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# RAPE ON CAMPUS

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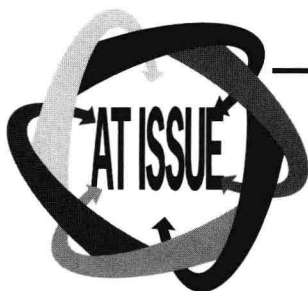
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# RAPE ON CAMPUS

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# Introduction

In 1990, a feminist group from Antioch College demanded that the administration of the college institute a sexual consent policy binding upon all Antioch students. The group, Womyn of Antioch, sought the policy out of frustration after two rapes were reported that year on campus, neither of which was prosecuted. To demonstrate their resolve, they threatened the college with “radical, physical actions” if their demands were not met. The campus furor instigated by the Womyn of Antioch resulted in a formal “Sexual Consent Policy,” issued in 1992.

Drawn up by a committee of students, faculty, and administrators, the policy was primarily designed to prevent and—when that failed—deal with sexual offenses on campus. The process by which the plan would realize its purpose was quite straightforward. One party involved in an intimate encounter would be required to obtain the consent of the other party before the encounter could advance further. Should consent be given and the encounter escalate in intimacy, consent would be required at every level of intimacy. The need for graduated consent is clearly and unequivocally mandated on page one of the policy:

If the level of sexual intimacy increases during an interaction (i.e., if two people move from kissing while fully clothed—which is one level—to undressing for direct physical contact, which is another level), the people involved need to express their clear verbal consent before moving to that new level. If one person wants to *initiate* moving to a higher level of sexual intimacy in an interaction, *that person is responsible for getting the verbal consent of the other person(s) involved before moving to that level.*

The principle behind the Antioch policy is simple both in theory and practice. If someone consents to an intimate act at any and every level of intimacy, he or she cannot claim rape after the fact. However, if someone refuses to consent, then any intimate act following the refusal can be labeled as forcible sex and dealt with accordingly.

As word of the policy escaped the campus of the small (650 students) liberal arts college in Yellow Springs, Ohio, the unexpected occurred. Journalists of all political persuasions, both wags and the more serious minded, set upon the Antioch plan with a relish usually reserved for reports of wayward royalty. What ordinarily would have remained a local affair became, with almost comedic effect, a national media event. Ignoring the purpose of the plan, most commentators chose to focus instead upon the process, namely, the need for consent. Typical of the comments was an article by Jeffrey Hart that appeared in the conservative publication *Human Events*. Homing in on the specificity of the Antioch rules, Hart wrote that “if you undo a button without verbal permission, then the director of the Sexual Prevention and Survivor Advocacy Program has got you in his or her claws.” Not to be outdone by written derision, the



*New Yorker* ridiculed the Antioch plan with a cartoon in which Dracula intones to his young victim: "And now may I bite your neck?"

However, not all reactions to the Antioch Sexual Consent Policy were negative. In a campus publication, Alan E. Guskin, the president of Antioch, while acknowledging that "there has been criticism and much fun poked at Antioch's policy," quoted a letter that appeared in the November 29, 1993, issue of the *New Yorker*. In it, the writer praises the policy as a "subtle and imaginative mandate" providing undergraduates with an opportunity "to discover that wordplay and foreplay can be happily entwined." Others agree with Eric Fassin, a professor at New York University, who argues that the Antioch rules "help dispel the illusion that sexuality is a state of nature individuals must experience outside the social contract, and that eroticism cannot exist within the conventions of language."

In reality, the Antioch Policy and the turbulence fomented in its wake are a reaction to and an indication of what is perceived by many as a growing blight on America's campuses: an unconscionable number of sexual assaults on female students. In 1982, *Ms.* magazine obtained a \$267,000 grant from the National Institute of Mental Health to conduct a nationwide survey to determine the degree to which sexual assaults on college campuses do occur. *Ms.* commissioned Mary Koss, a psychiatry professor at the University of Arizona, to conduct the survey, named the Campus Project on Sexual Assault. After a comprehensive three-year study, which included a "Sexual Experiences Survey" administered to 8,159 college students throughout the United States, Koss announced that "25 percent of women in college have been the victims of rape or attempted rape." In their book *Sexual Assault on Campus*, Carol Bohmer and Andrea Parrot claim that the 25 percent figure declared in the Koss study still prevails. They argue that "data from recent studies done nationally reveal that between 20 and 25 percent of college women have experienced forced sex (including rape, oral sex, anal sex, and other forms of penetration) at some time during their college careers." Although it is a decade old, the Koss study is still widely heralded as illustrative of the extent of the campus rape problem.

The results of the Koss study have been challenged by many. It is widely argued that Mary Koss and her supporters redefined sexual deviancy to include categories of behavior that had not previously been characterized as forcible rape. As a result, the statistics revealing a high percentage of sexual assaults on campus may be, at best, unreliable and inaccurate. Charles Krauthammer, a contributing editor of the *New Republic*, argues this point in the March/April 1994 issue of *Current*. He writes:

Rape has been expanded by Koss and other researchers to include behavior that you and I would not recognize as rape. And not just you and I—the supposed victims themselves do not recognize it as rape. In the Koss study, 73 percent of the women she labeled as rape victims did not consider themselves to have been raped. Fully 42 percent had further sexual relations with the so-called rapist.

Despite the polemics, there is one aspect of the campus rape issue upon which most would probably agree: Whatever the number of rapes, the majority of perpetrators go untried and unpunished. Although it is widely recognized that sexual assaults on college campuses do occur with some frequency, the numbers of reported cases of rape remain small; and of those brought to the attention of campus authorities, the number that

eventuate in judicial proceedings is far smaller still. There are many reasons for this. Historically, campus authorities have been reticent to take action, convinced that it might give rise to bad publicity directed at the college and ultimately reflect poorly upon the authorities themselves. Moreover, large numbers of victims tend to remain silent, fearing that they themselves may be accused of provoking the rape. Additional victim fears include the possibility of reprisals by the accused and of being stigmatized by the entire college community. Finally, the majority of victims are not willing to undergo the trauma and publicity of a rape hearing on campus when experience whispers that assailants often get off without even a mild rebuke.

The extent of the problem of sexual assault, both on campus and in the nation at large, is evidenced by the growing media attention focusing upon sexual crimes, as well as the large number of colleges and universities that have begun instituting programs and policies to prevent and prosecute campus rape. *At Issue: Rape on Campus* offers the reader a spectrum of opinions drawn from within and without academia dealing with the issue of campus rape and the broader issue of rape in society.

# 1

## Antioch College: A Sexual Consent Policy

The Antioch College Community

*The Antioch College Sexual Consent Policy was written by a committee of students, faculty, and administrators of Antioch College and approved by the college's Administrative Council. Antioch College is in Yellow Springs, Ohio.*

In response to the increasing frequency of sexual violence on college campuses, the community (students, faculty, and administration) of Antioch College has developed a plan to both define and deal with sexual harassment and other sexual offenses on campus. The plan provides students with guidelines for determining what constitutes a sexual offense and what to do when one has occurred, and outlines possible punishments for the offender.

The statistics on the frequency of sexual violence on college campuses today are alarming. While we try to make Antioch a safe environment for everyone, we still have problems here. There is date and acquaintance rape, and stranger rape, and, while the majority of perpetrators are men and the majority of victims are women, there are also female perpetrators and male victims. There are also many students who have already experienced sexual violence before arriving at Antioch; healing from that experience may be an integral part of their personal, social and academic lives while they are here.

Antioch has a Sexual Offense Prevention and Survivor's Advocacy Program which consists of an Advocate and trained Peer Advocates and Educators. They can talk with you confidentially about any questions or concerns you have, provide or arrange for counseling, and help you access resources about healing from sexual violence. They also provide advocacy for rape victims dealing with a hospital, police, the courts, and/or campus administrative procedures.

Antioch has two policies, a sexual harassment policy and a sexual offense policy, which have been designed to help deal with these problems when they occur on campus and/or when they involve an Antioch community member. Read these policies; you are held responsible for knowing them. Under the sexual offense policy:

*The Antioch College Sexual Offense Policy, Administrative Council of Antioch College, 1992.  
Reprinted with permission.*

- All sexual contact and conduct between any two people must be consensual;
- Consent must be obtained verbally before there is any sexual contact or conduct;
- If the level of sexual intimacy increases during an interaction (i.e., if two people move from kissing while fully clothed—which is one level—to undressing for direct physical contact, which is another level), the people involved need to express their clear verbal consent before moving to that new level;
- If one person wants to *initiate* moving to a higher level of sexual intimacy in an interaction, *that person is responsible for getting the verbal consent of the other person(s) involved before moving to that level*;
- If you have had a particular level of sexual intimacy before with someone, you must still ask each and every time;
- If you have a sexually transmitted disease, you must disclose it to a potential sexual partner.

*Don't ever make any assumptions about consent*; they can hurt someone and get you in trouble. Also, do not take silence as consent; it isn't. Consent must be clear and verbal (i.e., saying: yes, I want to kiss you also).

Special precautions are necessary if you, or the person with whom you would like to be sexual, are under the influence of alcohol, drugs, or prescribed medication. Extreme caution should always be used. Consent, even verbal consent, may not be meaningful. Taking advantage of someone who is “under the influence” is never acceptable behavior. If, for instance, you supply someone with alcohol and get her/him drunk so that person will consent to have sex with you (figuring you wouldn't get “as far” if that person were sober), then their consent may be meaningless and you may be charged under the sexual offense policy. If you are so drunk that you act with someone totally inappropriately (in a way maybe you wouldn't if you were sober), or if you are so drunk you don't hear “no,” you may still be charged under the sexual offense policy.

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*If sexual contact and/or conduct is not mutually and simultaneously initiated, then the person who initiates sexual contact/conduct is responsible for getting the verbal consent of the other individual(s) involved.*

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If you have a hard time knowing or setting your own personal boundaries, or respecting other people's boundaries, you may have a harder time if alcohol or drugs are involved. For truly consensual sex, you and your partner(s) should be sober to be sexual.

Sexual harassment should be reported to the Advocate; depending on the wishes of the complainant, mediation may be attempted or the charge may be referred to the Hearing Board. Other forms of sexual offenses are also reported to the Advocate, and depending on the wishes of the victim/survivor may be referred for mediation or to the Hearing Board which hears cases of sexual offenses where the alleged offender is a student. If the accused violator is not a student, the case may be referred for follow-up to the appropriate person. In cases of rape and sexual assault, reporting to law enforcement authorities is also encouraged. Anonymous reports may also be made. Complaint forms are in a box outside the

program offices in Long Hall, or you can make a report directly to the Advocate. All reports are treated confidentially; every attempt is made to treat everyone involved fairly, and to honor the wishes of the victim regarding what is done (or not done).

If you are raped or sexually assaulted:

- Get somewhere safe.
- Contact a friend you trust, a hall advisor, or HAC and/or
- Contact a peer advocate or the Advocate directly, or through the Rape Crisis Line.
- You may also wish to notify the police.
- Do not bathe, change clothes, or otherwise clean-up yet.

The peer advocate or Advocate will provide emotional support, help you to understand your thoughts and feelings at the time, explain your options to you, and support you in whatever decisions you choose to make.

If you have been sexually harassed at a co-op site, tell your co-op advisor and the Advocate.

If you have been victimized sexually in the past and you would like some assistance in working on these issues, there is help available. See a counselor at the Counseling Center or contact the Advocate or a peer advocate. If it's appropriate for you to see a therapist off-campus, we will try to help you find someone suitable. There are also support groups available each term for men and women who are survivors of sexual abuse.

There are ways to help prevent sexual violence on campus. A few tips:

- *Always* lock your room door when you're going to undress, sleep, or if you're under the influence of a substance which might impair your ability to react quickly. It's a good idea to get in the habit of locking your door whenever you're inside.
- Never prop outside doors open—strangers can enter buildings, as well as friends.
- If you're walking or running on the bike path at times when you might be the only one around, take a friend.
- Learn self-defense.
- Know your sexual desires and boundaries and communicate them clearly to any (potential) sexual partner; "listen" to your boundaries and honor them. If you're not sure, say "no" rather than "yes" or "maybe."
- Ask what a (potential) sexual partner's desires and boundaries are; listen to and respect them.
- If someone violates a sexual boundary, confront him/her on it. That may mean telling them directly, or, as a first step, talking with your hall advisor or HAC, the Advocate or a peer advocate, a counselor, or the Dean of Students.

### **The Antioch College Sexual Offense Policy**

All sexual contact and conduct on the Antioch College campus and/or occurring with an Antioch community member must be consensual.

When a sexual offense, as defined herein, is committed by a community member, such action will not be tolerated.

Antioch College provides and maintains educational programs for all community members, some aspects of which are required. The educational aspects of this policy are intended to prevent sexual offenses and

ultimately to heighten community awareness.

In support of this policy and community safety, a support network exists that consists of the Sexual Offense Prevention and Survivors' Advocacy Program, an Advocate, Peer Advocates, and victim/survivor support groups through the Sexual Offense Prevention and Survivors' Advocacy Program and Counseling Services.

The Advocate (or other designated administrator) shall be responsible for initiation and coordination of measures required by this policy.

The implementation of this policy also utilizes established Antioch governance structures and adheres to contractual obligations.

## Consent

1. For the purpose of this policy, "consent" shall be defined as follows: the act of willingly and verbally agreeing to engage in specific sexual contact or conduct.

2. If sexual contact and/or conduct is not mutually and simultaneously initiated, then the person who initiates sexual contact/conduct is responsible for getting the verbal consent of the other individual(s) involved.

3. Obtaining consent is an on-going process in any sexual interaction. Verbal consent should be obtained with each new level of physical and/or sexual contact/conduct in any given interaction, regardless of who initiates it. Asking "Do you want to have sex with me?" is not enough. The request for consent must be specific to each act.

4. The person with whom sexual contact/conduct is initiated is responsible to express verbally and/or physically her/his willingness or lack of willingness when reasonably possible.

5. If someone has initially consented but then stops consenting during a sexual interaction, she/he should communicate withdrawal verbally and/or through physical resistance. The other individual(s) must stop immediately.

6. To knowingly take advantage of someone who is under the influence of alcohol, drugs and/or prescribed medication is not acceptable behavior in the Antioch community.

7. If someone verbally agrees to engage in specific contact or conduct, but it is not of her/his own free will due to any of the circumstances stated in (a) through (d) below, then the person initiating shall be considered in violation of this policy if:

- a. the person submitting is under the influence of alcohol or other substances supplied to her/him by the person initiating;
- b. the person submitting is incapacitated by alcohol, drugs, and/or prescribed medication;
- c. the person submitting is asleep or unconscious;
- d. the person initiating has forced, threatened, coerced, or intimidated the other individual(s) into engaging in sexual contact and/or sexual conduct.

## Offenses defined

The following sexual contact/conduct are prohibited under Antioch College's Sexual Offense Policy and, in addition to possible criminal prose-

cution, may result in sanctions up to and including expulsion or termination of employment.

*Rape:* Non-consensual penetration, however slight, of the vagina or anus; non-consensual fellatio or cunnilingus.

*Sexual Assault:* Non-consensual sexual conduct exclusive of vaginal and anal penetration, fellatio and cunnilingus. This includes, but is not limited to, attempted non-consensual penetration, fellatio, or cunnilingus; the respondent coercing or forcing the primary witness to engage in non-consensual sexual contact with the respondent or another.

*Sexual Imposition:* Non-consensual sexual contact. "Sexual contact" includes the touching of thighs, genitals, buttocks, the pubic region, or the breast/chest area.

*Insistent and/or Persistent Sexual Harassment:* Any insistent and/or persistent emotional, verbal or mental intimidation or abuse found to be sexually threatening or offensive. This includes, but is not limited to, unwelcome and irrelevant comments, references, gestures or other forms of personal attention which are inappropriate and which may be perceived as persistent sexual overtones or denigration.

*Non-Disclosure of a Known Positive HIV Status:* Failure to inform one's sexual partner of one's known positive HIV status prior to engaging in high risk sexual conduct.

*Non-Disclosure of a Known Sexually Transmitted Disease:* Failure to inform one's sexual partner of one's known infection with a sexually transmitted disease (other than HIV) prior to engaging in high risk sexual conduct.

## Procedures

1. To maintain the safety of all community members, community members who are suspected of violating this policy should be made aware of the concern about their behavior. Sometimes people are not aware that their behavior is sexually offensive, threatening, or hurtful. Educating them about the effects of their behavior may cause them to change their behavior.

If someone suspects that a violation of this Sexual Offense Policy may have occurred, she/he should contact a member of the Sexual Offense Prevention and Survivors' Advocacy Program or the Dean of Students.

It is strongly encouraged that suspected violations be reported, and that they be reported as soon as is reasonable after a suspected violation has occurred. Where criminal misconduct is involved, reporting the misconduct to the local law enforcement agency is also strongly encouraged.

Any discussion of a suspected violation with a member of the Sexual Offense Prevention and Survivors' Advocacy Program or the Dean of Students will be treated as confidential.

2. When a suspected violation of this policy is reported, the person who receives the report with the Sexual Offense Prevention and Survivors' Advocacy Program or the Dean of Students office will explain to the person reporting all of her/his options (such as mediation, the Hearing Board, and criminal prosecution) which are appropriate to the suspected offense.

3. If the person reporting a suspected policy violation wishes to



arrange for mediation, then the Advocate, the Dean of Students, or a staff member of the Sexual Offense Prevention and Survivors' Advocacy program shall arrange for mediation consistent with the mediation guidelines used by the Sexual Offense Prevention and Survivors' Advocacy Program.

- a. If the Dean of Students arranges mediation, the Dean shall notify the Advocate of the mediation session.
  - b. A written agreement with educational and/or behavioral requirements may be part of the outcome of a mediation session. Copies of this agreement shall be given to the parties involved, the Advocate and the Dean of Students.
  - c. Should a student persist in sexually threatening or offensive behavior after mediation has been attempted, the Sexual Harassment Committee or the Advocate should refer the case to the Hearing Board.
  - d. If a satisfactory conclusion is not reached through mediation, or if the mediation agreement is not adhered to by any of its participants, then the case may be referred to the Hearing Board.
4. In the event that an action taken by the Dean of Students regarding a sexual offense is appealed, the appeal shall be made to the Hearing Board.
5. If the primary witness wishes the Hearing Board to make a finding regarding an alleged policy violation, the primary witness must file a written complaint with the Advocate. The Advocate shall inform the primary witness of her/his rights regarding procedure and appeal under this policy.

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*There will be no reference to the past consensual, non-violent sexual contact and/or conduct of either the primary witness or the respondent.*

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6. When a written complaint is filed, if the respondent is an employee, the Advocate shall inform the President or the President's designee of the reported violation of the Sexual Offense Policy. The matter will be promptly investigated by the appropriate administrator or other supervisor with the assistance of the Advocate. If whatever review process appropriate to the employee results in a determination that the policy has been violated, then the remedy should be commensurate with the seriousness of the violation, and procedures specified in College and University policies should be followed.

7. When an official report is filed, if the respondent is a student, then the following procedures shall be followed:

- A. The Advocate shall notify the Dean of Students, or another senior College official, who shall have the respondent report to the Dean of Students' office within a reasonable period of time, not to exceed the next business day the College is open that the respondent is on campus. When the respondent reports, the respondent will then be informed by the Advocate and/or the Dean of Students of the report of the sexual offense, the policy violation which is being alleged, and her/his rights regarding procedure and appeal. The respondent will be given an opportunity to present her/his side of the story at that time. If the re-



spondent does not report as directed, then implementation of this policy shall proceed.

- B. Based on the information available, the Advocate, or the Dean of Students in the Advocate's absence, will determine whether there is reasonable cause to believe that a policy violation may have occurred.
- C. In the event that the respondent is situated on campus, if (1) there is reasonable cause to believe that a policy violation may have occurred, and (2) there is reasonable cause to believe that the respondent may pose a threat or danger to the safety of the community, the Hearing Board will be convened as soon as possible, preferably within 24 hours from the time of the report to the Advocate, to determine whether the respondent shall be removed from campus until the conclusion of the Hearing process. If the Hearing Board cannot be convened within 24 hours but there is reasonable cause as stated in (1) and (2) above, the Dean of Students, or the Advocate in the Dean of Students' absence, can act to remove the respondent from campus.

If the respondent is living on-campus and is temporarily banned from campus, the College will help arrange housing if the respondent is unable to locate any on her/his own.

If the respondent is taking classes on-campus and is temporarily banned from attending classes, the College will help provide alternative instruction.

The emergency removal of the respondent from campus shall not constitute a determination that the respondent has violated this policy.

- D. The Hearing Board will then convene for a Hearing, to hear the case. Consistent with this policy, the Hearing Board will take into account the primary witness's story, the respondent's story, witnesses, the past history of the respondent, and other relevant evidence, and will determine whether or not a policy violation has occurred and which aspect of the policy has been violated.
- E. The Hearing shall take place as soon thereafter as is reasonable, no longer than seven days from the date of filing or the notification of the respondent, whichever is later, unless the Advocate determines that reasonable cause exists for convening the meeting at a later, still reasonable time, in which event the Advocate shall so notify the Chair of the Hearing Board.
- F. If the primary witness chooses, she/he may have a representative at all hearings of the Hearing Board and/or through any appeals process. The primary witness's advocate is to provide advocacy and emotional support for the primary witness. When appropriate, if the primary witness chooses, the Advocate or a Peer Advocate may act as the primary witness's representative at all hearings of the Hearing Board and/or through any appeals process. The primary witness may also choose to have someone outside the Sexual Offense Prevention and Survivors' Advocacy Program serve as her/his representative. Choosing a representative from within the Antioch community is encouraged.
- G. If the respondent chooses, she/he may have a representative at all hearings of the Hearing Board and/or through any appeals