



## SECTION THREE

# Universities unsafe for male students





#MenToo

---





## CHAPTER 12

# The campus rape frenzy – manufactured crisis

*First published 2016*

The *Washington Post*'s headline was grim: "Hundreds of colleges had zero rape reports and that could be worrisome."

That was in 2014 when the hysteria over "the rape culture" in American colleges was just starting to take hold. Madness ensued. College and university presidents, embarrassed by zero rape reports, scrambled to explain why their campuses made the newspaper's list. "We always operate under the assumption that zero does not really mean zero," said a California State University spokesman defensively. "Under-reporting will happen."

Years later this is the new norm on American campuses where hysteria over sex risks grows ever more strident. What's frightening is just how little time it took for one of the world's leading education systems to be captured by a gender-based culture war.

It is instructive to see how this all happened, particularly since Australia looks set to head in the same direction. In the US it started with a 2007 Campus Sexual Assault Study commissioned by the US Department of Justice. The study claimed one in five female college students were sexual assault victims. Although the respondents to the web-based study were self-selected and the definitions of sexual assault that were



used were dubious, most media sources dutifully reported this astonishing claim.

Within a few years, universities across America were introducing “yes means yes” regulations that require students to give “enthusiastic” consent every step of the way in sexual activity. Campus disciplinary tribunals were set up to adjudicate accusations of sexual misconduct based on these regulations which effectively shift the burden of proof to the (usually male) student accused of such charges. The changes, in some cases tied to federal funding, have led to a spate of allegations.

“The list of falsely accused young men subjected to kangaroo court justice is growing apace,” wrote Christina Hoff Sommers, a former philosophy professor and American Institute scholar in *Time* magazine in 2014. She mentioned one young male, Caleb Warner who was found guilty of sexually assaulting a fellow student by a campus tribunal and expelled from college, only to have the local police determine he was innocent and that the alleged victim had deliberately falsified her charges. “Presumed guilty is the new legal principle where sex is concerned,” Hoff Sommers concluded.

In Australia we are slipping and sliding down the same slope. Similarly, unconvincing research has been published — here it was a National Union of Students survey that found 73 per cent of students had experienced sexual harassment or unwelcome sexual behaviour.

Most of these experiences involved staring or unwelcome comments or jokes. When the unwanted behaviour included assault (which could be an undesired touch) or attempted rape, most of the experiences didn’t involve fellow students and the majority appear to have taken place off campus.



Of course, it is extremely important that such attacks receive proper investigation and every effort should be made to encourage victims to report rape or assault. But there's no good evidence to suggest there is a rape culture in Australian universities. In spite of this, our Human Rights and Equal Opportunities Commission leapt into action. "This is an issue that needs focus and attention," said then sex discrimination commissioner Elizabeth Broderick, announcing 39 universities would collect data on this alarming problem. Universities Australia then committed \$1 million to support the project.

Meanwhile, so-called documentary *The Hunting Ground*, which had toured American universities ramping up anxiety with false claims of a rape epidemic on campus, started to be shown at Australian universities. It's strong stuff showing frightened young American female college students apparently being preyed upon by serial rapists. But the film has been thoroughly discredited. Investigative producer for the project, Amy Herdy, has admitted publicly that makers of the movie "do not operate in the same way as journalists — this is a film project that is very much in the corner of advocacy for victims, so there would be no insensitive questions or need to get the perpetrator's side".

Nineteen Harvard Law professors have denounced the film for misrepresenting key issues in the case of a law student who was ultimately cleared of sexual assault charges by a grand jury.

And the central thesis regarding the plague of serial rapists on campus stems from flawed research by psychologist David Lisak. The alleged serial rapists turned out not to be college students, nor were the rapes committed on campuses.

The statistics used in the film resulted from highly unusual



research methods used in a Center for Disease Control and Prevention survey. As one example, respondents were told, “Please remember that even if someone uses alcohol or drugs what happens to them is not their fault.” Then they were asked the question, “When you were drunk, high, drugged or passed out and unable to consent, how many people ever had vaginal sex with you?” The CDC counted all such incidents as rape — hence the inflated statistics.

What’s crazy about all this alarmist talk about rape on campus is these privileged young women are far less likely to experience unpleasant sexual experiences than their less educated contemporaries. “Young women who don’t go to college are more likely to be raped,” wrote Callie Marie Rennison in *The New York Times* that year. Rennison, co-director of the Criminology and Criminal Justice Research Initiative at the University of Colorado, cited research showing young women who don’t attend college are victims of sexual violence at a rate of about 30 per cent greater than their more-educated counterparts.

Other EU research suggests universities are a safer place to be than many of the home environments of these women — most incidents of serious violence involving students took place outside the university.

Similar demographics no doubt apply in Australia yet the scene is now set for exaggerated claims of sexual violence on our campuses. What’s next? “Trigger warnings” protecting victims of violence from being exposed to traumatic content in university courses, limitations on what can be taught in university syllabuses?

We saw the seeds of this alarmist culture in 1992 when a



group of students at the ANU objected to rape cases used in a tutorial by former PNG Crown Prosecutor Peter Waight. Among other concerns, the students took issue with a legal example, based on known cases, that Waight had used in his teaching for more than a decade. It involved a young woman who claimed to be the victim of a sexual assault committed by her uncle, but who changed her story in court and said no assault had taken place.

The irony was the students claimed the question was objectionable because it “promoted the offensive myth that women and girls often make up allegations of rape for the fun of it”. But the students had it totally wrong — the essence of the case was that the niece had really been raped and family pressure had been brought to bear on her to change her story so her uncle did not go to jail.

Under the threat of a law suit by Waight, some of the students apologised, but the legal process took years to resolve and Waight chose to retire from the university despite receiving support from nearly all of his students, many local lawyers and colleagues.

There’s a growing push for trigger warnings across Australia, with the National Union of students suggesting warnings for university courses mentioning rape or sexual assault. The call for trigger warnings also applies to abuse, suicide, eating disorders, slurs, shaming, and racism. The most bizarre list comes from La Trobe where their student union suggests warnings for an astonishing 68 items including blood, vomit, fat shaming, gore, snakes, spiders, Islamophobia, corpses, needles, slimy things, insects, scarification, pregnancy, queerphobia, transphobia and Nazi paraphernalia.



It is logical to assume activity on Australian campuses is setting the scene for further changes in our legal system. What's the bet the Human Rights Commission's survey will produce sufficiently alarming statistics<sup>42</sup> to justify a push for "yes means yes" regulations on Australian campuses<sup>43</sup>? Loraine Finlay, a former DPP prosecutor and a lecturer in law at Murdoch University, points out the so-called "random sampling" being used actually invites students to self-select to do the survey. "This seems highly likely to skew the results towards students who have experienced some form of assault or harassment who will be more motivated to take the survey," she says<sup>44</sup>.

"We should be extremely cautious about moving down the path of changing our laws to adopt an 'enthusiastic consent' standard," Finlay says. Her time as a prosecutor showed her that while sexual assault offences are extremely difficult to prosecute because victim and alleged offender often provide different versions of events, she believes that "the current approach to consent is fair and reasonable".

The reality is that enthusiastic consent laws can undermine the right to a fair trial for students accused of sexual offences. In 2015, a Tennessee judge, Carol McCoy, ruled in a case involving a student who claimed she hadn't consented to the drunken sex with a fellow student called "Corey Mock". McCoy's judgment stated that the university regulations "improperly shifted the burden of proof and imposed an untenable standard upon Mr Mock to disprove the accusation." She suggested it runs afoul of "the fundamental requirement of due process".

Recently, Australian gender warrior and journalist Jane



Gilmore appeared on the ABC's *The Drum* discussing sexual assaults on campus and promoting the need for enthusiastic consent laws. She made it clear regulations on campus are just the beginning. The broader aim is strengthened rape and sexual assault laws, increasing sentences for such crimes and further eroding traditional legal protections against false allegations.

California has just expanded its definition of rape and added new mandatory-minimum sentences for sexual assaults, five months after a judge's lenient sentence for former Stanford University swimmer Brock Turner sparked outrage on social media. When Turner was released from prison, his family home was surrounded by armed protestors waving signs like "Shoot the local rapist".

New draconian laws, armed vigilante groups — arguably an inflamed reaction inspired, at least in part, by the frenzy over the rape culture on American campuses. So what's next for Australia?





#MenToo

---

