

**THE ROLE OF INSTITUTIONAL DISCOURSES IN THE PERPETUATION AND
PROPAGATION OF RAPE CULTURE ON AN AMERICAN CAMPUS**

by

KRISTINE JOY ENGLE FOLCHERT

B.Sc., Iowa State University, 2004

**A THESIS SUBMITTED IN PARTIAL FULFILMENT OF
THE REQUIREMENTS FOR THE DEGREE OF**

MASTER OF ARTS

in

THE FACULTY OF GRADUATE STUDIES

(Women's and Gender Studies)

**THE UNIVERSITY OF BRITISH COLUMBIA
(Vancouver)**

August 2008

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Abstract

Rape cultures in the United States facilitate acts of rape by influencing perpetrators', community members', and women who survive rapes' beliefs about sexual assault and its consequences. While much of the previous research on rape in university settings has focused on individual attitudes and behaviors, as well as developing education and prevention campaigns, this research examined institutional influences on rape culture in the context of football teams. Using a feminist poststructuralist theoretical lens, an examination of newspaper articles, press releases, reports, and court documents from December 2001 to December 2007 was conducted to reveal prominent and counter discourses following a series of rapes and civil lawsuits at the University of Colorado.

The research findings illustrated how community members' adoption of institutional discourses discrediting the women who survived rape and denying the existence of and responsibility for rape culture could be facilitated by specific promotional strategies. Strategies of continually qualifying the women who survived rapes' reports, administrators claiming 'victimhood,' and denying that actions by individual members of the athletic department could be linked to a rape culture made the University's discourse more palatable to some community members who included residents of Boulder, Colorado and CU students, staff, faculty, and administrators. According to feminist poststructuralist theory, subjects continually construct their identities and belief systems by accepting and rejecting the discourses surrounding them. When community members incorporate rape-supportive discourses from the University into their subjectivities, rape culture has been propagated.

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Acknowledgements

Conducting this research has been a challenging and fulfilling process for me. I first want to thank and acknowledge my partner Ben, without whom this would not have been possible. Thank you for your willingness to relocate, all of your hard work supporting us during this time, and your continual encouragement and patience which keeps me going. Thanks to my son Evan for giving me a break from work and a connection to life outside of school. You both have grounded and motivated me through this process.

I also want to thank my supervisor, Dr. Wendy Frisby, for her enthusiasm in my research project and her work in helping me craft this document. I appreciate her endless suggestions which made this thesis much more lucid, concise, and thought out. Thank you Dr. Brian Wilson, my second committee member, for giving me an alternate perspective and challenging me to think through theoretical and methodological problems. I also want to thank my third reader, Dr. Olena Hankivsky, for suggesting directions to take my research in and giving me some tools to work out theoretical problems I had along the way.

I also need to thank my friends and fellow Women's and Gender Studies graduate students for their roles in helping my work along. Thanks to Jane for listening, supporting, and helping me deal with the stress. Thanks to Jane, Jenny, and Gemma for editing my conference papers and early versions of my thesis chapters. Also, thanks to the babysitters Fiona and Micah, Jane, Eunkyung, Manola, and Jenny, for allowing Ben and I to escape parenthood for an evening every once in a while.

And of course, my family, who provided emotional and financial support when we were in need. Thanks for convincing us to come home or go on vacation, even when we were really busy, it allowed us to recharge and keep going.

Chapter One

Introduction

1.0 Introduction

Rape is a prevalent occurrence on college campuses in the United States as revealed in a report on the sexual victimization of college women (Fisher, Cullen & Turner, 2000), which found that 27.7 female students in 1,000 were raped during the seven-month time period of their study. Moreover, since some of the women experienced multiple encounters with rape, there was a rate of 35.3 attempted and completed rapes per 1,000 female students. If this figure is broadened to incorporate an actual calendar year and the numbers of female students on university campuses, there could be upwards of 350 incidents of attempted and completed rapes for every 10,000 female students (p. 11). Similarly, a study conducted by Koss (1997) found in a sample of 3,187 female university student participants, 207 women reported to researchers 353 instances of completed rape, 533 attempted rapes, 837 episodes of sexual coercion, and 2,024 experiences of unwanted sexual contact (p. 60). From these numbers Koss calculated “a victimization rate of 38/1,000 women during a six-month period” (p. 61). With staggering statistics such as these, it is important to research the reasons why there is a high prevalence of rape in university settings.

In this study I examine rape on the University of Colorado (CU) campus. A report in 2001 from the FBI Uniform Crime Statistics showed there were 34.1 reported rapes per 100,000 residents in Boulder, Colorado not counting the number committed in the CU residence halls (Butler, 2004a). More specific to CU, 11 sexual assaults were reported in 2002, 23 in 2003, and 19 in 2004 and these numbers excluded any reports determined to be unfounded by investigators (Crime Reports, n.d.). It should be noted that when police declare reported rapes to be unfounded, they mean that the police could not find, did not want to find, or did not want to

believe that there was enough evidence to go to trial. This could be influenced by many factors such as their impressions of the women who survived rape or perpetrators and does not necessarily mean it was a false report (Herman, 1989).

Occurrences of rape are partially perpetuated through the maintenance of rape culture.

Buchwald, Fletcher and Roth (2005) describe rape culture as:

a complex of beliefs that encourages male sexual aggression and supports violence against women. It is a society where violence is seen as sexy and sexuality as violent. In a rape culture, women perceive a continuum of threatened violence that ranges from sexual remarks to sexual touching to rape itself. A rape culture condones physical and emotional terrorism against women and presents it as the norm. (p. xi)

Rape culture is present in many dimensions of American life such as the ways sex and violence are coupled in music lyrics, movies, and advertisements; how the public education system fails to provide comprehensive sexual education that includes information on healthy sexual relationships, consent, and self confidence; and how children are socialized into gender roles (Buchwald, Fletcher, & Roth, 2005).

Research projects focused on rape culture are necessarily limited in their scope because of the vast and complex arena rape culture covers. Researchers must usually choose small and contextually specific pieces of the larger problem to focus on. Yet, each project has the potential to contribute to the understanding of how rape cultures emerge and are reinforced. They also provide possible strategies to combat this problem. The research that I conducted was contextually and historically specific as it focused on the University of Colorado from 2001 to 2007. Through conducting a discourse analysis from various texts, I examined the ways in which the University of Colorado, represented by CU's President, CU-Boulder's Chancellor, Athletic Director, Head Football Coach, and CU's litigation team, reacted to a series of rapes reportedly committed by their football players in 2001, as well as the subsequent lawsuits brought by some of the women who survived rape. Their reaction was documented in the discourses University representatives promoted to community members who included residents

of Boulder, Colorado; CU students, faculty, and staff; CU football fans; feminist groups; and journalists.

1.1. Brief overview of the CU case

On December 7, 2001, Lisa Simpson and Anne Gilmore, both white women, were raped by football players and recruits during an off-campus party at CU. Monique Gillaspie, a black woman, was subsequently raped that night by some of the same football players who attended the party (Herbert, 2004h; Sherman, 2007; United States Court of Appeals, 2007). Following a police investigation into Simpson's rape, for black players, Marques Harris, Corey Alexander, Joseph Allen Mackey, and Clyde Surrell, were charged with contributing to the delinquency of a minor and sentenced to 36 hours of community service for their roles in providing alcohol and marijuana to underage football recruits before the party (Regensberg, 2002; Sebastian, 2002). No one was charged sexual assault. The three women filed civil lawsuits against CU for fostering an environment in the football program which led to their rapes (United States Court of Appeals, 2007). While the civil suits were in process, CU administrators established an Independent Investigative Commission (IIC) to investigate the football program and recruiting process (Hoffman, 2004a). It produced a report in 2004 which was highly critical of CU administrators and the football program. Seven other sexual assault incidents involving CU football players and/or recruits came to the public's attention between 2001 and 2004 ("Alleged sex assaults," 2004; Reilly, 2004). Debates occurred between University representatives, the women's attorneys, attorneys for some of the football players, community and student groups, and journalists regarding the University's role in the rapes. While Gillaspie withdrew her lawsuit, Gilmore and Simpson consolidated theirs. This combined suit was dismissed through a summary judgment in April 2005 but was reinstated by an appellate court in September 2007 (Anas, 2005; United States Court of Appeals, 2007). On December 4, 2007 CU settled the suit

by paying Simpson and Gilmore \$2.85 million as well as creating a Title IX Advisor position and adding another half-time position to the Office of Victim Assistance (Anas, 2007).

1.2. Rationale for examining the CU case

Rape is a large problem in the United States and instances of male athletes raping female students are prevalent in the news media. Cases involving rape accusations against football players have been reported at the University of Nebraska (Benford, 2007), University of Minnesota (Remme & Anderson, 2007), University of Albany in New York (Whistle, McMahon, & Reisman, 2006), and Brigham Young University in Utah (Hyde & Walch, 2004). In addition to the highly publicized rapes in connection with football players, male athletes from other sports – such as the men’s basketball team at La Salle University in Philadelphia (Carey, 2004) and men’s lacrosse team at Duke University in North Carolina (Veres, 2006) – have also been at the center of rape scandals. These are just a sampling of the most highly publicized US cases, and most of them involve more than one man raping a female student at a time, or gang rapes. Undoubtedly many more cases have gone unreported or garnered less media and academic attention. In addition, these cases only discuss instances where male athletes are the perpetrators when there are other sexual assaults on university campuses perpetrated by students who not affiliated with an athletic team.

Further, many of the cases listed above, including CU, involve instances where the reported perpetrators are black. It is important to note that sexual assault cases involving athletes may receive higher attention than those involving non-athletes. Crosset, Ptacek, McDonald, and Benedict’s 1996 study determined that instances of gendered violence reported to campus judicial affairs offices implicated athletes in general at a higher proportion than non-athletes. Though researchers are still debating why black athletes in particular seem to be making more headlines as perpetrators of gendered violence in comparison to white athletes, some link it to

the overrepresentation of black players in popular American contact sports such as football and basketball (Benedict, 1998; Messner, 2005). For instance, Benedict (1998) reported that more than 80% of National Football League players and over 70% of National Basketball Association players were black in 1996 (p. 5). However, according to a National Collegiate Athletic Association's (NCAA) student-athlete race and ethnicity report (Vicente, 2007), the percentage of Division I-A black football players was lower than white players in the 1990-2000 season (40.3% and 48.7%, respectively) and only slightly higher in 2005-06 (46.9% and 45.9%, respectively). Even though the reasons for the large proportion of black athletes being reported as perpetrators of gendered violence are not yet known, it may have had a bearing on the considerable media attention the CU case garnered, and subsequently, the amount of data available for this study.

My interest in the University of Colorado case is partly based on my own motivations and interests and partly because the CU case provided an excellent medium to examine how discourses have the potential to propagate rape culture. One reason I chose the CU case over some of the others available was due to the time when the rapes and scandal occurred. I started my university career in 2000 at Iowa State University. I had season tickets to the football games and watched CU play numerous times. I was going through school the same time as the primary rape survivors in this case – Lisa Simpson, Anne Gilmore, and Monique Gillaspie – and was about their same age. I was affected by this case because when I read their stories I imagined myself being in their situations. This case also hit close to home because I have a sister who attended the University of Colorado while the scandal was unfolding. She experienced the environment on campus while the investigations into CU's recruiting practices were occurring.

The CU case also provided a good example for studying the role of discourse promotional strategies in perpetuating and propagating rape culture. Discourses, according to

Hollway (as quoted in Gavey, 1997), are “system[s] of statements which cohere around common meanings and values.... [that] are a product of social factors, of powers and practices, rather than an individual’s set of ideas” (p. 53). Strategies used to promote discourses are the mechanisms within discourses which make them more palatable and facilitate their incorporation into peoples’ subjectivities. I define ‘perpetuating’ as the actions and messages a University sends which allow a rape culture to continue in a specific location (i.e., the football program). I use ‘propagation’ as the act of spreading rape culture from one location out to other areas (i.e., to community members).

1.3. Purpose of the study

The aim of this study was to examine the discourses championed by the University of Colorado and its representatives in order to understand how they perpetuated and propagated the rape culture in its football program. Two research questions were addressed:

1. Did a rape culture exist within the CU football program prior to the December 7th, 2001 rapes?
2. In what ways did the University and its representatives respond to the December 7th, 2001 rapes reported against football players and the subsequent civil lawsuits which perpetuated and propagated a rape culture?

In order to ask the second research question, the first question had to be addressed. Because rape culture exists within the larger American culture (Buchwald, Fletcher, & Roth, 2005; Rozee & Koss, 2001), and a case like the CU rape and recruiting scandal integrates societal rape culture factors with sport masculinity characteristics which may also cultivate rape culture (Benford, 2007; Messner, 2005; Schwartz & DeKeseredy, 1997), I initially assumed that a rape culture may exist within the CU football program. However, this assumption needed to be

assessed against the events in the case to provide a baseline whereby perpetuation and propagation could occur.

This analysis used various theoretical lenses as tools to examine rapes on a university campus. Primarily, I used feminist poststructuralist theory which is based on poststructuralist notions of discourse and subjectivity, but with an emphasis placed on identifying and disrupting power relations to achieve social change (Gavey, 1997; Weedon, 1997). This theory argues that language and meanings are constructed and, in turn, construct people's realities and experiences through the various discourses they choose to incorporate into their subjectivities. I drew on institutional ethnography to examine the strategies used to further discourses and how these facilitated the incorporation of discourses into community members' subjectivities. Intersectionality theory was used to examine the relative power associated with the social positions of those adopting various discourses, which may also influence their uptake. To study how the structure of the football program affected players' tendency to commit sexual assault I drew on masculinity theories, particularly research on sport masculinity and all-male peer support groups. Combined, these theoretical lenses were important tools for examining the discourses that appeared in the newspaper articles, press releases, investigative reports, court documents, and depositions which were the data sources for my discourse analysis.

1.4. A note on language

Connotations and definitions for terms such as 'victim' 'survivor' 'abuse' and 'rape' are continually changing and hold different meanings for different people. Throughout this thesis I used the phrase 'women who survived rape' and sometimes 'the women' to identify the ten¹ women in this case who reported their rapes to the public. I did this instead of using singular

¹ Although there were ten separate women who reported their rapes to the police, rape counselors, or the media, this thesis mainly discusses the three women who brought civil suits against CU because this action prompted the University to utilize discourses which would take the focus away from their culpability in the suit.

terms such as ‘survivor’ and ‘victim.’ It was a conscious and deliberate choice of words that best encapsulated my intent when discussing women who have confronted, experienced, survived, undergone, endured, or been victims of sexual assault, sexual coercion, and/or gendered violence. I did not feel it was appropriate for me to attach a label to someone which judges or blames her for any actions she may have taken prior to the assault, any level of participation or confrontation she gave during the assault, or even the manner in which she dealt with it afterwards. These terms are all problematic in their own ways (Gavey, 1999; Lamb, 1999a) and I am still ambivalent about using any one term especially when I find myself speaking about women who did not publicly announced how they preferred to be labeled, if at all. However, I felt that using ‘women who survived rape’ was the best way to capture my intent while staying within this flawed system of language.

While this paper discusses rape in a heterosexual context (that being seemingly heterosexual women were raped by seemingly heterosexual men), it is important to remember that this does not encompass all forms of rape. According to a study conducted by Bernhard (2000), lesbian women are raped in similar proportions to heterosexual women, 54% for lesbians and 44% for heterosexual women (p. 73). In addition lesbians reported being assaulted by both male and female perpetrators (46% reported only being attacked by male perpetrators, 48% reported being assaulted by both male and female perpetrators, and 6% reported only being attacked by female perpetrators) (p. 75). While research conducted on rape typically focuses on women as the people who are sexually assaulted, men also experience sexual assault. According to a Bureau of Justice's National Crime Victimization Survey conducted in 1994, “5% of [reported] rape victims aged 12 years and older were males” (cited in Scarce, 1997, para. 3). Since in the University of Colorado case, all perpetrators cited were males and all those who

came forward to make reports against them were female I will use the pronoun 'he' to describe the perpetrators and 'she' to describe the women who survived assaults.

1.5. Conclusion

The CU football rape and recruiting scandal provides a wealth of information on various topics of research such as the racial dynamics at play and the structure of sport in Division 1 college football. While this research touched on these topics, the focus was on sexual assault and specifically the strategies used to promote discourses that perpetuated and propagated rape culture. With the research questions in mind, I turn now to a review of the literature that informed my theoretical framework, choice of methodology, and perspectives on data analysis.

Chapter Two

Review of the Literature

2.0 Introduction

In this chapter, I discuss how the various bodies of literature informed this research project. I start out by first explaining my theoretical framework that drew on feminist poststructuralist theory, institutional ethnography, and intersectionality theory. Second, I turn to a discussion of rape culture using theories of sport masculinity and all-male peer support groups. Finally, I summarize the contributions of this study to the literature.

2.1 Theoretical Framework

2.1.a. Feminist poststructuralist theory

Weedon (1997), a principal author in this field, describes feminist poststructuralism as “a mode of knowledge production which uses poststructuralist theories of language, subjectivity, social processes and institutions to understand existing power relations and to identify areas and strategies for change” (p. 40). Gavey (1997) adds that feminist poststructuralism differs from other forms of poststructuralism because it focuses on conducting analyses with the goal of “changing oppressive gender relations” (p. 53). One of the main roots of feminist poststructuralist theory comes from Ferdinand de Saussure’s structural linguistics which argued that reality is not something which language merely describes. On the contrary, it is language that constitutes and creates reality (St. Pierre, 2000; Weedon, 1997). Poststructuralists furthered this concept by arguing that language itself is also contested where “meaning is produced within language rather than reflected by language” (Weedon, 1997, p. 23). Feminist poststructuralist theory built onto poststructuralism’s basic premises and connected them with systemic yet competing discourses as a way of creating a basis for social change. It is the political struggle,

gender-based analysis, and the goal of social change that distinguishes feminist poststructuralism from other streams of poststructuralist thought.

2.1.a.i. Language, discourse, and subjectivity

Language, and the meanings attributed to words, events, and experiences, are socially constructed and continually shifting to reflect prominent ideologies and power relations as well as personal perceptions of historically and contextually specific events. Language is not an abstract concept where words are defined by others, instead they are created and reified with every utterance such that the responsibility for our social condition rests on everyone's shoulders (St. Pierre, 2000).

Foucaultian ideas about discourse and knowledge production were of particular importance to the current study (Foucault, 1995). Discourses taken in a very broad sense incorporate texts, dialogues, and images and are “competing ways of giving meaning to the world” (Weedon, 1997, p. 34). For Foucault (as cited in Weedon, 1997), knowledge is constituted through discourses, social practices, forms of subjectivity, and power relations (p. 105). Discourses not only work to provide information, they also work through social institutions to produce realities, which in turn, can control people's subjectivities and their actions (St. Pierre, 2000, p. 486). Specific to the current research project, discourses were considered to be the broad and somewhat subtle messages sent out by competing groups that struggled against each other to define the series of events surrounding the women's rapes at CU as well as the various investigations and legal actions.

However, discourses are not equal or autonomous as some become dominant while others are subversive. Gavey (1997) characterizes dominant discourses as those that:

appear 'natural,' denying their own partiality and gaining their authority by appealing to common sense. These discourses, which support and perpetuate existing power relations, tend to constitute the subjectivity of most people most of the time (in a given time and place). (p. 54)

Discourses exist in socially constructed contexts where there is a complex interaction between “language, social institutions, subjectivity and power” (Weedon, 1997, p. 34). The relative status and power of those supporting competing discourses influence which ones dominate since the group with more power has a better chance of having their discourses accepted by the subjects they are trying to persuade.

Subjectivity, as described by Crowley and Himmelweit (1992) is the “combination of conscious and unconscious thoughts and emotions that make up our sense of ourselves, our relation to the world and our ability to act in that world” (p. 7). Within feminist poststructuralist thought, subjectivity is a constant process developed through language where subjects are aware of the adoption or application of (sometimes contradictory) discourses (Cahill, 2001; Davis, 1997; Gavey, 1997; Weedon, 1997). Some feminist poststructuralists argue for an interdependent embodied subjectivity which is characterized by the way subjects mold each other in their interactions (Cahill, 2001). For example, Cahill’s embodied subjectivity examines how rape may effectively sever one’s connection with humanity and her previous subjectivity because rape happens to one’s body, mind, and being to the extent that a survivor cannot just put it behind her, she must find a new way of being, a new subjectivity.

Feminist poststructural subjects are doubly constructed as “a subject that exhibits agency as it constructs itself by taking up available discourses and cultural practices and a subject that, at the same time, is subjected, forced into subjectivity by those same discourses and practices” (St. Pierre, 2000, p. 502). Thus, not only do discourses shape subjects, but subjects are the site of conflict for discourses. The dominance of a discourse is determined by its adoption or application into subjectivities. However, subjects are not autonomous in their decisions as they are influenced by a number of internal and external pressures, including previously incorporated

discourses and larger societal ideologies. This was an important concept when considering how CU propagated rape culture through its discourse strategies.

2.1.a.ii. Limitations to feminist poststructuralist theory

While feminist poststructuralist theory provides important conceptual tools for conducting a discourse analysis, there are tensions between poststructuralist and feminist theories that exist. While feminist poststructuralism distinguishes itself from other forms of poststructuralism with its emphasis on power relations, a subject's agency, and maintaining a goal of social change, these points of difference are contested by theorists and pose a dilemma for this research. Firstly, poststructuralist theory argues that there are no truth narratives since knowledge is socially constructed. Instead, it focuses on deconstructing and destabilizing discourses. While this way of thinking has benefited some feminist research in the past by critiquing the unified category of 'woman,' many feminists find using this theory challenging because after the discursive practices are deconstructed, nothing is suggested or built in its place (Francis, 1999). Social research such as this project tends to identify some assumptions (e.g. that the women in the CU case were survivors of rape) as a way of furthering theory, gaining a better understanding the world in which we live, and creating social change. Even poststructuralism cannot seem to escape grand narratives such as "there is no coherent subject, and that there can be no modernist certainty or truth" (Francis, 1999, p. 390).

Francis (1999, 2002) comments that feminists' need to evoke truth narratives echoes back to its roots in modernist theory with a humanist construction of the subject, which are incompatible with poststructuralism and is another tension. Some feminist poststructuralists, such as Cahill (2001), Gavey (1997), and Weedon (1987, 1997) argue that subjects have agency to decide (to an extent) which discourses to adopt into their subjecthood, while others such as Jones (1997) argue this is a humanist approach and it is misguided to use it in conjunction with

poststructuralist theory. Jones contends a subject is not active in relation to discourse, but is constructed by language and “is ‘produced’ or ‘comes into existence’ within discourse” (p. 265).

The push and pull of feminist and poststructuralist theories is evident in this work. While further discussion of the implications of this tension are discussed in Chapter Five (section 5.3.), it is important to note here that I decided to use feminist poststructuralist theory to inform my work and as a conceptual tool for discourse analysis, but I do not follow it completely because I have woven in elements of realism. Thus, when points of departure between feminist and poststructuralist theories arose, I took the feminist path due to my commitment to social change.

2.1.b. Contributing aspects of institutional ethnography

The research I conducted was not an institutional ethnography in that I did not examine how institutions or organizations function to coordinate people’s activities. However, I did find aspects of this theory helpful in understanding how certain strategies used to promote discourses also facilitated their uptake. Also, institutional ethnography offered methodological tools to conduct a discourse analysis involving institutions and provided a more material way to hook into feminist poststructuralist theories. In this section I outline the ways in which institutional ethnography informed the current research project.

The goal of institutional ethnography is to discover what "it" is, how "it" functions, or how "it" actually works (Smith, 1987). This conceptualization is deliberately vague so researchers can substitute their own ‘its’ into their research projects. For Smith (2006), institutional ethnography examines how the local actions of individuals “hook up” with larger social concepts and the ruling relations. She defined the ruling relations as the “internally coordinated complex of administrative, managerial, professional, and discursive organization that regulates, organizes, governs, and otherwise controls our societies” (Smith, 1999, p. 49). Local actions become translocal, or travel between and among individuals and the ruling

relations, through their discourses and texts, and then coordinate the consciousness and actions of other people (Smith, 2006). This is consistent with feminist poststructuralist theories of discourse and subjectivity. Working together these theories articulate how a discourse created and advocated for by the University can “hook up” with ideologies, become translocal, and then be adopted and integrated into the subjectivities of community members, thus propagating the discourses among them.

Organizations are abstract concepts that are challenging to study. They are the sum of everyday interactions by individuals that continually change and shift yet are held in a set structure. Organizations are elusive in their material form in that when one looks up close at their arrangement they dissolve into individual interactions (Smith, 2001, p. 163). The University exploited this relationship by focusing on individual interactions and arguing that they were not components of a larger culture. I characterize this strategy as taking a micro-view in my data analysis.

In her chapter, *Texts and Representation: Hazards for Feminists in the Academy* (1999), Smith examined the ways one text (an unofficial Report produced by junior female faculty and students) was subsumed by another (a backlash Letter written by male faculty members) when the report critiqued the “chilly climate” the women felt within their department. Two strategies were implemented within the Letter to facilitate this effect. First, the Letter was written on university letterhead, formatted into a memo, and distributed to high-level university officials which gave it institutional authority over the report. As Smith stated, “the power of a text bearing the marks of authority when it is launched into public space is considerable” (p. 214). Thus, when other interested parties read the Letter they incorporated its discourses into their subjectivities and evaluated the Report based on the Letter’s standards and rhetoric. This then changed the scope and trajectory of the Report’s original focus and left its authors scrambling to

defend it. The Report's authors found their discourses being silenced by overriding and objectifying discourses in an institutional arena. Smith argues that these dominating discourses, which unify and coordinate the diversity of people's experiences, may be an essential aspect of institutions (p. 196).

Another strategy utilized within the Letter was to reframe the debate in a "juridical discourse" (p. 197). Smith categorizes this type of legalistic language objectifying as it "pre-empt[s] diversities of consciousness and experiences" (p. 212). Changing the language to legal-speak changes the meanings of the experiences. If the women who wrote the report could not empirically 'prove' specific 'allegations' then they must not have happened. In addition, the judicial discourse within the Letter was an intimidation tactic since the Letter presented an ultimatum invoking legal retaliation. In these ways the Letter subsumed the Report's discourses and redirected the debate in a way that favored the men who wrote it.

Smith's examination of the Letter and the Report was extremely helpful in understanding how the strategies CU used in furthering its discourses offset the women's voices. CU utilized some of the same promotional strategies as the authors of the Letter and the women were placed in similar positions as the authors of the Report in that they were forced to defend their arguments according to an institution's standards.

2.1.c. Intersectionality theory

Intersectionality theory maintains that socially constructed categories of organization, including gender, race, class, age and sexuality work together to inform people's identities and experiences (Browne & Misra, 2003). These social forces also have varying power levels ingrained in them whereby "an individual can simultaneously experience disadvantage and privilege through the combined statuses of gender, race, and class" (p. 489). Intersectionality theory further argues that social forces cannot be pulled apart and analyzed separately and then

added together; nor can they be thought of as separate components of identity. As Baca Zinn and Thornton Dill (1996) argue, “race, class, gender, and sexuality are not reducible to individual attributes to be measured and assessed for their separate contribution in explaining given social outcomes” (p. 327). Instead, researchers using an intersectional analysis contend the categories are mutually dependent and fused together such that “race is ‘gendered’ and gender is ‘racialized’” (Browne & Misra, 2003, p. 488).

Feminist intersectionality theory connects the social categories that comprise one’s identities to the larger social and historical context one is living in. As Davis (2008) argues, “‘intersectionality’ refers to the interaction between gender, race, and other categories of difference in individual lives, social practices, institutional arrangements, and cultural ideologies and the outcomes of these interactions in terms of power” (p. 68). Thus, intersectionality is a helpful analytical tool for examining the intricate ways in which people can be advantaged and/or disadvantaged through their social location within a particular culture at a particular time. An example of this was Shelton and Chavous’ (1999) research examining black and white women’s reactions to sexual harassment against black women by black or white men. They found that both “Black and White women perceive unsolicited sexual behavior between a Black woman and a Black man as more trivial compared to unsolicited sexual behavior between a Black woman and a White man” (p. 610). Though this study separated the categories of race and gender to conduct the survey and analysis, they acknowledged their interdependence.

In the current research, I used the concepts of intersectionality theory as a starting point but took a different approach in my analysis. Instead of examining how socially constructed categories inform individuals’ or groups’ experiences within a given society or culture, I considered the ways in which the power associated with a group’s collective and relative social location are implicated in discourses. Specifically I explored the power ascribed to the social

locations of CU administrators and compared it with the social locations of the women who survived rape. I argue that these relative power differences can then be partially attributed to the power associated with the dominance of the various discourses each group advocated for.

2.2. Rape culture

Rape culture is a complex concept comprised of many interconnected and mutually dependent factors. The aspects of rape culture that informed this research are briefly laid out in the following subsections. First, is a description of rape culture in the United States, followed by a review of how football hypermasculinity and a sense of entitlement contribute to the rape culture in this context. Then I look at how all-male peer support groups foster rape cultures. This section provides background information as a means of addressing my first research question regarding the existence of a rape culture within the CU football program prior to the 2001 rapes.

2.2.a. Definition and description of rape culture

When rape is discussed in everyday terms by the general public, it is typically individualized to the specific parties involved, resulting in a micro-level analysis. Discussing rape culture brings social institutions, socialization, and peoples' attitudes and assumptions into the discussion. Buchwald, Fletcher, and Roth (2005) cite the conflation of sex and violence in pop culture, the normalcy of "physical and emotional terrorism against women," and many women's continual perceived threat of sexual violence as indicators of the rape culture in America (p. xi). Rozee and Koss (2001) discuss how rape culture is tied to socialized norms of femininity and masculinity and is supported by the "social familial, political, legal, media, educational, religious, and economic systems that favor men; and criminal justice and legal systems that fail to protect women" (p. 296). Though there are individual factors at play as to why certain men engage in sexual coercion, rape, or gendered violence, the focus taken in the literature on rape culture is on the messages and pressures that cultures and communities place

on individuals which shape their subjectivities. Also, rape culture is not a monolithic or homogeneous phenomenon, it is present to different degrees for different people at various times.

Even though the current research project only examined a small, contextually, and historically specific incident, what happened was influenced by the overarching rape culture present in the United States where “the act of rape is functionally normative, meaning it is essentially a condoned behavior” (Roze & Koss, 2001, p. 295). Koss and Cleveland (1997, p. 20) illustrated some of the mechanisms by which rape culture is condoned and perpetuated when they argued there is a cyclical and mutually dependent negative relationship between women’s propensity to report sexual violence and structures within a community which facilitate men’s sexual coercion (i.e. low likelihood of punishment, peer support, and lack of feedback about their behavior). As will be discussed later in greater detail, it seems the first step in breaking this cycle and to start effecting change is to become consistent in investigating, prosecuting, and punishing sexual assaults. This would send the message that these behaviors are taken seriously and will not be tolerated. This may then disrupt the cycle such that more women may feel more comfortable coming forward, and more men might re-evaluate their behaviors to make choices that are more socially responsible.

Another important aspect imbedded in rape culture is the heteronormative nature of American society’s view on sex and the normative aspects of how sex and violence are linked. Herman (1989) argued that it is “because the image of heterosexual intercourse is based on a rape model of sexuality” (p. 22) that there was a rape culture to begin with. Russell (1975) contributes to this idea by stating that:

rape is not so much a deviant act as an overconforming act. Rape may be understood as an extreme acting out of qualities that are regarded as supermasculine in this and many other societies: aggression, force, power, strength, toughness, dominance, [and] competitiveness. (p. 260)

As long as heterosex follows norms of traditional and socialized femininity and masculinity, sexual coercion and rape will not be deviant or much different from 'normal' heterosex. This is a predominant reason why the gray areas between healthy heterosex and rape are vast and ambiguous.

With respect to football rape culture, Benford (2007) argued that a lack of appropriate institutional response to incidences of sexual assault reproduces rape culture present in a group. He cited instances between 1991 and 1995 at the University of Nebraska at Lincoln (UNL) where women were assaulted physically and sexually by UNL football players which brought a media spotlight on the team and school. However, the university attempted to cover up and downplay the incidents as much as possible to take the pressure off themselves and the team. These actions only furthered the feelings of entitlement by the athletic department and its players because the message implied their wrongdoings would be overlooked 'for the greater good.'

2.2.b. Sport Masculinity Theories

Masculinities associated with football are complex and multiple, as with all masculinities. The purpose of this section is to discuss some of the previous literature that connects athletes, particularly football players, with incidents of violence against women, and more specifically, with sexual assault. The aim is not to dwell on individual men but to look at the systemic nature of these masculinities and how they may be passed down to the next generation of athletes.

2.2.b.i. Conceptualizing football hypermasculinity

Football is a violent contact sport. Though the aim of the game is to score the most points by bringing the ball across the end zone line, the way to get it there is to tackle, chase, evade, and outrun one's opponents. The hypermasculinity necessary to be a successful football player incorporates aspects of domination and violence embedded in the game. This type of masculinity is an exaggeration and celebration of masculinity shaped by the characteristics players need to be

‘successful’ competitors. These characteristics include a celebration of domination, aggression, and sexuality as well as a large physical presence (Welch, 1997). As Messner (2005) stated, athletes in contact sports are paid, in one way or another, to be and embody violence. They cannot always turn this part of themselves off once the game is done.

In a 1997 study, Welch noticed that “professional football players in prestigious roles as scorers (i.e., running backs, receivers) are overrepresented in incidents of violence committed against women (i.e., domestic violence, sexual assault) as compared to players at other positions” (p. 392). Welch theorized that there was a specific subcategory of hypermasculinity associated with offensive backfield football players which included receivers and running backs. These players strove to have the same hypermasculinity as the rest of the team, yet the positions they played required them to run away, evade, and be tackled by members of the opposite team. Even though these players had the majority of scoring opportunities, they were still in feminized positions in relation to the linemen, defensive players, and the quarterback who were actively tackling, pursuing, and leading the team, respectively. As a result, Welch argued they attempted to prove their dominance and ability to fulfill their hypermasculinity off the field by sometimes being violent toward women in their lives.

Even though I argue that the CU football players’ actions were influenced by more than the positions they occupied on the team, it is interesting to note that Corey Alexander was a wide receiver, a position consistent with Welch’s theory. However, Clyde Surrell was a safety, Marques Harris was a defensive end, and Joseph Allen Mackey was a defensive back, all positions involving chasing and tackling one’s opponents. While these players’ positions do not fall in line with Welch’s specific theory, they are consistent with statistics regarding football players’ propensity for gendered violence (Welch, 1997).

Messner (2005), in his research on athletic masculinities, concurs that the positions and the status of the men on the team inform their masculinities and their relative likelihood for committing gendered violence. He questioned why many of the athletes charged with sexual assault in college sports are black and posed that it was because they hold the majority of positions, or prominent positions on university teams. He argued that in male high school sports and men's hockey (dominated by white men), most charges of sexual assault fall on white men because they constitute the majority of players. This points to the sport, not the race of the person, as a factor in committing sexual assault. He argued that the majority of male athletes do not commit these crimes, but the ones usually charged come from the center and most prominent positions on teams, because these are the men who exemplify the masculinity expected or strived for in their peer group. These men may not like taking part in gendered violence, but do it anyway to go along with their group. However, this part of his theory runs counter to Welch who argues the players most likely to commit gendered violence (offensive backfield players) are those trying to prove their masculinity to others since the positions they play are seen to decrease their masculine status.

The racial make up of the university one attends may also have an impact on one's masculinity. The discourses universities may use to explain the racial composition of their schools could point to their motivations for maintaining the status quo. Crosset (2007) suggested an insidious nature of the university institution by pointing out that the stereotypical American university, specifically those similar to CU, is a white institution even though it allows people of color to attend. He argues people of color are largely marginalized in campus life and within the institutional structure and sport is an avenue for the university to segregate black students as well as demonstrate to the public that it is diverse. To illustrate his point, Crosset (2007) describes the demographic make up of Boulder, Colorado, home of the University of Colorado.

Boulder epitomizes the re-segregation of America. It is a growing, affluent community within commuting distance of the much poorer and racially diverse city of Denver. The median family income in Boulder is \$20,000 above than (sic) the national median income. The town is 88 per cent white. Blacks make up just over one per cent of the community (US Census, 2000). The university student demographics are almost identical to the town. The university claims 13 per cent 'minority' students, although few of these are black. Out of 5,000 freshmen enrolled in 2005, fewer than 70 identified themselves as African-American. (p. 181)

But at the same time, Crosset argues, the university is a place for redefinition and social change.

Even though players are being exploited, they still have agency within the system. Thus, he states that the university is a contested and constructed ground.

Another aspect in developing types of masculinity needed to be a 'successful' member of the football team is to differentiate oneself from and degrade that which is considered feminine or homosexual. Nelson (1994) holds coaches partially responsible for the way women are stripped of their subjecthood and objectified when coaches make it explicitly clear that femininity is the enemy and use language that degrades women. Homophobia, via derogatory name calling and questioning the players' assumed heterosexuality is also used as a tool by coaches and teammates to shape the players' masculinity and motivate better athletic performance (Messner, 1992). Players try their hardest to conform to the masculinity idealized by coaches, just as they would with other instructions coaches give.

2.2.b.ii. Sense of entitlement

When men successfully develop the hypermasculinity associated with football they are granted special status and prestige which may set "the stage for the use of power as a way to control others, the absolute underpinning of interpersonal violence" (Kirby, Greaves & Hankivsky, 2000, p. 25). Within college football in the United States, athletes are typically given celebrity status that accompanies being a 'sports hero' such as giving media interviews, being the center of discussion at local bars, and having photos prominently displayed on the school website and promotional publications. In addition, athletes are often given numerous academic

concessions such as special tutoring services, early class registration to reduce scheduling conflicts due to practices and games, and are allowed to make up exams and papers when conflicts arise (Benford, 2007). Further, some athletic departments bend the rules to make sure their athletes pass their classes (ibid).

Moreover, the impression given to some male athletes is that they are entitled to sexual services from female students. By having carefully selected attractive female student ‘ambassadors’ to show football recruits around campus and having seemingly sexually available women entertain them at night, the athletic department and/or football program is not so subtly telling the recruits that “the idea that sex is part of the package of athletic stardom, and that somehow or another, a right of access to female bodies is just part of the deal” (Kuney, 2004, para. 7).

It is important to mention that the University alone does not contribute to a sense of entitlement in the players; it only perpetuates and possibly exacerbates what they have developed since childhood. As Lipsyte (1995) cautions:

A new American class has emerged, beyond gender, social standing or race. Call it a gladiatorial class. Families, schools, town[s] wave twelve-year-olds through the tollbooths of life. Potential sports stars—who might bring fame and money to everyone around them—are excused from taking out the trash, from learning to read, from having to ask, “May I touch you there?” No wonder so many of them grow into confused sometimes self-destructive “role models” whose sexual abuse trials and drug busts have become clichés of the sport pages. (p. 55)

Although this sense of entitlement and hypermasculinity was not created by the University or athletic department, they still hold a responsibility for how they choose to treat the players: to continue to pass them through, or to attempt to stop the cycle.

2.2.c. The influence of all-male peer support groups

While football hypermasculinity is an influential factor shaping players’ mentalities and allowing rape-supportive behaviors, it is also necessary to examine structures that directly influence men’s behaviors and attitudes. The focus in this section is the all-male peer support

group that these men were members of: the football program. It is important to make qualifications because not all football programs have violent histories, and more importantly, not all members of even historically violent teams are themselves violent or condone the actions of the violent members. However, there are important dynamics of male peer support groups that are applicable to this specific situation.

2.2.c.i. All-Male peer support group model

One of the theories behind why some men rape is that they belong to all-male peer groups which enable gendered violence. In the all-male peer support group, according to Schwartz and DeKeseredy (1997), the members are attached to each other, meaning they are friends who hold some loyalties to one another and care about maintaining their image for each other. Secondly, the group provides its members the resources, “such as verbal and emotional support for engaging in woman abuse ...[that]... may both encourage and legitimate the abuse of current or former intimate female partners” (p. 32). In addition to receiving rape supportive messages and reinforcement from one’s peers, I argue that men also receive them from the rape culture present in U.S. society. Furthering MacKinnon’s (1989) argument that ‘normal’ heterosexuality is enmeshed with rape, it is probable that sexually abusive behavior is considered ‘normal’ when the ‘normal’ heterosexuality condoned by society includes sexually exploitative, abusive, and misogynistic cues. When these two characteristics are combined with “the ideologies of familial and courtship patriarchy, alcohol consumption, membership in formal social groups (e.g., fraternities), and the absence of deterrence,” the situation is ripe for sexual violence against women (Schwartz & DeKeseredy, 1997, p. 46). This framework was useful for the current research project because it brought together many of the elements present in the CU case. However, it still seems too simplistic to be applied to college campuses in general because it

does not seem to account for acquaintance rapes committed by men who belong to informal male peer groups such as friendships that exist outside of an organized structure.

Sanday (1990) added an interesting dimension to all-male peer group rape theories. She theorized that identity formation is a large factor in the power given to maintaining the group structure. She used the example of fraternity initiation rituals to illustrate how men (pledges) mold their identities and subjectivities to become members of the established group (the fraternity). The fraternity utilizes hazing rituals to slowly but dramatically shift the pledges' identities and value systems to align with its own. Once pledges become members of the fraternity they feel a loyalty to the group that goes beyond a casual affiliation. Members' identities become tied to fraternity membership in a way that hinders them from going against the group's interests since losing their membership means losing part of their identity.

2.2.c.ii. Ways in which all-male peer support groups further rape culture

Another interesting aspect about Sanday's theory (1990) of identity formation was that it provides insight as to why so much secrecy surrounds participation in illegal activities. Sports teams tend to be tight-knit groups, almost familial in nature, where athletes receive emotional support, loyalty, and identity, but in exchange they must commit themselves to their teammates and coaches in addition to the goals and values of the team (Kirby, Greaves & Hankivsky, 2000). Schwartz and DeKeseredy (1997) concur that athletes may become pressured into secrecy due to team structure.

The training of a sports team to sacrifice everything to a group goal, and to immediately accept the complete authority of the leaders, may make some athletes unable to disagree with a group's goal, even if that goal is illegal, dangerous, or immoral. The male bonding in these groups, who work, live, and play together every day for years, can be very powerful. (p. 126)

Men in all-male peer support groups keep silent about violence they participate in or know of because their new identity rides on their group membership. According to this theory, when a member of the group commits an illegal act, the other members may help protect him out of

loyalty to the group. If the members remain loyal and the secrecy strategy was ‘successful,’ in that it protected the offending member from prosecution or lessened his punishment, the loyalty message spreads quickly among other group members and between groups. Merton (1985) argues that this silence teaches men that “no matter how sleazy your actions, there is always the fraternity [or, in this case, the athletic department] to hide behind” (p. 64). The inconsistency of investigating and prosecuting sexual assault suspects on college campuses may lead to a belief among current and potentially violent men that sexual coercion and rape are not wrong or crimes the university or police take seriously, which therefore makes it an acceptable behavior. This is one of the reasons researchers advocate for clear sexual assault policies that are consistently enforced.

Personal involvement in a crime can lead to a stronger bond with the group (Warshaw, 1988). On one hand, illegal behavior forces members into secrecy and interdependence because they are all in it together (i.e. they may all be drinking underage, smoking marijuana, and/or committing sexual assault), so if one goes down then they all do. In this way they are bonded out of fear. But on the other hand, it is also a sort of adventurous activity so they become bonded because they shared a challenging experience. This may be a key to changing initiation rituals. If universities or all-male peer support groups can find alternative stimulating activities that accomplish the same core goals (i.e. creating a team atmosphere, building trust, and bonding together) this negative type of hazing may not be seen as popular or necessary.

2.3. Contributions to the literature

My analysis borrows from, builds on, complements, and complicates past research conducted in this area. While much of the past research on rape in the university context focused on gathering statistics (Copenhaver & Grauerholz, 1991; Crosset, Ptacek, McDonald & Benedict, 1996; DeKeseredy & Schwartz, 1998; Koss, 1997; Koss & Cleveland, 1997);

understanding how the dynamics of masculinities, fraternities, and male sports teams may contribute to incidences of rape (Kimmel, 2005; Messner, 2005; Sanday, 1990, 1996; Schwartz & DeKeseredy 1997); and the development of rape-awareness and prevention education programs and campaigns (Roze & Koss, 2001; Wantland, 2005); this research takes a different approach. I examine the discourses utilized by the University and its representatives in their responses to a series of rapes and subsequent lawsuits filed by some of the women who survived the rapes. This project allows me to incorporate some of the multiple rape culture factors that inform peoples' attitudes and shape their behaviors. In addition, this lens provides a way of examining how rape culture is perpetuated. I argue that instead of only investigating the causes and the roots of rape culture, researchers should focus on analyzing how rape culture is perpetuated in various contexts. In doing so, researchers may be able to uncover new ways of stopping the perpetuation and propagation, while analyzing underlying causes such as hypermasculinity or unequal gender norms and roles.

The second way that this research contributes to the literature is that it uses a different level of analysis than much of the past research. Most of the research conducted on rape and masculinities examined interactions at the micro-levels of society. For example, Koss's (1997) statistical analyses were aimed at counting individuals and the number of attempted and completed rapes in specific settings, while Schwartz and DeKeseredy (1997) and Sanday (1990; 1996) examined how the formation of all-male peer groups may foster rape behaviors and attitudes. As suggested by Crosset et al. (1996), the current research project takes the focus off individual athletes and onto "the relationship between *athletics* and violence against women" (emphasis in original, p. 175). The current project takes aim at the institutional level or the meso-level, to try and better understand how organizations and institutions contribute to the

problem of rape culture. Each level of study enhances the knowledge and understanding of rape in the United States.

A third addition to the previous literature is drawing on intersectional analysis. Traditionally, intersectional theory focused on the synergistic effect that multiple axes of oppression can have on a person or class of people. The approach I use begins to show how these axes merge to have an impact on the power available to propagate specific discourses.

Chapter Three

Methodology

3.0. Introduction

In this chapter I provide a description of the methods employed in data collection and analysis. First, I outline the ways in which I see my social location and motivations for conducting this research impacting the research process. Second, I explain the discourse analysis used within this research. Next, is a description of the methods used to collect the textual data. I then comment on the way each type of text contributed to this research and provide a critique of these sources. Lastly I provide a description of my method for coding and analyzing the data and comment on the limitations associated with this particular methodology.

3.1. Examining my role in creating this research

My feminist research training has taught me the importance of reflexivity, including the social location the researcher occupies and her motivation. Through reflexivity, feminist researchers “reflect on, examine critically, and explore analytically the nature of the research process” (Fonow & Cook, 2005, p. 2218). While there are different ways to be reflexive, I am specifically concerned with how my social location and motivation affected the way I viewed my research questions, the decisions I made in collecting data, and the manner in which I interpreted, analyzed, and documented the results.

In keeping with feminist poststructuralism, I believe that there is no one ‘truth’ that emerged from the data when I coded and analyzed it. Instead, I recognized that there were multiple ways to read the texts and different meanings could be constructed from them each time they were read (Gavey, 1997). However, I did not take a completely relativistic stance since I used assumptions and made truth claims in my interpretation of the findings. In other

words, while I did develop a truth narrative to convey my discussion, other interpretations are certainly possible.

In addition, feminist research such as this project cannot be conducted free of biases and power relations (Wolf, 1996). I would argue that assumptions are inherent in research and are acceptable so long as they are explicitly outlined and critiqued by the researcher for the audience. Feminist research, conducted in what Christians (2005) terms social or feminist ethics, is rarely conducted merely to better understand a social phenomenon. Typically, the researcher incorporates this desire to comprehend into a platform for social change or awareness.

Hierarchal power dynamics associated with my positionality in relation to the data are also ingrained in this research, just as they are into all other aspects of life. My race, class, gender, sexuality, nationality, experiences, etc., influenced my research project in numerous and meaningful ways such as which project I chose to embark on, the research questions I chose, the approach I took to analyze the data, which data I determined important to include in my analysis, and the formation of that analysis.

My privileged status as an American and Canadian university educated white woman links me both to the university institution and the people involved in this case; yet, at the same time, also separates me from them. I was a member of an academic institution similar to the University of Colorado and negotiated and maneuvered through its system to complete an undergraduate degree. Yet, I have neither been intimately involved with CU's structure, nor have I navigated my way through university and legal procedures in regards to reporting a sexual assault. I have also not experienced the intense academic, athletic, social, and emotional pressures that exist for CU football players and other athletes. In addition, I have not been in the administrators' positions of trying to revive a university's reputation and funding avenues, while simultaneously attempting to appease social pressure to examine their football program.

Yet, the perspective that I came from, as an outsider to this specific case, but with insider knowledge of this type of institution and feminist knowledge of social structures, power dynamics, and rape culture, allowed me to examine the discourses surrounding this event in a unique manner. I was able to keep some distance from the case because of my outsider status, but I was also a concerned observer with feminist poststructuralism imbedded in my analysis. I did not do this work as a way of “letting the data talk to me” or merely to find out how social structures operated to create the outcome or public perceptions that it did; these were only aspects of my analysis. I wanted this research to inform me and others about the ways in which rape culture was perpetuated and propagated, as well as revealing how the mechanisms of football hypermasculinity relate to rape-supportive subjectivities and behaviors. Ultimately I wanted to formulate recommendations for combating these occurrences.

3.2. Justification for discourse analysis

My methodology is a discourse analysis that relies on texts as data sources. Texts aid in this research because they are “*the local practices of the discourse*” (emphasis in original, Smith, 1999, p. 134). Discourse analyses use texts as points of departure to examine the ruling relations and the realities within which people live (Smith, 1987). The analysis performed in this research is consistent with Smith’s (1999) description of her methodology as wanting to “lift the discourse off the page and pull it into life; I want to step outside the artifice of the text’s stasis and rediscover discourse as an actually happening, actually performed, local organization of consciousness” (p. 134). It examines the ways various ideologies (via discourses) compete in an attempt to establish dominance (Dick, 2005; Weedon, 1987). As Gavey (1997) describes, discourse analysis:

is an approach that identifies and names language processes people use to constitute their own and others’ understanding of personal and social phenomena. These processes are related to the reproduction of or challenge to the distribution of power between social groups and within institutions. Discourse analysis proceeds on the assumption that these

processes are not static, fixed, and orderly but rather fragmented, inconsistent, and contradictory. (p. 56)

3.3. Data collection methods

The data in this research consisted of CU press releases (N= 79) and policies (N= 13), television news stories and transcripts (N= 2), court depositions (N= 13) and judgments (N= 2), newspaper articles (N= 348), and an official report by the Independent Investigative Commission. The total number of documents reviewed was 457.

The data collection process started with a systematic collection of newspaper articles from *The Daily Camera*, a Boulder based newspaper. Using the online newspaper archive service, www.newslibrary.com, I used the search phrase “CU football rape” to find articles from December 1st, 2001 through May 29th, 2006. In addition, I collected articles published in 2007 directly from *The Daily Camera* website, www.dailycamera.com. Newspaper articles include editorials, opinion pieces, time-lines, front page news, and sports page news. Some articles cited other sources of data (court depositions and rebuttals to opinion articles) that led to collecting additional articles and data sources. In addition, I conducted a systematic search, using the same key words, of *The Colorado Daily’s* online archive, www.coloradodaily.com, to supplement the news coverage from December 2001 through November 2003.

I then methodically searched the CU media press release website, www.colorado.edu/news, from December 2001 through December 2005 and collected any releases dealing with the rape and recruiting scandal or seemingly related to it (such as anti-rape, pro-feminist speakers appearing on campus; alcohol policy changes; or changes in freshmen orientation). The same process was used when collecting press releases from the Athletic Department’s media website, www.cubuffs.com. The University of Colorado’s website also provided a link to the Independent Investigative Commission’s final report.

Some of the court documents were also found online. During my initial reading of the newspaper articles I was able to determine when important court documents became available to the public. In some instances *The Daily Camera* provided a link to the downloadable file containing the depositions of Lisa Simpson Vol. I and II, one of Simpson's roommates, and CU football player-host Marques Harris. I also conducted specific Google searches to find Judge Blackburn's summary judgment as well as the United States Appellate Court's reversal of the summary judgment. Through contact with Dr. Todd Crosset, an associate professor in the department of sport management at the University of Massachusetts Amherst and an expert witness for Simpson's civil suit against CU, I was put in touch with Kim Hult of Hutchinson, Black & Cook, LLC, a member of the legal team that represented Simpson. She then supplied me with redacted versions of depositions from CU President Elizabeth Hoffman, Athletic Director Richard Tharp, Head Football Coach Gary Barnett, former Associate Athletic Director Robert Chichester, and District Attorney Mary Keenan.

3.4. Strengths and weaknesses of the texts collected

Though the texts employed for this research are important in examining how the various discourses shaped the discussions and rape culture within CU, they are very different in their nature and scope. In this section I will outline some key strengths and weaknesses of each type of text used in this research project.

3.4.a. Newspaper articles

The Daily Camera is a local newspaper in Boulder, Colorado and a member of the Scripps Newspaper Group. The Scripps Newspaper Group also owned a variety of other newspapers in the area including *The Colorado Daily*, another Boulder paper I collected articles from. *The Daily Camera* boasted of being delivered to "seven-of-10 adults each week" ("The camera family," n.d.). It is available in both a subscription-based paper daily newspaper and a

free online newspaper. Those who read and/or contribute to *The Daily Camera* are considered to be among the community members discussed within this research. Other community members are comprised of CU administrators, faculty, staff, and students; CU football fans and athletes; and Boulder and regional groups who have interests in this case (i.e., Moving to End Sexual Assault (MESA)).

Newspaper articles are written to inform the public of current events as well as to act as a forum for public discussions (Ward, 2005). Community members can participate in information sharing, creating knowledge, and debating discourses by writing letters to the editor or giving interviews to journalists. Newspapers are readily accessible to those who can afford to purchase them or have access to the internet, which may indicate some of the social class demographics of their readership. They also stimulate knowledge acquisition as well as debate among audience members. Newspapers give researchers a snapshot of the current events from journalists' perspectives as well as community member opinions in a specific time period and geographic location. Also, and important for this research, newspapers provided me with an almost daily, yet partial and socially constructed, update of the investigation and details in the scandal, how the media chose to portray key people's responses to developments in the case, turns in public opinion and the investigation, and major court decisions and events. In short, *The Daily Camera* articles provided me with the ebbs and flows of the story and perspectives on community reactions. They gave me information that was not available to the public in other mediums such as interviews with key people, updates on the investigation and hearings, and policy changes within CU.

While there were many positive and useful aspects about using newspapers for scholarly research, there were also some limitations and cautions that need to be recognized. Firstly, newspapers are not objective or independent and information in articles should not be

considered ‘truth’ because they describe a partial reality from a journalist’s specific location. Journalists, like everyone else, move within the social forces they encounter and cannot fully understand or comprehend how all the social forces act upon them. They only have their own partial window onto society which is necessarily incomplete and obscured (Smith, 1987). Also, the facts presented in the articles cannot be taken as ‘what really happened’ since that can never be fully known due to peoples’ various perspectives and realities. However, the information and perspectives captured within newspaper articles are still important to this research because they served as a lifeline for community members to know about the case.

In addition to the theoretical cautions surrounding the partiality of newspaper articles, some material constraints on objectivity are also present. Newspapers, editors, and journalists may have been influenced by a number of factors including advertising sponsors, newspaper ownership, limited sources and angles for stories, limited time and resources to research a story, ideological pressures that shape the stories to fit cultural norms, and the competing discourses at play surrounding a certain topic that can shape how the story was written and how the audience received it (Berkowitz, 1997). Numerous studies have been conducted on the media about its racial and gender bias over the years (for examples see Jiwani & Young, 2006; Henry & Tator, 2002). These studies point out that the way the media articulates gender, gender norms and roles, race, sexuality, class, ability, and other factors, leads to how some members of society conceive these things. While some may contend that the media only report the sexism, racism, heteronormativity, and so on already present in the culture, feminist poststructuralists would argue that some journalists’ unquestioned repetition of these concepts reinscribes and propagates them.

A related and caution with using newspaper accounts, and specifically local papers, is their close relationship to the University and athletic department. Much of *The Daily Camera’s*

content was related to CU events and occurrences, presumably because the University of Colorado was a large industry within Boulder and many community members may have had ties to it. Newspapers walk a fine line when dealing with issues involving important organizations. On one hand, newspapers can be critical of the institution and report developing news, but on the other hand, they may value the close relationships they hold with organizations like the CU athletic department. When on good terms, the University can provide valuable information, interviews, and advertising revenue. *The Daily Camera* did report critically on the rape and recruiting scandal, though it was difficult to ascertain if they acted as objectively as they could have knowing that they may have wanted to maintain a relationship with the CU athletic department and University over the long-run.

Another critique of using newspapers as textual sources was associated with letters to the editor and opinion pieces. While these articles gave interesting insight to what some people in the Boulder community were thinking during this case, the opinions shared in these venues need to be problematized because these comments only represent those people with strong enough convictions to write a letter. There may also be a class bias due to the time and resources that are required for one to read a daily newspaper and write and submit a response. In addition, editors typically have limited space to publish letters to the editor, so must pick and choose which articles to include. Without knowing the criteria that *The Daily Camera* editor used in choosing the published articles, it is difficult to say what types of letters were left out and for what reasons. However, past research suggests that editors make their decisions based on if a letter includes libelous or threatening material, if it conforms to the formatting requirements, and if it contributes to the 'public interest' (Wahl-Jorgensen, 2004).

In the early stages of this project I contemplated using television news broadcasts and radio talk show transcripts to supplement the newspaper articles. However, as my research

progressed, I decided to disregard these media sources and instead used the press releases and court documents, which are discussed below. While TV and radio would have provided additional insights, they posed more barriers than benefits. For example, talk radio programs only represented a small but vocal segment of the population. The second reason was that it would be difficult to obtain transcripts of these programs from 2001 until 2007. Television news broadcasts were discarded for their own limitations because the scope of the data would be inconsistent with the other sources. I conducted an analysis on a local level: using a newspaper from Bolder, press releases from CU, and court documents from the specific people involved in the case. The television networks in Colorado work on a regional level and would have probably reported on major developments in the case, but not the day to day events as *The Daily Camera* did. Also, these televised stories were likely redundant versions of *The Daily Camera's* articles. While it may have been interesting to look at the various representations of the case used by these types of media outlets, this could be the subject of future research.

3.4.b. Court depositions and decisions

Another source of data was the court depositions given by key people involved in the civil case. Depositions are powerful documents because they held the authority of the legal system and are used as evidence to decide the outcome of cases. The purpose of a court deposition was for lawyers from each side of the case to talk with witnesses and gather sworn statements that could be used as the case progressed. For researchers these texts provide a detailed interview transcript from key people discussing specifics related to the case. Also, since lawyers from one 'side' of the case interviewed witnesses from the other (i.e., CU lawyers questioned Simpson and Simpson's lawyers questioned CU administrators), depositions provided an arena for the competing discourses to be seen. The audience for depositions was chiefly the court, and more specifically, the lawyers involved in the case. However, in many

instances, court depositions were public documents that could be accessed (at least in their redacted versions) by journalists and community members. So, while they were created for legal purposes, all parties involved knew that they may ultimately be read by other interested members of the public.

While depositions offer this research an opportunity to hear key testimony about different aspects of the story, there were some limitations to this data source; one being their structure. Only the interviewee, their lawyers, and the opposing lawyers could directly contribute to the text created. Thus, only the questions that these lawyers wanted to ask were available to be answered. The questions were worded in specific ways as a means of receiving a favorable and predictable response from the interviewee. Another was that many of the depositions had redacted segments where words and sections had been blacked-out as to make them illegible. This was presumably done to protect the identities of various people named in the depositions; however, it made reading, understanding, and analyzing difficult.

The two court decisions provided authoritative perspectives on Simpson and Gilmore's civil suit because they carried the weight of the legal system and held real ramifications for the parties involved. The first was from Judge Blackburn who dismissed the case by granting a summary judgment for CU in deciding that the plaintiffs, Simpson and Gilmore, did not provide sufficient evidence to sustain a case. In the second, the United States Tenth Circuit Court of Appeals allowed an appeal from Judge Blackburn's decision and legitimated the women's claim that CU fostered an environment in the football program which led to their rapes. These texts were important because they helped determine the course of the case and were composed of deposition statements, internal CU documents, and legal briefs not available to the public in other texts. They provided a synthesis of this information within their arguments for or against CU's culpability in fostering rape culture. One main caution that accompanied these documents

was that they were heavily one-sided since the judges used their knowledge, assumptions, and perspectives in making a decision between two opposing parties. This helped explain why two sets of judges could examine similar evidence and end up with very different decisions.

3.4.c. CU press releases

Press releases from CU administrators and the athletic department were crafted in a specific manner to present the University in the most positive light (Ward, 2005). The intended audience was the public, including donors, prospective and current students, and the media. The purpose of press releases was to inform the public that the University was taking progressive action in aiding the investigation and reforming the football program. With this bias known, press releases are interesting because they offer a glimpse into how the University presents itself. This was CU's 'official' side of the story that they want to tell the public about. Unofficial CU discourses were also present in the data but were presented in informal communications such as administrators' personal interviews and policy changes (or lack thereof).

3.4.d. The Independent Investigative Commission report

The Independent Investigative Commission's (IIC, 2004) report was a slightly more complicated document. The committee consisted of eight people who were hand-picked by the Colorado Board of Regents to get an outsider's view of the athletic department, assess its recruiting problems, and outline recommendations for the University to implement (IIC, 2004). The committee conducted its inquiry concurrently yet separate from the ones done by the civil suit attorneys, the police investigation, the NCAA review, and CU's internal investigations. The committee had access to internal University documents not available to the public and conducted interviews with CU administrators, athletes, expert witnesses, and community stakeholders. It synthesized its findings and created a report on the state of the athletic department, though it specifically focused on recruiting practices. The report included a list of

recommendations for the University and athletic department to take into consideration as ways of improving the department for both student-athletes and non-athlete students. Community members were able to come to the various hearings and most of the meetings held by the IIC, but were not involved in the preparation of the final document.

The IIC report was an important document because it offered details about the inner-workings of the University not disclosed in the other texts. It also came from the perspective of concerned panelists who were chosen to contribute their specific expertise to the investigation and who seemingly wanted to improve the structure and culture of CU and the athletic department. The committee also incorporated an analysis of the ‘facts’ or wrongdoings they found into the report. The report, then, was not just a bulleted list of facts and recommendations, but a more comprehensive view of how individual interactions may have led to the cultural and structural problems in the athletic department.

However, the IIC committee and report are not without their limitations. During its inception it encountered heavy criticism from various community members (Larsen, 2004). For example, some feminist community members were angry that one of the Co-chairs, a former elected member of the Colorado House of Representatives named Joyce Lawrence, made ‘victim-blaming’ comments before the investigation even began (Herbert, 2004g). They argued that the committee did not have the expertise to effectively investigate cases involving rape. Others wondered how independent the committee could be if it was created by the Colorado Board of Regents and reported back to the University (Camera staff, 2004a). Some of the panelists even questioned their purpose since multiple simultaneous investigations were being conducted which had more investigative powers than those allotted to the IIC (Mattern Clark, 2004f). The committee’s biases probably had an impact on the content of their report and how it was received by the public. Nonetheless, aspects of this text became the focus of community

debate and were utilized within various discourses. For example, CU President Hoffman declared the information she gathered from the various investigations “made it clear that coaches and administrators did not knowingly use or condone sex, alcohol or drugs as recruiting tools” (Hoffman, 2004b).

3.5. Data analysis

After collecting the data, and while continuing to take into consideration the various limitations associated with each text, I conducted a thematic discourse analysis using templates (King, N., 2005). “The essence of template analysis is that the researcher produces a list of codes (‘template[s]’) representing themes identified in their textual data” (p. 256). This is more of a technique than a method because it is up to the individual researcher to determine what the codes will be, which ones will be used in the analysis, and the relationships between codes.

Because I conducted a discourse analysis of discourses used by different groups it was important to primarily identify which groups and people were actively contributing to the discussion surrounding the CU rapes and civil lawsuits. Based on my research questions and preliminary readings of the data, I identified the various groups participating in this case, specifically, the administration, members of the athletic department and athletes, the women who survived rape and their advocates, police investigators, community members, and the district attorney’s office. Comments made by members of these groups then became the template on which my data was coded². Within this template I initially identified seven subcategories to be aware of while I coded the data. The subcategories were aimed to obtain the various group members’ comments and reactions which consisted of statements about recruiting tactics, athletes or athletics, rape culture, responses to the rapes themselves, to the police investigation, to the civil suit, and to the IIC investigation.

² Please see Appendix A for a complete list of the themes and subthemes used.

As the coding process developed I realized that some subcategories were not reflected in the data to what I considered a significant degree, yet other subcategories emerged that I had not be expecting. For example, administrators rarely made comments about the police investigation except to say they were cooperating with investigators and waiting to find out the results before taking action. New subcategories were developed when groups unexpectedly began discussing an issue that addressed one of my research questions. For instance the topic of the University mishandling the scandal was debated by administrators, the women who survived rape and their supporters, and some community members.

Collecting the comments in this way provided a scaffolding to ascertain the discourses utilized by various groups. Once the initial data coding was complete, I went back through to look for patterns in the responses to the case. The groups of comments that were repeatedly and consistently used (such as police detectives providing information regarding their investigation and a lack of effective communication among athletic department employees and administrators) were then further examined to determine if they qualified as discourses. Discourses must be productive statements in that they constitute meaning and have the potential to construct subjectivities (Gavey, 1997). For example, they cannot be merely informative remarks from police detectives. They must also incorporate viewpoints larger than individual people's opinions and perpetuate power relations (Gavey, 1997). The variety of discourses found in the data³ include: i) discrediting the women who survived rape, ii) denying the existence of and responsibility for rape culture in the football program, and iii) placing blame on CU for not taking preventative action.

When deciding what discourses and quotations to discuss in this paper, I focused on the material that best addressed my research questions. Specifically, I looked for information

³ Please see Figure 1 page 69 for a diagram of the various discourses I found in the data.

demonstrating that a rape culture existed in the CU football program and was perpetuated and propagated by CU through its reactions to the rapes and civil suits. Throughout the data analysis and interpretation process, I consciously considered the privilege I granted each text by including them in this thesis. This was not done to try and balance the perspectives or incorporate texts evenly, but as a reflexive exercise. I tried to be aware of the relative significance each type of text had for various stakeholders (i.e. CU administrators, the CU legal team, the women who survived rape, community members learning about this case through the news media, and myself as the researcher). For example, newspaper articles were important because they provided a daily update on the status of the case, albeit from a necessarily limited view point, but they did not carry the same authority as the court decisions which were backed by the weight of the legal system.

3.6. Research limitations

As with all methodologies, the one utilized in this research was accompanied by a set of limitations separate from those associated with the data sources previously discussed. They stem from the restricted nature of resources available, not having a more complete picture of what the institution actually did and what impact that had on the communities in and around CU.

The first limitation was only having access to the texts listed in section 3.4. There were other types of texts created by the University which I was not able to recover. I only had access to the texts published online at the time of data collection (September 2006 – January 2008). It would have been interesting to know how the sexual assault and harassment policies changed from 2001 (before this case started) to their current versions. However, since the past versions are not kept as records on the CU website, it is difficult for an outsider to obtain them. Also, other unpublished texts such as letters, emails, petitions, etc. among administrators, faculty, or

student groups in relation to this case may have also provided valuable insight to the inner-workings of the institution and the development of discourses and their promotional strategies.

While newspaper articles published in *The Daily Camera* and other newspapers were plentiful, this may have only supplied the researcher with a narrow glimpse into the discourses used by community members. In this research I relied on these texts to inform me about the discourses circulating in the community. This methodology did not allow me to find out to what degree the discourses were adopted into peoples' subjectivities or even if community members thought a rape culture existed within the football program and was perpetuated by CU. One way to alleviate this problem in future research would be to conduct interviews with key people within the Boulder community such as former administrators, coaches, recruits, players, women who survived and reported rape, and community members. In addition, interviews with key leaders in the community or those involved the case could have provided me with additional information about the December 7th party, the investigation, and civil suit. Moreover, these interviews could address questions about how the community responded to the rapes, investigation, civil suit, scandal, and CU's response. While I think that these would have been interesting and helpful aspects for the analysis, this research and my research questions took a different direction by utilizing a discourse analysis that focused on the strategies CU employed when rape was reported against its football players.

Knowing these limitations and critiques of my data sources allowed me to focus on the resources that were available to me and work within their shortcomings. This meant that I focused mainly on drawing out the various discourses present in the texts by examining how the comments and reactions made by CU representatives constructed knowledge of the case. I also dissected the discourses to find and understand how strategies were used to promote them. I then

theorized about how CU propagated rape culture among the community members through their use of discourses and promotional strategies.

Chapter Four

Findings and Discussion

4.0. Introduction

In this chapter I examine how the data addressed my two research questions by analyzing several themes discovered during coding and data analysis. Because of the large volume of data available to study for this project, I specifically focused on examining the possibility of a rape culture within CU's football program. If another researcher decided to look at the data using a different lens, or approach them with a different motivation, she or he could come up with different interpretations. The findings discussed here were produced through a mixture of my assumptions based on my social location, the theoretical frameworks I drew from, the research questions that guided the study, and the series of reported events surrounding the rape and recruiting scandal at CU from 2001 to 2007. Though I used a large portion of the data to inform my analysis, I only incorporated select quotations and examples from 96 of the 457 sources collected, into this report. I chose these pieces of data because they provided explicit evidence to address my research questions and made a compelling case that rape culture was present within the CU football program. The texts that were not cited in this thesis tended to repeat others or did not address my research questions in a way I deemed significant. Some texts are cited numerous times (i.e., the IIC report) because they contained the most useful information.

With respect to my first research question, asking if a rape culture was present in the CU football program, I identified three main themes that showed how this was the case. They were: i) a lack of effective communication between CU administration and the athletic department, ii) CU's maintenance of a sense of entitlement in some players via the recruiting process, and iii) the ways some football coaches fostered a rape culture in their reactions to sexual harassment

and assault incidents. These were important findings because they established that a rape culture existed prior to the December 7th, 2001 rapes and provided insights into the second research question.

The themes discussed in the second part of this chapter address my second research question regarding how CU perpetuated and propagated rape culture through the use of discourses. Two discourses, one I call “discrediting the women who survived rape” and the second I call “denying the existence of and the responsibility for rape culture,” will be examined in depth. Each discourse is discussed according to the strategies used to promote it, such that the discourse discrediting the women who survived rape i) continually qualified Lisa Simpson’s rape assertion and ii) claimed victimhood for CU representatives. Strategies associated with the discourse denying the existence of and responsibility for rape culture i) scrutinized and minimized Simpson’s account of her rape and ii) individualized and disregarded University member wrongdoings. Following the discussion of each discourse and its related strategies is an analysis of how CU’s use of these discourses facilitated the propagation of rape culture. Before analyzing the data related to each research question, I provide a chronology of events to contextualize the findings.

4.1. Chronology of events

This section describes the CU case as it unfolded in the media. The first segment provides background information about the perceived importance of the CU football program and its recruiting efforts. The next segment is a description of the December 7th, 2001 party where three women were raped and which ignited the scandal. The third segment documents the unfolding scandal as it related to CU and the Boulder community. In the final segment, the resolution to the civil lawsuits brought against CU by three of the women who were raped is discussed.

4.1.a. The perceived importance of CU football recruiting

Universities - and especially athletic departments - view athletic recruiting as an important tool to further their athletic programs. Being the home to prominent athletic teams could potentially heighten schools' national and international exposure, and possibly bring in more funding through ticket sales, alumni contributions, and sponsorships (Fulks, 2008). The CU football program was very prestigious because:

from 1989–2005 the team had the twelfth-best record among all teams in Division I-A of the National Collegiate Athletic Association (NCAA). It won the national championship in 1990, finished first in the Big 8 Conference three times between 1989 and 1995, and was the Big 12 Conference champion in 2001. (United States Court of Appeals, 2007, p. 19)

In addition to the football team winning their first Big 12 Championship one week prior, CU was preparing itself for the prestigious Tostitos Fiesta Bowl game on January 1st, 2002. By the end of the season the team was ranked one of the top ten teams in the country. Part of the reason for their 'success' was due to their recruiting program that brought in top athletes from around the country. CU football, like other top athletic programs, placed a considerable emphasis on its recruiting program. For example, CU's athletic department spent \$315,000 annually on football recruiting according to David Hansburg, the Director of football operations (Independent Investigative Commission [IIC], 2004).

4.1.b. The December 7th, 2001 party

Lisa Simpson⁴, Anne Gilmore (two white women), and Monique Gillaspie (a black woman) were raped by University of Colorado (CU) football players and recruits during and after an off-campus party on December 7, 2001. The party, located in Simpson's apartment, was meant to be a 'girls' night in' between Simpson and a few of her friends. However, one friend –

⁴ Though the CU case involved ten reports of rape by separate women, in this thesis I focus mainly on Lisa Simpson's rape and civil suit due to its more extensive coverage by the media and the more pointed attacks on her character by the University and community members. She was also seen as the 'instigator' of the scandal by many of her critics.

Sarah, who was also an athletic tutor – covertly planned with a football player, Corey Alexander, to use the party as a way to impress the visiting football recruits they were hosting by creating the opportunity for recruits to have sex with female students. This was later dubbed “showing a recruit a good time” (IIC, 2004, p. 11). The recruits were visiting the CU campus for the weekend as a type of an interview process whereby they may decide to sign attendance contracts with CU. The players, known as player-hosts, were their guides and chaperones. Before going to Simpson’s apartment, the players and recruits were drinking and smoking marijuana in a player’s dorm room. Sarah asked Simpson if four players could come over, to which she agreed. However, twenty players and recruits actually arrived. By this time, Simpson, Gilmore and their friends had finished playing a drinking game and were extremely intoxicated. Simpson was only acquainted with one of the players at the party. During the course of the party, some players, recruits, and friends left. When the final group of players and recruits were about to leave the party, Sarah stopped them and told them “it’s about to go down,” (Thompson, 2002, p. A-1) meaning that the recruits could have sex with the women.

According to Simpson’s deposition, she was feeling very tired by this time so she went into her room and lay down on a bed to sleep (Hartwig, 2003). She lost consciousness for some period of time. She was awakened by two men pulling her pants and underwear off and at least one of them penetrating her vagina with his penis. Following that, at least two men forced her to perform oral sex on them by shoving their penises into her mouth. She was also groped and fondled by the men and forced to help them masturbate. She remembered gaining scattered consciousness and feeling confused and afraid. Her bed was surrounded by at least four large football players and/or recruits and she did not feel able to protest or resist the sexual advances for fear physical aggression. Although Simpson was not able to positively identify any of the men who attacked her, police reports indicate that two black recruits, Anthony Wright and

David Gray had sexual contact with her (Thompson, 2002). Gilmore was in the same bedroom being raped during this time period by three unidentified men - two of which were players (United States Court of Appeals, 2007). Three other women reported being sexually harassed by players and recruits during the party (ibid.). According to a police report (Thompson, 2002) and Simpson's deposition (Coffman, 2003a), later that night Simpson came to the realization that she had been raped and decided to go to the emergency room with one of her friends. Once there she declined to take a rape kit because she did not want to talk with police or report the rape at that time. However, soon afterward she went to the student clinic on campus to complete the rape kit and to file a report.

According to her lawsuit, Monique Gillaspie briefly attended the party at Simpson's apartment. Gillaspie left before Simpson and Gilmore were raped and met up with some of the players after the party. She was consensually engaging in sexual activity with one black football player, Marques Harris, but wanted to stop the interaction when another black player, Clyde Surrell, entered the room. At this point Harris vaginally raped her while Surrell undressed himself, touched her, and watched the rape (Herbert, 2004h; Sherman, 2007). While both Gilmore and Gillaspie cooperated with police in Simpson's rape investigation, neither came forward about their own rapes until more than two years after the party when they brought separate civil lawsuits against the University.

4.1.c. The scandal

In April of 2002, District Attorney (DA) Mary Keenan announced no criminal sexual assault charges would be pursued in connection with Simpson's rape (Reid, 2002b). However, a week later, four football players, Marques Harris, Corey Alexander, Joseph Mackey Jr., and Ron Monteilh were charged with felony counts of contributing to the delinquency of a minor in relation to providing the high school age recruits with alcohol and marijuana before the party

(Fruchter, 2002a). Sports fans, Boulder residents, and even feminists who supported the unnamed rape survivor, accused the police and media of racism since it seemed these four black men were scapegoats in the rape case due to lack of evidence (Fruchter, 2002b; Gronley & Curl, 2002; Kois, 2002; “Mad at the media,” 2002; Regensberg & Reid, 2002; Woelk, 2002a; 2002b). Subsequently, in August of 2002, Harris, Alexander, and Mackey “received 18-month deferred sentences ... after pleading guilty to misdemeanor charges of providing alcohol to minors” (Sebastian, 2002). Their punishment consisted of 36 hours of community service and a restraining order to stay away from Simpson. Charges were dropped against Monteilh due to his being falsely identified by Anthony Wright (Regensberg, 2002). Another player, Clyde Surrell, was charged instead and pled guilty to the same sentence (Camera staff, 2002). No punishment of either recruit, Anthony Wright or David Gray, was reported.

On December 9, 2002, Simpson filed a civil lawsuit against CU, Anne Gilmore followed on December 10, 2003, and Monique Gillaspie filed on January 14, 2004. They argued that the University was deliberately indifferent to the culture within the football department which, in turn, allowed their rapes to occur. The court specified the plaintiffs were “claiming that CU knew of the risk of sexual harassment of female CU students in connection with the CU football recruiting program and that it failed to take any action to prevent further harassment before their assaults” (United States Court of Appeals, 2007, p. 7). Monique Gillaspie’s suit added an extra dimension, arguing she was racially discriminated against by her soccer coach and teammates, threatened by members of the athletic department, and had her scholarship revoked without receiving a hearing following her cooperation with detectives during Simpson’s rape investigation (Herbert, 2004c).

Just days after Gillaspie filed her civil suit DA Keenan was quoted by journalists as asserting that the CU football recruiting program used sex and alcohol as recruiting tools. After

enormous community uproar and political pressure, CU president Elizabeth Hoffman announced that an independent public inquiry, later known as the Independent Investigative Commission (IIC), was being organized to look into the football recruiting program (Hoffman, 2004a).

More reports of rape by CU football players were made public during this time period. On February 17, 2004, an article in *Sports Illustrated* was published in which Katie Hnida, a former kicker for the CU football team, told of her repeated experiences of sexual harassment by teammates and rape by a player during the summer of 2000 (Reilly, 2004). When asked to comment on Hnida's rape report and athletic abilities, Head Football Coach Gary Barnett told the press,

She was awful. You know what guys do? They respect your ability. I mean, you could be 90 years old, but if you could go out and play, they would respect you. Well Katie was a girl, and not only was she a girl, she was terrible. She couldn't kick the ball through the uprights. (King, 2004)

The next day Barnett was placed on paid administrative leave for making these comments. On February 18 another rape report was made public. This one came from a female athletic Trainer⁵ who asserted that she was raped by a football player on September 28, 2001 ("Alleged sex assaults," 2004). In the following weeks a series of sexual assault reports against CU football players were released to the public, totaling ten reported cases between 1997 and 2004. Not all of these cases were reported to the police, but as research indicates, only about 5% of rape cases are (Koss, 1997).

On May 14, 2004 the IIC released its report and was highly critical of the CU administration, the athletic department, and the football program. After receiving reports from the IIC and other simultaneous investigations being conducted, and to the dismay of many in the community, Hoffman announced she would not terminate anyone's employment due to the scandal (Mattern Clark, 2004m). She also announced CU was implementing "sweeping

⁵ The Trainer never released her name publically so I capitalize Trainer in this paper to signify her name.

changes” to the Athletic Department which would impact the recruiting policies (Hebert, 2004d) and the organizational structure of the department (Byyny, 2004).

Even though none of the CU administrators were forcibly removed from their positions as a result of the scandal or investigations, they all eventually left their posts early. Athletic Director Tharp resigned on November 23, 2004 and made it clear the administration no longer wanted him as the CU Athletic Director (Camera staff, 2004d). Chancellor Byyny took a position as “the executive director of a new health policy center at the CU Health Sciences Center in Denver” (Camera Staff, 2004e, p. B4) on CU’s Fitzsimons campus. On March 7, 2005 President Hoffman announced her motivation to resign was so the Colorado legislature could refocus on the financial needs of CU instead of on her. Two other scandals were also plaguing CU during this time: an alcohol-related death of a student and a professor’s comments regarding the September 11th terrorist attacks (Mattern Clark & Morgan, 2005). In addition, Hoffman was no longer supported by the Board of Regents (ibid.). On March 9, 2005 Head Football Coach Barnet was bought out of his contract with a \$3 million settlement (“CU scandal fallout,” 2005).

4.1.d. The outcome of the civil suits

On December 14, 2004 Gillaspie withdrew her lawsuit against CU asserting she was experiencing “guerrilla warfare” from CU’s litigation team (Reid, 2004b). She argued that the litigation process had been “extremely painful and exceedingly invasive” (p. A1) and she reported enduring “abusive attacks by CU lawyers on my character and credibility and private life” (ibid.). She thought these attacks were going to get worse and decided it was not worth her “mental and emotional cost to continue” (ibid.).

By this point Simpson and Gilmore had consolidated their lawsuits and were trying to set a court date as well as admit into evidence some of the information that came to light during the course of the IIC and other investigations. The CU litigation team, on the other hand, put forth a

motion for a summary judgment and several motions to exclude any new evidence. A summary judgment was issued for CU on April 1st, 2005 which dismissed the lawsuit. Judge Blackburn argued that the plaintiffs failed to sufficiently prove two aspects necessary in a Title IX case: “that the university knew that female CU students were sexually harassed by football players or recruits ... [and] that the university was indifferent to this sexual harassment” (Anas, 2005, p. A1). The plaintiffs, Simpson and Gilmore, appealed their case and by September 6, 2007 the United States Tenth Circuit Court of Appeals reinstated their case arguing:

the evidence presented to the district court on CU’s motion for summary judgment is sufficient to support findings (1) that CU had an official policy of showing high-school football recruits a “good time” on their visits to the CU campus, (2) that the alleged sexual assaults were caused by CU’s failure to provide adequate supervision and guidance to player-hosts chosen to show the football recruits a “good time,” and (3) that the likelihood of such misconduct was so obvious that CU’s failure was the result of deliberate indifference. (pp. 4-5)

The reversal of the summary judgment by the Court of Appeals was an integral aspect in CU’s decision to settle the case out of court on December 4, 2007 – three days before the sixth anniversary of the rapes. CU agreed to pay Simpson \$2.5 million while Gilmore received \$350,000. The difference in amounts was due to Simpson’s suit lasting longer as well as being the lead plaintiff and therefore incurred greater legal fees. As part of the settlement, CU also agreed to create a Title IX Advisor position and add another half-time position in the Office of Victim Assistance (Anas, 2007). As part of the settlement, however, CU did not have to admit any wrongdoing. The administrators, instead of conceding that they or the CU institution contributed to the culture that allowed the women’s rapes to occur, argued they were merely paying the settlement fees to avoid prolonging the case and spending more taxpayer money. An interesting side note was that Barnett was paid more to leave CU (\$3 million) than CU paid in total to Simpson and Gilmore (\$2.85 million).

4.2. Rape culture in CU football

This section analyzes some of the ways a rape culture existed in the football program and is broken into three themes: i) the lack of effective communication between CU administrators and athletic department employees regarding incidences of sexual assault and implementation of recruiting policy changes, ii) the ways the football program's unofficial recruiting practices reinforced some of the recruits' sense of entitlement to sex and how they bond men together in all-male peer groups, and iii) how football coaches fostered rape culture through their reactions to sexual assault and harassment incidences involving their players.

4.2.a. Lack of effective communication

In 1997 the CU football recruiting program was involved in another rape scandal similar to the one described in this research. It was dubbed the '1997 incident' within court depositions and newspaper articles and I use this term to maintain consistency. After a 1997 football recruiting party, which resulted in a local female high school student reporting she was raped by a recruit, the District Attorney's office met with CU officials, herein called 'the 1998 meeting' for the same reasons as the 1997 incident. The DA at the time, Alex Hunter, told them that charges would not be pressed on any player or recruit for sexual assault (IIC, 2004) and only one player was charged with contributing to the delinquency of a minor, exactly what the four men were charged with in the Simpson case (Meade Hansen, 2003). According to the IIC Report (2004), the DA discussed with administrators how CU planned to deal with its football program and what policy changes needed to be made. Soon-to-be District Attorney Keenan, also told CU administrators if a situation like the 1997 incident happened again, the district attorney's office would "deal with it very seriously" (Coffman, 2003b, p. 96).

The IIC (2004) and the United States Court of Appeals (2007) ruled that the University made very few changes to deter further abuses. Among its conclusions, the IIC (2004) report

cited a lack of effective communication as being instrumental in maintaining the status quo and not sufficiently addressing the role recruiting played in sexual assault. It stated Athletic Director, Richard Tharp, made it clear to employees they worked under an unofficial policy of “plausible deniability” and “don’t ask, don’t tell” (IIC, 2004, p. 13). Another example of ineffective communication was that none of the administrators informed Head Football Coach Barnett of the 1997 incident when he was hired in 1999 (IIC, 2004). In addition, following the 1998 meeting, the Chancellor of the CU-Boulder campus, Richard Byyny, told Tharp to implement new recruiting practices. According to documents obtained by the IIC (2004), these consisted of creating new “policies regarding student-athlete behavior, including a zero-tolerance rule for violations that threaten the health, safety, welfare or property of student-athletes and others” (p. 18). Tharp implemented a few minor changes such as sending a letter “to every recruit prior to an official recruiting visit, outlining standards of behavior, including a prohibition against the use of alcohol or tobacco” (ibid.). However, it took Tharp months to respond to Byyny’s request for more substantial changes such as:

establish[ing] strict curfews and reporting mechanisms for visiting high school student recruits, as we do for other high school recruits. ... Only use[ing] well-trained upperclassmen to serve as hosts for student recruits, and [preparing] well-structured itineraries for campus visits and ensur[ing] that the itineraries are followed. (IIC, 2004, p. 21)

When Tharp did respond to the repeated memos he made note of a few speakers he brought in to talk with the football team as well as specific changes he had made to the recruiting program including:

A new 1 a.m. curfew with a hotel check-in procedure. Better criteria for player-host selection and direct acknowledgement of behavioral expectations for hosts, including hosts signing a form. Copies of letters to be sent individually to recruits, parents and high school coaches [and] Establishment of a new Life Skills coordinator position. (p. 22)

Though these changes were a step forward, Tharp and Barnett were still reluctant to implement all of Byyny's requests such as restricting player-hosts to upperclassmen and explicitly stating

on the “student host form” that alcohol and “exposing [recruits] to other risky situations” was “inappropriate” for recruiting visits (p. 23). As noted by the United States Court of Appeals (2007):

Tharp acknowledged in his deposition, none of the eventual recruiting or policy changes ... addressed either sexual contact between recruits and females or the responsibilities of player-hosts (other than a general statement that student-athletes should comply with Colorado law). (p. 26)

The argument put forth by Tharp and Barnett was by making changes to the recruiting program they would “lose their competitive advantage” (Coffman, 2003b, p. 47), since the top recruits would no longer choose to come to CU for visits or to play football.

4.2.b. The role of unofficial recruiting policies in fostering rape culture

In contrast to the official recruiting policies and practices that restricted recruits and players’ behavior, the unofficial strategies were aimed at enticing recruits by emphasizing their perceived entitlements. Though constraints were eventually placed on the use of these strategies in February and the summer of 2004 at the height of the scandal, they included hiring exotic dancers to entertain recruits and football players at parties and taking underage recruits to strip clubs and bars as well as to parties to hang out with college women (Morgan, 2004). Nathan Maxcey, a recruiting aid for the football program, was indicted by a grand jury in the spring of 2004 for solicitation of prostitution in connection with his personal use of an escort service known to police as a front for prostitution (Mattern Clark, 2004e). Although the grand jury did not have enough evidence to charge him with pimping (Herbert, 2004f), one of the women he hired testified that Maxcey set recruits and players up with women from the escort service (Mattern Clark, 2004k). Barnett explained and justified these recruiting tactics as showing the recruits what university life was like (Hilliard, 2001).

The purpose of recruiting visits was to entice recruits to join the team. So to facilitate this, CU football established a player-host and ambassadors program to introduce recruits to the

campus. During official recruiting visits, high school athletes came to CU for a weekend to get acquainted with the team and were given campus tours by female students employed as ambassadors. Player-hosts introduced recruits to potential teammates and coaches, showed them around Boulder and entertained them in the evenings. According to Robert Chichester's deposition, player-hosts were "'usually underclassmen, were chosen because they knew how to 'party' and how 'to show recruits a good time,' and would 'do a good job of entertaining [them]'" (United States Court of Appeals, 2007, p. 20).

In their attempts to recruit the best players of the season, schools engaged in an 'arms race' to out-do each other (IIC, 2004). This constant vying for attention universities engage in contributed to the sense of entitlement that some recruits and players felt. Dr. Patricia Adler, a sports researcher at the University of Colorado, told *The Daily Camera* that recruits "expect to get material things from boosters, they expect they're going to get through school without doing work – and that's not going to happen, but that expectation is part of the culture" (Mattern Clark, 2004h, p. A1). Adler then linked a sense of entitlement to sex when she discussed how recruits and players interact, "what they tell each other is, 'we're hot shots, and we should be able to get sex' ... and coaches sometimes encourage it when they recruit them" (ibid.). This point is supported by Kuney's (2004) argument that when seemingly sexually available women, such as the carefully selected female ambassadors who showed recruits around campus (Hillard, 2001b) were incorporated into recruiting visits, the athletic department not so subtly told the recruits that "sex is part of the package of athletic stardom, and that somehow or another, a right of access to female bodies is just part of the deal" (Kuney, 2004, para. 7). When recruits arrive at university, and even if the reality does not match up with their expectation, the anticipation of special treatment and the idea that university life includes partying with sexually available women helps shape the recruits' mentality and behavior toward school, football, and women.

An example of how a sense of entitlement was present for some of the recruits was highlighted in the IIC (2004) report. One of the IIC panelists and the Executive Director for the Colorado Coalition Against Sexual Assault, Jean McAllister, said in addition to drugs and alcohol being available on request, “sex is expected and available periodically” (Mattern Clark, 2004l, p. A1). This was corroborated by the comments of one recruit to his player-host during his visit the night before the December 7th, 2001 party. On December 6th, there was a party at the Omni Interlocken hotel where at least one recruit had sex with a female student. “Two other recruits told their host they did not have sex and that CU was ‘weak’ because they hadn’t ‘hooked up’ with any girls” (IIC, 2004, p. 14). Though the player-host, Daric Wilhite, said in his deposition he was not responsible for providing his recruits with sex or to “tell him ... what’s right from wrong” (Herbert, 2004a, p. A1), players did find a way for the recruits to have sex at the Simpson party the next night. DA Keenan contradicted Wilhite’s statement in her deposition when she said the recruits:

had been built up by the players to believe that the situation [the Simpson party] they were going into was specifically to provide them with sex, sexual favors by the women who would be present, and that (the recruits’) mindset coming into it was that it was consensual because they had been told it had been set up for that very purpose. (Talbot, 2003, p. B1)

Keenan called this “third-party consent” (ibid.) and argued her office could not press charges against the recruits since they thought the women had agreed to sex beforehand. Moreover, a recruit present at the party told police investigators in an affidavit that he was told by several CU players “he should come to CU to play football because ‘... this is what you get when you come to Colorado...we're the big twelve champs ... so we can do this every weekend’” (Fruchter, 2002a, para. 7).

This example demonstrated that some recruits and players did hold a sense of entitlement to sex that was linked to their status as football players. Status here was associated not only with celebrity and prestige which accompanied being a member of the CU football team, but also to a

position that placed them above the law in many people's minds (Schwartz & DeKeseredy, 1997). Schwartz and DeKeseredy (1997) argued that many people, including "police chiefs, college administrators, and others will brag about getting charges dropped" (p. 129). Even when criminal cases do go to trial, some juries may find it difficult to convict "such an important member of the team" (ibid.) because doing so may jeopardize the team's success. Thus, not only do recruiting practices foster a sense of entitlement to sex within the players and recruits, but they may also feel confident they will be protected from any wrongdoing because of their membership on the football team.

These unofficial recruiting practices are also examples of the all-male peer support group activities that bond men together and shape their masculinities. As Schwartz and DeKeseredy (1997) argued, close-knit homosocial peer groups teach men about the forms of masculinity and masculine behavior accepted within the group. Also, "homosocial male groups commonly use women as sexual outlets, as 'bait' to bring in new members, [and] as adornments" (p. 49). In addition, group secrecy and the sexual objectification of women send the message to men predisposed to gendered violence "that their actions are not wrong" (ibid.). Thus, utilizing sexually objectifying recruiting strategies aided in "team building" and enticed recruits to join the team, but also sent them the message that CU supported sexual objectification of women.

One of the main arguments in CU's discourse denying the existence of and responsibility for rape culture was that these incidents were the result of individual students and employees making bad decisions and it was not the University directing them to act in these ways. They argued further that the players were not acting on behalf of the University when they took underage recruits to bars and strip clubs because they did not use University money and CU did not officially tell them to go to those places (Hoffman, 2004b). However, the players were

representatives of the University to the public and were the face of CU football in promotional advertisements.

Furthermore, player-hosts were representatives of the University to recruits. They were with them throughout the visit and were their link to the team. Player-hosts knew their role impacted the success of the team as it was their job to entice recruits to sign with CU by giving them positive and memorable social interactions during the visits. As one player-host said in his deposition, “these are the top recruits from around the nation ... They’re the future of our team” (IIC, 2004, p. 15). So, when recruits started to complain about not being satisfied with their visit, hosts modified their plans to please them. In addition, as the IIC (2004) reported, player-hosts did not receive adequate training and did not understand part of their role was to take responsibility for their own and the recruits’ behavior. The report stated, “some hosts...resorted to providing alcohol, drugs and sex, including visits to strip clubs and the hiring of strippers” (IIC, 2004, p. 13). CU found itself caught up in “a hyper-competitive recruiting ‘arms race’ that is complicated by the presence of big money, lucrative media and easy access to alcohol and sex” (p. 5). The pressure to recruit and retain the top football players in the country was an important contributing factor in the University’s ability to overlook the rape culture within the football program.

4.2.c. Coaches’ reactions to sexual harassment and assault

In addition to the official and unofficial recruiting practices utilized by the football program, rape culture was also visible in the ways the players and coaches treated women associated with their team, and how coaches sanctioned players for acts of violence committed against women. There were two examples that received in-depth exploration in the news media. The first was that of a female Trainer who worked with the football team. In September of 2001, only months before Simpson, Gilmore, and Gillespie were raped, the Trainer was raped by a

football player when they were watching a movie at her apartment. Afterward she talked to her supervisor, Steve Willard, as well as Coach Barnett to inform them of the inappropriate behavior. She told them she was unsure about filing a report with the police or university officials. She told the IIC during their investigation that Barnett intimidated her and warned if she pressed charges he would “back his player 100 percent” (Herbert & Morgan, 2004, p. A1). Coach Barnett did not report this incident to the Office of Sexual Harassment as the university sexual harassment policy dictated he should. Instead, he made the player run extra laps (Brudd, 2003, p. 236), see a sports counselor (Mattern Clark, 2004d), and edited a letter of apology the player wrote to the Trainer. Ultimately, the Trainer did make a report with the police, but she decided not to press charges.

The second example was that of Katie Hnida, the first female kicker to play football for CU. Throughout her entire football career at CU, she was sexually and verbally harassed, molested, and eventually raped by a fellow teammate in the summer of 2000 (Avery, 2004, p. A1). Hnida did not tell Barnett about the harassment because she was afraid he would kick her off the team (ibid.). When her father, Dr. Hnida, told Barnett about it, Barnett reacted with indifference. In his deposition for Simpson’s civil suit, Barnett said that he confronted the player who repeatedly called Hnida a ‘cunt’ by giving him “a tongue-lashing” (Brudd, 2003, p. 124). He also told Dr. Hnida the player was “from Texas, so you’ve got to expect that” (Herbert, 2004b, p. A1). Again Barnett did not report this verbal abuse, or the other incidents he learned of through Dr. Hnida, to the Office of Sexual Harassment. Barnett also testified in his deposition that Hnida being repeatedly called a ‘cunt’ was “absolutely not” sexual harassment (Brudd, 2003, p. 124). He further told a journalist for *Sports Illustrated*, “I don’t believe she was sexually harassed. I don’t believe our players would do that” (Reilly, 2004, para. 11). Instead, Barnett labeled it a “name-call[ing]” (Brudd, 2003, p. 125) incident and did not pursue it further.

President Hoffman supported Barnett in arguing that ‘cunt’ could be used as a term of endearment in certain situations and also refused to classify it as a form of sexual harassment (Talbot, 2004a).

Barnett’s insensitive statements about Hnida and his inability to recognize sexual harassment affected the culture of his whole team. Barnett was considered by many to be an improvement from the previous head coach, Rick Neuheisel, who had committed numerous National Collegiate Athletic Association (NCAA) violations by the time he left CU in 1998. Barnett had a reputation as a strict disciplinarian and a handbook that outlined appropriate behavior for his players including a section on how to avoid raping a woman. One page of the handbook was dedicated to “Date Rape and Social Policy” and it warned players:

‘not [to] put [themselves] in a position to lose everything [they] ha[d] worked hard for by committing a sexually aggressive act.’ *Id.* It cautioned that “NO means NO; even if you think she means yes”; “[a] girl never owes you sex”; and “[n]ever initiate intercourse if the woman is intoxicated or passed out.’ (United States Court of Appeals, 2007, p. 27)

However, as these two examples illustrated, Barnett did not enforce this policy consistently. He chose which players to discipline and how to do it, with limited guidance from University policies⁶. As Robert Chichester, who helped draft the 1999 university-wide sexual harassment policy when he was a University lawyer, noted in his deposition, the policy stated, “anyone who has witnessed sexual harassment should report such behavior to a campus sexual harassment officer” (Handweiler, 2004, p. 21).

Even though there were many factors that contributed to the football program’s rape culture, Barnett played a significant role. He was a role model for the players, he set the tone for the team and when he was unable or unwilling to follow university policies, such as the sexual

⁶ Please see Appendix B for the Sexual Harassment Policy (2003) effective July 1, 2003. Even though this policy replaced the one in effect since 1999, the reporting guidelines are similar according to Chichester’s description of them during his deposition (Handweiler, 2004).

harassment policy, it sent a message to the players that sexual harassment and assault were not issues to be taken seriously. As Sanday (1990) argued:

There is a widespread tendency on the part of college administrators to ignore or cover up reports of [gang rape].... The absence of a strong set of sanctions against abusive party sex on many campuses not only encourages incidents of gang rape but also helps explain the high incidence of sexual harassment and date rape at colleges" (p. 14-15).

While Barnett claimed to have followed the sexual harassment policy in the Trainer's case (Meade Hansen, 2004), his actions demonstrated he was either unfamiliar with the policy, did not understand his responsibilities, or chose not to follow it in these specific instances. Further, if Barnett could not recognize which actions and attitudes constituted sexual harassment and assault, how could he teach and discipline his players about them? Barnett repeatedly argued that his role was "to educate his players and to hold them accountable if they [broke] those rules" (Meade Hansen, 2004, p. 153). He said that was the limit to his responsibility and he was not responsible for their actions off the field. I partly agree with this principle in that there was a point where the players and recruits needed to take responsibility for their own actions. However, I contend that he should be held accountable for not teaching them properly and for being lenient and inconsistent in his discipline.

In addition to Coach Barnett's response (or lack thereof) to the Trainer's report of sexual assault by a player and Hnida's reports of sexual harassment and assault by fellow teammates, other coaches also played roles in cultivating the team's rape culture. The strength and conditioning coach, E.J. 'Doc' Kreis, admitted in his deposition that he allowed football players to include time they spent lifting weights as community service hours imposed as punishments for team, school, and legal violations (Herbert & Reid, 2004). While he did not specify these were the same players sentenced to community service as part of their plea bargain for contributing to the delinquency of a minor in the Simpson case, this was still evidence that coaches did not enforce adequate punishments for players. This then contributed to some

players' general sense of entitlement due to their status. I argue that the players' sense of entitlement may have been reinforced when they were not adequately punished for their wrongdoings. Furthermore, players who did not commit the violations but who knew about the lenient punishment may have grown more confident in their sense of entitlement in a similar way to how a culture of silence leads to group loyalty and a perpetuation of rape culture (Schwartz & DeKeseredy, 1997).

As Benford (2007) stated, "athletic departments help reproduce rape cultures by contributing to many male athletes' sense of entitlement and by shielding them from prosecution" (p. 17). DA Keenan acknowledged the decision not to press charges in regard to the rape investigation was partly due to "a lot of covering up" (Wilton, 2003, para. 16). For example, Kreis was involved in hindering the investigation into Simpson's assault. He told one of the players who made a videotape of a December 8, 2001 conversation between some of the women and players who attended the Simpson party to hide the tape from the police and make copies of it (Herbert & Reid, 2004). In addition, Kreis and co-defensive coordinator Vince Okruch, spoke with some of the suspected players before they talked with the police (Brudd, 2003), giving them a chance to get their stories straight and contact lawyers (Reid, 2004a). These actions demonstrated the close-knit and loyal relationships present in the football program. As Merton (1985) stated, acts of loyalty such as this quickly spread among the group and to similar groups and send the message to men that the football program, athletic department, and the University will protect you. Some players who may otherwise wish to report the injustices they witness within the team may be hindered by these actions also. Many football team members place a high value on their group membership and in some cases their identities may ride upon it. When a man's identity is tied into group membership, he may be unwilling or unable to take actions that would jeopardize his membership and thus his identity

(Schwartz & DeKeseredy, 1997). In addition, the supportive and concealing actions by the coaches may also illustrate the consequences of not punishing offenders since rape survivors may be reluctant to report sexual assaults or press charges when they see players continually shielded from prosecution or serious punishments. However, when a survivor achieves some level of perceived success in her report (i.e., through positive media attention, community support, and/or judicial recognition), other survivors may be encouraged to come forward if they think their case may also be taken seriously (Bohmer & Parrot, 1993). The relative support by community members, police investigators, and the DA may help explain why there seemed to be a wave of assaults reported against football players during this time span.

While the University may argue in the discourse denying the existence of and their responsibility for rape culture within the football program, that the examples just given were only coincidences or incidents committed by isolated individuals, they actually provide strong evidence of a rape culture. The abstract construct of rape culture was made visible through these examples, because as Tharp said, “You get to the point where there are this many allegations, and everybody starts to think there must be something there” (Mattern Clark, 2004n, p. A1). It was evidenced through the sexual expectations recruits had during their visits, through repeated rapes perpetrated by football players and recruits against women, and through the lack of recognition and inconsistent discipline by coaches, the athletic department, and the University regarding sexual harassment and assault. Whether or not the University officially endorsed the use of sex as a recruiting tool, it was used as one and by not curtailing this institutional practice, rape culture was perpetuated.

4.3. Examining CU’s discourses and promotional strategies

The following section provides data related to my second research question on how CU responded to the rapes and lawsuits in a way that perpetuated and propagated rape culture. The

first subsection discusses the various discourses and the process I used to narrow them to the two CU discourses analyzed. Next, I discuss the relative power associated with or ascribed to CU's discourses in relation to the ones advocated by Simpson, Gilmore, and Gillaspie. The third subsection examines CU's discourse of discrediting the women who survived rape, and Lisa Simpson in particular. The University utilized two strategies to promote the discrediting discourse, namely, i) qualifying Simpson's argument and ii) administrators claiming they were victims of the scandal. CU's discourse which denies the existence of and the responsibility for rape culture in the football program is discussed in the next subsection. To promote this discourse CU argued that the evidence brought by the women was attributed to isolated individual misbehavior, a strategy I call a micro-view. This strategy is illustrated using three examples from the data: i) how CU's litigation team interrogated Simpson, ii) a Colorado Regent's reaction to Nathan Maxcey's indictment, and iii) the way CU's litigation team responded to Simpson and Gilmore's request to introduce additional evidence in their civil suit.

4.3.a. Discourses in the data

In examining the data to address the ways the University and its representatives responded to the rapes and the subsequent civil lawsuits that perpetuated and propagated a rape culture, I focused on the discourses CU utilized because they informed the decisions made by its representatives. Though other discourses existed within the data (please see Figure 1, page 69), the ones discussed here related specifically to my research questions. I was able to narrow the discourses down to the two examined in this paper by determining who advocated for each discourse and the amount of data supporting it. The discourses in this case came from people with various positions of power within the community of Boulder and the University of Colorado. Since the research questions only dealt with discourses coming from CU as an institution, I examined CU's official press releases which were written and contributed to by CU

administrators, regents, legal team members, and top athletic department employees. I then deemed these people to be University representatives since they spoke on behalf of CU in press releases and used similar rhetoric in the other texts. Discourses from other members of the University, such as the regents, faculty, staff, and students who voiced resistance to University discourses and the discourses from community members outside of CU, were not studied in depth because they did not specifically relate to my research questions. However, these discourses are mentioned to various degrees within this thesis, and in particular the women who survived rape's discourse holding the University responsible for maintaining the rape culture which allowed their rapes to occur. I then limited the discourse analysis to those utilized frequently in a variety of texts. For example, while the discourse of disbelief in Simpson's report is commented on in section 4.3.c.ii., it was not given the same attention as the ones discrediting the women who survived rape and denying the existence of and responsibility for rape culture because it was mentioned less frequently by University representatives and appeared in fewer documents. Through the data analysis process, I realized the University employed various strategies to facilitate the uptake of their discourses. It was the strategies that made the discourses palatable to community members and facilitated their incorporation into peoples' subjectivities, forming the basis of rape culture's propagation.

Figure 1 is a diagram of discourses I found within the data. The first column names the discourse, the second lists the strategies used to promote the discourses, and the third identifies which groups of people used the discourses and strategies. Note that only the discourses analyzed in this paper have corresponding promotional strategies, because these were the ones at the center of this study and as such they received the most attention. Future research could be conducted to determine if there were other promotional strategies operating.

Discourse Name	Promotional Strategy	Group using the Discourse and/or Strategy
Discrediting the women who survived rape	<ul style="list-style-type: none"> Qualifying Simpson's Rape Report 	<ul style="list-style-type: none"> CU representatives Journalists The courts
	<ul style="list-style-type: none"> Claiming Victimhood 	<ul style="list-style-type: none"> CU representatives Some football players Some football parents
Denying the existence of and the responsibility for rape culture	<ul style="list-style-type: none"> Micro-view 	<ul style="list-style-type: none"> CU representatives
Disbelief in Simpson's rape report		<ul style="list-style-type: none"> CU representatives Journalists Some community members
CU fostered a rape culture which allowed the women's sexual assaults to occur		<ul style="list-style-type: none"> The women who survived rape Feminist groups The District Attorney
Lisa Simpson was the real threat to the University		<ul style="list-style-type: none"> Community members who either did not believe the rape reports or did not think the women should sue CU
Racism was a factor in Gillaspie's treatment by the University		<ul style="list-style-type: none"> Monique Gillaspie
Racism was a factor in the police investigation, the District Attorney's decision to charge four black men for contributing to the delinquency of a minor, and the media coverage.		<ul style="list-style-type: none"> Some of the football players Some community members
The University proactively addressed recruiting problems		<ul style="list-style-type: none"> CU representatives
The University was not handling the recruiting problems, rapes, and civil suits effectively or correctly		<ul style="list-style-type: none"> Some CU Faculty and staff Some community members The women who survived rape

Figure 1: Diagram of Discourses

4.3.b. The relative power of discourses

Within feminist poststructuralist theory, knowledge is constructed which means that those with the power to “regulate what counts as truth are able to maintain their access to material advantages and power” (Gavey, 1997, p. 52). In the case of CU, the University was struggling to promote its discourses discrediting the women who survived rape and denying the existence of and the responsibility for rape culture in order to gather public support in an attempt to lessen the damage to its reputation and to maintain the status quo. The University had very real consequences facing it if its positions were not accepted. According to the Mayor of Boulder, Will Toor, “the enormous media focus on the athletic department was detracting

attention from ‘the key fiscal crisis facing higher education in Colorado’” (Bulter, 2004c).

Instead of CU working with the legislature to shape the higher education budget, it was focusing on demonstrating to the legislature that it did not harbor a rape culture and was a safe place for women students. Yet, CU also had a power advantage over competing groups due to its established institutional identity as a place of knowledge production (see section 4.3.d.iii.).

The power associated with a discourse may also have an influence on its distribution and acceptance. A source of power for discourses may be the power ascribed or attributed to the people who promote it, specifically their relative social locations and status. It is important to remember the University was represented to the community by actual individuals who worked for CU and furthered its discourses, namely administrators (President Hoffman, Chancellor Byyny, Athletic Director Tharp, and Head Football Coach Barnett). Consistent with Davis’ (2008) conception of intersectionality, this research was aimed at the relative power gained through one’s social location (Please see Figure 2). Moreover, this power can be transferred to a discourse since discursive power can be tied to social relations of power present in specific societies, for example, gender, class, race, and age (Foucault, 1978). CU representatives were all highly educated, seemingly upper-class, middle-aged, white administrators who had already established themselves as leaders in their fields and who demanded respect and authority from those around them. While President Hoffman was a woman and the others were men, the statements she made generally do not differentiate her from her male counterparts. She seemed more concerned about furthering the status quo and defending the other administrators’ actions than with changing the campus to foster a safe environment for women. One example, which was highlighted earlier in section 4.2.c., was when Hoffman defended Barnett’s decision not to classify a player’s continual use of ‘cunt’ against Hnida as sexual harassment (Talbot, 2004a). This example clearly illustrated where Hoffman’s loyalties lay.

Figure 2 is a diagram of key people’s social locations referred to in this study. The categories depicted here informed the relative power available to each person, and thus the discourses they promoted. While the categories, their binaries, and people’s classification within them may be contested, this diagram is a useful tool to assess how each person’s social status within the CU context related to the others. Note that student-athlete scholarship status may not necessarily denote social class as upper-class athletes may accept scholarships, but because it is difficult to obtain class information on students, scholarship status may be a helpful indicator.

Name	Position at CU	Gender	Race	Social Class	Age	Discussion of sexuality in the data	Education
Lisa Simpson	Student	Female	White	Middle- to Upper-class	Early-20's	Heavily discussed	Undergraduate student
Monique Gillaspie	Student-athlete	Female	Black	On scholarship	Early-20's	Moderately discussed	Undergraduate student
Anne Gilmore	Student	Female	White	Middle- to Upper-class	Early-20's	Moderately discussed	Undergraduate student
Marques Harris	Student-athlete	Male	Black	On scholarship	Early-20's	Moderately discussed	Undergraduate student
Corey Alexander	Student-athlete	Male	Black	On scholarship	Early-20's	Moderately discussed	Undergraduate student
Joseph Mackey Jr.	Student-athlete	Male	Black	Scholarship status not mentioned	Early-20's	Moderately discussed	Undergraduate student
Clyde Surrell	Student-athlete	Male	Black	Scholarship status not mentioned	Early-20's	Moderately discussed	Undergraduate student
Elizabeth Hoffman	CU President	Female	White	Upper-class	Late-50's	Not mentioned	Bachelor, Master, and two PhD degrees
Richard Byyny	CU-Boulder Chancellor	Male	White	Upper-class	Late-60's	Not mentioned	Bachelor and Medical degrees
Richard Tharp	Athletic Director	Male	White	Upper-class	Mid-50's	Not mentioned	Bachelor and Law degrees
Gary Barnett	Head Football Coach	Male	White	Upper-class	Mid-50's	Not mentioned	Bachelor and Master degrees

Figure 2: Figure of demographics

Figure 2 highlights the difference in status between the students and the administrators. While their whiteness and age provided the administrators a foundation for their successful social positions, their higher levels of education, social class and position within the University lent them authority and credibility. Masculinity also played a role in the administrators’

authority. Universities are ‘gendered institutions’ in that “gender is present in the processes, practices, images and ideologies, and distributions of power” (Acker, 1992, p. 567) within its various sectors. Further, they are historically masculine institutions because they were established and dominated by men, are “portrayed as aggressive, goal oriented, competitive, [and] efficient” (p. 568), and have been “defined by the absence of women” (p. 567). The one female and three male administrators drew on masculine authority when they used discourses to defend the University.

Similarly, administrators acquired authority from their personal whiteness and the university as a historically white institution (King, C.R., 2005). Personally, the administrators’ whiteness affected their social status, and thus their authority, in that it afforded them invisible privileges which led to their current prestigious positions within the University and society. On a different level, C.R. King (2005) argues that universities are white institutions because they are “devoted in large part to imparting the values, myths, and norms of the dominant social order to largely white student bodies” (p. 403). CU’s identity as a white university granted it authority because of Boulder, Colorado’s predominantly white context. It is important to remember that whiteness is not a stagnant category; rather, it is contextually specific and continually produced (McDonald, 2005).

In addition, the lack of discussion of the administrators’ sexuality within the data only added to their credibility. Not only were they assumed to be heterosexual due to the heteronormative culture they lived in, their sexualities or marital status were never mentioned. It was probably not considered relevant to the discussion for reporters and lawyers to inquire about or report on their sexualities. As will be discussed in section 4.3.c.i., this was in stark contrast to the women who survived rape. As Cahill (2001) remarked, the concept of sex is complicated by

“overtones of privacy, shame, and ... culpability” (p. 120). Thus, the administrators’ ability to keep their personal sexualities out of community debates put them at an advantage.

The authority and intersectional privilege of administrators’ social locations reinforced the University’s power, and thus, the power associated with their discourses. Their status may have also affected how well the University’s discourse was adopted by community members. Some community members may have been more inclined to listen to and give authority to an established institution of higher learning represented by highly educated, older, white, upper-class administrators rather than younger female students.

Since power is relative, the power ascribed to the women who survived rape should also be considered and Monique Gillaspie’s case was an illustrative example. Gillaspie’s and Gilmore’s rape reports and civil cases did not receive nearly the same press coverage as Simpson’s. However, once Gilmore joined Simpson’s lawsuit, she was portrayed as an appendage to Simpson’s case by having her name consistently placed behind Simpson’s in newspaper reports and by being lumped into the “Simpson team” category (Herbert, 2004e, p. A10). Even though her name appeared in the press more after she joined Simpson’s suit, details about her rape and experience during the scandal were scarce, thus discussion of her case was limited in this thesis.

Gillaspie was a black female soccer player and student on scholarship at CU. In addition to arguing that CU was partly responsible for her rape, she asserted that she was racially discriminated against by her teammates and coach. She only received press coverage when she reported her rape by filing her civil lawsuit (Herbert, 2004h), and when she dropped the suit due to hostile attacks on her character by CU litigators (Reid, 2004b). This was in contrast to Simpson and other women who decided not to pursue rape charges or civil suits but whose stories were discussed in the media much more frequently (i.e., the Trainer and Hnida). Even if

her status as an athlete gave her some prestige, it was not the same as the football players since women's soccer was not held in the same regard as football based on the relative revenue and prestige each brought to CU. Besides this minor boost in status, Gillaspie's intersecting oppressions as a raped woman of color on scholarship probably hindered the dissemination and adoption of her discourse. She just did not harness the same authority as the University representatives or Simpson.

Part of the explanation for the discrepancy in media coverage within the data could be linked with the public's reluctance to take interest when black men rape black women. As Weitz and Gordon (1993) argued, one reason for this may be due to a tendency of white Americans to trivialize sexual harassment involving black women because of stereotypes that they are hypersexual. In addition, individuals may hold stereotypes where behavior bordering on, or is harassment, is normal in black culture (p. 598). Thus, Gillaspie's rape, and the discourses stemming from it, seemed to have been trivialized or even discounted by many reporters and community members who believed her case was not as serious as Simpson's and Gilmore's. Another explanation could be due to my data collection method. My newspaper searches only captured articles containing all three of the words 'CU,' 'football,' and 'rape,' so if articles covering Gillaspie's case did not include these words they may have inadvertently been excluded.

4.3.c. Discrediting discourse

In furthering their discourse aimed at discrediting the women who survived rape, CU utilized a two-part strategy of casting doubt on their, and particularly Lisa Simpson's, rape experiences. The first subsection discusses possible factors used to determine the degree of credibility granted women who survive rape as a lead-in to examining Simpson's social location and addressing some of the ways her credibility was attacked. While this subsection does not

directly discuss Simpson's credibility in relation to CU as an institution or their discrediting discourse, it provides a foundation for it. The next subsections then consider the two strategies CU employed to discredit the women who survived rape: i) continually qualifying Simpson's rape report and ii) CU representatives arguing they should also be seen as victims of the scandal. Following the exploration into these promotional strategies is an explanation of how they propagated rape culture.

4.3.c.i. Characteristics of credibility

The credibility of a rape survivor has a major impact on people believing her story and conversely, the effectiveness of rape myths utilized against her (Bumiller, as cited in Hirsch, 1995). A good, or credible victim, according to Lamb (1999a) is "one who is pure, innocent, blameless, and free of problems (before the abuse). This version is often presented in juxtaposition with the perpetrator as evil monster" (p. 108). Other, discredited, survivors are those women whose lives and rapes do not conform to this high standard. Some of the characteristics determining which type of survivor one is are her age, race, class, sexual activity level, behavior and dress at the time prior to the rape, and how well she knew the perpetrator. Lamb (1999a, p. 117) described the culturally approved victim as one who is innocent, young, thin, attractive, and from the middle class. In addition, a study conducted by Konradi (1996) found that women also try to behave in certain socially approved ways during rape trials to gain the jury's sympathy (e.g., differential, mild, uncomfortable about describing the rape, and breaking into tears).

Each of the three women who brought civil suits had various personal factors which influenced how credible they seemed to the public as rape survivors, but I focus on Lisa Simpson as she was the main target of the media and University. The factors discussed here may lend themselves to the effectiveness and power of the women's discourses (discussed in the

previous section) but they were also the focus of attacks by competing discourses such as the discourse of disbelief in Simpson's rape report and the one discrediting the women who survived rape. Simpson had the making of a credible survivor since she was white, seemingly middle-to-upper-class, seemingly heterosexual, and she did not know the men who attacked her (Hartwig, 2003). I say "seemingly" because there were no reports specifically declaring her social class and sexuality. In the mostly white heteronormative middle-to-upper-class setting of Boulder and the University of Colorado, when the media and CU contrastingly described the football players, who were the perpetrators, as lower class because they held football scholarships, it allowed the public to assume Simpson was middle-to-upper-class. For example, in Simpson's deposition, the CU litigator implied that some of the players lost their scholarships after Simpson reported the rape and they had to transfer to another school or drop out due to financial constraints (Hartwig, 2003). Additionally, in this heteronormative setting, the media's silence regarding her sexual orientation assumes they thought she was heterosexual, or, at least not 'out' since non-heterosexual sexualities are usually included in reported demographics.

However, Simpson did have some characteristics that were used against her by the University and press. First, she was 19-years-old at the time of the rape, which indicated she could be sexually active on her own volition. Her age and potential for voluntary sexual activity brought Simpson's sexuality into question, but not necessarily in a way that examined her sexual preferences. Instead, Simpson's sexual morals were questioned when community members debated whether Simpson should take part of the responsibility for her rape. The Co-Chair of the IIC, Joyce Lawrence, told a reporter she wanted to ask the women who survived rape, "why are they going to parties like this and drinking and taking drugs, putting themselves in this position?" (Herbert, 2004g, p. A6). Victim-blaming attitudes such as this, according to Cowan (2000), indicated that Simpson put herself in the position where rape was more likely, and thus

blamed her for making bad decisions that 'led' to her rape. These assumptions fail to place responsibility on the men who raped her or the institution condoning rape culture on campus.

In addition, some of the people in attendance at the party reported Simpson was 'flirting' with recruits and players by dancing with them (Thompson, 2002). She admitted to being hospitable toward her guests by offering them drinks and being generally friendly towards them (Hartwig, 2003). Simpson's reported behavior did not point to promiscuity or even overt expressions of unacceptable sexuality. However, rape brought another dimension into consideration. Even though one of the main debates in rape cases is if the sexual acts were voluntary and wanted, various images of sexual activity may be conjured up by community members and assigned to the survivor and perpetrator(s), whether they happened that way or not. Because of sexual double-standards, having one's sexuality or sexual activity discussed in public, in most contexts, tends to place a woman at a disadvantage in public opinion since discussing one's sexuality and sexual acts are still considered shameful for many women in American society (Crawford & Popp, 2003). This influences how community members envision the survivor and how much credibility they decide to grant her.

A second way Simpson's credibility was diminished was due to her admission of being so intoxicated during the party that she passed out (Hartwig, 2003). This led to some community members believing Simpson had loose morals, she may have contributed to her rape, or it was not rape at all. For example, some people wrote letters to the editor which linked Simpson's drinking with her perceived provocative behavior toward the men (Page, 2004). They failed to remember or take into consideration the fact that Simpson intended the party to include only her close friends so they could have a 'girls night in' and drink heavily in the safety of their own home (Hartwig, 2003). Simpson's heavy drinking and loss of consciousness should not be considered indicators of culpability in the rape perpetrated against her. On the contrary, her

intoxication should have facilitated the criminal prosecution of the men since it was considered rape to have sex with an intoxicated person according to the Colorado Judicial Branch website (n.d., Sexual Offenses section, para.3). Unfortunately, the drinking and loss of consciousness were not taken into account in the way alcohol may have hindered Simpson from effectively expressing her desire not to participate in sexual activities with the men and instead gave some community members an excuse to not believe her story.

A third way Simpson's claim of rape was counteracted had to do with racial differences between Simpson and the football players and recruits at the party. This had less to do with critiquing Simpson and more to do with sympathizing with the men. A white woman accusing black men of rape would have traditionally given her credibility because of cultural stereotypes in the United States regarding the perceived hyper-sexuality of black men that harp back to the days of slavery (Marable, 2004). However, it seemed as though this historical stereotyping worked against people supporting Simpson to some degree because some community members, including feminist groups, did not want to further stereotypes that "all black men are rapists" (Fruchter, 2002b, para. 13). Professor Belknap, who helped plan a rally in support of the unknown rape survivor in May 2002, told reporters any rally or protest needed to be "carefully thought out" since "there is a huge history in this country of falsely accusing black men of rape" (para. 17). So, instead of Simpson's race being an advantage or even neutral factor, it was a negative influence because some community members did not want to even think about the possibility or implications of black men raping a white woman.

4.3.c.ii. Consistently qualifying Simpson's argument

When the story first broke in December 2001 and January 2002, Lisa Simpson was characterized by *The Daily Camera* as a CU "student [who] told police she was attacked at a Dec. 7 party [set up] to entertain visiting CU football recruits" (Reid, 2002a, p. A1). This

description slowly changed into one where ‘alleged’ preceded the version of events that Simpson and other survivors told the public. Starting in the summer of 2002, Simpson was referred to as an “alleged victim” of an “alleged rape” (Reid, 2002b, p. A1). The impact of the constant usage of the ‘alleged’ qualifier “has an uncanny ability to invalidate the victim” according to Sally Powell-Ashby (2004, p. B5), the author of a *Daily Camera* letter to the editor. Barras (2004) noted a discrepancy in *The Daily Camera*’s reporting on various rape cases when she argued in a letter to the editor that articles “almost always describe” Lisa Simpson as “‘alleged victim,’ while the woman in the [Kobe] Bryant case is almost always described as the ‘accuser’” (p. B6). Here ‘accuser’ takes on a more active subject position as well as giving authority and credibility to the woman’s argument and version of events. Contrastingly, when the media and University’s discrediting discourse consistently categorize the women in the CU case as ‘alleged victims,’ their perceived subject positions are more easily viewed as passive and whining women. Labels such as these do not allow for the more complicated subject positions these women embody. They may have been temporarily overpowered during the rape itself, but these women were strong-willed, determined, and full of conviction, as evidenced in their decisions to report their rapes publically, file police reports, and pursue civil lawsuits.

Once the District Attorney announced she was not charging anyone with sexual assault in relation to this case, the ‘alleged’ qualifier and the discourse of disbelief in Simpson’s report intensified. As one reporter said when detailing the contents of the recently released police report, “[it’s] six months later, [and] no one has been charged with rape” (Thompson, 2002). One could argue some community members were more reluctant to believe Simpson’s report of rape due to beliefs that if Simpson were telling the truth, her attackers would be charged and convicted. Barnett commented on a Denver talk-radio show, “we’ve seen three rape accusations, yet there have been no charges. If (the rapes) didn’t happen, where is the resolution for the

accused?” (Camera staff, 2004b, p. A3). While Barnett’s focus here was on exonerating his football players and program, the premise of his statement has been ascribed to the women who reported rape as well. Some bloggers used the lack of charges or convictions as evidence the rapes did not occur, as pointed out by this posting following CU’s decision to settle the lawsuit, “What rape? Last I knew there wasn’t even a person charged” (same, 2007). The lack of charges in this case also caused confusion among some bloggers about the validity of the women’s claims, “no criminal charges were ever filed. Seems like Mary Lacy [Keenan] should have pursued someone... we don't get it” (katiekurt0102, 2007). However, use of ‘alleged’ was more than an expression of legal discourse such as due process and ‘innocent until proven guilty.’ Instead, statements like these may have led some community members to not believe the survivors’ discourses and versions of events. The constant usage of ‘alleged’ conjures up images of false accusations and regretted consensual sexual activity.

Further, when Simpson filed her civil lawsuit against the University, the term ‘alleged’ came to signify that she was taking out her anger on whomever she could, or she was scrambling for justice by blaming the University. In a statement released by CU following its decision to settle the case, the University stated, “the settlement, funded by the University’s insurer, in the amount of \$2.5 million *resolves all of Ms. Simpson’s claims* for sexual assault in December 2001” (emphasis added, O’Rourke, 2007, para. 1). This statement indicated Simpson only wanted monetary compensation. Some bloggers also concurred with this sentiment:

She says she did not want ‘monetary gain but wanted change.’ Yeah right. She just got 2.5 million. Not that I defended the guys that might have possibly raped her, we really don't know since her account is not too strong. But since she is a woman, she is right and all guys are scum. (bikerider07, 2007, para. 1)

Another blogger stated, “sorry, but did the University rape her? No. So why is she not suing the people who allegedly did rape her? Hmmmm, money perhaps?” (bufflight, 2007, para. 31).

University administrators contributed to discrediting Simpson's rape report in their conversations with the media. In this statement, President Elizabeth Hoffman refused to say she believed Simpson was raped:

It's really hard to say in a situation like this, since people believe what they believe about themselves, and other people believe other things.... I think she believes a certain thing and other people believe something else, and that's why we're here. (Mattern Clark, 2004i, p. A1)

From a feminist poststructuralist perspective this statement highlighted the ambiguity of acquaintance rape since no one will ever know exactly what happened because each person involved may have a different conception of the event. It also demonstrated Hoffman's resistance to take a side and alienate a segment of the population. However, the ambivalence of her words indicated Hoffman did not believe Simpson and implied she fabricated the rape since her beliefs were not synchronized with those of other people who attended the party.

It is interesting to note that the negative insinuations embedded in the University's and some journalists' use of 'alleged' were not present in the United States Court of Appeals (2007) judgment. As a segment of the quote presented in section 4.1.d. illustrates, "... the alleged sexual assaults were *caused* by CU's failure to provide adequate supervision and guidance ..." (emphasis added, pp. 4-5). Here the use of 'alleged' seems to be more of a formality since there was not a confession of guilt or trial to determine the 'factual basis' of the reports. When the judges stated the rapes were 'caused' by CU's failure to take action they presupposed the rapes occurred.

4.3.c.iii. Claiming victimhood

Another strategy utilized by University representatives to take the focus off the women who were raped was to claim they were the victims of this scandal. Usually this label grants women who have experienced gendered violence "the right to claim assistance, sympathy, temporary relief from other role responsibilities, legal recourse, and other similar advantages"

(Burt & Estep, 1981, p. 16). However, these ‘advantages’ can also be adopted by other people implicated in gendered violence, as demonstrated by administrators’ and players’ claim to victimhood. President Hoffman and Athletic Director Tharp felt “deeply and personally offended” (Tharp, 2004, para. 4; “Owens,” 2004, para. 7) and “personally attacked” (Camera Staff, 2004c, p. A4) by allegations the football program used sex and alcohol as recruiting tools. Coach Barnett said his “professional and personal integrity [had] been attacked” (ibid.). Furthermore, members of the Colorado Board of Regents proclaimed “no one has suffered more” than the football players’ parents (Mattern Clark, 2004b, p. A1). And, finally, parents of the players defended their sons by saying they were “good kids” who “worked hard” and were “responsible young people. They are not something to be reviled” (Neff, 2004). The parents argued this scandal affected all team members, was taking their focus off of training and studying, and taking away from their experience of being a CU Buffalo.

While administrators claiming victimhood contains elements of a discourse because it worked to refocus the debate around the University’s interests, I ultimately saw it as a strategy used to promote the discourse of discrediting the women who survived rape. Similar to institutional discourses, this promotional strategy redefined the rules by which the debate was to occur (Smith, 1999). In addition, it did not necessarily “contradict” other discourses; rather, it “subsumed” them (p. 199). For example, CU’s victimhood strategy did not argue against any of the women’s claims to victim status, instead it worked to diffuse the potency of victimhood and make the women defend why their plight was worth the ‘suffering’ of the University and its representatives. Claiming victimhood was a strategy for promoting the discrediting discourse because it worked to further it by usurping some of the power associated with victimhood away from the women who survived rape by taking it on themselves. In addition, this strategy challenged the women’s credibility by questioning what kinds of women would attempt to

damage the reputations of CU and its representatives, and what were their motivations for taking the case this far?

The question of who gets to be considered a victim is an important one in feminist research. There is a struggle within feminist movements regarding gendered violence as to what terms and language should be used to describe women who have experienced, been victimized by, and/or survived rape and violence against them (Lamb, 1999b). Victim has been used as a political statement to raise awareness of the incidence and affect of gendered violence (Gavey, 1999). However, it may also reinforce traditional gender ideas about women being “weak, passive, and asexual” while men are “sexually driven, unstoppable, and potentially dangerous” (p. 62). Victimhood as a discourse-promoting strategy took on a new meaning and was not used to describe the women who survived rape. Here, administrators and players were vying for victim status to gain sympathy and support for their position. However, merely being able to claim the same term lessens its meaning and usefulness for the women. In this way, it takes away some of the ‘advantages’ Burt and Estep (1981) described above, as well as question the women’s credibility.

There was another, more subtle maneuver involved in this strategy. The administrators placed the blame for their feelings of victimization on outside sources while still insinuating the women were the real cause for the damage to their reputations since they were the ones to bring the scandal into the spotlight. For instance, blame was laid on the intense media scrutiny and the District Attorney’s claims the football program fostered an environment where sex and alcohol were used as recruiting tools. This strategy lessened the women’s credibility by shifting the focus onto how the scandal impacted CU instead of how the rapes and investigations influenced the women. By directing the spotlight on discrediting the women, the University took the focus off their lack of action and their culpability for cultivating a rape culture in the football program.

4.3.c.iv. How the discrediting discourse facilitated the perpetuation and propagation of rape culture

As the previous two subsections illustrated, the University utilized two strategies to further its discrediting discourse. In this final subsection regarding this discourse, I examine how these strategies worked to perpetuate and propagate rape culture.

Each group advancing discourses in this case was attempting to create and sustain the power to name or define the significance of the rapes and subsequent lawsuits in a way that would work to their benefit. Clark (1992) argued that “naming is a powerful ideological tool.... Different names for an object represent different ways of perceiving it” (p. 209). Naming incorporates not only determining the word(s) to describe the event (such as rape, sexual assault, sexual misunderstanding, regretted sex, or retribution), but the political and social meaning of the event as well as its implications and consequences. The meanings discourses give to particular words (‘victim’) and the ways people are described (‘alleged’) have the potential to be incorporated into and shape people’s subjectivities because language is where subjectivities are constructed and discourses are positions people take that inform their sense of themselves (Weedon, 1997). Weedon (1987) also argued experiences do not have inherent meanings but are given meanings through the language and discourse one is exposed to (p. 34). Thus, when community members experienced the CU rape scandal they actively constructed their understanding of it through the language and discourses available to them.

One of the main implications in how the University propagated rape culture was that the discourses people adopted from this case could shape how they think about future rape cases since subjects always approach discourses with memories of previous “discursive interpellations” (Weedon, 1997, p. 101). Not only did the University’s discourses help it gather public support for its immediate cause (of restoring its reputation and winning its lawsuit), but

the ones successfully utilized by the university had the potential to be incorporated into community members' subjectivities. Even though CU did not win the lawsuit, the discourses it promoted throughout the scandal may have still been incorporated into community members' subjectivities. Thus, the next time a community member hears about a woman reporting sexual assault she or he would have some preliminary tools to react to it. Now, I say these are preliminary tools because meanings are always being constructed or modified depending on the discourses and the individuals' agency to analyze the situation (Weedon, 1997). For example, before Simpson's rape was announced in the media, most community members already had their own meanings associated with rape they could draw on to assess this situation. These previous conceptions were then challenged by the University's discourses (as well as discourses coming from other sources) and community members had to negotiate new meanings to incorporate into their subjectivities.

In addition to propagating rape culture through shaping community members' subjectivities with their discourse of discrediting Simpson, the University also perpetuated it by sending a message to students who were current and future survivors of sexual assault. This message was of the treatment they could expect if they came forward about an assault they experienced from a member of the university, particularly a student or an athlete. Though there were a number of messages sent to these women, one of the most salient was that the University looked out for its own interests first and foremost. For example, Heather Strum, head of the CU Rape and Gender Education Program, and Amy Robertson, head of the Office of Victim Assistance, both resigned in August of 2004 because of their "frustrations about the climate" (Mattern Clark, 2004a, p. A5). Robertson told reporters, "there's been a lot of damage to the faith and confidence that the university will treat people with respect and dignity if they're harmed in some way" (ibid.). Lee Scriggins, also a counselor at CU said people were afraid to

come to the Office of Victims' Assistance because the University would think they were just "potential plaintiffs" (ibid.). Sturm argued that even though CU created a sexual harassment education program for all students, the program was rushed and not made in the interest of women who survive rape or other students. Rather, "it's all just been making the university look good and making political decisions" (ibid.). This corresponds with Smith's (2001) caution that texts produced by an organization are done so primarily to benefit and protect it. Although CU implemented a variety of new policies and structures to change the football and athletic departments, such as the Preliminary Action Plan⁷, recruiting alterations, and alcohol and rape awareness campaigns for incoming freshmen ("Mandatory alcohol education," 2004; "CU-Boulder theater group," 2004), I argue their actions and reactions speak louder than their words and texts.

4.3.d. Denying the existence of and responsibility for rape culture

The second discourse was one where the University denied the existence of and responsibility for a rape culture in its football program. In order to facilitate this discourse, it relied on a strategy of refocusing the debate and exploiting the elusiveness and ephemerality of rape culture. I refer to this as taking a micro-view because the focus is on separate individual interactions instead of the culture of the program. In this way, CU refused to acknowledge the links between instances of sexual harassment and assault among members of the football program with a larger institutional culture. This strategy included only being concerned with the specifics of who, what, where, when, and how individual people behaved and in only allowing the 'facts' and 'truth' to be considered as evidence. Using a micro-view had the effect of examining the culture so closely that it fell apart or dissolved (Smith, 2001).

⁷ Please see Appendix C

Moreover, the micro-view strategy facilitated the denying discourse which claimed if Simpson and the other women could not prove minute details actually occurred and could be connected to the institution, then the larger picture of rape culture (which the women were actually discussing) was not present. For example, a motion filed by the CU litigation team argued, “(Simpson) makes a novelistic and misleading attempt to shift the burden of legal responsibility to the University for off-campus conduct initiated and controlled by individuals who acted on their own and not for the institution” (Ewing, 2003, para. 6). The following subsections examine two examples of micro-view strategies and denying discourse from the data: i) the way the CU litigation team scrutinized and minimized Simpson’s account of her rape and ii) CU representatives individualizing and disregarding wrongdoings committed by a football program employee and players.

4.3.d.i. Scrutinizing and minimizing Simpson’s account of her rape

The first example of the micro-view strategy was illustrated in the way Simpson was interrogated by CU’s litigation team. The University was represented by its litigators who asked Simpson questions about what happened during the party as well as her experiences with hospital staff and University victims’ counselors. Throughout the deposition, the litigator, Ms. Rice, dissected Simpson’s story and sequence of events to the minute details such as who was standing where, when, and how throughout the party and rape (Coffman, 2003a; Hartwig, 2003).

In her questioning of Simpson during the deposition, Rice only allowed Simpson to answer questions she was absolutely positive she knew the answer to and would swear to in court. This is an example of reframing the debate into a judicial discourse from a more subjective one (Smith, 1999). For instance, Rice would not allow Simpson to speculate about how many football players (versus recruits) were in the room or around her bed since Simpson could not clearly remember or identify any specific number or person. As demonstrated in this

exchange, Rice then claimed Simpson did not remember any football players raping her or being present during her rape:

Q. [Rice] Would you agree that you were not assaulted by any football player from the university?

A. [Simpson] No.

Q. No what?

A. I would not agree that I was not assaulted by any football player from the university.

Q. What football player do you – from the university do you claim you were assaulted by?

A. I really don't know.

Q. So can you state that you know you were assaulted by a football player from the university, or you simply don't know one way or the other?

A. I don't know one way or the other.

Q. So it would be incorrect if you are quoted as saying that you know you were assaulted by football players, true, from the university – as opposed to high school football players? That would be a false statement because you have no such knowledge and you've never made any such claim, correct?

A. Yes. That's true. (Hartwig, 2003, p. 50)

Redirecting the discourse in this way allowed Rice to manipulate Simpson into answering the way Rice wanted her to. Rice knew Simpson was unfamiliar with interrogation tactics and/or unable to 'prove' a claim that a particular person or group of people raped her. This redirection had the effect of weakening Simpson's argument of being raped by CU football players because she could not make this claim under Rice's rules (Smith, 1999).

Another aspect of the deposition that worked to discredit Simpson was when Rice continually pointed out that she could not remember aspects of the party (Hartwig, 2003).

Almost every time Simpson said she did not know an answer, Rice would ask her if she could not remember or simply did not know. For example, when discussing if music was playing in Simpson's room during the party Rice asked, "Q. Can you tell me if it was a radio or some sort of recording? A. I don't know. Q. You don't remember? A. I don't remember" (p. 105). Another example comes just three pages later when Rice asked Simpson about one of her friends who was engaged in sexual activity in the same room at the same time as Simpson's assault,

Q. So you remember seeing [Redacted] 2 or 3 feet away on the floor laying down kissing someone?

A. Yes.

Q. You can't tell me if they were clothed or unclothed or who she was with?

A. No.

Q. Because you don't remember?

A. I don't remember. (p. 108)

Contrastingly, the CU legal team did not use these tactics when questioning University administrators. This line of questioning had the effect of referring the audience (the press and other people who read the deposition) back to Simpson's drinking and 'immoral' behavior of the evening by reminding them of her intoxicated and unconscious state. Throughout Simpson's deposition, Rice repeated similar questions which led Simpson to continually admit she drank heavily, passed out, partied with her friends, and allowed men to come over to her apartment when she was not in complete control of herself. Continually reminding the audience of these actions implied Simpson was partly responsible for her rape. This furthered rape myths and gave the audience permission to not think of Simpson as a credible or innocent victim, and thus allowed them to dismiss her rape (Burt, 1997). Just as with the evidence the women used to demonstrate a rape culture existed in the football program, Rice's actions were subtle but very powerful when pieced together. While Rice picked apart Simpson's version of events, she also slowly and discretely built an informal case against Simpson.

This was also an example of one discourse subsuming another in that the University redefined the terms under which the argument was to be held (Smith, 1999). While Simpson's lawsuit argued the University was deliberately indifferent to the rape culture within the football program, the University shifted the argument to again raise questions about whether Simpson was in fact raped. As Talbott (2004b) pointed out in one of his editorial columns, instead of "arguing that the university is not responsible for the individual actions of a few, CU attorneys have waged war on the alleged victims" (p. B7). The University exerted its power to pick out certain aspects of the debate and argue them on their own terms with their own spin attached (Smith, 1999). For example, when Rice questioned Simpson she focused her questions around

Simpson's rape experience and her interactions with medical staff at the hospital afterward (Coffman, 2003a; Hartwig, 2003). Instead of taking this redirected focus, Rice could have explored the arguments which were the basis of the civil suit such as Simpson's interactions with CU administrators or how her case was handled by judicial affairs. Though Rice did ask Simpson one or two questions on these matters, they were not explored in the same excruciating length and detail as Simpson's rape.

4.3.d.ii. Individualizing and disregarding University member wrongdoings

Another way the micro-view strategy was used to further the discourse denying the existence of and responsibility for rape culture was by arguing the abuses committed by players and football staff were individual, unrelated incidents which could not be traced back to the University as endorsing or supporting them. While an aspect of this was discussed previously in section 4.2.b., with regard to the University arguing that player-hosts should not be considered representatives of CU, there were other examples that should also be mentioned.

One instance occurred after Nathan Maxcey was indicted by the grand jury. A member of the Colorado Board of Regents, Gail Schwartz, commented she was relieved there were "no formal charges brought against the university or people acting on behalf of the university administration," she went on that "in some respects it is unfortunate for (Maxcey), but it is perhaps good news for the university that there was nothing that indicated the university was involved with prostitutes" (Herbert, 2004f, p. A1). Schwartz differentiated between various levels of the University structure and singled Maxcey out as an individual who was acting on his own and not as a representative of CU. The problem with this argument was Maxcey *was* a representative of the University and football program because he worked as a CU football recruiting aide. He represented the University to recruits to a similar degree as player-hosts did. If Maxcey or the player-hosts provided the recruits with opportunities for sex, it sent the

message to recruits that the University supported and provided it for them. The recruits did not need the University to explicitly and officially authorize sexual encounters for them to think this was condoned at CU. It seemed as though Schwartz was relieved there was a single person low on the structural ladder who could be blamed as a scapegoat. In this way she could point to that one person and say they were an anomaly, someone working on their own volition, instead of having a higher-up employee, such as Barnett or Tharp, take the brunt of these charges.

A second example of this was highlighted by the CU legal team's reaction to the lawsuit brought against them. In a motion opposing Simpson and Gilmore's request to expand the evidence in the civil case to include information about the 1997 incident and other rapes just made public, the CU legal team argued,

knowledge of harassment by one student (or football player) does not prove that the university had knowledge that another student (or football player) was a known harasser. ... Unless all football student athletes are, by virtue of their status, 'known' harassers - a preposterous and offensive idea - [the] plaintiffs' reliance on other football assaults is simply irrelevant. (Mattern Clark, 2004g, p. A1)

In addition to refusing to link the numerous accounts of sexual assault together, this argument neglected to acknowledge football players, by virtue of their status, may have been at more risk of committing sexual harassment or assault because they were immersed in a culture which fostered and allowed these behaviors. The culture incorporated the factors discussed in the literature review which help explain why male athletes are the second highest group to be accused of gang rape (Neimark, as cited in Schwartz & DeKeseredy, 1997) and are over represented in reported sexual assaults (Crosset et al., 1996). These factors include the encouragement of hypermasculinity, a sense of entitlement, all-male peer group support, using sex as a recruiting tool, and a lack of awareness and enforcement of University sexual harassment and assault policies. When these factors are combined, the players and staff may be more at risk of thinking sexual harassment and assault are acceptable behaviors; and thus, they may choose to engage in them. My argument here is not that football players are inherently

rapists, but these men are more at risk of developing rape-supportive mentalities and engaging in sexual harassment and assault because of the environment they play and live in. This is similar to Messner's (2005) assertion that it is not a trait inherent in black male athletes which accounts for their overrepresentation in criminal charges of violence against women. Rather, the link may be mediated by their association with athletic teams. This distinction is important on different levels, but mainly because my argument provides for the agency of the players to resist and the possibility for organizational change.

While CU addressed the role that using sex as a recruiting tool had on this scandal, they only made limited changes to correct it by implementing the Preliminary Action Plan. CU perpetuated a rape culture by allowing many of the factors which contributed to this rape culture to exist following the rapes and scandal. Namely, the encouragement of hypermasculinity, a sense of entitlement, and the dependency on all-male peer support groups.

4.3.d.iii. How using the denying discourse facilitated the perpetuation and propagation of rape culture

CU's use of the micro-view strategy perpetuated rape culture at the institutional level when it attempted to defend itself from criticism and protect its reputation. In particular, the individualizing and discounting of staff wrongdoings worked to distance the institution from culpability. Additionally, it insulated the institutional structure from change because CU argued that the structure was not the problem, instead, it was a few individuals who made bad decisions and were not representative of the institution. Even though CU eventually drafted the Preliminary Action Plan to address some of the systemic problems associated with football recruiting, it did not admit to playing a role in the women's rapes.

The discourse denying the existence of and responsibility for rape culture can be linked to a propagation of rape culture by using Smith (1999) in conjunction with feminist

poststructuralist notions of discursive power. As was discussed earlier (in section 4.3.b.), groups struggle against each other when vying for prominence by using discourses, but it is not usually an equal fight. Even though the women brought their discourse to the public first through the announcements of their rapes and civil lawsuits, the arguments they put forth were subsumed by the University's rebuttal and were reframed using judicial language about lacking evidence and proof. CU used its power as an established and authoritative institution of higher learning and elite sport to call the women's credibility and motivations into question. The University and its representatives were authority figures to students and major influences on local and academic communities. A university, by definition, informs these communities about what particular versions of truth are and how it perceives the world functioning (Foucault, 2001). Foucault argued that truth is a thing produced through discourse and power struggles between and among "political and economic apparatuses" (p. 42). Since truth is constructed from discourse, and discourses compose peoples' subjectivities, then those in control of the prominent discourses have the ability to control what many community members believe and how they see the world.

The University used its status to issue its own arguments facilitated by a micro-view strategy focusing on individuals. Corresponding to Smith's (1999) analysis, CU required the women who survived rape to defend their position according to the University's criteria. In addition, CU forced the women to argue against a position they were not prepared to do, with unattainable standards of 'facts' and 'truth.' In a press release issued by CU, Hoffman and Byyny said they were determined to find the "facts" and were dedicated to using the IIC as a process to find them. They argued that when the IIC issued its report, they would then focus on finding ways to "fix any problems that are determined to exist" (Hoffman, 2004c, para. 7). The University attempted to redirect the debate by redefining the parameters of the discussion (Smith, 1999). The issues raised by the women who survived rape regarding a pervasive rape

culture are not able to be investigated or solved in the method the University wanted to do it. CU insisted the women find individual people who committed repeated acts of University-defined sexual harassment and assault that could also be conclusively linked to University wrongdoing and be easily fixed by instituting a policy or firing a few people.

The discourses, strategies, and authority wielded by the University may have influenced some community members' adoption of discourses into their subjectivities. Each discourse presented by the various groups gave community members a different lens to examine the case and other groups' discourses through. For example, a community member who learned of the lawsuit from the University's perspective before she or he was exposed to the women's arguments may judge their soundness by the standards, terms, jargon, and questions reflected in the University's denial or discrediting discourse (Smith, 1999). This may then influence the way some community members interpreted the case and which discourses they integrated into their subjectivities, which, in turn, could impact how they view future rape cases. Here Smith's (2006) institutional ethnographic circle was completed: the local actions by CU administrators, staff, and legal team were transformed into translocal discourses (e.g. denying the existence of and responsibility for rape culture and discrediting the women who survived rape) which then fed into and confronted other discourses (e.g. CU fostered a rape culture which allowed the women's sexual assaults to occur and the University was not handling the recruiting problems, rapes, and civil suits effectively or correctly). These competing discourses subsequently influenced community members' subjectivities and could affect their future actions.

Chapter Five

Conclusions and Recommendations

5.0. Introduction

In this concluding chapter, I briefly summarize the evidence in relation to my research questions. Next, I discuss the theoretical implications of this research project followed by a number of practical recommendations for universities to consider which would demonstrate their dedication to addressing sexual assault involving students. Finally, recommendations for future research are provided.

5.1. Existence of a rape culture

The first research question for this project was did a rape culture exist within the CU football program prior to the December 7th, 2001 rapes and what evidence supports this? There are two main ways to establish the presence of a rape culture within the CU football program. One is to take note of the sheer number of reported rapes and harassments against members and associates of the program. The other is to compare the team structure with societal elements that lead to and perpetuate rape culture. Ten reports of rape against CU football players were made public between 1997 and 2005. After these ten were reported in the media the police decided not to release any further cases to the press, so it remains unknown if there were more reports being investigated, in addition to those that went unreported. The 1997 incident where a football recruit raped a female high school student at a party also served as an unheeded warning to CU administrators about the dangers of combining recruiting with partying. The athletic department's reaction to the 1997 incident and 1998 meeting between the District Attorney's office and CU administrators should have highlighted for administrators that the department's

priorities were set on recruiting the best players instead of the welfare of their students and athletes.

In this research I took into account some of the more elusive aspects of rape culture. The most salient of these were the sense of entitlement afforded to some players and recruits and the resistance and inconsistency of coaches in dealing with cases of sexual harassment and assault. Through the recruiting process, universities participate in an 'arms race' to attract the best recruits of the season (IIC, 2004). Though this can take various forms of enticement which incorporate academic, material, financial, social, or sexual 'benefits,' CU focused on using sex and alcohol as recruiting tools. This was evidenced by the team's consistent use of bars, strip clubs, escort services or exotic dancers, and parties as acceptable social functions and establishments to take high school aged recruits to. By participating in this process, some recruits may have come to believe they were indeed entitled to sex and alcohol, among other things, or that women would be sexually available to them because of their status as football players. This expectation - whether it was realized or not - helped shape the players' mentalities, world view, behavior, and masculinity. The players may have then incorporated their expectations and sense of entitlement into their male peer group mentality and behaviors. This data and analysis synthesized Schwartz and DeKeseredy's (1997) and Sanday's (1990) work on all-male peer support groups with a more in depth look at the institutional mechanisms of high profile athletes' attainment of a sense of entitlement to sex and acquisition of football hypermasculinities (Adler, cited in Mattern Clark, 2004h; Benford, 2007; Messner, 2005; Welch, 1997). While the theoretical groundwork for establishing and perpetuating a sense of entitlement to sex was established by these past theories, this research documented specific factors and events which were essential to this case and may be present in other cases as well.

The coaches' behavior also influenced the presence of rape culture within the football program. A number of CU football coaches either did not recognize that certain actions constituted sexual harassment or did not take them seriously enough to enforce appropriate punishments. The coaches were role models for the players and they set the tone for the team. They informed the players of acceptable behaviors and mentalities through their policies, workshops, team discussions, and most importantly, through their actions. According to Giles, Curren, and Adamson (2005) by not genuinely addressing sexual harassment and assault and correcting misbehaviors when they arose, coaches sent the message to players that these behaviors were acceptable, sometimes even encouraged, and that the women who reported abuse were not to be taken seriously. Koss and Cleveland (1997) describe a cycle between men's sexually coercive actions and survivors' likelihood to report sexual assault as:

the rate of women's reporting of men's coercive behaviors is likely to be associated with the frequency of coercion by men, the acceptance of coercion by society, the low likelihood of punishment, and the unsupportive treatment that women who seek justice can expect. Similarly, the rate of men's sexual coercion is likely to be related to peer support, access to facilitative environments, low rates of women's reporting, lack of any direct feedback about their behavior by the victim or others. (p. 20)

When this analysis was applied to the CU football program, it was easy to see how the University contributed to the 'facilitative environment' through its 'acceptance of coercion,' 'low likelihood of punishment,' and 'unsupportive treatment' of women reporting abuse. These actions were also exhibited by administrators in their response to the rape reports and civil suits which will be discussed in the following two sections. This cycle is also important when thinking about potential solutions to ending the perpetuation of rape culture. If the University can stop practices which encourage men to rape and survivors to remain silent, incidents of sexual assault may decrease.

5.2. Perpetuating and propagating a rape culture

The second research question was in what ways did the University and its representatives respond to the rapes reported against football players and the subsequent civil lawsuits which perpetuated and propagated a rape culture? To address this research question I focused on the discourses promoted by CU to gather community support. An intersectional analysis examined how the power associated with the race, class, gender, sexuality, and social status of the administrators, in relation to the women who survived rape, could be transferred to the discourses they promoted, and how this authority could facilitate community members' acceptance of their discourses. Feminist poststructuralist theories of language, discourse, and subjectivity were used to investigate how CU's discourse discrediting the women who survived rape propagated rape culture among some surrounding community members through integration into their subjectivities. I also drew on Smith (1999) to illustrate how CU's discourse denying the existence of and responsibility for rape culture perpetuated rape culture, subsumed the women's discourse (arguing CU fostered a rape culture which allowed their sexual assaults to occur), and redirected the debate in their favor.

Within the discourse discrediting the women who survived rape, two strategies were embedded which helped CU further its position by making the discourse more palatable to some community members. The first strategy was constantly qualifying Simpson as an 'alleged victim' who accused some members of the football team of committing an 'alleged rape.' The consistent use of 'alleged' had the potential to conjure up images of false accusations and regretted consensual sexual activity in the minds of community members which could sway their opinions about the women. Additionally, this strategy did not allow for the more complicated subject positions these women embodied. Instead, their perceived subject positions may have been more easily viewed as passive and whining women.

The second strategy CU representatives utilized in their mission to discredit Simpson was to claim victimhood themselves. President Hoffman, Athletic Director Tharp, and Head Coach Barnett repeatedly said they felt “personally attacked” and “offended” by allegations CU and the football program used sex and alcohol as recruiting tools. In addition, Regents tried to grant victimhood for parents of football players; and the parents, then, for their sons. The term ‘victimhood’ as well as its status was diluted and turned against the women who survived rape. By questioning who the ‘real’ victims were in this case and illuminating how this scandal had negative consequences for numerous people, the University gave community members permission to have misgivings about the women who reported their rapes.

The meanings discourses construct for particular words (‘victim’) and the way the women were described (‘alleged’) had the potential to be incorporated into community members’ subjectivities since they are constituted by language and discourses (Weedon, 1997). One of the main implications in how the University propagated rape culture was that the discourses and linguistic meanings people adopt from this case could shape how they think about future rape cases because people carry discourses along with them and use them to evaluate new ones.

The second discourse employed by CU was denying the existence of and their responsibility for rape culture. Using a micro-view strategy of scrutinizing individual interactions, the University redirected the debate to benefit itself. In this discourse, CU refused to acknowledge the links between instances of sexual harassment and assault among members of the football program with a larger institutional culture. This strategy was characterized by only being concerned with the specifics of who, what, where, when, and how individual people in isolated cases behaved, in individualizing and disregarding university member abuses and wrongdoings, and in only allowing the ‘facts’ and ‘truth’ as evidence or debatable items. Using

a micro-view had the effect of a situation being examined so closely that it fell apart or dissolved (Smith, 2001). The micro-view strategy also dictated the women who survived rape must prove their case at the micro-level instead of looking at the larger culture or stepping back and examining the translocality of the situation. Moreover, the micro-view strategy facilitated the denial of the existence and responsibility for rape culture by claiming if Simpson and the other women could not prove minute details actually occurred and could be connected to the institution, then the larger picture of rape culture (which the women were actually discussing) was not present.

To aid this analysis I provided three examples from the data. The first illustrations came from Rice's interrogation of Simpson during her deposition. When Rice redirected the debate by using judicial language, Simpson's discourse was weakened because she could not definitively make the claim of being raped by CU football players under Rice's rules. Further, CU used the 'evidence' gained from Simpson's deposition to subsume the women's discourse by questioning if Simpson was in fact raped. CU also argued using this strategy that abuses committed by staff and players were individual unrelated incidents which could not be traced back to the University as endorsing or supporting them. The final two examples highlight this strategy. Regent Schwartz reacted to Maxcey's grand jury indictment by expressing relief that someone low on the bureaucratic ladder was able to be a scapegoat, but she also insisted he did not represent the University. The third example was CU litigators' reaction to the women's motion to include more reported incidences of sexual harassment and assault in their civil suit. The litigators exclaimed that individual incidences of sexual harassment and assault by football players could not be related to each other unless one assumed football players were inherently more prone to gendered violence.

CU's reactions to the rapes and civil suits brought against it perpetuated rape culture because the strategies they employed furthered the cycle Koss and Cleveland (1997) described (see page 97). CU refused to address the larger cultural problems within the football department and thus maintained a 'facilitative environment' for gendered violence. In addition, CU was not supportive of the women who came forward with their rapes; in fact, the women were attacked by the very institution they went to for justice. In order for universities and other institutions to combat rape culture and gendered violence, they need to break this cycle, to take gendered violence seriously, and create supportive environments for survivors of abuse to report their experiences, as well as receive some kind of justice.

5.3. Theoretical and methodological implications

Feminist poststructuralist theory both aided and complicated this research project. It provided the tools and theoretical framework to conduct a discourse analysis using a variety of texts and from a number of subject positions. Yet, it also contradicted the aims of this research because, as Gavey (1997) notes, "rather than 'discovering' reality, 'revealing' truth, or 'uncovering' the facts, feminist poststructuralism would, instead, be concerned with disrupting and displacing dominant (oppressive) knowledges" (p. 53). While I generally agree with this statement and I think that my work does disrupt and displace 'dominant (oppressive) knowledges,' it seems as though in order to change 'oppressive gender relations' one needs to, to an extent, use assumptions and make truth claims. For example I cannot argue that CU needs to change the way it approaches rape cases without first making a truth claim that the way CU approached them perpetuated rape culture. However, in making this claim I am not arguing that there is only one way of seeing this situation. I agree that there are other possible interpretations of this event and of the impact the discourses had on the community (Francis, 1999). I do argue that this is the way I see it and have attempted to acknowledge my partiality throughout this

paper; I provide support for my arguments and am hopeful that others who read this will be persuaded. Further, while I deconstruct CU's discourses to an extent, I do not think deconstruction alone is enough. It is necessary to push further politically by naming CU's actions as perpetuating a rape culture because in describing rape culture as a problem, this is a call to action, a declaration that CU's actions need to be changed.

Another point of tension in this project was working with the concept of subjectivity informed by Cahill (2001) and Weedon (1987, 1997). I concur with them that it is important for subjects to possess agency and for social institutions to be able to change. Yet, other researchers, such as Jones (1997), argue this conception as 'theoretically flawed' because it is inherently a humanist construction that is opposed to the tenants of poststructuralism. However, it seems to me this signifies a shift in the theory and a main point of departure for feminist poststructuralism. Just as Sawicki (1991) argues in relation to feminists' use and critique of Foucault's work, researchers should utilize aspects of this theory and de-emphasize other aspects when helpful. In addition, feminism must be taken further than poststructural theory, it must be political and look for alternative futures. Sawicki (1991) and Davis (1997) believe poststructuralist theory does not prohibit this and can be used as a tool for furthering new ways of thinking.

In addition to the tensions involved in brining feminist poststructuralist theory together with my feminist aims for this research, I also encountered challenges in fully incorporating intersectionality into the analysis. Primarily I struggled with how to do an intersectional analysis on an institution which is composed of many people embodying various social locations. As a way of working within this challenge I focused on the relative power associated with four administrators at the center of the scandal. This power was derived from the interaction of personal (their whiteness, gender, age, position within the University, and social class,

heteronormativity) and institutional (the whiteness and masculinity of the University) forces which informed their social locations. This analysis allowed me to theorize about how the power attributed to administrators may be transferred to the discourses they advocated for on behalf of the University. In this project, I limited my analysis to the four main administrators and the primary women who survived rape because my goal was to critique two of the University's discourses. While this theory helped draw out the factors which contributed to the authority and credibility of the administrators, this analysis was necessarily limited due to the compounding complexity which accompanies intersectionality. A future analysis of the other discourses advocated for by community members or the voices of resistance by University members could lead to a more multifaceted view of the power struggles within this case.

Future research could also more deeply examine the way organizations are ideologically and structurally gendered, raced, heteronormative, and so on (Acker, 1992; Britton, 2000; Priola, 2007), meaning that researchers could look at how institutional practices conform to notions of masculinity (Britton, 2000) and whiteness (King, C.R., 2005), for example. This frame of analysis is important because the institutions promoting these discourses are historically stable and will continue to act in these ways even with the administration's personnel changes.

The challenges to this project methodologically involved the limited nature of texts and privileging some viewpoints over others. Although texts allow for multiple ways of reading, I was restricted to what the authors decided to write and publish. This included which angle and interview questions journalists decided to pursue and which quotations or information was incorporated into reports. In other words, my sources of information and perspectives on this case were at the mercy of other authors. Conducting interviews may have given me more control over the data and allowed me to pursue questions such as: i) to what extent were University

discourses incorporated into community members' subjectivities, and ii) does discourse adoption affect how people approach subsequent rape cases?

Another challenge was being reflexive about the privileges I granted certain perspectives but not others. Specifically, I privileged Simpson, Gilmore, and Gillaspie's perspectives over the administrators and football players due to my personal assumption they were raped. However, I do not claim that their version of events were the only way to interpret the situation. While my agreement with their rape reports was a partial basis for my argument that a rape culture was perpetuated, the actual focus of the research was on the University's institutional responses which were only somewhat affected by my assumption. Also, my aim in this research was to study rape culture, thus, I did not intend or attempt to be objective by blindly weighing evidence on 'both' sides of a debate to determine if rape culture was in fact present. Rather, I determined in the early stages of this research that there was indeed a rape culture within the football program and I wanted to learn how it was perpetuated and propagated through institutional channels. Thus, even though I entered this project with these assumptions which may have affected how data were incorporated into my analysis, the data also supported my research questions.

A further challenge was considering the partiality of the information my data sources provided. In texts such as court depositions and press releases, the limited scope and perspectives were easy to see because they were generally presented from one person's or institution's perspective and were advancing their version of events and discourses. It was more difficult to treat newspaper articles this way because I relied on them for information about the case. It was challenging for me to remember that the information presented should not be considered 'facts' or 'truths,' but instead, as a partial and socially constructed accounting of the daily events. However, the information and perspectives presented in newspaper articles were

still important because they informed many community members about the case. This medium played an important role in furthering various groups' discourses and constructing realities in certain ways.

While the texts provided some challenges, the variety and magnitude of texts available was an asset to this research. Because I drew from five types of data sources (CU press releases and policies, court depositions and judgments, newspaper articles, and the IIC report), I could, to an extent, double check the information in one text with another. This is not to say that similar information reported in multiple texts was 'true,' but instead, this may indicate a widely held perspective or a commonly accepted version of events. In addition, this range of sources captured viewpoints and information that I would not have been able to know by only conducting a media analysis.

5.4. Practical recommendations

The recommendations I propose here are not specific to the University of Colorado, or its football program because CU's reactions to the rapes were only small examples of a larger problem. While CU was the focus of this research, the problem of rape culture and institutional discrimination is a continuing nation-wide problem (Fisher, Cullen & Turner, 2000; Koss, 1997). Thus, I think it is important to expand the scope of these recommendations back to universities across the nation, yet, to remain focused on the institutional level.

The recommendations are distributed into two sections: i) the ineffectiveness of only creating or changing policies as evidence by data from this case, and ii) a discussion of university responses to sexual assault and approaches to demonstrate their dedication to addressing sexual assault involving students.

5.4.a. Policy changes, implementation, and enforcement

One of the debates appearing numerous times within the data was if changing the University's policies would prevent rapes or change the alcohol-infused culture on campus (Caldara, 2004; Herbert, 2004d; IIC, 2004; Mattern Clark, 2004c). While some argued the sexual harassment, sexual assault, and recruiting policies needed to be more comprehensive, have improved distribution, and be better enforced, others, including masculinities researcher Michael Kimmel argued instead that "school and athletic leaders need to foster respect toward women and enforce strict codes of conduct" (Mattern Clark, 2004j, p. A1). I argue that using policies as implements of social change is an ineffective way of dealing with the problem of rape culture perpetuation for two reasons. First, policies have a tendency to be written by university lawyers to benefit the university instead of survivors of criminal acts, and second, the policies already in place in the CU case were not followed.

Policies seem to mainly be used as legal defense against litigation and as promotional tools. Literature regarding sexual harassment and assault at universities, specifically Bohmer and Parrot (1993) and Pauldi (1996), argue the way to motivate universities to change is by threatening them with lawsuits. These tactics would force universities, through their legal teams, to examine and improve their policies as ways of lessening their culpability in potential or future litigation. Even though this may be a major motivating factor, it would only lead to policies being worded in ways to protect the institution from damage, not in ways primarily beneficial to people affected by them (Kirby, Greaves, & Hankivsky, 2000; Smith, 2001). This way, when a conflict arises, the university could point to the policy in place and argue they should not be held responsible for individual people not following it. Policies are also position statements about how the university will not tolerate certain behaviors, but without enforcement and consequences, they do not carry any weight.

Policies are necessary aspects of organizations which have the ability to coordinate employees' work and are useful reference guides for them to follow to ensure their actions are supported by university mandates (Smith, 2001). However, in order for policies to be effective, they must be enforceable and carry consequences for non-compliance. In addition they must be distributed effectively through multiple mediums to people at all levels of the organization to ensure students in addition to administrators are aware the policies exist and of the information provided in them (Bohmer & Parrot, 1993). Bohmer and Parrot (1993) recommend sexual harassment and assault policies should be separated because they are fundamentally different topics. They also suggest sexual assault policies include the definitions of important terms so parties reading and interpreting them will have a basis to make decisions about whether to report and how to deal with cases. Policies should then include which specific personnel to notify when making a report, the "legal reporting requirements and procedures for the college, county, and state" (p. 186), the services available to survivors both on and off campus, descriptions of how cases are managed, and "procedures for guaranteeing confidentiality for both the victim and the defendant" (ibid.). Karjane, Fisher, and Cullen (2002) add that a provision for anonymous reporting must also be made available to allow rape survivors to have more control over the reporting process and feel more comfortable about making reports. Researchers also stress sexual assault survivors should have complete control in the progress of the case, be fully informed about what occurs at each stage and to obtain consent from them before going forward or stopping the process (Karjane, Fisher, & Cullen, 2005).

However, even if sexual assault and harassment policies are explicitly laid out and people at all levels of the university are notified about them, they may still not be followed or effective in addressing the extensive problem of rape on campus. For example, CU's sexual harassment and assault policies were in place, and in fact, had been newly updated following the

1997 rape incident. These policies were distributed to administrators directly and to students and athletes through the student handbook, residence hall rules, and the football team handbook Barnett created. The problem was University representatives and students did not follow them. One factor in this failure may be the sheer number of policies in place at CU. There were 183 University-wide policy topics listed on the CU website in April 2008 (“Alphabetical Index of Policies,” n.d.). These were in addition to the individual policies listed within each topic and the policies specific to colleges and departments. They are continually updated, which, in itself, is a positive measure since it suggests the University wants to remain current and adapt to the situations it faces. However, it also means everyone associated with the University must continually reacquaint themselves with the policies to learn and understand the new rules and procedures to follow. This is a large amount of extra work for already busy people. So, realistically, it may not be an effective solution to only revamp the policies. In this particular case, the administrators claimed they were familiar with sexual harassment policies, and some even helped draft them, but some were not able to interpret and adapt them to real life situations. Here I am specifically referring to Barnett’s inability to recognize Hnida’s experiences as sexual harassment and his failure to report the Trainer’s rape to the Office of Sexual Harassment as mandated in the policy. Other researchers have also noted the difficulty of enforcing policies among different groups (Heyes, 1998; McDonnell & Elmore, 1987).

5.4.b. Comprehensive approach to halting rape culture’s perpetuation and propagation

Instead of establishing a new model for policy implementation and enforcement among individuals, I turn to a more comprehensive prevention strategy which includes critiquing the institutional structure and culture of universities. I do this because the problem of rape culture and discrimination in universities is a complex interaction between the micro-, meso-, and macro-levels of the organization that needs to be addressed by examining the situation from

various angles. This is why I propose universities implement a two-pronged approach. Each aspect is important and addresses a separate issue related to halting the perpetuation and propagation of rape culture. First, universities should create panels which investigate how their institutional structure and culture perpetuate and propagate rape culture and discrimination. Secondly, universities need to act in ways that demonstrate they are taking sexual harassment and assault seriously. This includes consistent punishments for offenders and implementing more education programs and publicity campaigns regarding healthy sexual relationships, which include discussions about sexual assault.

5.4.b.i. Critiquing the institutional structure and culture

Universities need a new way of examining their role in the perpetuation and propagation of rape culture and other aspects of discrimination or equity problems. In addition to investigating how people within the institution misbehaved or made poor judgments, the institution itself should be analyzed. The focus would be to put the institution ‘on trial’ instead of individuals, to see how the institution creates problems through its established practices, policies, discourses, world views, and goals. As Bishop (2005) proposes, institutions should create panels to examine, evaluate, and make changes to their structures, policies, and practices as a way of modifying discriminatory cultures. These panels would contain various people from in and outside the institution. Panelists should want to examine and help the institution change and adapt. They would look at both actual conflicts that arise as well as do preemptive work.

Overall,

the task of the panel would be to look for certain patterns that we know result from institutionalized injustice and exclusion. It would have to have the blessing of the highest level of the institution so that it would have a mandate to negotiate strategies of institutional change backed by the power to impose them if necessary. (Bishop, 2005, p. 174)

It may also be necessary for the panel to have the support of external authorities to ensure it can successfully perform its duties and have its recommendations implemented. The panel would be

overseen and held accountable to the public in efforts to lessen an institution's prerogatives of maintaining its image and goals (Kirby, Greaves, & Hankivsky, 2000). For example, the IIC followed this type of model in its investigations and panelists noted their frustrations with lack of access to important documents as well as not having subpoena power to question stakeholders in the case (Mattern Clark, 2004f). In addition, following the release of the IIC report, panelists were upset because many of their recommendations were not being discussed or implemented by CU administrators or Regents (Butler, 2004b; Mattern Clark, 2004b). However, even with these critiques, the IIC was able to conduct an extensive investigation which brought about, or at least motivated administrators to make changes to the institution. Perhaps if a panel such as the IIC was made a permanent fixture in institutional structure it would gain more people's trust, have access to more resources, and effect more change.

The panel should also have access to a body of literature regarding "typical patterns displayed by an institution in various stages of encounter with the struggle for equity" (Bishop, 2005, p. 174), as well as a catalogue of strategies for change. These measures would act as a type of guidebook to aid and expedite the panel's investigations. The purpose of this panel would be to critique the university's structure and culture with the goal of improving it. While it will probably meet up with a fair amount of resistance since it impedes the maintaining the status quo, hopefully institutional members would be receptive to the idea that the university is being a proactive leader in its field.

5.4.b.ii. Take sexual assault and harassment seriously

The second prong of my recommendation is for universities to demonstrate through their actions they take sexual harassment and assault seriously. In keeping with Schwartz and DeKeseredy's (1997) discussion regarding legal entitlements some athletes receive due to their status on teams, this section focuses on reducing the entitlements in an attempt to curb

wrongdoings. This could be accomplished by sending all reported cases through the judicial affairs process, establishing and then enforcing substantial punishments for those found guilty (ibid.). This strategy aims to demonstrate to the community and potential rapists that sexual assault and harassment are not tolerated. It is a way of saying to those men who know that some sexual behaviors they may be inclined to engage in could be considered sexual assault, that they won't get off the hook for committing rape, or stepping over the fuzzy line between sex and rape. Even if potential perpetrators do not feel they will be caught, they will at least know the university is paying attention and is listening to women who report rape. It is analogous to drivers slowing down once they know the police are watching a specific area for speeders.

The crackdown on perpetrators of sexual assault should also be done in a visible manner. This is not to suggest perpetrators and survivors should lose their privacy rights, but the university should publicize the actions it is implementing as well as the statistics regarding the number of cases it hears, the outcomes, and the types of punishments offenders are receiving. While this may be a point of resistance for the university because it may not want to acknowledge and publicize the frequency of assault, it is an important part of deterrence. Universities are already required to provide and publish statistics of the crime rates on their campuses as part of the Clery Act, this would just be a bit more detailed and widely distributed. Another aspect of this which may be difficult for universities to handle is that the numbers of sexual assault reports will initially increase once the university demonstrates it is serious about cracking down on perpetrators (Remick, Salisbury, Stringer & Ginorio, 1996). This is because survivors may feel more confident that they will be listened to, given respect, and some form of justice may be realized by going through the process (ibid.).

There are some basic assumptions wrapped up in the recommendation that universities should take sexual assault seriously by being consistent in its investigations and punishment

enforcements. First, the punishments imposed for convicted offenders will fit the offense and act as a deterrent. Second, men know they may be committing rape by engaging in certain behaviors. Third, survivors realize they have been sexually assaulted, want to report it, and want to press charges. These assumptions are addressed in the following subsections. The first assumption requires a brief examination of formal and informal punishments, while the second and third will be discussed in the following subsection regarding educational campaigns.

5.4.b.ii.a. Offender punishments

Schwartz and DeKeseredy (1997) argue formal punishments such as jail time and expulsion will not deter potential offenders. They discuss how formal punishments might deter one person from doing the same crime in the future, but criminology studies show these types of punishments will not “stop, deter, or control crime” (p. 133) with regard to the general public. Instead, they argue that informal punishments, such as shame, being shunned by a group, or losing privileges and opportunities, may be more of a deterrent. One answer might be to create a university environment such that perpetrators are ashamed of their behavior so punishments actually mean something to them. People are more likely to change their behavior if something valuable to them is taken away, or seriously threatened to be taken away such as friendships, jobs, and opportunities (p. 133). One caution when dealing with punishment is to be careful that the offender does not then exact retribution on the survivor or other women for the ‘justice’ he had to go through. Braithwaite and Daly (1994) argue there are mechanisms which can shame men into stopping violence against women while also providing avenues for them to be accepted back into the community if they do so. This would entail not automatically taking everything away from offenders such as their scholarships, position on a team, or enrollment. Ehrhart and Sandler (1985) suggest punishments such as, “immediate expulsion; suspension [or probation] for a specified period of time;” individual or group counseling, “denial of campus housing; ...

requiring those involved to inform their parents; [and/or] placing a letter in the perpetrators' permanent file" (p. 11). In addition, repeat offenders should face greater consequences than offenders caught for the first time. Even if these or other informal punishment systems work as better deterrents to potential perpetrators, the down side may be that survivors and community members may not see them as adequate punishments.

5.4.b.ii.b. Educational campaigns

The final part of my recommendations involves expanding educational programs and publicity campaigns. Two assumptions from the last prong will be discussed more fully here. One, that men know they may be committing rape by engaging in certain behaviors, and two, that survivors realize they have been sexually assaulted, want to report it, and want to press charges. Both of these assumptions can come to fruition through education campaigns promoting healthy sexual relationships and respect towards women in general, and oneself (i.e., people of all genders). These workshops can be combined with age-appropriate comprehensive sexual education taught in primary and secondary schools and then carried forward into post-secondary education. It is important for this type of education to begin at a young age while students are still developing their self conceptions and before they become sexually active. There are numerous formats and debates surrounding the types, focus, and structure of rape awareness and prevention workshops and campaigns which are not outlined here because this research focused on the institutional level and not on individual workings and effectiveness of educational campaigns. Further information about some of the debates and workshop formats are provided in other texts (Humphrey & Kahn, 2000; Rozee & Koss, 2001; Schwartz & DeKeseredy, 1997; Wantland, 2005).

One important factor to incorporate into these programs and campaigns are the discourses of taking responsibility and placing blame. For example, instead of directing any

frustrations or blame for punishments perpetrators receive due to committing sexual assault onto the woman who survived rape, which turns the rapist into the victim, the discourse should be that of the offender choosing to commit sexual assault and thus needing to take responsibility for the consequences. That would mean he is the one to blame for getting kicked off of or suspended from the team at a crucial time in the season, or the university closing a fraternity down (Schwartz & DeKeseredy, 1997). It seems as though this simple change in the way university and community members conceptualize the blame and responsibility for sexual assault would in itself be a large deterrent.

5.5. Future research recommendations

There are five main research recommendations that come out of this project. The first three examine this case with different lenses and the final two connect this research to larger societal trends. First, as mentioned in chapter four, multiple groups used discourses to bring their voices, opinions, and interests to the public forum. This research project was necessarily limited and specifically focused on CU's discourses and promotional strategies made in response to the women who survived rape which related to the perpetuation and propagation of rape culture. Future research could examine the other discourses and strategies CU utilized during this time as well as the various ones employed by community members relating to this case. Research along these lines would provide a more complete picture of the context in which the scandal occurred, but could also analyze other phenomena taking place at this time such as Crosset's (2007) analysis of how racism was "practiced" by CU administrators in their responses to Simpson's lawsuit.

Second, as discussed in the methodology chapter, there are limitations to this research which stem from the research questions that guided the project and the data collected. Mainly the limitations center on not conducting interviews and not having access to internal and

unpublished texts. Researchers with additional access to these resources could incorporate them into more comprehensive projects. Researchers could also conduct interviews with stakeholders such as the former administrators, coaches, recruits, players, women who survived and reported rape, and community members to examine how they perceived the case as it unfolded. In addition, researchers could discuss with stakeholders what, if any, types of competing discourses they noticed and how effective they thought the discourses were. Researchers could also investigate through interviews how various discourses were being incorporated and utilized within the stakeholders' subjectivities by analyzing the phrases, arguments, justifications, and comments the stakeholders use and mention in conversation, in addition to the actions stakeholders took during and after the case. By examining which discourses stakeholders utilized, modified, or rejected, researchers may be able to find other material manifestations of rape culture, as well as further exploring how rape culture is propagated.

The third research recommendation is a follow-up of the analysis conducted in this project. In 2004 and 2007 CU implemented a number of structural changes as a result of the scandal and civil suit settlement. Among them are the Action Plan that restructured the athletic department's bureaucracy ("Preliminary Action Plan," 2004), the creation of a new employment position to monitor and assist with Title IX compliance (Anas, 2007), and alcohol education programs for incoming freshmen students ("Mandatory alcohol education," 2004). Future research could examine how effective these measures were in preventing gendered violence committed by football and athletic department members. To do this, researchers could conduct a comparison analysis from multiple points in time: before 1997, 2001, and 2009 or 2010. It takes time to realize the impact of structural change such as this and it is not yet known if it will even have the intended impact. The University first had to implement the changes and work out the kinks, and then the new system will need some time to operate before critique is appropriate.

The University and researchers need to keep in mind that any improvements which may come about as a result of structural modification may not progress in a linear fashion (Bishop, 2005).

A fourth recommendation is to use the CU case to study the apparent link between gendered violence and contact sports such as football. As Crosset et al. (1996) found, university student-athletes tend to be reported as perpetrators of gendered violence in higher incidences than non-athlete students. However, researchers are still unsure if this link is due athletes' propensity for violence, if their status as athletes is a factor for women who report sexual or physical assaults, if the media reports cases involving athletes at a higher rate than non-athletes, or if a combination of these or other factors are at play. Some of these same questions could also be asked to find out why black athletes seem to be the focus of many media reports of gendered violence as research in this area is particularly lacking.

The final recommendation for future research is to examine if and how the University's reactions to the rapes and civil lawsuit match up to any larger patterns of organizational defensiveness. This research would take a step back and examine how organizations and individuals generally react to threats on their autonomy or when they are backed into a corner. Do other organizations behave in similar ways to CU's reaction? The researcher could ask questions such as, is it common for organizations to attempt to discredit the person who brought the charges against it or for organizations to portray themselves as victims? Are there widespread discourse strategies utilized by institutions as self-protection mechanisms or as ways of maintaining the status quo? This research would aim to examine organizational behavior and compare it to how individuals react when threatened. Do organizations simply mimic human behavior because they are composed of and represented by people? Are there other explanations? This research would be beneficial because it could help create the kind of database Bishop (2005) recommended. Panelists working to critique and improve organizations

from the inside could use a database like this to recognize when and how institutions aid in creating negative cultures. Then a catalogue of solutions or strategies for change could be created to assist panelists in changing the institution's behavior to improve equity.

5.6. Concluding remarks

Though this research was necessarily partial as well as contextually and historically specific, it added another dimension to the spectrum of rape research already conducted. Research on rape, in its various dimensions, chips away at the vast and complex rape culture saturating American society. My main contribution to the literature was examining how institutional discourses can perpetuate and propagate rape culture through a university's response to rape within its student population and civil lawsuits directed against it. Furthermore, I addressed the strategies embedded within the discourses which may have facilitated their uptake into some community members' subjectivities. In addition, I expanded research on all-male peer support groups and masculinity studies by providing concrete examples of how a sense of sexual entitlement is reinforced through university football recruiting. Hopefully this research will continue to spark new approaches to examining rape culture, increase knowledge about it, and create ways to counteract it.

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Appendices

Appendix A

Table of Codes

The data was coded into themes according to who was speaking, writing the text, or where documents came from. These thematic categories were helpful in determining what the discourses were, who advocated for them, and what strategies and techniques were utilized. They also provided examples of resistance to discourses by individuals within groups such as CU. The blank cells within the Speaker/Author/Document column denote subthemes that were not supported by data.

Theme	Code	Speaker/Author/Document
1. Administration Discourses	1.a. Comments about recruiting tactics	Administrators and press releases
	1.b. Comments about athletics or athletes	Administrators, press releases, Regents
	1.c. Response to rapes	Administrators and press releases
	1.d. Comments about police investigation	
	1.e. Comments about civil suits	Administrators, press releases, Regents, CU lawyers, and CU spokespeople
	1.f. Comments about IIC investigation and report	Administrators, press releases, and Regents
	1.g. Comments about judicial affairs investigation	Administrators, press releases, a CU report
	1.h. Comments about rape culture	Press releases
	1.i. Examples of institutional mishandling	Examples from the data where CU administrators, legal team, and institutional structure mishandled the situation
	1.j. IIC member comments	IIC panel members, the IIC report, and a private investigator
	1.k. Examples of CU initiatives	Administrators, press releases, Action Plan report, and the CU police

1. Athletic department discourses	2.a. Recruiting tactics	Athletic director (AD), coach Barnett, football players, football program staff, recruiting guidelines
	2.b. Comments from and/or about athletics and athletes	AD, Coach Barnett, football players, sportsmanship guidelines, and an NCAA report
	2.c. Response to rapes	AD, coach Barnett, football player
	2.d. Comments about police investigation	Press release
	2.e. Comments about civil suits	AD, football players, coach Barnett
	2.f. Comments about IIC investigation	AD, coach Barnett
	2.g. Comments on rape culture	AD, athletic department employees, football players
	2.h. Examples of institutional mishandling	Examples from the data where the AD, coach Barnett, Athletic department employees, mishandled the situation
	2.i. Examples of CU initiatives	Coach Barnett

2. Women who survived rape and supporters' discourses	3.a. Recruiting tactics	The women's lawyers and spokespeople, proposed court motions
	3.b. Comments about athletes or athletics	The women's lawyers and spokespeople, proposed court motions
	3.c. Information about and response to the rapes	Women who survived rape, court depositions, United States Court of Appeal judgment, grand jury report
	3.d. Comments about police investigation	
	3.e. Comments about civil suits	Simpson, Gilmore, and Gillaspie's legal teams; sexual assault advocates
	3.f. Comments about IIC investigation	Women who survived rape, sexual assault advocates
	3.g. Comments about CU's response	Feminist groups, university groups supporting the women, CU faculty supporting the women
	3.h. Comments about rape culture	Sexual assault researchers, CU faculty supporting the women
	3.i. Examples of institutional mishandling	Statements by researchers, community members and groups supporting the women, sexual assault advocates, the women's lawyers, claiming that CU has mishandled the situation

3. Police discourses	4.a. Comments about recruiting tactics	
	4.b. Comments about athletes or athletics	Police investigators
	4.c. Comments about the rapes	Police reports
	4.d. Comments and information about the police investigation	Police investigators, police reports, spokespeople
	4.e. Comments about the civil suits	Police investigators' depositions

4. Community member discourses	5.a. Comments about recruiting tactics	Opinion authors, escort service worker
	5.b. Comments about athletes and athletics	NCAA report, another university's AD, editorialists, football fan
	5.c. Response to and comments about the rapes	Another university's football coach
	5.d. Comments about the police investigation	Opinion authors
	5.e. Response to and comments about the civil suits	Editorialists, Judge Blackburn, US Court of Appeals,
	5.f. Comments about the IIC investigation	Editorialists, community members, football parents, columnist
	5.g. Comments about the District Attorney	Opinion authors, editorialists
	5.h. Comments about rape culture	Opinion authors, CU students, feminist groups, sexual assault and sport researchers, US Congresspeople, athletic reform groups, CU faculty, adult entertainment company owner
	5.i. Response to and comments about CU and administrators	Editorialists, CU faculty, opinion authors, former CU players,
	5.j. Comments about the players' trial	Opinion authors, editorialists, football players' parents, football players' lawyers, community and national groups supporting the players
	5.k. Examples of institutional mishandling	Statements by editorialists claiming that CU has mishandled the situation

5. District Attorney discourses	6.a. Comments about recruiting tactics	District Attorney (DA) deposition
	6.b. Comments about athletics or athletes	DA deposition
	6.c. Comments about the rapes	DA, Colorado Attorney General
	6.d. Comments about the police investigation	Grand jury report
	6.e. Comments about the civil suits	DA
	6.f. Comments about the IIC investigation	
	6.g. Comments about CU and the administration	DA deposition
	6.h. Comments about the players' trial	DA

Appendix B

CU's Sexual Harassment Policy and Procedures

Source: President's Office

Prepared by: Associate Vice President for Human Relations and Risk Management

Approved by: Elizabeth Hoffman

Application: All Campuses and System Administration

Effective Date: July 1, 2003

Replaces: University Policy on Sexual Harassment dated July 1, 1999

INTRODUCTION

This administrative policy statement implements Regent Policy 2-J, Sexual Harassment Policy.

POLICY STATEMENT

The University of Colorado is committed to maintaining a positive learning, working and living environment. The University does not discriminate on the basis of race, color, national origin, sex, age, disability, creed, religion, sexual orientation, or veteran status in admission and access to, and treatment and employment in, its educational programs and activities. (Regent Law, Article 10, amended 11/8/2001). In pursuit of these goals, the University will not tolerate acts of sexual harassment or related retaliation against or by any employee or student. This Policy (1) provides a general definition of sexual harassment and related retaliation; (2) prohibits sexual harassment and related retaliation; and (3) sets out procedures to follow when a member of the University community believes a violation of the Policy has occurred. It is also a violation of this Policy for anyone acting knowingly and recklessly either to make a false complaint of sexual harassment or to provide false information regarding a complaint.

Robust discussion and debate are fundamental to the life of the University. Consequently, this policy shall be interpreted in a manner that is consistent with academic freedom as defined in Regent Law, Article 5 D, amended 10/10/02.

It is intended that individuals who violate this Policy be disciplined or subjected to corrective action, up to and including termination or expulsion.

DEFINITIONS

- Appointing authority/disciplinary authority: an appointing authority is the individual with the authority or delegated authority to make ultimate personnel decisions concerning a particular employee. A disciplinary authority is the individual who has the authority or delegated authority to impose discipline upon a particular employee.
- Complainant: a complainant is a person who is subject to alleged sexual harassment.
- Respondent: a respondent is a person whose alleged conduct is the subject of a complaint.
- Sexual harassment: sexual harassment consists of interaction between individuals of the same or opposite sex that is characterized by unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1)

submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, living conditions and/or educational evaluation; (2) submission to or rejection of such conduct by an individual is used as the basis for tangible employment or educational decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive working or educational environment.

- Hostile environment sexual harassment: (described in subpart (3) above) is unwelcome sexual conduct that is sufficiently severe or pervasive that it alters the conditions of education or employment and creates an environment that a reasonable person would find intimidating, hostile or offensive. The determination of whether an environment is "hostile" must be based on all of the circumstances. These circumstances could include the frequency of the conduct, its severity, and whether it is threatening or humiliating.

Examples which may be Policy violations include the following: an instructor suggests that a higher grade might be given to a student if the student submits to sexual advances; a supervisor implicitly or explicitly threatens termination if a subordinate refuses the supervisor's sexual advances; and a student repeatedly follows an instructor around campus and sends sexually explicit messages to the instructor's voicemail or email.

- Retaliatory Acts: It is a violation of this policy to engage in retaliatory acts against any employee or student who reports an incident of alleged sexual harassment, or any employee or student who testifies, assists or participates in a proceeding, investigation or hearing relating to such allegation of sexual harassment.

Students and employees who believe they have been retaliated against because of testifying, assisting or participating in a proceeding, investigation, or hearing relating to an allegation of sexual harassment, should meet with and seek the advice of their campus sexual harassment officer, whose responsibilities include handling retaliation.

POLICIES AND PROCEDURES

A. Obligation to Report

In order to take appropriate corrective action, the University must be aware of sexual harassment or related retaliation. Therefore, anyone who believes that s/he has experienced or witnessed sexual harassment or related retaliation should promptly report such behavior to a campus sexual harassment officer (see campus Appendix discussed below) or any supervisor (see section B below).

B. Supervisor's Obligation to Report

Any supervisor who experiences, witnesses or receives a written or oral report or complaint of sexual harassment or related retaliation shall promptly report it to a campus sexual harassment officer. This section of the Policy does not obligate a supervisor who is required by the supervisor's profession and University responsibilities to keep certain communications confidential (e.g., a professional counselor or ombudsperson) to report confidential communications received while performing those University responsibilities. Each campus shall

have an appendix to this Policy designating the supervisory positions that qualify under this exception.

C. Investigation Process

1. Reports or complaints under this Policy shall be addressed and resolved as promptly as practicable after the complaint or report is made. Ordinarily, investigations shall be concluded and reports submitted to the reviewing committee no later than 90 days following the receipt of a complaint. Ordinarily, the final report shall be sent to the Chancellor or President no later than 30 days after the committee's receipt of the draft report of the investigation.

It is the responsibility of the sexual harassment officer(s) to determine the most appropriate means for addressing the report or complaint. Options include: 1) investigating the report or complaint in accordance with paragraph C.3. below, 2) with the agreement of the parties, attempting to resolve the report or complaint through a form of alternative dispute resolution (e.g., mediation), or 3) determining that the facts of the complaint or report, even if true, would not constitute a violation of this Policy. The campus sexual harassment officer(s) may designate another individual (either from within the University, including an administrator, or from outside the University) to conduct or assist with the investigation or to manage an alternative dispute resolution process. Outside investigators shall have training, qualifications and experience as will, in the judgment of the sexual harassment officer, facilitate the investigation. Anyone designated to address an allegation must adhere to the requirements of this Policy and confer with the sexual harassment officer(s) about his or her progress. (See campus appendix for a list of resources for further assistance or additional information.)

2. All reports or complaints shall be made as promptly as feasible after the occurrence. (A delay in reporting may be reasonable under some circumstances, as determined on a case-by-case basis. An unreasonable delay in reporting, however, is an appropriate consideration in evaluating the merits of a complaint or report.)

3. If an investigation is conducted: The complainant and the respondent shall have the right to:

- a. Receive written notice of the report or complaint, including a statement of the allegations, as soon after the commencement of the investigation as is practicable and to the extent permitted by law;
- b. Present relevant information to the investigator(s); and
- c. Receive, at the conclusion of the investigation and appropriate review, a copy of the investigator's report, to the extent permitted by law.

4. The Chancellor, the respondent's appointing authority and the respondent's supervisor shall be notified that an investigation is taking place. The sexual harassment officer shall advise the respondent's supervisor whether the respondent should be relieved of any supervisory or evaluative authority during the investigation and review. If the respondent's supervisor declines to follow the recommendation of the sexual harassment officer, s/he shall send a letter explaining the decision to the Chancellor with a copy to the sexual harassment officer.

5. At the conclusion of an investigation, the investigator shall prepare a written report which shall include a statement of factual findings and a determination of whether this Policy has been violated. The report shall be presented for review to the standing review committee designated by the Chancellor, or, in the case of System Administration, the President.

6. The standing review committee may consult with the investigator, consult with the parties, request that further investigation be done by the same or another investigator, or request that the investigation be conducted again by another investigator. The standing review committee may adopt the investigator's report as its own or may prepare a separate report based on the findings of the investigation. The standing review committee may not, however, conduct its own investigation or hearing. Once the standing review committee has completed its review, the report(s) shall be sent to the campus sexual harassment officer(s), the complainant and the respondent, to the extent permitted by law. The report shall also be sent to the Chancellor, or, in the case of System Administration*, to the President. If a Chancellor is the respondent or complainant, the report shall be sent to the President. If the President or the Secretary of the Board of Regents is the respondent or complainant, the report shall be sent to the Board of Regents.

*For the purposes of this Policy, System Administration includes the Office of the Secretary of the Board of Regents and Internal Audit.

D. Reporting Process

1. a. If a Policy violation is found, the report(s) shall be sent to the disciplinary authority for the individual found to have violated the Policy, and the disciplinary authority must initiate a disciplinary process against that individual. The disciplinary authority shall have access to the records of the investigation. If disciplinary action is not taken, the appointing authority and the Chancellor, or in the case of System Administration, the President shall be notified accordingly.

b. Following a finding of violation of the Policy, the disciplinary authority shall forward to the sexual harassment officer and to the Chancellor, or in the case of System Administration, the President, a statement of the action taken against an individual for violation of this Policy.

c. If a Policy violation is not found, the appointing authority and the Chancellor, or in the case of System Administration, the President, shall be notified accordingly.

2. The sexual harassment officer shall advise the complainant and respondent of the resolution of any investigation conducted under this Policy.

3. A copy of the investigator's written report as approved by the standing review committee, shall be provided to: (1) the complainant; (2) the respondent; and (3) the respondent's appointing authority.

4. In all cases, the sexual harassment officer shall retain the investigator's report, as approved by the standing review committee, for a minimum of three (3) years or for as long as any administrative or legal action arising out of the complaint is pending.

5. All records of sexual harassment reports and investigations shall be considered confidential and shall not be disclosed publicly except to the extent required by law.

6. Complaints Involving Two or More Campuses: When an alleged Policy violation involves more than one campus, the complaint shall be handled by the campus with disciplinary authority over the respondent. The campus responsible for the investigation may request the involvement or cooperation of any other affected campus and should advise appropriate officials of the affected campus of the progress and results of the investigation.

7. Complaints By and Against University Employees and Students Arising in an Affiliated Entity: University employees and students sometimes work or study at the worksite or program of another organization affiliated with the University. When a Policy violation is alleged by or against University employees or students in those circumstances, the complaint shall be handled as provided in the affiliation agreement between the University and the other entity. In the absence of an affiliation agreement or a provision addressing this issue, the University may, in its discretion, choose to 1) conduct its own investigation, 2) conduct a joint investigation with the affiliated entity, 3) defer to the findings of an investigation by the affiliated entity where the University has reviewed the investigation process and is satisfied that it was fairly conducted, or 4) use the investigation and findings of the affiliated entity as a basis for further investigation.

E. No Limitations on Existing Authority

No provision of this Policy shall be construed as a limitation on the authority of a disciplinary authority under applicable policies and procedures to initiate disciplinary action. If an individual is disciplined for conduct that also violates this Policy, the conduct and the discipline imposed shall be reported to a campus sexual harassment officer. If an investigation is conducted under this Policy and no Policy violation is found, that fact does not prevent discipline of the respondent for inappropriate or unprofessional conduct under other applicable policies and procedures.

F. Information and Education

The President's office shall provide an annual report documenting: (1) the number of reports or complaints of Policy violations; (2) the categories (i.e., student, employee, or other) and sexes of the parties involved; (3) the number of Policy violations found; and (4) examples of sanctions imposed for Policy violations.

Each campus shall broadly disseminate this Policy, distribute a list of resources available on the campus to respond to concerns of sexual harassment and related retaliation, maintain the campus appendix to the sexual harassment policy, and develop and present appropriate

educational programs. Each campus shall maintain information about these efforts, including a record of how the Policy is distributed and the names of individuals attending training programs.

G. Oversight Committee

There shall be an oversight committee consisting of campus and system representatives appointed by the President. No one shall serve on this committee who has been involved with a sexual harassment case in any capacity during the previous two years. The oversight committee shall annually gather and review information regarding investigations conducted under this Policy and the ultimate actions taken as a result of such investigations. The oversight committee shall be responsible for making confidential findings and recommendations to the University Counsel for the purpose of enabling the University Counsel to provide legal advice to the Board, the President, the campus Chancellors, and other University officials, as appropriate concerning the equitable, effective and lawful implementation of the policy.

H. Review of the University Policy

Pursuant to the University Policy on Sexual Harassment, effective July 1, 1999, the Policy underwent review and revision in 2000-2003. In accordance with this Policy as reviewed and revised in 2003, the President shall periodically have this Policy reviewed.

RELATED POLICIES

Administrative Policy Statement, "University Policy on Amorous Relationships Involving Evaluative Authority," provides that an amorous relationship between an employee and a student or between two employees constitutes a conflict of interest when one of the individuals has direct evaluative authority over the other and requires that the direct evaluative authority must be eliminated.

For related complaint, grievance or disciplinary processes, refer to Regent Policies under 5. Faculty, 5. H. Faculty Senate Grievance Process and 5. I. Faculty Dismissal for Cause Process (for faculty), State Personnel Board Rules (for classified employees), and campus student disciplinary policies and procedures (for students)

Appendix C

Preliminary Action Plan for the Reorganization and Oversight of Intercollegiate Athletics

May 27, 2004

I. INTRODUCTION

The University of Colorado at Boulder is determined to make systemic changes in the organization, oversight and culture of intercollegiate athletics, beginning with actions spelled out in this Preliminary Action Plan. Through these actions, the campus resolves to ensure integrity and accountability at all levels of responsibility, to clarify the role of intercollegiate athletics in the institution, to maintain a climate on campus and within athletics that is supportive of women, and to integrate the Athletics Department more fully into the life of the campus.

Summary of Actions. As outlined in this plan, the University will take immediate and significant steps to create necessary change in the department and on campus. Major changes will be made to the reporting structure of intercollegiate athletics in order to help integrate the department more fully into the academic mission and life of the campus.

The plan will create new avenues for oversight in the areas of student support, fiscal responsibility, and personnel practices within athletics. The campus also intends to implement recently announced reforms in football recruiting practices and campus-wide alcohol intervention initiatives. In addition, the campus community will revise its educational programming and response protocols related to sexual assault.

Broad-Based Input. The concepts outlined in this plan were developed with valuable input from numerous reviews of student-athlete recruiting and other athletic practices recently completed. We wish to express our deep appreciation for the hard work and important recommendations provided by the Boulder Faculty Assembly, the Independent Investigative Panel, and Dr. John DiBiaggio, Special Assistant to the President and Chancellor.

In our planning processes, we also are guided by the principles and concepts offered by the Arizona Accord, the Knight Commission Statement of Principles, NCAA and Big XII Conference reforms, and the Athletics Department's Vision 2010 strategic plan.

Recruiting Policies and Practices. Recruitment policy changes are a critical part of our plan for the reorganization and oversight of athletics. Recruiting guidelines have been revised several times in recent years. Further reforms were announced in March 2004, as part of a new model for football recruiting practices. These revisions are intended to provide a full opportunity to determine whether the campus and the prospective student athlete are a good fit for each other --

from an academic, athletic and personal character perspective. (Specific actions are provided in Attachment A.) In summary, the recruitment guidelines will:

- Strengthen, clarify and communicate behavioral expectations for football recruiting visits, with clear notification provided to recruits and their parents
- Change the schedule and timing of recruiting visits
- Require adult supervision of recruits during the entire visit
- Prohibit participation in private parties
- Establish an earlier curfew for the overnight stay
- Require exit interviews with visiting recruits
- Involve faculty in official recruiting visits

Campus-Wide Issues. We recognize that behavioral problems associated with alcohol and sexual misconduct are not limited to the athletic culture – but exist throughout the campus, as well as at other universities and in society at large. We understand the need for a campus environment that supports women and responds to the serious issue of violence against women.

The overall culture of the campus also may be improved by strengthening academic expectations, a matter already under discussion by various elements of the campus community. The University is committed to addressing these issues, and will develop a series of actions related to improving culture and behavior campus-wide, as outlined in Section V of this preliminary plan.

Reporting and Accountability. Individuals at all levels of responsibility for intercollegiate athletics will be held accountable for meeting the goals of this Action Plan. Performance evaluations for departmental personnel and other responsible officers will incorporate goals and objectives related to implementing the plan. The Athletics Director, working with the Provost and campus Vice Chancellors, will provide regular written reports to the Chancellor regarding implementation of the Action Plan.

The Athletics Director also will provide immediate notification to the Provost and the Chancellor of issues that emerge within the department. In turn, the Chancellor will maintain close communication with the President on important matters related to athletics. Also, regular reports on implementation of this Action Plan, and any emerging issues, will be provided to the Board of Regents.

Outline of the Action Plan. In this Preliminary Action Plan, we have articulated six overall goals for the reorganization and oversight of intercollegiate athletics, a set of operating principles for intercollegiate athletics, an overview of organizational changes, and a plan for enhanced interaction between athletics and the campus community. A finalized Action Plan will be completed and presented to the Board of Regents by the end of June 2004.

II. GOALS

The goals of this Preliminary Action Plan are intended to provide focus and direction for the work necessary to ensure the highest standards for the Athletics Department. They are consistent

with the goals articulated in the department's Vision 2010 strategic plan, while responding specifically to issues raised in recent months. Goals of the Preliminary Action Plan are to:

- Ensure accountability for the implementation of the Action Plan at all levels of responsibility
- Maintain a campus climate, including within the Athletics Department, that is supportive of women and does not tolerate violence against women
- Ensure integrity, ethical behavior, good sportsmanship, and athletic achievement within the department
- Rebuild public confidence in the integrity of the department and its football program
- Integrate the Athletics Department more fully into the campus organization, community and culture, with academic achievement as one of the department's primary goals
- Ensure fiscal responsibility within all programs of the department

III. OPERATING PRINCIPLES

The Department of Intercollegiate Athletics will be operated under a set of principles that provide guidance on day-to-day decisions and activities. In short, these principles are intended to set high standards and to help facilitate accountability. In addition to the actions outlined below, a more detailed set of specific action items and individual assignments will be developed with the involvement of the campus faculty, staff, students, administrators and the Athletics Department.

Principle A: The department will be held accountable for operating at the highest levels of integrity and responsibility, as part of the academic institution and not as an independent entity. The department must:

1. Be serious about its educational mission and its role in the institution, with support for rigorous academic performance
2. Be clear about its value to the institution and the campus's academic mission
3. Serve as an educational environment, because student athletes are, first and foremost, students in an academic community
4. Be actively involved in rebuilding the reputation of the Athletics Department and its football program
5. Take a leadership role in national discussions of athletics reform and the role of athletics in higher education

Principle B: The academic and personal well-being of student athletes will be a high priority in all we do. Student athletes are expected to:

1. Perform well from an academic and personal-development perspective, benefiting from a positive educational experience
2. Become fully integrated into campus life with encouragement and support by the department and the coaches, so that student athletes meet the expectations for being a CU-Boulder student

3. Learn about and understand issues related to alcohol abuse, drug use, sexual harassment, and sexual assault, as well as the consequences of violating related campus and team rules
4. Be treated with respect and concern for their personal welfare, as well as treating others with respect and dignity
5. Develop their athletic skills and consistently strive to compete at a championship level
6. Understand and accept the responsibilities of participating in a high-profile program, as representatives of the institution
7. Understand the campus Student Code of Conduct, NCAA rules, and team rules, and notify coaches and appropriate authorities when they have reason to believe violations may have occurred
8. Graduate with all the attributes expected of a CU-Boulder graduate: the acquisition of knowledge and skills within an academic discipline; the ability to write, speak and think critically; a high level of integrity; appreciation for cross-cultural diversity; ethical decision-making; and responsible citizenship.

Principle C: Coaches in all programs will take responsibility for ensuring that student athletes are informed of and understand the expectations of being a CU-Boulder student athlete. Coaches will:

1. Comply with recruitment policies articulated for each sport, including the revised football recruitment policies announced in March 2004
2. Reinforce efforts to educate student athletes about making good choices related to alcohol and drug use, sexual activity, and other behavior
3. Model and teach the behavioral standards expected of student athletes
4. Support the full implementation of -- and student-athlete participation in -- the department's Life Skills program, which provides support for student athletes' academic and athletic performance, personal and career development, and commitment to service
5. Develop a clear understanding of NCAA and conference regulations, team rules and the campus Student Code of Conduct
6. Address, document and report in a timely manner all student-athlete violations of team rules, NCAA and conference regulations and the Student Code of Conduct
7. Comply with all the general responsibilities expected of coaches, including those articulated in the Arizona Accord, a set of ethical principles
8. Recruit student athletes who will be positive representatives of the University and can meet academic, social and athletic expectations
9. Be committed to and participate actively in the academic success of student athletes
10. Ensure that coaches' staff members are fully informed of and help promote behavioral standards and expectations
11. Participate in annual performance evaluations that include compliance with the expectations listed above, in addition to those related to teams' academic and athletic performance

Principle D: The operation of the department will be conducted in an ethical and effective manner that complies with all relevant policies and practices. Decision-making will be based on:

1. Full compliance with NCAA, State of Colorado, and University policies as they pertain to the department's fiscal operations, employee hiring, and personnel practices
2. Creating a supportive atmosphere for all people, including women and people of color, in order to enhance equity and diversity within the department
3. Open and fair personnel search processes, with meaningful involvement by faculty, staff and students
4. An understanding of current research, policies, practices, and protocols related to sexual harassment, diversity, gender equity, substance abuse and other issues, with appropriate training provided for coaches, departmental staff and student athletes

Principle E: The department will be committed to promoting competitive athletic programs. A competitive program:

1. Consistently strives to compete at a championship level
2. Supports the best interests of the University's mission, and represents the University with integrity at all times
3. Helps to instill pride within the campus and among alumni and friends
4. Provides a positive, beneficial experience for the student athletes involved

IV. ORGANIZATIONAL CHANGES

In order to meet the goals and adhere to the principles of this plan, the University will institute a number of changes within the organization of the Athletics Department.

Primary responsibility for the management of the Athletics Department will remain with the Boulder campus Chancellor, who has overall authority in personnel, budgetary and organizational matters. The President of the University will maintain a representational role for intercollegiate athletics, as approved by the Board of Regents in June 1996.

Changes articulated below will become effective July 1, 2004. Other changes may be implemented after further study and consultation with the campus community and the department. Immediate actions include:

1. The Athletics Director will no longer report to the Chancellor, but will report directly to the Provost, the campus's chief academic officer, in order to enhance accountability and oversight.
2. An Academic Policy Board for Athletics, composed of faculty, staff and students, will advise the Provost on a wide range of departmental issues, such as admissions standards, recruiting practices, hiring processes, long-range planning and others.
3. The Provost will develop policies guiding academic decisions related to athletics, such as admissions, financial aid, eligibility, progress toward graduation and academic support, with input from the Academic Policy Board. For example, a plan will be developed to help ensure that recruits accepted to attend CU-Boulder are prepared to succeed academically.

4. The Provost will review and approve all personnel actions within the Athletics Department.
5. In order to help ensure independence in compliance responsibilities, the Provost will conduct the annual performance evaluation and set the salary for the Associate Athletics Director for Compliance, in consultation with the Athletics Director.
6. The Senior Associate Athletics Director for Facilities, Development and Business Affairs will report directly to the Provost; together, they will work closely with the campus's Chief Financial Officer to help ensure fiscal integrity.
7. The Athletics Director will serve on the Chancellor's Executive Committee, the major policy advisory group, in order to enhance interaction with campus leadership.
8. The Athletics Director will provide regular reports (at least quarterly) to the campus Dean's Council and to academic department chairs.
9. The Vice Chancellor for Student Affairs will assume additional liaison responsibilities for oversight of the integration of athletics more fully into the life of the campus.
10. Athletics student services will report to the Vice Chancellor for Student Affairs, in order to promote further integration of student athletes into the campus student body.
11. The Vice Chancellor for Student Affairs will oversee development and adjudication of disciplinary team rules for all sports, in order to ensure fair and equal treatment and improved coordination of discipline matters campus-wide.
12. The Associate Athletics Director for Compliance will assume additional duties for coordinating the department's educational and monitoring efforts related to compliance with general campus policies and practices.
13. In line with campus-wide practices, the Vice Chancellor for Administration will review and approve all sponsorships and revenue contracts, in order to help facilitate consistent compliance with University and state regulations.
14. The campus's Director of Human Resources will review and monitor the department's employment practices, in order to ensure consistent compliance with policies set or implemented by the Boulder campus.
15. The department's Gender Equity Committee will develop recommendations for addressing gender equity issues identified in recent studies.
16. The Athletics Media Relations Director will report to the Executive Director of University Communications, to help improve coordination among communications professionals on the Boulder campus.
17. The University will conduct targeted financial audits and performance reviews of the Athletics Department on an annual basis.

V. INTERFACE WITH THE CAMPUS COMMUNITY

Faculty Involvement

The new Athletics Department Academic Policy Board, comprised of faculty, staff and student representatives, will advise the Provost on matters related to the department's role on campus and the department's adherence to campus principles, values and policies. More specifically, the board will advise on admissions standards, recruiting practices, hiring processes

of major Athletics Department staff (including head coaches), evaluations and assessments, and long-range planning.

The Athletics Department, with the help of the Boulder Faculty Assembly and academic departments, will identify faculty members who will serve as liaisons and mentors with the coaches and athletes of each sport. The role of such faculty liaisons will be to foster a greater participation in the academic life of the University – both for student athletes and the department in general. Faculty liaisons also will be involved in official recruiting visits by prospective student athletes.

Campus-wide Issues and Initiatives

As underscored in recent reports, we know that issues of alcohol and drug abuse and sexual misconduct are not limited to the athletic environment. They plague the broader campus life at CU-Boulder as well, representing serious challenges for the campus community.

Under the leadership of the Chancellor, the Boulder campus is determined to address these difficult issues through a plan that incorporates education, training, prevention, intervention and adjudication. In recent months, the campus has taken a number of actions to address behavioral issues, including:

- Strengthening the campus's alcohol intervention program (see Attachment B), including stricter disciplinary actions
- Enhancing programs in the education, prevention and adjudication of sexual assault/sexual harassment
- Modifying and clarifying sexual assault response protocols

Alcohol and Substance Abuse. Alcohol initiatives announced in April 2004 include more intensified research on alcohol issues on college campuses, expanded education and intervention programs, and strengthened campus sanctions for violations of alcohol rules and laws. The initiatives will be implemented by fall 2004. Under the direction of the Vice Chancellor for Student Affairs, the campus also will work with the Boulder community in developing more effective measures to address issues related to substance abuse.

Sexual Assault/Harassment. Violence against women is abhorrent to the values held by the University of Colorado at Boulder. Concern for the safety and welfare of women must be a high priority in efforts to create a supportive environment for learning, living and working. Discussions with faculty, staff and students have identified a number of initiatives aimed at addressing these serious issues.

Specifically, we will commit necessary resources to raising awareness of sexual assault issues and reducing the number of incidents on the Boulder campus. We do not tolerate violence against women in any area of campus life. We are committed to providing supportive resources for women who report incidents of sexual assault and sexual harassment.

In March 2004, a group of faculty, staff and students was formed to help enhance educational programming on these issues. The group was charged with:

- Reviewing current programs and initiatives

- Identifying gaps in programming, services, and educational efforts
- Making recommendations for enhanced educational programs, services and training

The committee includes representatives from such groups as the Boulder Faculty Assembly, Student Affairs, New Student Orientation, CU Rape and Gender Education Program (COURAGE), Interactive Theatre Project, Office of Victim Assistance, Office of Judicial Affairs, Life Skills Program, Women's Resource Center, student government, Office of Sexual Harassment Policy and members of the SAFE-T student group. Discussions to date have focused on such initiatives as:

- Design and delivery of focused educational efforts directed toward men
- Revision and enhancement of new-student orientation programs to include initial sessions on student responsibilities and expectations in the area of sexual assault/harassment
- Enhanced and expanded First-Year Programming as students begin their academic careers

In an effort to ensure proper response protocols to acts of sexual harassment and sexual assault, a group of campus professionals has been charged by the Chancellor to review all related policies, protocols and training and recommend any needed changes. The group, which has been meeting since March 2004, includes representatives from campus legal counsel, residence halls, CU Police Department, Administration, Student Affairs, Office of Judicial Affairs, Office of Sexual Harassment Policy, Office of Victim Assistance and the Athletics Department.

To date, the group has reviewed such issues as reporting, adjudication, protocols for responding to victims, the Student Code of Conduct standards and compliance under Title IX and the Cleary Act. The group is expected to report its findings and recommendations in summer 2004.

In addressing issues related to sexual assault and sexual harassment, the campus community can benefit from the experience and knowledge of groups and professionals inside and outside the University. For example, careful consideration will be given to implementing recommendations recently suggested by Amy Robertson, director of the Office of Victim Assistance. Open-forum discussions on protocol revisions will be organized in order to encourage input from the general public and campus community. Interaction with community groups will continue, for the purpose of sharing information and coordinating activities.

The actions outlined above are important steps in the effort to address alcohol abuse, sexual harassment and sexual assault. However, we can – and will – do more, as we continue to confront these challenging societal issues that affect our campus community.

Academic Expectations. The Boulder campus currently is examining the connection between academic rigor and behavioral issues. Initial discussions indicate that CU-Boulder's academic climate would be enhanced by:

- Ensuring that all students accepted to attend CU-Boulder are prepared to succeed academically
- Increasing expectations for student learning
- Continuing development of academic neighborhoods, small-group learning experiences that foster more faculty-student interaction

- Consideration of a required “capstone” experience (such as a senior thesis, community service project, or technology project) as a focal point for each undergraduate’s academic career
- Reviewing class scheduling to promote more consistent schedules throughout the week
- Other actions to be proposed by faculty governance and student representatives

VI. CONCLUSION

By implementing this Action Plan, the University of Colorado at Boulder commits itself to major changes – changes in the way intercollegiate athletics operates, changes in the role of athletics in campus life, and changes in the culture within athletics and throughout the campus.

In the coming weeks and months, we expect to identify many other actions and initiatives that will help us reach our goals. We intend to involve numerous individuals and groups in our planning and decision-making. We plan to keep the campus community and general public informed of our progress. And we expect to restore public confidence in this great University through our actions, commitment and perseverance in accomplishing our goals.

ATTACHMENT A

Football Recruitment Policy Changes

March 8, 2004

Summary

Recruitment guidelines at the University of Colorado at Boulder have been revised several times in recent years. Changes were made in 1998 and again in 2002, resulting in improvements and further strengthening of expectations. Further revisions were announced on March 4, 2004, as part of a new model for football recruiting practices.

In summary, the new model will:

- Strengthen and clarify behavioral expectations for recruiting visits
- Change the schedule and timing of recruiting visits
- Require adult supervision of recruits during the entire visit
- Prohibit participation in private parties
- Establish an earlier curfew for the overnight stay.

Revised Guidelines

Specific guidelines within the new model include:

- The Head Football Coach will continue to communicate the recruiting guidelines to student-athletes.
- Football recruiting visits to campus will occur primarily after completion of the regular football season, with only a few exceptions such as visits by local recruits or other extraordinary circumstances approved by the Chancellor.
- Prior to the visit, prospective student-athletes, parents, and high school coaches will continue to receive letters explaining all expectations, including behavioral standards.
- Recruitment visits will be limited to one overnight stay, rather than the current two-night stay.

- Prospective student-athletes will be supervised by their parents or a designated coach from the time of arrival until departure. The involvement of player hosts will be discontinued.
- On the night of arrival, curfew will be set at 11:00 p.m., rather than the current 1:00 a.m. curfew, and will be documented by a designated coach.
- Recruitment day will be scheduled and supervised by Athletics Department staff and will include:
 - Breakfast with coaches and players
 - Meetings with faculty members and academic advisors
 - Review of campus academic expectations, support services and sportsmanship issues
 - Review of campus and program policies, processes and expectations regarding responsible alcohol use, sexual and other assault, date rape, sexual harassment, and all aspects of the Student Code of Conduct
 - Meetings with football staff, departmental staff and players
 - A mandatory exit interview will be held with each recruit who visits the campus.
 - Departure for home in the late afternoon or evening of the recruitment day.
- Recruits already are prohibited from using alcohol or drugs. They also are specifically prohibited from attending private parties or entering bars or strip clubs.
- All activities attended by recruits will be planned, approved and supervised by a designated coach.
- Coaches, student athletes and recruits continue to be required to adhere to all NCAA regulations prior to and during a recruiting visit.

Enforcement of Recruitment Guidelines

Sanctions for violations will be strengthened and clarified for all involved in the recruitment process. Specific sanctions include:

- Any prospective student-athlete violating recruitment guidelines will not be admitted to the University.
- Violations by current student-athletes or coaches will result in disciplinary action appropriate to the level of severity of the violation.
- Any violation of the CU-Boulder Student Code of Conduct by current student-athletes will be referred immediately to the campus Office of Judicial Affairs for prompt investigation and adjudication.

ATTACHMENT B

CU-Boulder Finalizes New Alcohol Initiatives

April 8, 2004

Chancellor Richard L. Byyny of the University of Colorado at Boulder today announced several new initiatives designed to supplement on-going campus efforts aimed at reducing high-risk alcohol use by students.

The new initiatives will add more intensified research on alcohol issues on college campuses, expand CU-Boulder's education and intervention programs, and strengthen campus sanctions for violations of alcohol rules and laws, Byyny said. The new initiatives will be implemented by fall 2004, he said.

Over the past few years, the Boulder campus has implemented a number of actions intended to address alcohol issues. For example, the campus instituted a "three strikes" policy in sanctioning violators of alcohol policies. Under the current policy, a student is suspended if he or she accumulates three alcohol violations while enrolled at CU-Boulder.

The announcement follows several months of work by a committee created last fall to consider and recommend new actions that may help the campus address alcohol issues among students. Led by Ron Stump, vice chancellor for student affairs, the group included representatives from the campus health service, student housing, judicial affairs, campus police and the university's Standing Committee on Substance Abuse (SCOSA).

"High-risk alcohol use continues to be one of the most challenging issues of our schools, colleges and society at large," said Stump. "There is no single or easy answer to the issues we are facing. However, we must continue to work on building a safer and healthier environment for all members of our campus community."

Stump said that, despite the challenges, the CU-Boulder committee concluded that additional actions could have positive impacts on the problem. Also, the group felt that a number of current programs should be continued and enhanced.

Specific initiatives include:

- Clarifying high behavioral and academic expectations for prospective and entering students
- Requiring a Web-based alcohol education program for all entering freshmen
- Initiating a social norms campaign, led by students, to reinforce the positive values and behaviors that already exist among a majority of CU-Boulder students
- Establishing parental notification on the first and any subsequent alcohol offense by a student and placing the student on probation
- Instituting, within the "three strikes" policy, a "2nd strike" response that includes suspension for second-time violators already on probation for a first alcohol offense
- Strengthening collaboration between the university campus and other communities
- Referring second-time student offenders to the City of Boulder 2nd Offender Program, an educational workshop that focuses on smart decision-making regarding alcohol
- Creating a total of 17 on-site student conduct boards for the campus's residence halls, each serving a specific hall
- Developing an assessment and research program to evaluate effectiveness of alcohol programs, including the new initiatives
- Organizing and hosting conferences on alcohol awareness and intervention efforts
- Petitioning national agencies, foundations and other organizations, such as the National Institute on Alcohol Abuse and Alcoholism (NIAAA), for support of campus alcohol initiatives

The committee also strongly supported continuation and enhancement of several existing programs and efforts. For example, the group suggested the campus continue its ongoing research on alcohol issues, including work with the U.S. Department of Education's Higher Education Center and CU-Boulder's nationally recognized research centers in behavioral genetics, behavioral science and psychology.

Also, the group endorsed continuing support for late-night social and recreational programs, peer educator programs, student health education and intervention programs, and substance-free living areas in residence halls.

Members of the group recommended that CU-Boulder continue to include educational programming about alcohol issues, utilizing such tools as interactive theater presentations during orientation programs for entering students. The campus should continue its multi-media and other campaigns to communicate behavioral expectations for all students, the group said.

The committee also recommended continued participation in campus-community coalitions and community-building programs and continuing such alcohol sanctions as suspension for any major alcohol violation that endangers the health and safety of another person.