

# Non-Workplace But Industry Influentials Who Could Help/Hinder Careers Harvey Weinstein, Movie Mogul

- October 2017 – New York Times published story detailing decades of allegations of sexual harassment including by actresses Rose McGowan and Ashley Judd (Weinstein denies any nonconsensual sex)
- October 2017 – Weinstein terminated from his company
- October 2017 - Academy of Motion Picture Arts & Sciences expels Weinstein
- November – 2017 – NYPD said it may have actual case within statute of limitations citing credible and detailed narrative of unidentified woman believed to be Paz de la Huerta – also investigations in LA and London
- More than 80 women have come forward with various allegations
- Is implicit or direct threat of harming career actionable criminally? Civilly?



# Retrial of Bill Cosby - Entertainer

## Bill Cosby Acquitted/Convicted

- Cosby first trial ended in hung jury and a mistrial after 5 days of deliberations
- April 9, 2018 Cosby's retrial began
- Prosecution claims Cosby drugged and had nonconsensual sex with Constand
- Cosby charged with 3 felony counts, Cosby claims sex was consensual
- Second trial significant differences:
  - Judge allowed 5 prosecution witnesses claim same type of facts e.g. pattern
  - Judge allowed defense witness claimed Constand told her Constand could get money from claiming assault by famous person although story was not true
- Second trial going to jury April 24, 2018 - acquitted/convicted?
- Cosby has had many honorary degrees rescinded along with board positions



# Non-Workplace – Influential Strange “Standup Routine” – Louis C. K. - Comedian

- November 2017 – New York Times reports 5 women accused Louis C. K. of sexual misconduct
- Chicago comedy duo of Dana Min Goodman and Julia Wolov reported LCK stood, disrobed and commenced masturbating in front of them
- November 2017 – Louis C.K. said claims are true
- Louis C.K. lost shows & appearances





# An Awkward Date

## Aziz Ansari - Comedian

- January 2018 – Website Babe published story about a then 22 year old woman photographer called “Grace” claiming date turned bad when Ansari was persistent in trying to undress her and performing oral sex on her (Ansari denies any nonconsensual sex)
- January 2018 – Ansari responded with detailed story of consensual sex on date including text from woman next day saying on further reflection she felt uncomfortable
- No apparent impact on Ansari’s career



# Recent & First Major Trial of College Student for Rape – Yale’s Saifullah Khan Acquitted

- Senior year Khan was with Yale woman senior at Halloween night of partying
- The two spent good portion of night in her room
- She claims he raped her – that she was too intoxicated to consent
- Yale gave Khan administrative suspension pending criminal trial
- New Haven Police charged Khan with various counts of sexual assault - possible 46 years in prison
- During trial woman and Khan testified
- Salient facts included:
  - Woman went to university health following morning for Plan B and said sex consensual
  - Khan spent hours in her room including 1 ½ hours on phone with his girl friend (open relationship) and girl friend even spoke briefly with woman
- After deliberating for about 3 hours 3 women 3 men jury acquitted Khan on all charges
- Will Yale allow Khan to complete his Yale education?



# Thought Points

- **Challenge of criminal prosecutions:**

- State of limitations
- Burden of Proof
- Coercion
- Identification & location of witnesses
- Memory issues
- Evidentiary issues

- **Challenge of civil actions:**

- Statue of limitations
- Lesser burden of proof
- Counterclaims:
  - Defamation
  - Malicious prosecution
- Identification & location of witnesses
- Memory issues
- Evidentiary issues

# Thought Points

- Many of these men consistently have denied allegations
- For many no legal or other forum effectively to contest allegations
- Yet, serious impacts on their careers and life
- For others legal cases pending
- Should there be a “forum” to address them other than traditional legal forums?



# Alternative Resolution Process Restorative Justice?

- Forum/procedures to “adjudicate” claims of sexual assault or harassment without a civil or criminal trial?
- Goal is to provide “due process” to both claimants and respondents particularly regarding their professional reputations and the impact of “unproven” claims
- Restorative justice approaches: system of reconciliation between claimants and respondents with assistance from community
- Focuses on accountability, making amends, community engagement and acceptance
- Center for Justice & Reconciliation
- <http://restorativejustice.org/#sthash.mYMFtRcG.dpbs>



# Social Media Aspect

- **Significant & almost instantaneous social media ramifications & impact**
- **Role of:**
  - **Twitter**
  - **Instagram**
  - **Facebook**
  - **Media**
- **Role of online reputation management from content that virtually never disappears:**
  - **Video**
  - **Photos**
  - **Articles**
- **Power of Google and SEO especially for social media sites and articles on respected publications**

# New Rules of Romantic Engagement for Adults

- Respect
- Consent Consent Consent
- Efforts to advertently address consent & document engagements
- Online sex consent agreement to reference by texting agreement
- Written romantic engagement agreements with NDA's, private statute of limitations, arbitration
- Video of all engagements
- Reporting Apps
  - <http://ProjectCallisto.org>
  - Nonprofit develops technology to combat sexual assault & harassment

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- App to report sexual assault for college students
- Now on 13 college campuses and supports 149,000 students
- “Allows students to securely create time-stamped records of their claimed assault, and to report to college only when ready to take action”
- In 2018 expanding platform to detect “repeat offenders” by matching e.g. victims identify perpetrators, if match found Callisto notifies each victim individually
- Legal/social issues

