuana, 6 times more likely to use cocaine, and 10 times more likely to use other major drugs (DG Kilpatrick, CN Edmunds, AK Seymour, 1992).

Sexual assaults also affects a victim's social behavior and can gravely affect relationships, ones psyche, and even how they act day to day. The Department of Justice's special report on Socio-emotional Impact of Violent Crime examined this phenomenon further; 38% of sexual assault victims experience work or school problems, which can include significant issues with a boss, coworker, or peer. 37% of victims experience problems with family and or friends, which may include arguing more often than before, not being able to trust family and friends, or not feeling as close to them as before the assault. (Langton, L., Truman, T., 2014)



## The Scope of the Problem on College Campuses

While it is important to address the national scope of this particular problem, this paper's main focus deals with sexual assault that occur on college campuses nationwide. A national study was conducted during the time frame of January 2005 through December 2007 to help better understand the true problem of sexual assault on college campuses. The primary objective of The Campus Sexual Assault Study (CSA) was as follows; "To examine the prevalence, nature, and reporting of various types of sexual assault experienced by university students in an effort to inform the development of targeted intervention strategies" (Krebs, Lindquist, Warner, Fisher, Martin, 2007). The data used in the CSA was collected via a web-based survey of random samples of undergraduate students from 2 large public universities that remain anonymous. The survey results consisted of 5,466 women aged 18-25 who were enrolled at least three quarters of the time. The study breaks down sexual assault into the different categories that were explained previously in this paper. What the study found was astonishing and really brought to light the true problem college campuses nationwide face with sexual assault. It was found that 28.5% of respondents reported that they had experienced an attempted or completed sexual assault either before or since entering college. 10% stated they had experienced an attempted sexual assault before entering college while 11% stated they had been a victim of completed sexual assault before entering college. 5.5% reported that they had experienced both attempted and completed sexual assault before entering college. Of the women surveyed, 6.4% had reported that they experienced completed physically forced sexual assault and 7% had experienced incapacitated sexual

assault before entering college. 2.1% had experienced both physically forced sexual assault and incapacitated sexual assault before entering college. (Krebs, Lindquist, Warner, Fisher, Martin, 2007). 19% of the women stated that they had experienced completed or attempted sexual assault since they had entered college. Since entering college, 13.7% of the women had experienced completed sexual assault compared to 12.6% of women who had experienced attempted sexual assault while 7.2% of the women experienced both completed sexual assault and attempted sexual assault during college. Of the sample, 4.7% had been forcibly sexually assaulted since beginning college, with 3.4% experiencing forced rape and 1.4% experienced forced sexually battery. 11.1% of respondents had reported experiencing sexual assault while incapacitated since entering college. 8.5% of those women had experienced incapacitated rape compared to 2.6% of those who were victims of incapacitated sexual battery (Krebs, Lindquist, Warner, Fisher, Martin, 2007). Of the women, 7.8% had reported experiencing alcohol and other drug enabled sexual assault since entering college. A much smaller percentage of women had reported experiencing drug-facilitated sexual assault that they were certain had happened at 0.6%. 1.7% reported they experienced a drug-facilitated sexual assault that they suspected had happened and 1.0% reported some other type of incapacitated sexual assault. (Krebs, Lindquist, Warner, Fisher, Martin, 2007).

The Campus Sexual Assault Study is an excellent illustrator and provides a more in-depth perspective of the sexual assault problem that is happening on college campuses. It is also beneficial to look at sexual assault statistics from other sources. According to Koss, Gidycz, & Wisniewski, more than one in four women who are college aged, report

experiences that meet the legal definitions of rape or attempted rape (1987), while one in five women are raped during their college years with most cases being perpetrated by fellow students at the university. (Karjane, Fisher, Cullen, 2002). There tends to be a popular belief that sexual assault and rape is often carried out by strangers and that the victim and perpetrator did not know each other. This is major misconception as an estimated 84% to 98% of sexual assaults are carried out by men known to the victim (Karjane, Fisher, Cullen, 2002). According to the Sexual Victimization of College Women study (Fisher, Cullen, & Turner), released by the National Institute of Justice, 35.5% of rape victims claimed to have known their attackers as classmates, 34.2% as friends, 23.7% as boyfriends or past boyfriends, and 2.6% known as acquaintances. It is important to note the significance of this, as it is a crucial part as to why restorative justice may be used in sexual assault cases, especially on college campuses.

### Controversies With Data

As with most sensitive topics that require the collection of research and data, there tend to be controversies and questions that arise with the findings. This happens to be the case while researching sexual assault and it is a major issue as it influences how we see and deal with the problem. Research and data determine the recourses needed to combat a specific problem and there have been many issues with the data of sexual assault studies that skew the true problem of sexual assault. One issue that tends to come about in sexual assault research is the survey size. For example, one of the top sexual assault studies that is widely cited, as it is also in this paper, only had a sample size from two colleges. Many

criticize sexual assault studies as they are too limited in their scope and that they are not getting the full picture. When studies do have different sample sizes, it seems that the results are skewed. For example, the same issue is studied on three different surveys and the findings are so diverse it is difficult to understand the actuality of it. In the National Study of College Women done by Koss, it was found that 55% of victims of rape had been drinking alcohol while 74% of rape perpetrators had been drinking alcohol. In the National College Women Sexual Victimization Study, it found that only 43% of perpetrators had been consuming alcohol. Another report states, “other estimates of drug and or alcohol use based on victims’ reports suggest that 20% of victims and 63% of perpetrators were drinking or using drugs prior to assault (Krebs, Lindquist, Warner, Fisher, Martin, 2007). With this example, it is difficult to determine what the true percentage of victims and perpetrators who had consumed alcohol prior to the assault. This is just one example and of how much of the data can be skewed.

Another common way for data to be distorted is due to the fact that many definitions that deal with sexual assault are left unclear. For example, the state of California definition of rape requires there to be penis-penetrating vagina. So in the case of Brock Turner, the Stanford swimmer who was convicted of sexual assault, he was unable to be charged with rape because he had only penetrated his victim with his finger rather than his penis. Shockingly, California is not the only state that has such a narrow definition of rape. Alabama, for example, limits rape to sexual intercourse between partners of opposite sexes and North Carolina does not consider anal penetration in its rape laws. There are many problems with definitions and it is clear why misconstrued definitions such as the examples above can lead to inaccurate data. Many states are

pushing to have a uniform definition of rape in order resolve this issue. States plan to emulate the FBI's definition of rape, "penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person" without consent. It was not until recently that the FBI itself had fully defined rape, as before the Obama administration changed it in 2012, the FBI's definition of rape only included forcible male penile penetration of a female vagina.

One of the biggest reasons as to why it is so difficult to achieve accurate sexual assault statistics is due to the fact that a substantial amount of sexual assaults go unreported. Approximately 344 out of every 1,000 sexual assaults are reported to police. That means about only 2 out of 3 sexual assaults go unreported (Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, National Crime Victimization Survey, 2010-2014 (2017)). The reporting percent for college-aged women is as minuscule as 20% (Langton, Sinozich, 2014). According to the Department of Justice, Female Victims of Sexual Violence Study, women that were surveyed did not report their sexual assaults for a number of reasons. 20% of the women who had been sexually assaulted did not report the incident in fear of retaliation. 13% of the women believed that the police would not do anything to help them and that they would only be wasting their time contacting the police. Another 13% of the women believed that their experience was a personal matter. 8% of women reported it to another official rather than the police and another 8% believed that the issue was not significant enough to report. 7% of the women claimed that they did not want to get the perpetrator in trouble. 2% of the women believed that the police could not do anything to help and 30% of the women surveyed gave a different reason or did not cite one specific reason (Department of Justice, Office

of Justice Programs, Bureau of Justice Statistics, Female Victims of Sexual Violence, 1994-2010). It is reasons such as these that make it so difficult to achieve accurate numbers pertaining to sexual assault, and this leads to many problems especially when trying to combat the sexual assault problem in our country. It is difficult to apply the necessary recourses needed to try and resolve the problem when it is difficult to know the true scope of the problem. This in turn leads to problems that go as far as legislative failures.

Accurate data is crucial in dealing with social problems as the data lays out the scope of the problem and then the data is used to lay out a course of how to handle the problem. Recent legislative attempts to combat the sexual assault problem include strict sentencing laws, enhanced registration and community notification requirements, and residency restrictions. These types of legislative efforts respond to the type of sexual assault that is not the true problem. The misconceived notion of sexual assault to the public is that sexual assaults are perpetrated by strangers in the middle of the night for example. While the current legislation is well meaning, it focuses on preventing rare sexual assault cases and monitoring past sexual predators. As mentioned earlier, the majority of sexual assaults are done by people known well to the victim and these types of legislative efforts completely fail in attempting to reduce the true problem of sexual assault.

### Controversies With How to Handle Sexual Assault Cases

When a sexual assault occurs on a college campus and is reported, there are typically two ways to deal the assault. The first method is to report the assault through a traditional criminal justice approach; contacting the police and allowing the authorities to perform an investigation and decide how to proceed from there. The other method of handling sexual assaults that are reported on campus is by investigating and handling it internally through the school. This method is predominately done through the use of school judicial boards. Both approaches are used in sexual assault cases and while they may sometime work in achieving justice, both approaches have their own type of systematic failures that not only often fail the victim but also fail the community as a whole.

#### Criminal Justice Approach to Handling Sexual Assault Cases

The criminal justice approach is essentially the school handing over a sexual assault case to the authorities, or a victim going directly to the authorities or police to report a sexual assault and or to press charges. Reporting a sexual assault in this fashion is a very long and arduous process that typically goes as follows: a report is made by the victim, and an investigation is performed followed by charges being pressed. The case is then is tried in criminal court. While it seems very straight forward and effective, it is not that simple.

Once a report is made, the victim has the choice whether to press charges or not. This is the first of many difficult decisions and crossroads that a sexual assault victim will face after reporting their incident to the authorities. If they decide to follow through

with the charges, an investigation is done and depending on what evidence is found during the investigation, the state can decide whether to pursue the charges or to drop them. This is one of the major failures of this system, for a number of reasons, it is very difficult to acquire evidence that will prove guilt in many sexual assault cases. One reason may be that a victim was too scared to report the assault and waited a couple of days and because of this delay, there was no physical evidence or DNA left behind to be used or that a rape victim was too scared to go to the hospital to have a sexual assault forensic evidence recovery kit performed on them. This alone fails the victim and provides no incentive for future victims to report when they think that the system will surely fail them. Due to these reasons, only 13 out of 1000 instances of rape cases get referred to a prosecutor and only 7 of those cases will lead to a felony conviction (Federal Bureau of Investigation, National Incident-Based Reporting System, 2012-2014 (2017); iv. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Felony Defendants in Large Urban Counties, 2009 (2017).

In the rare sexual assault cases that do get sent to a prosecutor, most are resolved via a plea bargain. A plea bargain is a deal between the prosecutor and the perpetrator's representative in which the perpetrator will plead guilty to the crime in return for a reduction in penalty. This is another example of how the current system fails sexual assault victims because a plea deal is allowing the perpetrator to serve for a lesser penalty than the actual sexual assault that they have committed. In the cases that do end up going to trial, it is required that victims testify which can be monumentally traumatic as they are already in a fragile state and must relive the assault by telling it publicly to a court room and jurors.



The criminal justice system that is now in place is not effective in reducing sexual assaults, in helping victims recover and deal with the traumatization of their experience, and it is not bringing sexual offenders to justice. It is problems such as these that explain why victims tend not to report their sexual assault victimization to police. Many victims on college campuses would prefer to report to their school rather than the authorities. Reporting a sexual assault to a university may appeal more to a victim as they are most likely forced to see their offender on a day-to-day basis whether that be in a class, in a dorm hall, in a cafeteria, etc. A university has the power to separate the individual as soon as possible to make sure they avoid all contact, which can be done by removing one from campus or certain classes for example. Victims' advocates also claim that students perceive faculty member to be more sympathetic to assault claims compared to police (Dockterman, 2015). These options of reporting to a university do seem more ideal than reporting to the authorities but how college campuses handle sexual assault cases have many faults and holes of their own.

### How College Campuses Mishandle Sexual Assault Cases

Reporting sexual assault to a university seems more practical and advantageous for a victim but there are still problems with how college campuses handle sexual assault cases. One major issue is that colleges tend to handle sexual assault cases through judicial boards; these are the same judicial boards that also handle other cases such as underage drinking and fighting. Of these three different types of cases, sexual assault is much more complex. That is a major issue as judicial boards are not trained to handle such serious

cases like sexual assault; judicial boards do not handle such serious cases such as murder or kidnappings so why should a campus judiciary panel handle something such as sexual assault that is equivalent with such serious offenses? School judicial boards are trained to handle cases but they are typically trained in a 'one size fits all' approach and sexual assault cases are all so unique and complicated that their minimal training does not begin to cover what is necessary for a fair and complete justice process. School judicial processes have unfair formats as panelists typically act as both prosecutor and judge with absolute authority, they evaluate evidence and determine facts without attorneys present to counter unreasonable claims or to object to an unfair line of questioning for example. Untrained panelists can often subject witnesses to random and or incriminating questions which can in turn ruin the entire judicial process.

A prime example of how university judicial boards can mishandle cases occurred in 2014 at the University of California-San Diego. For the sake of both parties we will refer to them using aliases, John and Alyssa. The short version of the story goes as follows; the two were friends who ended up hooking up one night after drinking alcohol and Alyssa awoke the next morning not remembering exactly what happened. In the morning John tried to touch her vagina in which she repeatedly told him to stop and later that night, they had sex again. Months later, Alyssa filed a complaint with the school accusing John of sexual misconduct for inappropriately touching her that one morning, to which John responded by saying all of the sexual acts were consensual and that he had messages to prove it. The school held a hearing and found John guilty of violating the school's policy on sexual misconduct for his actions. John claimed that the hearing was one sided and unfair as he was allowed to have a lawyer but his lawyer was not allowed

to speak. John told CNN that “I tried to object a few times, and they reminded me that it was just a school hearing and it wasn’t criminal so I wasn’t allowed to do that” (Black, Ganim, 2015). John was found guilty by his university and suspended and John felt that he was discriminated and not given a fair trial so he sued UCSD and a California Judge agreed that the process was skewed and violated John’s rights. (Black, Ganim, 2015).

John felt that the school had no place in ruling on a case so serious and difficult to evaluate and it is warranted that he had these feelings. The reason that schools are taking these matters into their hands and dealing with these cases internally is due to Title IX. Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of sex in any education program or activity that receives federal funding. Title IX states that discrimination on the basis of sex can include sexual harassment, rape, and sexual assault. A college or university that receives federal funding can be held legally responsible when it knows about a sexual assault case and does not investigate and adjudicate the case. Under Title IX colleges and universities are required to investigate sexual assault cases even if they are not capable of handling such cases, which the majority of universities are not. While Title IX does mean well, it puts pressures on college campuses to deal with cases that they are not trained to deal with.

Both the traditional criminal justice approach and the internal school judicial approach to handling sexual assault cases have many holes and flaws that inadequately attempt to handle the current sexual assault problem in our country and on our college campuses. If these two main approaches are not solving this current epidemic then there must be other options available to combat sexual assault. My research led me to an

alternative approach, an approach that is rooted in restorative justice, an approach that may be the key in filling the gaps that the current systems fail to do.

### Alternative Approach: Restorative Justice

What is Restorative Justice?

According to the restorative justice consortium definition, “restorative justice works to resolve conflict and repair harm. It encourages those who have caused harm to acknowledge the impact of what they have done and gives them an opportunity to make reparation. It offers those who have suffered harm the opportunity to have their harm or loss acknowledged and amends made” (Restorative Justice Consortium, 2006).

Restorative justice is a system that attempts to make reparations between offenders and victims while simultaneously rehabilitating offenders through reconciliation between both victims and offenders. “Restorative justice aims to restore the well-being of victims, offenders and communities damaged by crime, and to prevent further offending”

(Liebmann, 25). According to Liebmann, there are six overall goals of restorative justice;

I) Victims support and healing is a priority, II) Offenders take responsibility for what they have done, III) There is dialogue to achieve understanding, IV) There is an attempt to put right the harm done, V) Offenders look at how to avoid future offending, VI) The community helps to reintegrate both the victim and offender (27).

Restorative justice is a monumental system when implemented and utilized correctly as it mends much of the failures of the current systems. The traditional system

puts a large focus on the offender, identifying the offender, catching the offender, sentencing, etc. The current system neglects the victim completely while restorative justice puts a focus on the victim as a crucial part of the process. Restorative justice calls for offenders to take full responsibility of their crimes, which is essential in the rehabilitation process. Current systems fail to acknowledge this and offenders typically just 'do their time' with no hope of rehabilitation. There are many benefits of restorative justice programs and they can be vital in countering the current sexual assault problem. Punishment alone is not effective in deterring crime and changing behavior in individuals, as the traditional system believes. Restorative justice focuses on solving the actual problem and focuses on the future of what could be done. This is done through dialogues and establishing an understanding of both sides and learning why the incident occurred and finding ways to prevent it.

#### How Can Restorative Justice be used in Sexual Assault Cases?

Restorative justice may be the missing piece to the current systems of dealing with sexual assault cases. For starters, restorative justice fixes the issue of women not reporting or being unable to press charges because they had waited a certain amount of time or that there was not enough evidence to prosecute. A restorative justice approach does not revolve around punishment so hard evidence to prove guilt is not necessary. This is just one way that women can feel more comfortable in reporting their assault as they would no longer feel that their report would be a waste of time and not be brought to

justice. In Arizona, RESTORE (Responsibility, and Equity for Sexual Transgressions Offering a Restorative Experience) currently uses a restorative justice system for sexual assault cases. RESTORE claims that both parties in the case work out a plan for “accountability, healing, and public safety” Their goal of safety is not safety from one particular offender but an overall sense of protection due to a collaboration with others to create a healthier atmosphere (Strauss, 2014). Restorative justice aims to create a safer community as a whole to prevent future offending rather than seeking to protect one individual from another. Creating this healthy and safe atmosphere will allow victims of sexual assault to come forward and not be afraid to report incidents of sexual assault.

One of the major issues of the current systems is that they completely fail the victims. The victims, who go through what is likely to be the most traumatic experience of their lives, are forced to go through a system that completely neglects their needs and that will most likely lead to no satisfaction in regards of justice. Restorative justice realizes this dilemma and does not exclude victims, victims are mediated with their offenders to help understand why they were victimized which can lead them to recovery rather than having unanswered questions that will only lead to being more distraught.

Many believe that a victim facing their offender will only cause more traumatization but this perception comes from people assuming that most sexual assaults occur between strangers, when the truth that most sexual assaults are perpetrated by people very close to the victim. Since sexual assaults on campus are mainly done by people the victim is familiar with, these mediations are more useful and are not as traumatizing as people think. “If we expand our idea of what a healthy confrontation in a

well-facilitated and supportive environment might look like, then contact with the offender might actually transform both parties for the better” (Strauss, 2014).

Many sexual assaults that occur on campus may occur with the offender not knowing the severity of their actions. Alcohol often plays a major role in instances where one party may think the sexual acts are consensual but another party may not see it that way. Many offenders such as these are remorseful and want to live offense free lives and the current system does not allow for that to happen as its only goal is to punish. Restorative justice could greatly help these offenders as they learn to empathize with their victims. Such treatment often includes victim impact statements, offenders answering any victim’s questions and offender clarification letters. These methods allow for the offender to realize their role and take accountability for their actions, which is crucial in a rehabilitating a sexual offender and minimizing denial about the crime.

#### Criticism of Restorative Justice for Sexual Assault

There is much criticism when a restorative justice approach is introduced as a potential system to work with sexual assault cases. A major concern that is brought about by critics of using a restorative justice approach is that sex crimes would not be taken as serious as they should be. Critics believe that the process is too easy on offenders, which in turn brings a belief that sexual offending can be justified. While these concerns are in good faith and understood, a similar criticism can be made against the current system, and whether that system takes sexual crimes seriously. While some offenders receive severe sentences, the majority of reported sex crimes go un-prosecuted and authorities

often assume reports of sexual assault as false accusations. These issues are the basis in implying that sexual assault can somehow be justified. Restorative justice allows offenders to take responsibility for the harm they have caused their victim while at the same time allowing victims to express the seriousness of the crime and harm caused against them (Mitchell, 22-23).

### Conclusion

Sexual assault shall never be taken lightly and there are many misconceptions about sexual assault, which in turn increase the current problem. A solution needs to be ground for the 300,000 plus women who are sexually assaulted annually, and the current system and laws that are in place now do not accomplish that. The current system goes as far as abandoning the victim in their most fragile time of need while they focus on the perpetrator and achieving retribution (which in most cases fail). There are numerous flaws in the system that is in practice now and it is evident that these systems are failing as sexual assaults having been occurring steadily at staggering rates with no change in the foreseeable future. Something needs to be done to mend the broken systems and that is where I believe a restorative justice approach combined with some aspects of current systems can help with the problem.

While I believe that the majority of the cases should be handled with a restorative justice, some extreme cases should involve jailing as well as the restorative aspect. Since most sexual assaults that occur on campus are between people familiar with each other and friends, they are very commonly mistakes made by young men. While I am not condoning or implying that it is okay to make this type of mistake, certain situations can



occur. In these situations I believe a restorative justice approach is ideal because it provides the victim with support and assistance to get them through a very difficult experience and helps teach them how to possibly move on passed the event. Many of the young men who made these mistakes are willing to admit their mistakes and continue with their lives and restorative justice allows for this while reinforcing their guilt as to ensure that they do not commit such an act again. This system gives an opportunity for all involved to learn how to live and move on from the experience without ruining the futures of either party. While this type of sexual assault is very common on campus, it is not the case for all assaults.

For instances that are more aggressive and violent, such as forced rape or planned drug facilitated rape, these instances should be dealt with through criminal proceedings as these individuals are often more dangerous and may provide a larger threat to society. I believe that these individuals are the ones who will not benefit from a restorative justice treatment alone but must adhere to a criminal proceeding as well as with restorative justice. I believe that the mixture of both provides punishment for the crime while also taking responsibility for the crime, which is a major part in a recovery process for both the offender and victim. This system also does not isolate the victim, as they are crucial in the process while they are receiving immense amounts of support during the process. While restorative processes are fairly new and still in the begging stages, I believe that a clear, rightfully structured restorative justice program can reduce sexual assault from occurring. While the data is scarce on restorative justice in sexual assault cases, what is available is promising. In 2002, a review found a sexual recidivism rate of 12% from offenders who received restorative treatment compared to 17% of sexual offenders who

did not receive restorative treatment. The review also studied restorative justice in all other crimes and found that it was effective in reducing recidivism rates from 28% of those who received it compared to 39% (Daly, 2008).

Restorative justice is not something that should be taken lightly and put aside because it does not include the traditional retribution aspect that people feel is necessary in reducing crimes. It is evident that retribution itself is not effective in preventing crimes or in reducing recidivism rates and that holds true for sexual assault cases. Restorative justice is something that can be effective in reducing rates of sexual assault and in reducing recidivism rates in sexual assault. More importantly, restorative justice provides victims with what they need to move on from their experience, providing emotional support through counseling and mediation, medical support to assess and injury or disease, procedural support on campus that may include academic support through professors or advisors, spiritual support, an even financial support. Restorative justice may be the key in fixing this epidemic that has victimized young women in our country for far too long, it is time to look at the facts and make a change.

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