Fitting the Pieces Together

November 4, 2016

Sacramento, California

Office of the Chancellor
The California State University
HOW DID WE GET HERE?
Howard Smith

- Democrat from Virginia
- On Friday, February 7, 1964, he introduced a one word amendment to Title VII, adding “sex” as a prohibited basis.
- The next Monday, February 10, 1964, after a debate full of hilarity (it was dubbed the “ladies day debate” at the time) the bill passed the House.
I suggest that you might also favor an amendment or a bill to correct the present “imbalance” which exists between males and females in the United States….The census of 1960 shows that we had 88,331,000 males living in this country, and 90,992,000 females, which leaves the country with an “imbalance” of 2,661,000 females…. 

Just why the Creator would set up such an imbalance of spinsters, shutting off the “right” of every female to have a husband of her own, is, of course, known only to nature. But I am sure you will agree that this is a grave injustice to womankind and something the congress and president Johnson should take immediate steps to correct, especially in this election year….Would you have any suggestions as to what course our Government might pursue to protect our spinster friends in their “right” to a nice husband and family?
Civil Rights Act of 1964

Title VII
- Prohibits discrimination in employment based on:
  - Race or color
  - National origin
  - Religion
  - Sex

Title VI
- Prohibits discrimination in federally funded programs based on:
  - Race or color
  - National origin
  - Religion
Clair Engle
Title IX

- 1972: The Education Amendments
- 1984: Grove City College v. Bell
- 1988: Civil Rights Restoration Act
Lisak Research

- 1,882 students
- Mid-sized urban commuter university
- Data collected in four separate studies
- The three largest samples represented 10% to 12% of the total male student population at the university at the time.
The questions

- Have you ever had sexual intercourse with an adult when they didn’t want to because you used or threatened to use physical force (twisting their arm, holding them down, etc) if they did not cooperate?

- Have you ever had sexual intercourse with someone, even though they did not want to, because they were too intoxicated (on alcohol or drugs) to resist your sexual advances (e.g., removing their clothes)?
Results

- 120 of 1,882 met the criteria for rape or attempted rape.
- 80.8% of these men reported committing rapes of women who were incapacitated.
- Of the 120 rapists, 76 (63.3%) reported committing repeat rapes.
- The 120 rapists admitted to 483 rapes.
- None were reported.
How do they escape justice?

- They attack victims in their social networks.
- They refrain from the kind of violence that is likely to produce physical injury.
- They rely on intoxication instead of force or threats.
- These factors create the kinds of cases that victims are unlikely to report and that prosecutors are less likely to prosecute.
“Dear Colleague”

“Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.”

Sexual violence includes “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol.”
California State Audit

- Training for faculty, staff, and students, including tailored material for athletes, coaches, fraternities and sororities.
- Wide policy distribution, including detailed information about processes.
- Establish a confidential resource advocate.
- Establish sexual violence task forces.
- Review and evaluate data on incidents.
- Conduct routine Title IX Reviews
OCR and DOJ Enforcement

- Complaints
  - Occidental
  - USC
  - UCLA
  - Berkeley
  - CSU San Francisco
  - Scores of other open investigations

- Voluntary Resolutions
  - Harvard Law School
  - Yale
  - Princeton
  - Notre Dame
  - University of Montana, including its Office of Public Safety
Campus Sexual Violence Elimination Act (SaVE)

- Must adopt procedures for institutional disciplinary action in cases of alleged domestic violence, dating violence, sexual assault, or stalking.
- Must provide prompt, fair and impartial investigation and resolution.
- Must be conducted by officials who receive annual training on the issues, including how to conduct a proceeding that protects the safety of victims and promotes accountability.
Affirmative Consent

In order to receive state funds for student financial assistance,…the Trustees of the California State University…shall adopt a policy concerning sexual assault, domestic violence, dating violence, and stalking,…involving a student, both on and off campus. The policy shall include all of the following:

(1) An affirmative consent standard in the determination of whether consent was given by both parties to sexual activity. “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.
Student Activism

Like the civil rights movement itself, activism on CSU campuses often focuses on racial or ethnic discrimination, both on campus and within the wider community.