



# Sexual Assault Information Packet



**Advocacy & Education**

**RESPONDING PARTY**

**Sexual Assault - Relationship Violence - Stalking**

**Sexual Misconduct Advocacy and Resource Team (SMART)**

Adapted from and Used With  
Permission of  
**University of North Carolina at Pembroke**  
*Office of Student Affairs*

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Dear Reader,

This information packet was created for several reasons: First, we hope and believe that information and education will help an individual accused of sexual assault/sexual misconduct. Second, we hope that people concerned about someone accused of sexual assault/sexual misconduct can learn to be a support person by understanding more about the issue affecting their loved one. And finally, we believe the information can be helpful to those reading it for educational purposes because it deals with an issue that is important to them.

If you are an individual accused of sexual assault or sexual misconduct, you may find some helpful information in the following pages. You may also read some things that are upsetting. Please remember that a mental health counselor is available to you during business hours and can be reached at L 139 Great Bend Campus at (620) 792-9295, or by email at maserj@bartonccc.edu or you can contact campus Safety which is operational 24 hours a day, 365 days a year and can be reached at (620) 792-9217, or in Room 154 in the Technical Building. The Center for Counseling and Consultation in Great Bend & 24/7 Crisis Care can be reached at (620) 792-2544. All resources for all campus areas are listed in the following pages of this packet.

All of the statistics and facts in this packet are followed by their source. The information in this packet is updated on an annual basis. This packet was created for informational purposes only and should not be taken as legal advice.

Readers will notice that the male pronoun "he" is used to refer to individuals accused of violence in the following pages. This usage is reflective of statistics which have shown that on a college campus, individuals accused of sexual assault, relationship violence and stalking are overwhelmingly male (approximately 98%). We have therefore chosen to avoid the cumbersome use of he/she, him/her, and his/hers. This does not mean that females are not ever accused of these crimes, they are, but not in nearly the numbers that males are.

We hope that all readers of this information packet find it helpful. We want to make sure you are provided with the best support possible.

Sincerely,  
The SMART Committee

## **What Do I Do if I Have Been Accused of Sexual Assault or other Sexual Misconduct?**

### **What Are My Rights if I Have Been Accused of Sexual Assault?**

As a Barton student, you have some basic rights when it comes to being accused of a sexual assault which violates Barton Policies.

You are entitled to the same Barton resources as the reporting party.

You are entitled to written notice of the charges against you.

You are entitled to a fair, impartial and prompt investigation conducted by trained investigators.

You are entitled to have a resource/support person with you at any stage of the process. This person can help you understand the process and timelines, help you find resources, but cannot advocate on your behalf.

You are entitled to participate in the investigation and adjudication of this case. You also have the right to not participate at any time. If you choose not to participate, know that Barton may be required to complete an investigation without your testimony.

You are entitled to have your name and information about the violation with which you are charged to be kept as private as possible.

You are entitled to a written decision stating the reasons for the findings.

You are entitled to appeal any decision based on grounds set forth in Policy 1132.

If the conduct with which you are charged may also result in criminal charges, you may want to speak with an attorney before testifying or providing a statement.

You are also entitled to receive a copy of this Sexual Assault Information Packet for the Responding Party. You may obtain a written copy from the Title IX Coordinator, Campus Safety Office, Barton mental health counselor or Barton college nurse.

### **What not to do**

Do not attempt to conduct your own investigation. You can identify the names and contact numbers for witnesses (people who actually saw, heard something), photos and other evidence. You can give these to the investigators.

Do not attempt to discredit the reporting party or any witnesses. This could constitute retaliation, and could result in severe sanctions.

### **Retaliation**

Barton Community College prohibits retaliations against those who file a Title IX complaint, witnesses who participate in an investigation, and those who are alleged to have violated Barton's policies. If you believe you are experiencing retaliation in any form, please let our office know as soon as possible. The Title IX office will respond promptly to all allegations of retaliation.

# Resources for BARTON Students

## **Barton Campus Resources**

Title IX Coordinator, Cheryl Brown	(620) 786-7441
Campus Safety Officers:	(620) 792-9217
Counseling Services:	(620) 792-9295
Student Health Services:	(620) 792-9233
Office of Student Services:	(620) 792-9226

## **Community Resources - – Barton County Campus in Great Bend**

Great Bend Regional Hospital emergency and medical services  
514 Cleveland Street  
Great Bend, Kansas  
620-792-8833

Family Crisis Center  
1924 Broadway Avenue  
Great Bend, Kansas  
620-792-1885 or 866-792-1885  
familycrisiscntr.org

Heart of Kansas  
1905 19<sup>th</sup> Street  
Great Bend, Kansas  
620-792-5700

The Center for Counseling and Consultation  
620-792-2544

DREAM, Inc. drug and alcohol abuse and addiction  
Hays, Kansas  
785-628-6655

## **Resources – Fort Riley Campus**

Janet Balk Ft. Riley, Title IX Representative  
Academic Programs Building 211, P.O. Box 2463  
Fort Riley, KS 66442-0463  
(785) 784-6606 ex. 762  
[balkj@bartonccc.edu](mailto:balkj@bartonccc.edu)

Fort Riley Crisis Center  
800-727-2785  
SHARP 24/7 Hotline 785-307-9338  
SHARP Office 785-239-2277 or 785-239-3379

## **Resources – Grandview Plaza Campus in Junction City**

Lindsay Holmes, Title IX Representative  
Program Director  
100 Continental Drive  
Grandview Plaza, KS 66441  
(866) 452-1108, Toll Free: (785) 238-8550 ext. 743  
[holmesl@bartonccc.edu](mailto:holmesl@bartonccc.edu)

Pawnee Mental Health Services  
814 Caroline Avenue  
Junction City, Kansas  
785-762-5250

Family Care Centre of Junction City  
132 Eisenhower Drive  
Junction City, Kansas  
785-762-4210

Geary Community Hospital  
1102 St. Mary's Road  
Junction City, Kansas  
785-238-4131

The Crisis Center  
785-539-2785 Manhattan  
785-762-8835 Junction City  
800-727-2785 other areas

## Resources – Fort Leavenworth Campus

Erika Jenkins-Moss, Title IX Representative  
Director of Learning Services  
Fort Leavenworth, KS 66027  
(785) 784-6606 ext. 772  
[MossE@bartonccc.edu](mailto:MossE@bartonccc.edu)

SARC 24/7 Hotline 913-683-144

St. John Hospital  
3500 S. 4th Street  
Leavenworth, Kansas  
913-680-6000

St. Luke's Cushing Hospital  
711 Marshall Street  
Leavenworth, Kansas  
913-684-1100

The Guidance Center  
500 Limit Street  
Leavenworth, Kansas  
913-682-5118

Alliance Against Family Violence  
522 Kickapoo Street  
Leavenworth, Kansas  
800-644-1441  
913-682-9131  
913-682-9132  
<http://www.aafv.net/main.html>

## Resources- State & National

Kansas Coalition Against Sexual and Domestic Violence  
888-363-2287  
<http://www.kcsdv.org/>

RAINN (Rape, Abuse, & Incest National Network)  
800-656-HOPE (4673)  
<https://rainn.org/>

Kansas Legal Services  
[www.kansaslegalservices.org](http://www.kansaslegalservices.org)  
1-800-723-6953

## **Websites**

Department of Education: Office for Civil Rights (OCR)

<https://www2.ed.gov/about/contacts/gen/index.html?src=ft>

# **Common Feelings of Being Accused of Sexual Assault**

Emotional responses of those accused will vary from individual to individual. Being accused of sexual assault can be traumatic and life-changing. It's important to remember that your responses are not crazy; they are normal reactions to a difficult situation –being accused of sexual assault. Below are some common feelings an individual may experience.

### **SHOCK AND NUMBNESS**

An accused individual may experience feelings of disbelief or denial about what happened. He may feel emotionally detached or drained. Other reactions to the emotional shock may include: crying, anger, laughing nervously, withdrawing, or claiming to feel nothing or be “fine.” An individual often may feel overwhelmed to the point of not knowing how to feel or what to do.

### **DISRUPTION OF DAILY LIFE**

An individual may feel preoccupied with thoughts about the incident. It may be difficult to concentrate, attend class, or focus on school work. An individual may have trouble sleeping, appetite changes, general anxiety, or depression.

### **LOSS OF CONTROL**

An individual accused of sexual assault may feel overwhelmed. An individual may also feel anxious, scared, or nervous and often have a difficult time concentrating. Decisions that were made routinely before now may feel monumental.

### **FEAR**

It is common for an individual accused of sexual assault to fear what may happen and how his/her life may change. He may be afraid of what other peers or family may say about him or if there might be retaliation towards him. He may find himself not knowing who to trust.

### **ANGER**

An individual may have different reasons to feel angry. An individual may vary in how he expresses anger. Anger can be vented in safe and healthy ways, or can be internalized, where it may become irritability, anxiety, or depression. Please be careful to avoid unhealthy ways of coping with anger such as alcohol or drug use, cutting, or other self-destructive behavior.

### **ISOLATION**

himself in fear of rumors or retaliation. He may not want to bother anyone because of embarrassment and fear of others judging him, so he does not talk about the incident or feelings. Also, an individual may isolate an individual may withdraw or distance themselves from family and friends.



Adapted from the Sexual Violence Center of Hennepin County and "Coping with Sexual Assault" by Terri Spahr Nelson.

Orsillo, Sue. U.S. Department of Veterans Affairs. National Center for PTSD Fact Sheet, available from [http://www.ncptsd.va.gov/facts/specific/fs\\_female\\_sex\\_assault.html](http://www.ncptsd.va.gov/facts/specific/fs_female_sex_assault.html); Internet; accessed 3 July 2006.

## Healthy vs. Unhealthy Coping Methods

**Healthy coping methods** are those that help to reduce anxiety, lessen other distressing reactions, and improve the situation in a way that does not harm you further and which improves things not only today, but tomorrow and in the future as well. **Healthy coping** methods can include:

- *Seeking professional help such as counseling services*
- *Muscle relaxing exercises*
- *Talking to a person you trust*
- *Physical exercise*
- *Distracting activities, including recreational or campus activities such as: hanging out with friends, taking a walk, watching a movie, or listening to music*
- *Breathing exercises –slow, deep breaths*
- *Meditation or yoga*
- *Journaling*

**Unhealthy coping methods** can make problems worse. They may reduce your anxiety immediately, but —provide only short-term relief. Unhealthy coping skills may also cause additional problems. **Unhealthy coping** methods can include:

- *Continuing to avoid thinking about the incident you are accused of.*
- *Social isolation (keeping to yourself)*
- *Use of alcohol or drugs*
- *Avoiding counseling or other support services available*
- *Cutting or hurting oneself*
- *Aggressive or violent actions*

# If You or a Friend Are Accused of Sexual Assault

## What to do to help the accused:

- Listen to your friend from his/her point of view.
- Accept your friend as a person, even if you don't agree with his/her behavior.
- If possible, provide an atmosphere where he can express honest feelings.
- Be honest with your friend about how much support you can give.
- Help your friend generate alternatives and options in dealing with the situation.
- Let your friend make the ultimate decision about what to do.
- Direct the friend to campus or community resources.
- Realize that you, too, have been affected and seek support/counseling if necessary.

## What NOT to do:

- Don't try to tell your friend what to do.
- Don't offer your help and support if it is not genuine on your part.
- Don't blame your friend for what happened--if you weren't there, you don't know.
- Don't blame the "victim"--again, you don't know exactly what happened.
- Don't assume you know how your friend wants to be treated--ask him.
- Don't rely on your friend to deal with your own feelings about what might have happened.

# Special Concerns for Barton Students

## **Are you in the same class as the person that accused you?**

It can be distracting for individuals accused of sexual assault to attend class with the accuser. Your academic career is important and we want you to feel comfortable attending class so that you may be successful. You may request alternate arrangements in your class schedule. Contact the Title IX Office to inquire further about this process.

## **Are your grades suffering because of being accused?**

It may take some time to adjust after being accused and it is common to have difficulties concentrating on studying or focusing on coursework. With your permission, the Title IX Office can contact instructors on your behalf. Without disclosing any details, the Title IX Coordinator can explain that you are experiencing tremendous amounts of stress and need flexibility in meeting deadlines or request any other necessary accommodations. We also encourage students to communicate directly with their instructors in order to limit any possible misunderstandings about expectations and requirements.

## **Do you live in the same Residence Hall as the person that accused you?**

If the accuser lives in the same Residence Hall as you, please contact the Title IX Coordinator. They can work with Housing to arrange for a change in housing if you live on campus

## **Are you concerned about telling your parents what happened?**

If you tell your parents will it be more or less helpful to you? This is a very difficult question for individuals accused of sexual assault or sexual misconduct. Many students find it hard to disclose to their parents, but ultimately may find parents' support helpful through this process. Some individuals may fear that their family may blame them. Only you can decide if and when to tell your family. A counselor from the Counseling office can help you process this decision and discuss the risks and benefits to disclosing to your family.

## **What if you have mutual friends or belong to the same groups as the accuser?**

This is a common situation since most assaults occur between acquaintances. People will likely take sides and you may find yourself losing friends. Surround yourself with people who support and respect you.

# Consent

- Consent is defined as explicit approval and permission to engage in sexual activity demonstrated by clear actions, words, or writings.
- Informed consent is freely and voluntarily given, it is mutually understood by all parties involved.
- If coercion, intimidation, threats, and/or physical force are used, there is no consent.
- If a person is mentally or physically incapacitated or impaired so that the person could not understand the fact, nature, or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption, or being asleep or unconscious, or under the age of legal consent, or unable to give consent under current law.  
Silence does not constitute consent, and past consent of sexual activities does not imply ongoing future consent.
- Consent to some form of sexual activity cannot be automatically taken as consent to any other form of sexual activity.
- Consent can be withdrawn at any time and requires an outward demonstration through understandable words or actions.
- Consent is active, not passive. Silence, moving away, crying, being asleep, passed out, confined, emotionally manipulated, coerced, or intimidated is by this definition not consent.
- Consent cannot be inferred from the absence of a “no”.
- Verbal communication, a clear “yes”, is the most reliable form of asking for and gauging consent, and individuals are thus urged to seek consent in verbal form.
- Talking with sexual partners about desires and limitation may seem awkward, but serves as the basis for positive sexual experiences shaped by mutual willingness and respect.

# BARTON CODE OF CONDUCT

## Student Rights and Responsibilities

### 2611 – Student Code of Conduct

Barton County Community College will establish and maintain a fair and equitable procedure for addressing student disciplinary matters ensuring that the rights of the students, the College community, and the community-at-large are protected.

#### PURPOSE:

The objectives of the disciplinary process at Barton County Community College are:

1. To protect members of the campus community from harm due to the indiscretions of the few members of the community who are unable, or unwilling to respect the rights of others;
2. To help ensure order in the College community;
3. To create an environment that enhances the opportunity for learning;
4. To protect the rights of members of the College community and the community at large; and
5. To assure students due process when they have been charged with violating College rules and regulations.

#### DEFINITIONS:

The following terms used in this Code are defined:

1. “College” means Barton County Community College.
2. “Faculty member” means any person employed by the College to conduct classroom, lab, interim experiences, or clinical activities. As necessary, faculty may tutor students.
3. “College official” includes any person employed by the College, performing assigned administrative or professional responsibilities.
4. “Student” includes all persons taking courses at the College, both full- and part-time, as well as those participating in all outreach programs, off-campus programs, and such other activities as may be sponsored by the College.
5. “College premises” includes all land, buildings, facilities, and other property in the possession of or owned, used, rented or controlled by the College.
6. “College campuses” includes the land and buildings on which Barton Community College’s traditional Barton campus exists, the Golden Belt One Stop Facility, as well as the Grandview Plaza, Fort Riley and Fort Leavenworth campuses.
7. “College-sponsored activity” means any activity on or off campus that is initiated, aided, authorized, or supervised by the College.
8. “Policy” is defined as the written regulations
9. “Student Advocate” is an individual whose role is to support, advise, and champion the student’s rights.

10. "Bystander engagement" is the purposeful intervention of someone who is present during and witness to an incident.
11. "Preponderance of evidence" is the standard of proof established for conduct investigations. The preponderance of evidence (i.e. just enough evidence to make it more likely than not) standard differs from the standard used in criminal investigations which is "beyond a reasonable doubt."

Bystander Engagement. The welfare of members of our community is of paramount importance. At times, students on and off-campus may need assistance. The college encourages students to offer help and assistance to others in need. Sometimes, students are hesitant to offer assistance to others, for fear that they may get themselves in trouble. (For example, a student who has been drinking might hesitate to help take a sexual misconduct victim to the Campus Safety Office.) The college applies a policy of limited immunity for students who offer help to others in need. While policy violations cannot be overlooked, the college will provide educational options, rather than punishment, to those who offer their assistance to others in need.

### **UNACCEPTABLE BEHAVIOR**

The following constitute some of the conduct violations that may result in disciplinary action being taken against the student. The list is not intended to be all inclusive but is intended to be used as a guide.

The student is advised that specific career technical programs, as well as Barton athletic programs, communication and performing arts programs, and other student organizations publish student handbooks and program guidelines with policies and procedures associated with their respective programs. Students are advised that in addition to the guidelines and expectations outlined herein, they are expected to comply with the policies and procedures applicable to the programs with which they are affiliated. Students in these programs are entitled to the same due process as all other students.

Students attending Barton as part of an MOU with the Department of Defense to provide educational opportunities on a military installation are governed by any code of conduct or behavioral expectations dictated by the military. Any conduct violations, investigations, and/or action taken will be the purview of the appropriate military authority designated to handle such matters.

1. Violation of federal, state and local laws that affect the student's suitability as a member of the college community.
2. Physical abuse, verbal abuse, threats, intimidation, harassment, coercion and/or other conduct which threatens or endangers the health or safety of any person, whether perceived or real.
3. Attempted or actual theft of and/or damage to property of the College, or property of a member of the College community, or other personal or public property, including knowingly receiving or possessing stolen property.
4. Manufacture, possession, control, sale, transmission of or use of any controlled substance, alcohol, or other illicit drugs on the College's campuses.
5. Possession of a weapon, firearm, explosive and/or facsimile weapons on the College's campuses, including any weapon designed to fire any projectile (i.e. paintball guns, bb guns, air rifles, air pistols, pellet guns, etc.) as well as the associated paraphernalia. The only exceptions will be for military personnel who must carry a firearm as part of their commission, or for in-class use by instructors teaching or students enrolled in courses utilizing firearms.

6. Obstructing or restraining the lawful movement of another and thereby causing personal or campus disorder.
7. Obstructing or disrupting a police response or the response of College Safety Personnel.
8. Intentionally initiating or causing to be initiated any false report, warning, or threat of fire, explosion, or other emergency on College premises or at College-sponsored activities.
9. Fraudulent use or forgery of any College seal or document, including the Student ID card.
10. Fraudulent or unauthorized use of college facilities or college resources, including computing resources.
11. Unauthorized possession, duplication, or use of keys to any College premises, or unauthorized entry to or use of College premises.
12. Intentionally impeding normal pedestrian or vehicular traffic on campus.
13. Violation of any other federal, state or local law on College premises or at College-sponsored activities.
14. Disrupting, impeding or interfering with the operation of the College.
15. Disruption of the learning environment or any behavior that detracts from the goals of or diminishes the dignity, respect, or worth of other students on campus. This includes: overt disrespect for the ideas and opinions of others; disruptive talk during class; and bringing activated electronic devices to classes or computer labs without prior approval.
16. Verbal or written communication that has the intent or effect of subjecting any individual or group to hatred, contempt, ridicule, racist slurs, or intimidation and thereby injures the person, property, or reputation of another.
17. Discrimination, harassment or retaliation including harassment based on race, color, religion, sex, sexual orientation, national origin, age, disability, or status in any group protected by state or local laws and including all forms of sexual harassment. (See Policy 1130, Procedure 2122 - Anti-harassment.)
18. General misconduct.
19. Littering and posting of notices in non-designated spaces or without approval from the appropriate College personnel and unauthorized distribution or sale of goods on campus.
20. Violation of College traffic and parking regulations.
21. Smoking in areas designated non-smoking.
22. Possession or use of alcohol by any person on the College's campuses except as allowed for special events (See Policy 1220, Procedure 2215 Service of Alcoholic Beverages for Special Events.)
23. Leaving children or animals unattended on campus.
24. Use of bicycles, skateboards, roller blades, and any other non-motorized vehicle or equipment (except wheelchairs) outside designated areas.
25. Failure to comply with a directive of College officials or Campus Safety officers acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so.
26. Tampering with the election of any College-recognized student organization.
27. Intentionally or maliciously furnishing false information to the College.
28. Unauthorized actions taken in the name of the College.
29. The possession of any flammable or explosive materials such as paint, gasoline, fireworks, ammunition, etc., except for use by an employee or in a program approved by the College.
30. Gambling on campus or at any College sponsored activity except in the case of approved student activities sponsored by the Student Life Office.
31. All forms of academic dishonesty. (See Policy 1501, Procedure 2502 – Academic Integrity.)
32. Violation of any other published College policies, rules or regulations.

### **Student Rights for Due Process:**

To protect students from capricious disciplinary action, all proceedings which may lead to suspension or expulsion and/or dismissal from a college program must be conducted in a manner which insures the charged student due process. The basis of due process is the method by which substantive rules are effectuated in a society. The key is how rules are implemented so that fair play and justice are generally recognized as being present. The following elements must be included to guarantee due process:

1. Jurisdiction: The parties must be amenable to the power wielded by the disciplinary body.
2. Notice: A concise, specific statement, in writing, of the charges (the specific facts and acts). A time and place for the hearing must be specified.
3. Testimony: The right personally to give testimony and to have others give testimony.
4. Impartiality: An impartial body to determine the facts and whether they (the facts) fit the rule. "Impartial" does not necessarily mean that they have no knowledge of the facts – it is not necessary in an administrative hearing.
5. Student Advocate: The student is allowed to bring an advocate to all hearing procedures or have one appointed for him/her if so requested.
6. Documentation: The proceedings shall be recorded.

### **Disciplinary Procedure:**

Whenever a complaint is made against any student for misconduct, the Vice President of Student Services or such other person as may be designated by the President shall conduct an investigation of the allegations as soon as possible (generally, for Offenses Against the Academic Community the President will designate the Vice President of Instruction). The Vice President of Student Services or such other person as designated by the President is authorized to take any interim action necessary to maintain campus safety, integrity of the process, and/or protection of student rights and institutional rights during the formal investigation and determination process.

The student shall be given written notice of the complaint and charges against him/her within five (5) College business days of receipt of the complaint. If a student is under the age of eighteen (18) years, a copy of the notice may be sent to the parents or guardian of the student. The student shall have five (5) College business days after receipt of the notice to respond in writing to the charges. If it is necessary to mail notice to the student, he/she shall have seven (7) College business days after the date of mailing to respond in writing to the charges.

The Vice President of Student Services or such other designee of the President shall, as soon as possible after the investigation, render a decision that may include dismissal of the complaint or imposition of any discipline set forth herein. Notice of the decision shall be served upon the student in person, by certified mail, or by regular mail. If a student is under the age of eighteen (18) years, a copy of the decision may be sent to the parents or guardian of the student.

### **Disciplinary Action:**

If the Vice President of Student Services or other designee of the President finds that the student has violated College policy, rules, or regulations, disciplinary action shall be taken. The Vice President of Student Services or other designee shall impose such discipline as he/she



determines is warranted taking into consideration the seriousness of the offense. For more complicated incidents, the Vice President of Student Services or other designee may seek the input of a Review Board before determining discipline.

The Review Board, if utilized, shall be chosen from members of the College Student Life staff.

Individuals who serve on a Review Board would not later be eligible to serve on an Appeals Committee, should an appeal follow imposition of disciplinary sanctions. Permissible actions include but are not limited to: written reprimand, community service, fines, probation, full or partial suspension from classes, expulsion from housing, and/or expulsion from school.

Disciplinary action may also include a bar against readmission to the College.

## **Appeals**

### **Right of Appeal**

Any decision of the Vice President of Student Services or such other person as designated by the President may be appealed by the accused or the complainant within five (5) College business days of the receipt of the decision. Such appeals shall be in writing and shall be delivered to the President of the College.

A student who fails to file a written notice of appeal in the President's Office, within the times specified waives the right to appeal.

### **Status Pending Appeal**

Any disciplinary action imposed shall remain in effect during the appeals procedure, unless otherwise directed by the President of the College.

An appeal shall be conducted for one or more of the following purposes:

- To determine whether the original process was conducted fairly a) in light of the charges and evidence presented, and b) in conformity with prescribed procedures. This gives the complaining party a reasonable opportunity to prepare and present evidence that the Student Code was violated, and gives the accused student a reasonable opportunity to prepare and to present a rebuttal of those allegations.
- To determine whether the decision reached regarding the accused student was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code occurred.
- To determine whether the sanction imposed was appropriate given the violation of the Student Code that occurred.
- To consider new evidence sufficient to alter a decision or other relevant facts not brought out in the original process, because such evidence and/or facts were not known to the person appealing at the time of the original hearing.

If the President or designee determines, in his or her sole discretion that the written appeal fails to meet the Standard for Appeal (noted above), he or she will inform the student in writing. If

the written appeal submission fails to meet the Standard for Appeal, the matter is concluded and no further action will be taken.

### **Composition of Appeals Committee**

The President of the College shall name an Appeals Committee Facilitator to conduct a formal Appeals Hearings in order to review the charges and imposed sanctions. The Appeals Committee shall consist of six (6) members, selected by the Facilitator and approved by the President, two of which shall be from the faculty, two staff, and two representatives from the student body. At any hearing before the committee, at least four (4) members shall be present to constitute a quorum in order to transact the business of the committee. Any member of such committee directly involved in the outcome of a hearing, or who believes they have a conflict of interest rendering them to be perceived as being incapable of providing an impartial decision, shall disqualify him/herself from the hearing and the Appeals Committee Facilitator shall appoint a person to take his/her place.

### **Hearing**

The Appeals Committee shall set a hearing as soon as possible after the hearing has been approved. Notice of the time, date, and place of the hearing shall be given to all parties in writing no less than three (3) College business days prior to the hearing.

It is the hope of the College that disciplinary matters will be handled by members of the College community, and legal counsel will not ordinarily be present to represent the College. However, if the student is to have a professional legal advisor present (which will be at the student's expense) at any hearing, the student must notify the President's Office not later than forty-eight (48) hours before the scheduled time of the hearing, in which event, the College may, in its discretion, be represented by counsel.

A student failing to appear before the Appeals Committee at the designated time, shall forfeit any right to appeal or seek further relief of the decision.

Proceedings before the Appeals Committee shall be recorded electronically or via written minutes. Recordings and communications related to the disciplinary procedure and resulting actions shall not be considered a public record as that term is defined by the Kansas Open Records Act.

Decision Upon the conclusion of the hearings, the Appeals Committee, by majority vote, shall decide whether the student has violated the Student Code of Conduct and whether the sanction imposed fits the nature of the violation. The Appeals Committee may uphold, modify, or completely reverse the original decision as appropriate.

A written summary of the findings must be provided and should the decision be modified it should be in accordance with one or more of the conditions delineated in this code. In all appeals, any modification of the original sanctions may not result in more severe discipline for the accused student.

The Appeals Committee shall render its decision in writing within three (3) College business days of the conclusion of the hearing. The findings of the Appeals Committee shall be forwarded to the President.

**Notification of Decision**

The President's Office shall inform the student in writing of the Appeals Committee's decision within three (3) College business days of the receipt of the Appeals Committee's decision. The findings of the Appeals Committee shall be final.

Contact(s) Vice President of Student Services

Related Form(s) Relevant Policy or Procedure(s): Policy 1610 – Code of Conduct

Approved by: President Date: 6/17/02

Revision(s): 9/2/02; 11/16/07; 1/23/12; 7/28/14; 5/25/17 (minor revision)

# Campus Resources

**Title IX Coordinator:** The Title IX coordinator is responsible for overseeing an institution's Title IX compliance efforts. The coordinator will:

- Track and monitor incidents, including sexual discrimination and sexual misconduct.
- Ensure that the College responds effectively to each complaint.
- When requested by a survivor or reporting party, will conduct sexual misconduct investigations.

**Mental Health Counseling Service:** *(Anonymous and Confidential)*

Counseling offers support and advocacy services for students accused of sexual assault/sexual misconduct. They also offer individual, group, and consultation services that are free and confidential.

**Nurse Services:** *(Anonymous and Confidential)*

The nurse is required to report only that a crime occurred to college Safety Office. Nurses are available to confidentially assist students accused of sexual misconduct. Health providers will report details of the incident to campus Safety office only with the expressed consent of the student.

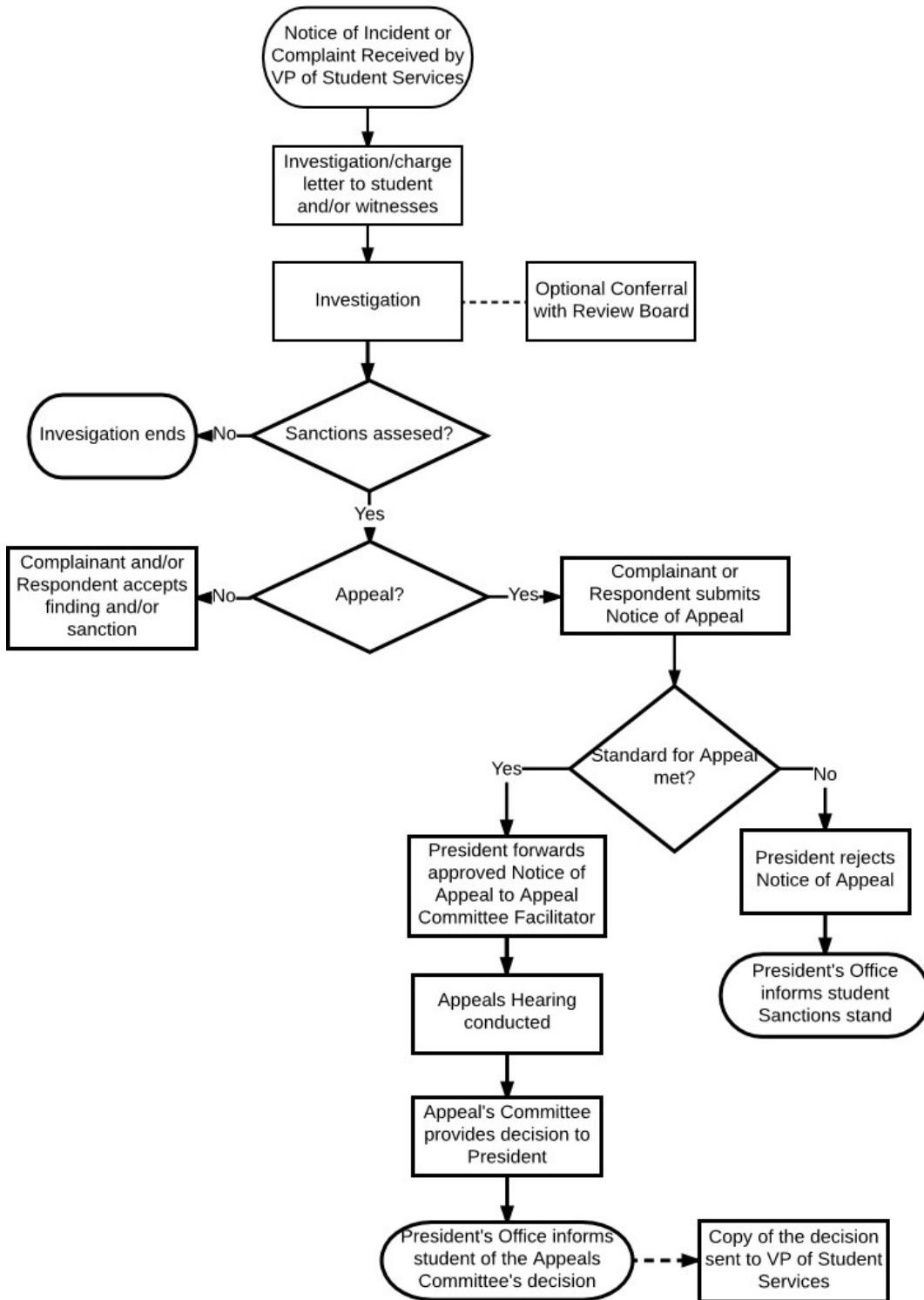
**Student Services:** *(Not Anonymous or Confidential)*

The office of Student Services can help those accused with understanding the judicial process and give information about the appeal process.

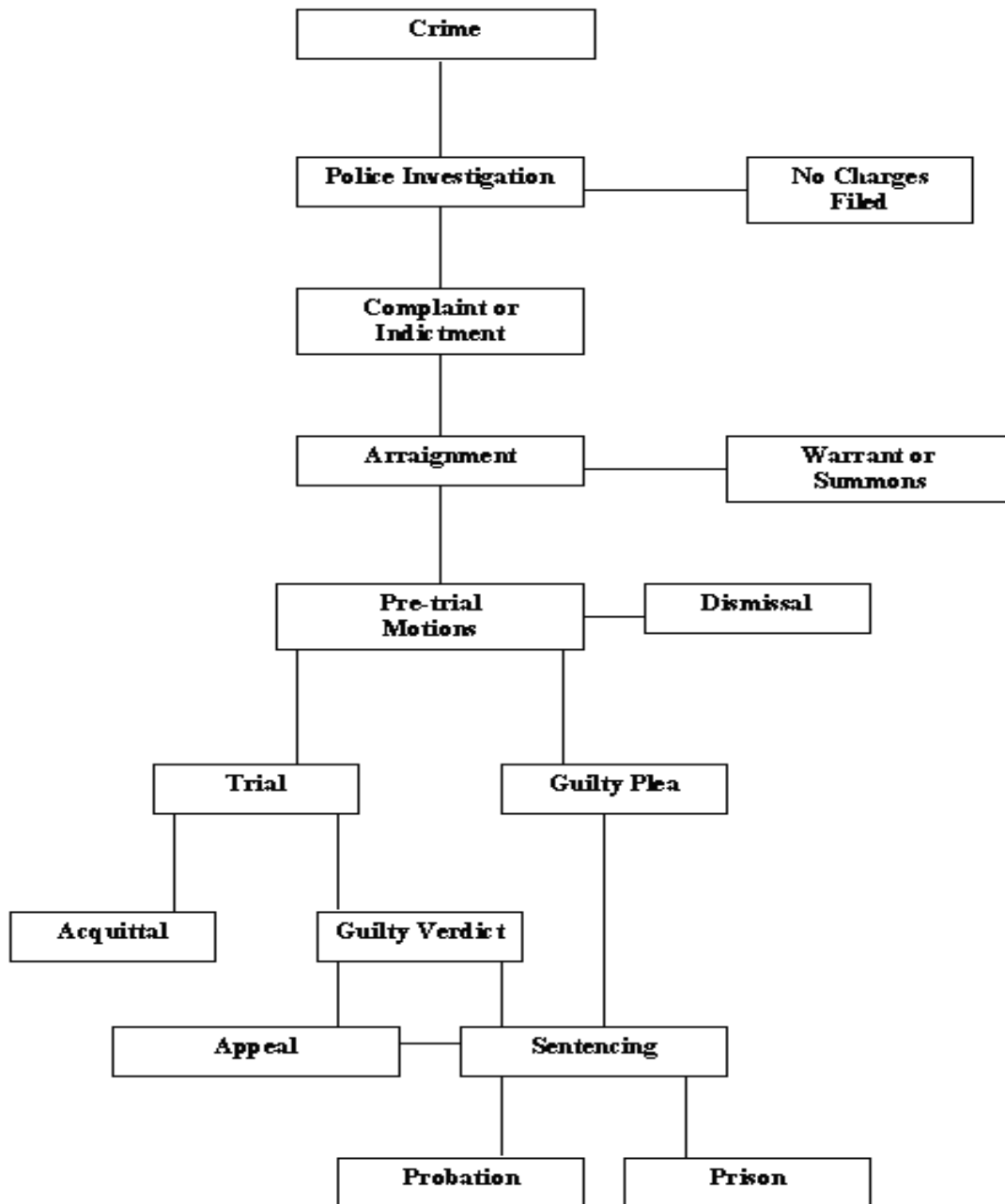
## Title IX

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

# BARTON STUDENT CONDUCT PROCESS



# CRIMINAL JUSTICE PROCESS



# Kansas State Laws for Rape and Sexual Assault

Sexual assault laws in Kansas are defined in Kansas Statutes Annotated Chapter 21, Article 55.

## **Rape: K.S.A. 21-5503**

Knowingly engaging in sexual intercourse with an individual who is overcome by force or fear, or an individual who is unconscious or physically powerless is a severity level 1 person felony in Kansas and carries up to 653 months in prison (54 years) if convicted.

Knowingly engaging in sexual intercourse when an individual is unable to give consent due to mental disease or defect or when an individual is unable to consent because of the effects of alcohol or drugs also constitutes a level 1 person felony which, again, can mean decades in prison.

Sexual intercourse with a child who is under the age of 14 also constitutes rape. If the offender is over the age of 18 while the victim is under the age of 14, the offense falls under the purview of what is commonly referred to as a "Jessica's Law" offense. Jessica's Law offenses are off-grid felonies in Kansas that carry harsh mandatory sentences.

Engaging in sexual intercourse with an individual whose consent is based upon a misrepresentation by the suspect that intercourse was a medical or therapeutic necessity is a severity level 2 person felony in Kansas.

## **Criminal Sodomy/Aggravated Criminal Sodomy: K.S.A. 21-5504**

Criminal sodomy in Kansas includes anal or oral sexual penetration between individuals who are over the legal age of consent and members of the same sex. This sex crime law includes sodomy with a child who is over 14 years of age but less than 16 years of age; Or causing a child between the ages of 14 and 16 to engage in sodomy with any other person or animal.

Criminal sodomy based upon sexual contact with a child between the age of 14 and 16 is a severity level 3 person felony in Kansas and carries between 55 and 247 months in prison, depending upon the person's prior criminal history.

Aggravated criminal sodomy includes sodomy with a child under 14 years of age or causing a child under 14 to engage in sodomy with any person or animal. It also includes sodomy by force or fear, or sodomy without a victim's consent based upon mental disease or defect, the effect of alcohol or drugs, or sodomy when a person is unconscious or physically powerless. Each of these offenses is a level 1 person felony.

Sodomy with a child under 14 years of age when the offender is over the age of 18, is an off-grid felony, and falls within the purview of a Kansas Jessica's Law violation. More information on the aggravated sodomy laws in Kansas.

### **Sexual Battery/Aggravated Sexual Battery: K.S.A. 21-5505**

Sexual battery is defined as the touching of a person over the age of 16 who is not the spouse of the offender when there is no consent. The touching must be committed with the intent to arouse or satisfy the sexual desires of the offender or another person. Sexual battery in Kansas is a class A person misdemeanor and carries up to one year in jail and a \$2,500 fine if convicted.

Aggravated sexual battery is defined as the touching of an individual over the age of 16 who does not consent when that touching is committed with the intent to arouse or satisfy sexual desires of the offender; when the victim is overcome by force or fear; when the victim is unconscious or physically powerless, or when the victim is unable to give consent because of mental disease or defect or because of the effect of alcohol or drugs.

Kansas Aggravated sexual battery is a severity level 5 person felony carrying 31 and 136 months in prison.

### **Indecent Liberties with a Child/Aggravated Indecent Liberties with a Child: K.S.A. 21-5506**

Under sexual assault law, indecent liberties with a child is defined in Kansas as the lewd fondling or touching of a child who is over the age of 14 but less than 16 when the fondling or touching is committed with the intent to arouse or satisfy the sexual desires of the child or the offender, or soliciting a child to engage in lewd fondling or touching of another person with the intent to arouse or satisfy sexual desires.

Indecent Liberties with a Child in Kansas may be a severity level 3 or severity level 4 person felony, depending upon the act itself.

Aggravated Indecent Liberties with a Child includes sexual intercourse with a child over the age of 14 but younger than 16; or engaging in lewd fondling or touching with a child over 14 but under 16 when the child does not consent.

Aggravated indecent liberties with a child is also defined as any lewd fondling or touching of a child under 14 years of age. When the offender is over 18, this sex crime is an off-grid person felony, and falls within the purview of a Kansas Jessica's Law.

When Aggravated Indecent Liberties is committed with a child over 14 years of age but under 16, the crime is a severity level three personal felony.

### **Unlawful Voluntary Sexual Relations: K.S.A. 21-5507**

Unlawful voluntary sexual relations is defined in Kansas as engaging in voluntary sexual intercourse, voluntary sodomy or voluntary lewd fondling or touching with a child who is over 14 years of age but less than 16 years of age when the offender is less than 19 years of age and is less than four years older than the victim.

This crime also requires that the child and offender are members of the opposite sex and the only parties involved in the act. Unlawful intercourse constitutes a severity level 8 person felony. Sodomy constitutes a severity level 9 person felony and lewd fondling or touching constitutes level 10 person felony.



## **Indecent Solicitation of a Child/Aggravated Indecent Solicitation of a Child: K.S.A. 21-5508**

An arrest for solicitation under this sex crime law is defined as enticing, inviting or persuading a child over 14 but less than 16 to commit or consent to an unlawful sexual act or persuading such a child to enter a vehicle, building, room or secluded place in order to perpetrate an unlawful sexual act upon or with the child. Indecent solicitation is a severity level 6 person felony.

Aggravated indecent solicitation is defined as above for a victim under the age of 14. Aggravated indecent solicitation constitutes a severity level 5 person felony.

## **Electronic Solicitation: K.S.A. 21-5509**

Electronic solicitation is defined as utilizing electronic means such as telephone, internet, etc. in order to entice or solicit a child, or person whom the offender believes to be a child, to commit or submit to an unlawful sexual act. If the offender believes the person to be a child over 14 but less than 16, the crime constitutes a severity level 3 person felony. If the offender believes the person is a child under 14 years old, the act constitutes a severity level 1 person felony.

These Internet solicitation cases are frequently the result of undercover sting operations conducted online and in the field by law enforcement operatives. An electronic or Internet solicitation case relies heavily on technology to prove the intended solicitation, and will require a sex crime defense lawyer who is very familiar with the technologies and tactics used by the prosecution.

## **Sexual Exploitation of a Child: K.S.A. 21-5510**

This sex crime is commonly referred to as Possession of Child Pornography in Kansas. It is defined as possessing any visual depiction of a child under the age of 18 who is shown or heard engaging in sexually explicit conduct for the purpose of arousing or satisfying sexual desires of the offender or any other person.

A parent or guardian who has custody or control of a child and knowingly permits such child to engage in, or assist another to engage in sexually explicit conduct for the purpose of promoting a performance, or for the purpose of obtaining a visual depiction also constitutes sexual exploitation of a child.

Either of these two acts constitutes a severity level 5 person felony in Kansas.

## **Unlawful Sexual Relations: K.S.A. 21-5512**

Unlawful sexual relations is defined as engaging in consensual sexual intercourse, lewd fondling or touching, or sodomy when the offender is in a position of power or influence, while the victim is particularly susceptible to this power, influence or manipulation.

Persons falling under this sex crime include teachers, police officers, correctional officers, employees and contractors of jails and prisons. Unlawful sexual relations may constitute a level 4 or 5 person felony, depending on the act and the role of the parties involved.

**Lewd and Lascivious Behavior: K.S.A. 21-5513**

Lewd and lascivious behavior is defined as publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others.

This sex crime also includes publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender, and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

If committed in the presence of a person 16 years or older, this is a Class B nonperson misdemeanor. If committed in the presence of a person younger than 16, it is a severity level 9 person felony.

Other Kansas sexual offenses include prostitution, promotion of prostitution, incest, aggravated incest, and patronizing a prostitute

# What is Sexual Assault?

Sexual assault is

- the sexual exploitation, forcible penetration, or an act of sexual contact on the body of another person, male or female, without his or her consent, anal or vaginal penetration of another individual against that person's will and/or without that person's consent;
- any oral penetration of another individual by a sexual organ against that person's will and/or without that person's consent; or
- any insertion of another individual's genitals into one's mouth, anus, or vagina against that person's will and/or without that person's consent.
- Sexual assault may include any involuntary sexual act in which a person is threatened, coerced, or forced to engage in against his or her will or while temporarily or permanently incapacitated.
- Sexual assault may be committed by a stranger or by a person known by the victim, including persons who are married or in a dating relationship with the victim.

Acts defined as sexual assault include rape, date rape, acquaintance rape, and gang rape, but may also include sexual touching of another person against his or her will or without consent, and forcing an unwilling person to touch another person sexually.

Non-consensual sexual intercourse includes: vaginal or anal penetration by a penis, object, tongue or finger, and oral copulation (mouth to genital contact), no matter how slight the penetration or contact.

Sexual assault occurs when sexual acts are committed either without consent, by force, threat, or intimidation, or through the use of the victim's mental or physical helplessness or incapacitation, of which the assailant was aware or should have been reasonably aware.

According to the National Institute of Justice, 90% of college rape victims know their attacker.<sup>1</sup> The perpetrator may be the survivor's best friend, lover, partner, date, family member, neighbor, classmate, etc. Sexual assault is a criminal act that can be prosecuted under Kansas law, as well as under the Barton Community College Student Code of Conduct.

# Sexual Assault Statistics

- Rapists are almost always men, 98% men.
- Fraternity men are 3x more likely to commit sexual assault than other college men.
- College men who consume alcohol 2-3x a week and had friends who support physical/emotional abuse of women are 9x more likely to commit sexual assault compared to men with none of those characteristics.
- 9% of college men admit to acts that meet the legal definition of rape or attempted rape.
- Of female rape survivors, 98% of the perpetrators are men; of male rape survivors, 93% of the perpetrators are men.
- Male perpetrators may use alcohol deliberately to render victims vulnerable, test boundaries and find targets.

# Myths and Facts about Sexual Assault

**MYTH:** **The primary motive for rape is sexual.**

**FACT:** The primary motives for rape are aggression and power, not sex. Rapists have a desire to dominate, humiliate and degrade their victims. Rape is not the result of “pent up” sexual desire, as many accused report that she does not enjoy the sex act *per se* during rape. In fact, most accused have access to a consensual sexual relationship with a wife or lover.

**MYTH:** **Women are sexually assaulted because they “ask for it” in some way.**

**FACT:** Attempts to shift the burden of blame from the accused to the victim by implying that “she asked for it” are common. There is nothing a person does to “deserve” a sexual assault – the way a woman dresses, her alcohol consumption, or her sexual history are used as excuses to justify the rapist’s behavior. By blaming the survivor, the attention is directed away from the accused, diminishing the accused’s responsibility for the attack. Blaming a woman for her rape because of how she acts or what she wears is like blaming a bank for being robbed because it “tempted” the thief with all that money.

**MYTH:** **A woman can nearly always prevent an assault by resisting her attacker.**

**FACT:** Every sexual assault is unique and the issue of resistance and submission should be evaluated individually. Resistance could deter an attack, or it could conceivably increase one’s chances of injury and perhaps result in death. The survivor needs to do whatever she feels comfortable doing to extricate herself from the situation. She should rely on her instincts, and whatever she does is correct for her. Even if she must submit, this does not imply consent, and in fact, may keep her alive.

**MYTH:** **Many women falsely report rape as a means of revenge or to get attention.**

**FACT:** Sexual assaults are very rarely falsely reported. The rate of “false reports” of rape (fabricated stories) is 2% to 3%, no different than other crimes. [Schafran, L.H. (1993). “Writing and reading about rape: A primer.” *St. John’s Law Review*, 66, 979-1045.] The general misconception of a high rate of false reports of sexual assaults may be confused with observations of low conviction rates of offenders. The much bigger issue is the low percentage of rapes that are reported to the police; less than 5% of rapes on college campuses are reported to law enforcement (*National Institute of Justice*, 2004).

**MYTH:** **Rapists are easily identifiable by their physical appearance, actions, or words.**

**FACT:** There is no standard mental or physical profile that defines a rapist. A rapist can be someone of any age, race, economic background, belief system, or culture. Although the stereotype of the deranged stranger rapist abounds in our society, stranger rapes only make up around 20% of

all sexual assaults, and even then the stranger may not be a mentally disturbed person. The vast majority of rapists are people the survivor knows, people she sees in day to day life.

**MYTH:** **Most sexual assaults are interracial.**

**FACT:** Most sexual assaults take place between members of the same race. White survivors tend to report African-American offenders more frequently than white offenders, and African-American survivors tend to underreport assaults in general, but especially if the offender is white. African-American offenders tend to be convicted in disproportionately higher numbers based on arrest rates. The myth that African-American men rape only white women may be perpetuated by the publicity given to those assaults fitting cultural and racial stereotypes.

**MYTH:** **When a woman says “no,” she might really mean “yes.”**

**FACT:** This myth is common in dating situations. When a person says “no,” that person’s partner must assume she means nothing other than “no.” If a person does not explicitly consent to an act of sex, in the form of a “yes” or similar phrasing, that person has not consented. Silence on a person’s behalf must be taken as a “no” rather than consent. Rape is not just a matter of miscommunication. However, communication is vital in sexual situations.

**MYTH:** **Rape and sexual assault can only be perpetrated by men against women.**

**FACT:** Although 90% of victims are female and 95% of rapists are male, men can also be assaulted by women. In addition, same-sex sexual assaults occur as well, regardless of sexual orientation.

## Myths and Facts about Male Sexual Assault

**MYTH:** Only women can be raped.

**FACT:** Men can and are sexually assaulted every day.

**MYTH:** Men who rape other men are gay.

**FACT:** Rape is not about sexual preference or desire - it is an act of *power and control*. The motivation of the rapist is to humiliate and brutalize another person. A survey of convicted rapists found that at least half of these men did not care about the sex of their victims; they raped both men and women. Most male rapists are either heterosexual or suffer great confusion about their sexual identity.

**MYTH:** Men who rape other men are psychotic.

**FACT:** There is no evidence to support this belief. Rape is a reflection of a society that trains men to strive to dominate and control others and to avoid the open expression and acknowledgment of feelings.

**MYTH:** Survivors of male rape must be gay.

**FACT:** Both straight and gay men can be raped: most studies report that at least half (and more often the clear majority) of survivors are exclusively heterosexual.

**MYTH:** Rape is something that doesn't happen to "real men".

**FACT:** Rape is something that can and does happen to an entire spectrum of men, regardless of physical strength or fighting prowess. Reported survivors have included a boxer and a 6'2" man weighing 200 lbs. Being raped does not mean that the survivor is weak or a "wimp."

Anyone can be overpowered or taken by surprise. Size and strength are often no match for weapons, overwhelming odds or surprise attacks.

**MYTH:** Male rape only happens in prison, and is due to the lack of sexually available women.

**FACT:** The rape of men in prisons is a classic example of men using rape as a means of experiencing themselves as powerful and in control. Male rape happens much more often in society at large than we realize, but the survivors rarely tell anyone. Many rape crisis centers report that as many as 10% of their callers are male survivors.

- MYTH:** **A man cannot have an erection if frightened.**  
**FACT:** All studies so far have found that survivors commonly do report erections and even ejaculations during even the most vicious attacks. These are uncontrollable automatic physiological responses and do not mean the survivor enjoyed the experience.
- MYTH:** **Women don't rape men.**  
**FACT:** Women can and do rape men, although this seems much less common than rape by men. Sexual assault of a man by one or more women is just as serious as any other type of violation of any other survivor.
- MYTH:** **Being raped reflects upon the survivor's manhood.**  
**FACT:** It is important to remember that a survivor of rape, whether male or female, was not at fault or responsible. Recovering from rape demands that we realize and combat rape myths about both male and female survivors.
- MYTH:** **Men deal better with personal/physical crisis and attacks than women do, and will therefore get over a rape more quickly and without help.**  
**FACT:** There is growing evidence that men heal from this type of experience with greater difficulty. Men characteristically deal with this sort of trauma by trying to ignore it. This reluctance to seek therapy or support hinders recovery, and many men remain traumatized by the crime for years.
- MYTH:** **There is nothing a man can do to help another man who has been victimized by rape.**  
**FACT:** Like the women's movement, a movement among men toward supporting and helping one another will be a giant step in beginning to effectively address the needs of male survivors. Exposing and attacking the myths and disseminating the facts about male rape are steps in this direction.

*\*Information was taken from Crime Victim's Digest, April 1987*



# National Sexual Assault Statistics

- An eight-year study indicated that when perpetrators of rape are current or former husbands or boyfriends, the crimes go unreported to the police 77 percent of the time. When the perpetrators are friends or acquaintances, the rapes go unreported 61 percent of the time; and when the perpetrators are strangers, the rapes go unreported 54 percent of the time (Bureau of Justice Statistics, 2002).
- Among college students nationwide, between 20% and 25% of women reported experiencing completed or attempted rape (Fisher, Cullen, and Turner 2000).<sup>5</sup>
- Approximately 1.9 million women are assaulted annually in the U.S. *National of Justice, 2000* ([www.ncjrs.org/txtfiles/172837.txt](http://www.ncjrs.org/txtfiles/172837.txt))
- Approximately 1 million women and 371,000 men are stalked annually in the U.S. *National Institute of Justice, 2000* ([www.ncjrs.org/pdffiles1/nij/183781.pdf](http://www.ncjrs.org/pdffiles1/nij/183781.pdf))
- 6,293,743 of women surveyed have experienced rape and/or some form of physical assault during the past 12 months. *National Institute of Justice, 2000* (<http://www.ncjrs.gov/txtfiles1/nij/183781.txt>)
- Nearly one-fifth of women (17.6%) reported experiencing a completed or attempted rape at some time in their lives; one in 33 men (3%) reported experiencing a completed or attempted rape at some time in their lives. *National Violence Against Women Survey, 2000* ([www.ncjrs.org/txtfiles/172837.txt](http://www.ncjrs.org/txtfiles/172837.txt))
- Women are more likely to be survivors of sexual violence than men: 78% of the survivors of rape and sexual assault are women and 22% are men (Tjaden and Thoennes 2000).
- Most perpetrators of sexual violence are men. Among acts of sexual violence committed against women since the age of 18, 100% of rapes, 92% of physical assaults, and 97% of stalking acts were perpetrated by men. Sexual violence against men is also mainly male violence: 70% of rapes, 86% of physical assaults, and 65% of stalking acts were perpetrated by men (Tjaden and Thoennes 2000).
- Among adults who report being raped, women experienced 2.9 rapes and men experienced 1.2 rapes in the previous year (Tjaden and Thoennes 2000).
- More than half of all rapes of women (54%) occur before age 18; 22% of these<sup>5</sup> as rapes occur before age 12. For men, 75% of all rapes occur before age 18, and 48% occur before age 12 (Tjaden and Thoennes 2000).<sup>6</sup>

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<sup>5</sup> as taken from the Centers for Disease Control and Prevention <http://www.cdc.gov/ncipc/factsheets/svfacts.htm>)

<sup>6</sup> as taken from the Centers for Disease Control and Prevention <http://www.cdc.gov/ncipc/factsheets/svfacts.htm>).