

#MeToo, #TimesUp: Clumsy or Criminal

A Look At Romance for Adults (Life) & College Students

Part 1 Criminal – Part 2 Title IX

- **#MeToo & #TimesUp – Fall of 2017**
- **Part 1 A Look At Recent Notorious Examples of Claims of Sexual Misconduct Against Powerful Men**
- **James A Funt, Esquire**
- **Greenblatt, Pierce, Funt and Flores, LLC**
- <http://gpfflaw.com>
- **William “Sam” Sneed**
- <http://collegecoachgurus.com/cape>



#MeToo (& #MeTooK12) & #TimesUp

- #MeToo & #MeTooK12
- #MeToo started by actress Alyssa Milano but a “MeToo” movement against sexual harassment and assault was begun years ago by Tarana Burke and her Just Be, Inc. nonprofit to help victims of sexual harassment & assault
- #MeTooK12 by nonprofit Stop Sexual Assault in Schools (SSAIS) founded by Esther Warkov & Joel Levin, parents who say their daughter was sexually assaulted on an overnight Seattle high school trip (settled with school for \$700,000)



#MeToo (& #MeTooK12) & #TimesUp

- The MeToo & TimesUp movements started and accelerated rapidly in fall of 2017 driven by now 3 Pulitzer prize winners:
- New Yorker's Ronan Farrow;
- New York Times' Jodi Kantor & Megan Twohey
- Prize stated: "For explosive, impactful journalism that exposed powerful and wealthy sexual predators, including allegations against one of Hollywood's most influential producers, bringing them to account for long-suppressed allegations of coercion, brutality and victim silencing, thus spurring a worldwide reckoning about sexual abuse of women."



The Conundrum of Consent

- **When I turned 16 I got the privilege of driving my dad's 1955 Chevy but India Ivory with 265 cubic inch V8**



- **My high school, Rockford West @ 1965**



Core Elements of Sexual Assault

15.3121.1

- Defendant had sexual intercourse or involuntary deviate sexual intercourse (IDSI) with complainant;
- Without consent; and
- Defendant acted knowingly or at least recklessly regarding the complainant's non-consent
- Defendant acts recklessly with regard to complainant's non-consent if:
- Consciously disregards a substantial & unjustifiable risk that complainant is not consenting to the intercourse
- Risk disregarded must be the sort of risk that is grossly unreasonable for defendant to disregard

Core Elements of Sexual Assault Rape by Forcible Compulsion or By Threat of Forcible Compulsion 15.3121 (A)

- Rape if sexual intercourse by forcible compulsion or threat thereof
- That would prevent person of reasonable resolution from resisting
- Force used or threatened can be physical force or violence – but does not have to be
- Force must be different from argument, persuasion or seduction that might induce person to consent
- Legally possible using or threatening to use intellectual, moral, emotional or psychological force
- Words or conduct cannot amount to force unless they wrongfully impair freedom of will & ability to choose
- Significant factors
 - Respective ages between complainant and defendant
 - Respective mental & physical setting of complained of conduct
 - Was defendant in a position of authority, domination or custodial control over complainant

Involuntary Deviate Sexual Intercourse By Forcible Compulsion or by Threat Thereof 15.3123(A)

- Deviate sexual intercourse occurs if man's penis penetrates mouth or anus of a person or tongue penetrates the sexual organ of a woman
- Or if person uses a physical object, not part of his or her body to penetrate
- For any purpose other than:
 - Good faith medical
 - Hygienic
 - Law enforcement
- For all forms of deviate sexual intercourse the slightest degree of penetration is sufficient, no emission or semen is required

Additional Issues

- **A married person can rape spouse**
- **Sexual intercourse is sexual contact involves genitalia or at least one person and genitalia, mouth or anus of another with some penetration however slight**
- **Statute of limitation issues**
- **Complex issues if parties engaging in bdsm or other “kinky” sexual practices, including:**
 - **Binding or restraining (rope, handcuffs)**
 - **Choking**
 - **Rough sex**
 - **Spanking**
 - **Sexual devices**

Workplace – Politician & Celebrity

Donald Trump

- Access Hollywood Tape
- March 20, 2018 New York judge denied Trump's motion to dismiss Summer Zervos' defamation complaint arising out of claims Trump:
 - Kissed her twice on lips in lunch meeting in his NY office; and
 - Kissed her aggressively and touched her breast in Beverly Hills
- Trump denies her claims
- So far seemingly no impact on Trump



Workplace – Media Executive – Roger Ailes Formerly Chairman/CEO Fox News (Deceased)

- July 2016 – Gretchen Carlson filed suit against Ailes claiming termination for refusing Ailes' sexual advances (Ailes denied)
- July 2016 – Ailes left Fox News
- September 2016 – Carlson settled with 21st Century Fox for \$20 Million
- November 2016 – Megyn Kelly's memoir claims harassment by Ailes (Ailes denied)
- May 2017 – Ailes dies



Workplace – News Anchor/Entertainer

Matt Lauer – Formerly Today Show Anchor

- November 2017 NBC announced network was terminating Matt Lauer's contract after employee's allegation of sexual misconduct
- Detailed complaint by employee of inappropriate Lauer conduct started on trip at Sochi Olympics & continued for several months
- Button under desk to lock office door which women claimed he used to initiate inappropriate conduct
- Allegations include exposing himself and gifting sex toys
- Some women acknowledge consensual sex but abuse of power e.g. Addie Zinone
- Lauer denies nonconsensual sex but said "enough truth in these stories to make me feel embarrassed and ashamed"



Workplace – Influential Actor/Entertainer

Kevin Spacey – Actor House of Cards

- October/November 2017 actor Anthony Rapp (at 46) claimed Spacey made sexual advance toward him when he was 14 – alleges Spacey laid on top of him at a party at Spacey’s apartment
- Spacey claimed to have no memory of alleged incident but apologized for “what would have been deeply inappropriate drunken behavior”
- Other claims of inappropriate behavior by Mexican actor Roberto Cavazos and U.S. film-maker Tony Montana
- House of Cards removed Spacey from upcoming season, other actions taken

