

DAMN LIES AND STATISTICS

The Media Is Making College Rape Culture Worse

College sexual assault is a very real problem—but news organizations and government bureaucrats do victims no favors when they exaggerate its prevalence.



[Christina Hoff Sommers](#)

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The frenzy over college sexual assault now sweeping the nation was triggered by a specific event.

In 2010, a small team of investigative journalists published a report revealing, so they claimed, an epidemic of college rape. The report was a jumble of highly selective reporting and dubious statistics, as we shall see. But the reporters spread the news far and wide and no one thought to question their accuracy.

Federal officials were electrified by the findings and launched a draconian crusade. The term “rape culture,” previously limited to gender-theory seminars, slowly found its way into the national lexicon.

Before long, otherwise sensible people came to believe that Yale, Swarthmore, and the University of Michigan were among the most dangerous places on earth for young women. Dozens of falsely accused young men were subjected to kangaroo court proceedings and expelled from college. By 2014, the panic produced outbursts of fanaticism—a young woman carried a mattress around Columbia in an attempt to expel a classmate who was found not responsible for sexually assaulting her.

Students [demand](#) trigger warnings in classes at Harvard Law School. An angry mob [vandalized](#) the house of a falsely accused University of Virginia fraternity.

And it all began in 2010. That year, reporters at National Public Radio teamed up with the left-leaning journalism organization Center for Public Integrity (CPI) to produce and promote a 104-page “investigative reporting series” ([PDF](#)) entitled “Sexual Assault on Campus: A Frustrating Search for Justice.” (Full disclosure: The Daily Beast is an occasional publishing partner of CPI’s.)

The executive director of CPI, Bill Buzenberg, summed up the plight of millions of young women on campus in a single word: “Nightmare.” According to the report, serial predators are roaming free on college campuses. The occasional victim who finds the courage to report her attack is unlikely to secure justice. More often than not, she will be “re-victimized” by invasive, humiliating, and futile proceedings.

Should she turn to the Office for Civil Rights, the federal agency responsible for monitoring the Title IX equity law, she is likely to be thwarted once again. The report depicts the OCR as a lazy, feckless watchdog that “leaves students at risk.” [Exhibit A](#) is the story of Laura Dunn.

On the evening of April 4, 2004, according to the NPR/CPI version of events, Dunn, then a freshman and member of the crew team at the University of Wisconsin, consumed so many raspberry vodkas at a crew party that the student-bartenders refused her more drinks. She left with two young men she trusted from her team. They planned to go to another party, but decided to make a quick stop at one of the men’s apartment. According to Dunn, once they arrived, her teammates raped her as she fell in and out of consciousness. For many months, she tried to dismiss the evening as a “just a mistake.” Still, she couldn’t sleep, she lost weight, she dropped out of crew.

Fifteen months later, Dunn attended a philosophy class where the professor was discussing how rape is a weapon of war. The professor suddenly stopped the lecture, turned to the students, and told them she knew many of her students had been raped, and she assured them they could do something about it. A tearful Laura Dunn [told](#) NPR’s Joseph Shapiro what happened next. “The moment that lecture let out,” she said, “I walked across to the dean of students’ office and I reported that day.” She also reported the alleged rape to the campus police.

The investigation did not go well for Dunn. Because she reported the assault nearly a year-and-a-half after the event, one of the men had already graduated. The other insisted the encounter had been consensual, and since there were no witnesses or evidence, both the police and the university dropped the case.

Dunn felt betrayed. Not only did her attackers go unpunished, the university failed to protect her from retaliation for filing the charge. According to Dunn, while the case was under investigation, she ran into the remaining attacker at a fraternity party, who frightened her with a violent outburst and a warning: “My parents are Harvard attorneys. You won’t win.”

Determined to fight an egregious injustice, she filed a Title IX sexual discrimination complaint with the Office for Civil Rights. Dunn accused the University of Wisconsin of multiple violations, including subjecting her to a hostile environment and failing to provide a “prompt and equitable resolution” of her case.

But in 2008, four years after the original incident, she received an 18-page letter ([PDF](#)) from the Department of Education with the verdict: “Based on its investigation, OCR determined that there is insufficient evidence to substantiate the allegations made in the complaint.”

Dunn was stunned to find the OCR siding with the university. “The message they are sending victims,” she told the NPR/CPI team, “is that sexual assault is not something they take seriously.”

The NPR/CPI report created a sensation. There had been news stories about campus rape before, but never by such a distinguished team of investigators. The findings were widely and uncritically reported and won multiple journalism prizes, including a Peabody Award (known as the Pulitzer Prize for radio), as well as the Robert F. Kennedy Award for Justice and Human Rights Reporting and the Dart Award for Excellence in Coverage of Trauma. But the greatest triumph was [described](#) by Laura Dunn on her website: “The most important result of all this was that the U.S. Department of Education paid attention.”

Russlynn Ali, a little-known Education Department official, was galvanized by the NPR/CPI findings. And she was singularly situated to act. As the newly appointed assistant secretary for civil rights and head of the OCR, she was in charge of enforcing Title IX. When the NPR/CPI team presented her with the Dunn case and other findings, Ali promised action: “We will use all of the tools at our disposal including... withholding federal funds... to ensure that women are free from sexual violence.”

Secretary Ali made good on her word. On April 4, 2011, she sent her now-famous [Dear Colleague letter](#) to colleges across the nation providing detailed guidelines on the draconian steps colleges should take to fight what she called a “plague” of sexual violence. Ali’s letter advised schools to determine guilt by the lowest standard—a preponderance of evidence. And it instructed them to take measures to minimize the burdens on complainants, but didn’t say a word about the rights of the accused.

Ali’s *Dear Colleague* letter was announced at a special ceremony in Durham, New Hampshire. Both Vice President Joe Biden and Education Secretary Arne Duncan were [present](#). So was Laura Dunn, who had been [invited](#) as a VIP guest of Biden. The date of the *Dear Colleague* letter had a special significance. April 4 is the anniversary of Dunn’s alleged assault in 2004. As she would [tell](#) *The Christian Science Monitor*, “It was my justice.”

The *Dear Colleague* letter created havoc, but before describing that havoc, let’s check some facts. Dunn agreed to make her records public as a condition of being a part of the NPR/CPI investigation. The 18-page letter ([PDE](#)) she received from the OCR is publicly available. It gives a detailed summary of notes taken by University of Wisconsin deans as well as the local police detective. As freelance reporter Derek Rose has [pointed out](#), it tells a very different story from the one we heard from Shapiro on NPR’s *Morning Edition* or from the CPI report.

To wit: When Dunn first spoke to the dean (15 months after the alleged rape), she said that “a portion of the sexual encounter was consensual.” (p.5) A few days later when she spoke to a campus police detective, Dunn said twice that she did not remember being raped by one of the men (the one still on campus). She found out about it only when the men told her what happened the next day (p.6). She also told the detective that in the months *after* the alleged rape that she went—twice—to one of the men’s residence, where they engaged in consensual “physical contact.”

On one of these occasions both of the alleged assailants were at the apartment and they all watched television together. (p.6) None of these details were mentioned in the NPR/CPI report.

The anomalies continue. The NPR/CPI team faulted the University of Wisconsin staff for dragging the case out for nine months—enough time for an “enraged encounter” (as related above) between the accuser and one of the accused men. According to the CPI team, when Dunn ran into the young man at a fraternity party, he stalked and threatened her. But Dunn told the police detective that she had initiated the encounter and when he walked away, she followed him into another room because she “knew he wanted to talk to her.” She also admitted she had hugged him. No mention of threats. (p. 7).

The young man’s version comports with the police report, but he adds that when Dunn approached him, he was alarmed, pulled away, and told her he was afraid she would fabricate more lies. When Dunn started to scream and cry, he fled. (p.8)

The NPR/CPI report gives the impression that the university violated federal law by taking nine months to resolve Dunn’s complaint. But according to the OCR letter, Dunn herself delayed the process by insisting the official assigned to review her case be replaced. Dunn found her to be too “adversarial and accusing.” Not only that, she was Hispanic. As Dunn explained to University officials, her own mother was Hispanic, and she was experiencing “transference of tensions.” The Hispanic official recused herself and a new investigator took over. (p.10)

These details do not prove that Dunn’s teammates did not assault her. And it is possible the deans and investigators at her university failed her in some way. But the case is far murkier than the NPR/CPI team let on. Anyone listening to NPR’s *Morning Edition* on Feb. 24, 2010, not only heard the sanitized version of the Dunn case, they also heard a “chilling” statistic: “A study funded by the U.S. Department of Justice estimates that one out of five college women will be sexually assaulted.”

This comes from the 2007 Campus Sexual Assault Study ([PDF](#)), commissioned by the National Institute of Justice. But as [critics](#) have noted, it was based on an online survey, with a low response rate, vaguely worded questions, and a non-representative sample of college women.

The best study available at the time of the NPR/CPI report was the Bureau of Justice Statistics’ 2003 Violent Victimization of College Students ([PDF](#)) report, which shows that approximately one in 40 college women is a victim of rape or sexual assault over the course of four years (assault includes verbal threats as well as unwanted sexual grabbing and fondling). More recent BJS data [suggest](#) the figure to be 1 in 53—far too many, but a long way from one in five. And, according to the BJS, 80 percent of these victims never report the crime.

That is a genuine problem we need to address. Instead, NPR and CPI diverted attention to a phantom rape epidemic encompassing 20 percent of female college students.

The NPR/CPI team not only exaggerated the number of victims, it promoted the idea that any male undergraduate implicated in a campus sexual assault is likely to be an incorrigible repeat offender. On March 4, 2010, a little more than a week after the initial report on Laura Dunn's case, NPR's *Morning Edition* ran a segment entitled [Myths That Make It Hard to Stop College Rape](#). Steve Inskeep and Joseph Shapiro told listeners about new research that “may cause people to rethink what they believe about sexual assault on college campuses.”

They were referring to the work of David Lisak and a co-author—who concluded that college officials are dangerously wrong when they assume that young men deemed guilty of sexual assault by a campus disciplinary committee are decent young men who made a mistake because of too much alcohol or miscommunication.

These are not individuals who need some counseling, stern warnings, or temporary probation, Lisak warned. “These are predators,” he said on NPR. For a 2002 study ([PDF](#)) on campus rapists, Lisak analyzed questionnaires distributed to male passersby in a busy pedestrian area at the UMass Boston campus. Those who returned them—1,882 over a period of seven years—were paid \$3 or \$4.

One hundred and twenty—or 1 in 16—admitted to committing acts that met the legal definition of rape or attempted rape. More than half of this group admitted to raping more than once and also confessed to crimes such as choking an intimate partner, deliberately burning a child, or forcing a child to perform oral sex.

In her excellent [critique](#) of Lisak's study, Slate's Emily Yoffe points out that the participants were hardly typical. Most college students are age 18 to 24. Lisak's subjects were 18 to 71. UMass Boston is an urban commuter school with no campus housing and a four-year graduation rate of 15 percent. Lisak admitted to Yoffe that his study probably needed to be replicated on a more traditional campus.

I taught philosophy at UMass Boston in the early 1980s. Things may be different today, but at that time most of my students were adults with full-time jobs, and more than a few had been in jail.

Their crimes, however, were more in the direction of bar fights and stealing cars—not sociopathic predation. Because Lisak's results are based on a non-random, self-selected sample of students, we cannot be sure of their relevance—even to UMass Boston.

I contacted two of the lead reporters, Kristen Lombardi (CPI) and Joseph Shapiro (NPR), to hear their side of the story. I first asked Lombardi why her report so confidently asserts the much-disputed one-in-five sexual-assault number. She agreed the figure was controversial, but she said it was not critical to the report. She recalled it coming up only once—and that was in the introduction, written by someone who did not do the reporting. In fact the statistic appears five times in the report and is used strategically to establish the urgency and scope of the campus assault crisis.

When I inquired about the report's account of the Dunn case, she assured me it had been thoroughly fact-checked. But shouldn't readers have known about the complications—such as Dunn's further sexual and social encounters with her alleged rapists? Lombardi seemed to be unfamiliar with the contents of the OCR letter, and explained that she had not written that part of the report. She suggested I call her colleague Kristin Jones—the author of the section on Laura Dunn.

Jones had read the OCR letter, but she didn't think Dunn's subsequent consensual encounters with her alleged attackers were worth mentioning.

She had heard from “people who are experts” that victims are often in shock and they sometimes try to feign normalcy by continuing to socialize with their attackers. She could not recall any names of the experts, but in a follow-up email, she suggested I contact David Lisak. I did, but so far he has not replied to my queries.

I also attempted to speak with Joseph Shapiro at NPR, but he declined in a polite email: “Our policy is to let the stories speak for themselves.”

NPR and the Center for Public Integrity are well-respected news organizations. They were alerting Secretary Ali to a catastrophe: Millions of women were sexually assaulted by ruthless criminals, and both college officials and the Office for Civil Rights were frustrating their quest for justice.

The secretary was already planning to make changes in OCR protocols for campus assault cases. But once these reporters presented her with their nightmare scenario, nothing short of drastic action would do. As Kristen Lombardi would later [tell](#) a reporter, “Since the Center for Public Integrity series ran, OCR is much more aggressive.”

The aggression came in the form of Ali's *Dear Colleague* letter of April 4, 2011, which created a national sensation. Colleges rushed to meet the new requirements. They revamped their disciplinary committees and hired Title IX officers to run programs with Orwellian sounding names like the [Office for Sexual and Gender-Based Dispute Resolution](#). Political leaders, including President Obama, Sen. Kirsten Gillibrand, and Sen. Claire McCaskill, propagated the one-in-five statistic and demanded action. Soon a dizzying number of sexual-assault task forces, listening sessions, tool kits, commission reports, and laws materialized.

Journalists such as Vox's Ezra Klein joined the frenzy. Mesmerized by the one-in-five statistic, Klein defended harsh campus policies that he acknowledged would punish the innocent. Men, he said, "need to feel the cold spike of fear when they begin a sexual encounter." Jonathan Chait [spoke](#) for civil libertarians everywhere when he questioned Klein's endorsement of false convictions as a strategy: "This is a conception of justice totally removed from the liberal tradition."

By 2014, OCR was investigating 90 colleges for possible Title IX violations in their handling of sexual-assault complaints. Campuses were in full panic mode—with calls for censorship and trigger warnings for sensitive material. At last [count](#), 56 young men found responsible for sexual misconduct were suing their schools, alleging that they were denied due process and fair treatment in star-chamber proceedings.

When *Rolling Stone* published its apocryphal article about a sadistic and premeditated fraternity gang rape at the University of Virginia, many who should have known better took it seriously. It was a Gothic fantasy nurtured by specious statistics, poorly designed studies, and panic. The writers and editors at *Rolling Stone* are to blame for publishing the story. But it was the investigative journalists at NPR and the Center for Public Integrity who made it all seem real.

"Let me say this respectfully and with as much clarity as I can: You do not know my work." Those are the words of an anonymous student affairs officer in an open letter published by [Inside Higher Ed](#) soon after he received the *Dear Colleague* letter. The frustrated official is addressing both Secretary Ali and the NPR/CPI journalists who inspired her. He and his colleagues have to cope with ambiguous "she said/he said" cases like Laura Dunn's every day. The cases he manages, said the official, are "enormously complex, full of truths, lies, reversals, angry parents, hungry lawyers, and empowered supporters."

Before Ali's *Dear Colleague* letter, clearly criminal cases were typically turned over to the police. Campus officials are not detectives. They cannot adjudicate felony rapes any more than they can murder cases. But for confusing, volatile, evidence-free cases like Dunn's, the old system allowed school officials to deploy their skills as *educators* or *counselors*—they might send the young men for alcohol counseling, or put them on social probation.

The *Dear Colleague* letter tacitly assumes the truth of Lisak's predator theory. So it rules discretion out of order and mandates strict legal procedures and harsh punishments. The *Inside Higher Ed* author says he wrote anonymously because, in the current environment, to protest the new rules publicly invites charges of being "soft on sexual assault" by the media and by victims' rights groups. It could also provoke an investigation by the OCR. The writer protests that the voices of reasonable and experienced professionals have been left out of the debate.

But Laura Dunn's voice is fully present. Not only was she Biden's honored guest at the April 4, 2011, event releasing the *Dear Colleague* letter, she would later serve on a White House Task Force on Sexual Assault and be recognized for her advocacy on the U.S. Senate floor. In April 2013, Dunn and Lombardi were guests on Diane Rehm [show](#).

When asked about her assault, Dunn changed her story yet again. The 15-month delay had become "about half a year." Her sudden realization that she had been a raped no longer took place in a class with a feminist professor talking about rape as a weapon of war, but rather in an "amazing educational program on campus that talked about alcohol-facilitated sexual assault."

Dunn now runs SurvJustice, an advocacy group for rape survivors. She was one of the experts [cited](#) in the *Rolling Stone* UVA rape story. After the tale unraveled and *Rolling Stone* issued an apology, Dunn [defended](#) the original story and denounced doubters as "rape denialists."

The journalists at NPR and CPI painted a false picture of campus life. That picture inspired Ali to take aggressive action, which created havoc in the media, at the White House and in Congress, and on campuses across America. In the current environment, anyone critical of the new sexual-assault policies risks being denounced as a sexual-assault enabler. Large numbers of professors, deans, and college presidents are privately dismayed by the OCR zealotry—but most have run for cover.

An honorable exception exists in the 28 Harvard Law School professors who issued a [statement](#) on Oct. 15 challenging the moral and legal foundations of the OCR policies.

They noted that in a free and democratic society the goal is not to do everything possible to eliminate all traces of what can be characterized as sexual abuse. The goal must be to address sexual abuse while at the same time respecting the rights of the accused as well as the privacy and autonomy of romantic relationships.

One of the signatories, Elizabeth Bartholet, an expert on civil rights and family law as well as a feminist, made a powerful “have-you-no-shame Senator” observation: “I believe that history will demonstrate the federal government’s position to be wrong, that our society will look back on this time as a moment of madness.”

Rape crisis activists believe this madness serves a worthy purpose: It dramatizes a real problem. Whatever the numbers, far too many women are being harmed. As Ezra Klein says, “Ugly problems don’t always have pretty solutions.” But this is exactly wrong. We know from objective research, and some of us know from experience, that sexual assault, although not epidemic, *is* a serious problem on campus, and victims too often suffer in silence.

But hysteria over a rape culture sheds no light and produces no solutions. Panic breeds chaos and mob justice. It claims innocent victims, undermines social trust, and distracts attention from genuine cases of abuse.

“Pity, wrath, heroism, filled them, but the power of putting two and two together was annihilated.” These words are from E.M. Forster’s 1924 novel *A Passage to India*. He is describing the panic among “good citizens” following a highly dubious rape accusation. But he could have been talking about the current hysteria over the campus “rape culture.” The frenzy will die down when the stories of the falsely accused become too much for the public to bear.

Eventually the assistant secretary for civil rights, the president, Senators Gillibrand and McCaskill, and even the Ezra Kleins of this world will recover the ability to add two plus two. But our detour into madness might never have happened had those investigative journalists at NPR and the Center for Public Integrity resisted their “nightmare” narrative and just reported the truth.