



College Athletes and Sexual Assault

William Beaver¹

Published online: 4 December 2019
© Springer Science+Business Media, LLC, part of Springer Nature 2019

Abstract

This article addresses the issue of sexual assaults committed by college athletes. The existing research is not conclusive but does suggest that athletes are more involved in sexual misconduct than non-athletes. The larger institutional factors that could explain the higher rates among athletes are then discussed and how new guidelines and regulations from the Department of Higher Education have changed the way colleges must deal with sexual assault. The final part of the article discusses how colleges should handle cases of sexual assault by athletes. The major theme is that to change public perceptions and lessen assaults, athletic departments and coaches must limit their involvement in these cases to ensure that athletes and non-athletes are treated equally.

Keywords College athletes · Institutional factors · NCAA · Sexual assault · Recruitment · Transfers

Incidents alleging that college athletes had committed sexual assault have become commonplace. Most prominent have been the events at Baylor University where 10 Title IX lawsuits have been filed, alleging that 31 football players committed 52 rapes, which has resulted in the firing of the head football coach, and the resignation of the school's athletic director and president. Although Baylor has received the most media attention, athletes at other schools have also come under scrutiny including Florida State, Michigan State, and the University of Tennessee among others. These incidents draw media attention and public awareness is generally high, which tends to reinforce the notion that athletes are more likely to be involved in sexual misconduct when compared to the general student population. Although the research on the subject is not conclusive, it does suggest that athletes are more likely to commit sexual assault.

This article will first examine the larger institutional forces in the college environment that could contribute to it, and how new guidelines and regulations from the both the Obama and Trump administrations have changed how colleges must deal with sexual assault. Finally, I will then suggest a course of action that colleges and the NCAA should pursue.

A Higher Incidence

Much of the research investigating college athletes and sexual assault appeared in the 1990s. Most, but not all of these studies indicate athletes do commit more of these offenses than non-athletes. For instance, a 1993 study of 925 randomly selected females who had been victims of sexual assault, battery, or intimidation, found that 22.6% of the perpetrators were athletes who made up 2% of the student population. A 1996 study of 10 college judicial affairs offices over a 3-year period discovered that 35% of the reported cases of sexual assaults or battery involved athletes, who comprised just 3% of the student population.

Another study published in 1999 reported that although pro and college athletes were more likely to be arrested for sexual assault, largely due to media attention, they were less likely to be convicted, which the authors attribute to receiving superior legal-council. More recently, an article published in the journal *Violence Against Women* in 2016 found that 54% of the athletes surveyed admitted using coercion defined as pressure, trickery, or emotional force in order to have sex, while the figure for non-athletes was 38%. In addition, 9.7% of athletes reported they had used force or threats to engage in sex, while only 1.1% of non-athletes had done so. Unfortunately, the study only involved 379 male undergraduates from one public university in the Southeast. However, a 2018 investigation by ESPN involving 32 Power 5 conference schools discovered that athletes were nearly 3 times more likely than the general student population to be accused of sexual misconduct or domestic violence based on Title IX complaints. Other research does lend some support to these findings. For instance, one

✉ William Beaver
beaver@rmu.edu

¹ Robert Morris University, 324 Wheatley Center, Univ. Blvd, Moon Township, PA 15108, USA

study reported that athletes are more likely than non-athletes to hypothetically support the use of coercion, alcohol, drugs, and force in relationships, while other researchers found that athletes were more supportive of rape myths and hyper-masculine values.

Not all research has found athletes more culpable. Most notably, a 1995 survey of 20 campus police departments found that athletes were no more likely to be arrested for sexual assault than non-athletes. The authors of the study note that arrests may not provide a representative sample since the vast majority of campus sexual assaults are not reported to law enforcement.

The Importance of College Athletics

If athletes are more prone to sexual assault, social scientists have increasingly focused on larger institutional factors to explain it, none of which is more relevant than the ever-growing importance of college athletics. When one thinks about college sports, it is the big-time programs that usually come to mind. Most of these institutions are members of the FBS (Football Bowl Subdivision), currently comprised of 128 schools who not only have major football programs but similar men's basketball programs as well. They receive major media coverage and national exposure from television contracts – the type of publicity that many universities crave, which can increase financial contributions from alumni and other interested parties, raise enrollments, and even improve academic quality by attracting better students. Witness the University of Alabama where enrollments increased by 58% between 2005 and 2016, while the GPAs of incoming freshman also increased, much of which is attributed to the success of the school's football program.

Programs like Alabama also reinforce the notion that FBS programs are financially successful, but most are not. In fact, a 2015 NCAA report stated only 24 athletic departments in the FBS generated more revenue than they spent. As one expert put it in referring to the financial situation in major college sports, “There's not much defense of the economics in the short or long-term.” Not a surprising statement when one considers the salaries of head football coaches in the FBS now average over \$1.6 million a year, to say nothing of the significant cost of maintaining and improving facilities necessary to attract talented high school athletes. The fact that college administrators are willing to continue to support these programs, despite the dismal economics involved, clearly illustrates their importance. It is also understandable why schools want to protect their investment, particularly in the so-called revenue sports like football and men's basketball. Hence, when players are accused of sexual assault, athletic departments may intervene in various ways to protect players and the image of their programs. As much as

anything else, it is the perception that athletes receive preferential treatment that many find the most disturbing.

Often overlooked is the fact that athletics are also important to smaller Division-I schools along with Division II and III institutions but for different reasons. These colleges obviously don't receive much national exposure, but athletics have come to serve an equally important function – boosting or stabilizing enrollments. A sampling of Division III colleges found that athletes on average make-up approximately 25% of the student body, while at FBS schools the figure was 2.5%. The hope is to attract student-athletes to your school, who would never have considered attending otherwise by offering them a chance to play at the intercollegiate level. Various forms of financial aid can be offered to entice students, although Division-III schools cannot offer athletic scholarships. The key is to keep financial-aid at levels that still allow the school to increase revenues. Thus, these types of institutions can also have an interest in protecting their athletes. That said, one hears very little about athletes and sexual assault at these schools, which raises two questions. First, is there simply less sexual misconduct occurring, or just less media attention that allows incidents to be swept under the rug or ignored. Conversely, are big-time college athletes more prone to committing sexual assault? Unfortunately, the research does not provide a definitive answer to these questions.

Drinking and Hook-Ups

Another institutional factor often associated with sexual assault is alcohol. Although a recent study suggests that drinking has declined somewhat, there is little doubt it will continue to be a major component of college life. The problem is that at least one-half the incidences of campus sexual assault occurs when drinking is involved, which raises the question, do athletes drink more than the typical college student making them more prone to sexual misconduct? The answer appears to be yes. Research involving 12,777 randomly selected undergraduates reported athletes binge drink more, consume more, and experience more alcohol-related problems than non-athletes.

Meshing with alcohol consumption is the emergence of a hook-up culture over the last couple of decades. According to sociologist Lisa Wade, a hook-up can mean anything from making out to having sex, but with no expectation of any future involvement, and hook-ups appear to be commonplace to the point that 60–80% of college students have done so at one time or another. Wade indicates that hook-ups are not so much about pleasure but about status, at least from the female perspective. Specifically, it is important to hook-up with high-status males like athletes. On the other hand, athletes often have a different agenda– scoring with as many females as possible. These encounters, however brief, can have a serious downside when individuals have different expectations. If the

male expects sex and the female does not, problems can obviously arise. Making matters worse is that hook-ups often take place at parties where drinking is involved. Indeed, Wade found that one of the norms of hook-up culture is that students first become intoxicated that only increases the likelihood of sexual misconduct.

Athletic Subcultures

A final institutional factor that cannot be overlooked involves athletic subcultures labeled by some as a “culture of entitlement,” which reinforces the mindset that the heightened status of athletes gives them license to take advantage of females with little fear of punishment since they will be protected by coaches and athletic departments. Adding to the problem is some sports teach and reinforce violence and aggression, and there is some evidence to suggest that participating in sports, like football and ice hockey, could have some carryover effect contributing to sexual aggression. A closely related issue which could have some impact are head injuries. Concussions have become a major concern in the sports world, and not just for professional athletes. College athletes particularly in sports like wrestling, ice hockey, and football, also suffer from them at fairly high rates. According to the *Washington Post*, at least 100 lawsuits have been filed by former college athletes against the NCAA and their schools claiming that concussions resulted in cognitive impairment, which can include a lack of impulse control and impaired judgment that could contribute to sexual assaults.

Finally, athletic subcultures can exert some degree of peer pressure on its members, which can support and foster sexual aggression, prompting individuals to engage in sexual acts they otherwise would not, or ignore the sexual misconduct of others. Some have called these “rape cultures,” a concept stemming from the research of anthropologist Peggy Sanday, who found that certain tribal societies encourage violence and sexual aggression among males. Certainly, the events at Baylor where females were allegedly gang-raped would seem to lend credence to the idea of a rape culture and is further supported by author Jessica Luther who reports that about 45% of the sexual assault allegations against athletes involved multiple individuals.

New Guidelines and Regulations

How colleges deal with sexual assaults changed dramatically in 2011 when the Department of Education issued formal guidelines reminding all institutions of higher learning that Title IX of the Civil Rights Act requires immediate and appropriate steps to be taken to investigate incidences of sexual violence, regardless of any action taken by the criminal justice

system. To ensure this happens, schools must now employ a Title IX coordinator to handle allegations of sexual assault. Accordingly, there must be a procedure in place for students to file complaints and, if necessary, conduct hearings, which usually involves a judicial review board composed of faculty, administrators and, at times, students. Review boards hear testimony from the parties involved and then render a decision. Each side can have a lawyer present; however, cross-examination was prohibited in order to avoid re-traumatizing the alleged victim. This, along with the fact that discovery is conducted only by a school’s Title IX officer has raised concerns about due process. Punishments can range from mandatory counseling to expulsion.

Since 2011, more than 350 male college students have filed lawsuits against various schools claiming their right to due process had been violated; before 2011 only 2 such suits had been filed in the previous 20 years. In response, the Trump administration recently issued new regulations for handling sexual assault cases. Schools can now choose the standard of proof to be used— either the preponderance of evidence standard (the accused probably did it) mandated by the Department of Education in 2011 or the more rigorous standard of clear and convincing evidence used prior to 2011. The accused and the alleged victim now have a right to see the evidence gathered during an investigation, and cross-examination is now permitted, and any ruling can be appealed by either side. In another change, colleges are only responsible for incidents where a formal complaint has been filed and has occurred on campus or a college sponsored event.

Although some institutions have complained about the costs involved (as much as \$500,000 a year at large universities), and the belief that higher education is ill-equipped to play judge, jury, and executioner, schools appear to be complying because the penalties for not doing so are severe – withdrawal of federal funding particularly student loans, without which most colleges could not operate. The most significant outcome of the 2011 guidelines is an increase in campus sexual assaults by 205% (the data does not distinguish between athletes and non-athletes). However, the rise is most likely due to increased reporting rather than actual assaults. Consider that the *National Crime Victimization Survey* found no increase in campus sexual assaults between 1997 and 2013.

What to Do

The new guidelines also prompted athletic departments to take steps to combat sexual assaults ranging from educating players and staff to requiring all athletic personnel to report suspected incidences of sexual misconduct, a policy the NCAA endorses. For instance, at Indiana University failure to report an incident can result in dismissal from the athletic department. Indeed, mandated reporting by athletic

department personnel should be the department's primary role. Senate hearings conducted in 2014 found that 20% of athletic departments exercised oversight regarding cases of sexual assault to say nothing of more informal involvement—all of which should end. To reiterate, one of the most disconcerting aspects of sexual assault cases involving athletes is the perception that they will be protected and escape punishment. As Brenda Tracey, a victim's advocate, put it, "Football coaches and athletic departments have always preferred taking care of these things in-house," which can unfortunately result in cover-ups, delayed investigations, ignoring incidents, and providing legal assistance to players. For example, a lawsuit filed by 6 former female students at the University of Tennessee claims that players accused of sexual assault knew they would get a lawyer, and the University was aware of sexual misconduct by athletes but did nothing. In addition, the suit alleged the university condoned an athletic subculture that encouraged drinking and sexual violence. (In 2016, the women involved accepted a \$2.48 million settlement from the university who also agreed to conduct an independent investigation on how sexual assault allegations are handled.)

Although it will obviously take time, limiting the involvement of coaches and athletic departments to reporting would help to change perceptions. In cases where the alleged victim goes directly to law enforcement, athletic departments should also cooperate with any criminal investigation but little else. Much the same should occur for in-house investigations of sexual assault and is a policy the NCAA also endorses. By doing so, an ideal promoted by the NCAA since its founding in 1907 could be more closely adhered to. That is, the only difference between the athlete and the general student population should be athletic participation.

Recruitment and Transfers

There are other pertinent issues involved with sexual assault including recruiting. A common recruiting strategy which has recently come under fire involves having attractive females escort potential recruits around campus on visits permitted by the NCAA. Although seemingly minor, such practices can send the message that females are sexually available and could lead to more serious consequences and should be stopped. A more perplexing issue involves high school athletes with criminal records. The *Drake Group*, a national organization of faculty concerned with the harmful aspects of college sport, maintains that any high school student with a conviction for a violent act (sexual or otherwise) should not be recruited. (A policy that the Big-12 Conference now follows, apparently in response to the Baylor scandal.) The group's concerns appear to be prompted by articles in *Sports Illustrated* and reports on *ESPN* that college athletes were more involved in criminal activity than the general student population, and many top 25 Division-I football

programs admitted high school athletes with criminal records, while only two schools conducted any type of criminal background checks.

Although understandable, the recommendation is troubling for two reasons. First, some of these young men come from tough environments conducive to violence. Secondly, these areas are often heavily patrolled by police making arrests and convictions more likely. To deny these individuals a chance to escape their surroundings and better themselves seems overly harsh, particularly if only a single conviction is involved. Perhaps the best solution is one suggested by the *Drake Group* for high school athletes with non-violent felony convictions. Schools should form a committee made up of faculty and administrators independent of the athletic department, who would then decide whether a student should be admitted, taking into account the exact nature of the crime involved. The process could be greatly aided by another recommendation by the *Drake Group* which would require high school athletes to submit a disclosure statement regarding any previous criminal activity, something the NCAA should consider requiring.

A closely related issue are policies regarding athletes who have been disciplined for sexual misconduct at one institution and then transfer to another. The Southeastern Athletic Conference (SEC) now prohibits recruiting athletes who have been expelled from another school for sexual misconduct, while the Big-12 and Pac-12 ban athletic aid or participation if an athlete cannot re-enroll at the institution where the sexual misconduct occurred. The transfer issue is also a difficult one. Few oppose the idea of second chances and many would view outright bans as extreme. Once again, independent school committees could make the decision about transfers, taking into account the circumstances of each case. For instance, what was the exact nature of the sexual misconduct and does the athlete in question have a history that would indicate an on-going pattern? Indeed, second chances are one thing, third and fourth ones quite another.

In accepting transfers, trial periods could also be implemented where athletic participation and athletic financial-aid are limited. To be sure, using school committees to make decisions about recruitment and transfers is not a perfect solution. Athletic departments could still influence decisions and athletes will be admitted who should not have been, while standards will vary from school to school. That said, the committee model is an attempt to arrive at some middle ground between outright bans and schools who exercise little or no oversight over recruitment or transfers. At some point, perhaps conferences or the NCAA could mandate such committees, which also raises the larger question of the role of the NCAA should play in mitigating sexual assaults.

The NCAA

Many believe that the NCAA has not done enough to combat sexual misconduct other than to urge athletic departments to

comply with state regulations and on-going investigations. Critics also charge that the NCAA has never punished an individual athlete who committed sexual assault. True, but to do so would raise serious legal issues. Marc Edelman a law professor at Baruch College points out that the NCAA does not have the power to punish athletes for off-field misconduct, which would represent a group boycott and violate federal anti-trust laws. Hence, any punishment must be doled-out by either the criminal justice system or the college involved.

Moreover, when one recalls the institutional factors conducive to sexual assault, what could realistically be accomplished by the NCAA is limited. For instance, there is no indication that sports will become any less important in higher education nor will alcohol consumption significantly decline or the sexual mores of college students change due to any NCAA interventions. That said, the most important action the NCAA can take is to sanction any institution whose athletic department interferes or becomes involved with sexual assault cases, other than reporting incidents and cooperating with law enforcement or college officials. By doing so, a message would be sent that athletes are like any other student, which over time would also weaken the “culture of entitlement.” Second, the NCAA should gather and publish information that would provide a more definitive answer as to whether athletes commit more sexual assault than non-athletes.

Besides incidence, there are other questions that need to be addressed. For example, are athletes in certain sports more likely to be involved in sexual assaults and are sexual assaults less common at Division II and III schools? More recently, the NCAA now requires coaches and athletes to complete yearly training on sexual violence prevention. That said, the Campus Sexual Violence Act of 2103 requires all colleges to conduct educational programs to reduce sexual misconduct. I would argue that athletes should go through the same programs as non-athletes, further lessening the distinctions between them and the general student population.

In closing, the Trump administration’s new regulations emphasizing due process may result in fewer punishments being doled-out by schools. On the other hand, the sharp rise in the

reporting of incidences triggered by the Obama administration guidelines and bolstered by the #Me TOO movement indicate times have changed. Whatever the outcome, the process must proceed in an unbiased way, which can only happen if athletes and non-athletes are treated equally. All of which will only occur if athletic departments and coaches are largely removed from the process. If this happens, perceptions of preferential treatment will decline, the negative influences of athletic sub-cultures will subside, and the number of sexual assault by athletes will likely decline.

Further Reading

- Crosset, T. 1999. Male Athletes Violence Against Women: A Critical Assessment of the Athletic-Affiliation Violence Against Women Debate. *Quest*, 51, 244–257.
- Luther, J. 2016. *Unsportsmanlike Conduct: Football and the Politics of Rape*. New York: Akashic.
- McCray, K.L. 2014. Intercollegiate Athletes and Sexual Violence: A Review of the Literature and Recommendations for Further Study. *Trauma, Violence, and Abuse*, 16(4), 438–443.
- Rose-Young, B. et.al. 2016. “Sexual Coercion Practices Among Undergraduate Male Recreational Athletes; Intercollegiate Athletes, and Non-Athletes”, *Violence Against Women* 23(7), 795–812.
- The Drake Group Inc. 2016. Position Statement: Institutional Integrity Issues Related to College Athlete Sexual Assault and Other Forms of Sexual Violence. Available at: <https://thedrakegroup.org/2016/09/11/drake-group-calls-for-strong-actions-to-address-collegiate-athlete-sexual-and-other-violence>.
- Wade, L. 2017. *American Hook-Up: The New Culture of Sex on Campus*. New York: W.W.Norton & Co..

Publisher’s Note Springer Nature remains neutral with regard to jurisdictional claims in published maps and institutional affiliations.

William Beaver is a professor of social science at Robert Morris University and has written several articles about sports in American Society.