

# RAPE MYTHS ON TRIAL

## Naming the Unnamed Conspirator

[Transcript]

### Chapter 1

**ANNE MUNCH:** I'm going to just tell you a tiny bit about myself and what brings me to this, and then we're going to jump right into this subject matter. I'm from Colorado. I've been doing this kind of work for about twenty-three years actually in the area of sexual assault and domestic violence.

When I grew up, or tried to, and went to college and studied psychology, I did an internship at a place called the Family Crisis Center, where they would take kids out of the home in police custody and take them to an anonymous place so that their parents could no longer continue to hurt them. My job was just to read to the kids and play with the kids and pass some time. I'll never forget the day that somebody handed me a police report, a police officer who was there said, "Listen. If you want to understand why Little Johnny is here or Little Suzy is here, read this." And I read in black and white words on a page what had happened to these children that I was helping that day, and I thought - it was a defining moment for me. Something in me switched that day, and I thought, "I don't know what I'm going to be when I grow up, but I will do something to try to prevent this. I will do something to try to really work on this problem." Because it just hit me as so completely wrong. And so indeed I have.

I ended up going to law school, and I became a prosecutor, and I started my career in the Denver District Attorney's office. When they first start you as a district attorney or as a prosecutor, they stick you somewhere where you can't do too much damage. They put you in county court, and county court is where you might see an occasional bar brawl or that kind of thing that happened between people. And you form your first impressions about how the legal system works in county court. And I did form an impression, and I thought that basically when you had a crime like that, you had two people that were involved: You had the victim and you had the offender, and that justice would be determined based on what happened between these two people.

Well, as they moved me up into that felony district court assignment, which is where the more serious crimes were, I realized that I was wrong about this assumption. That it wasn't just the victim, and it wasn't just the offender who were involved in these cases - especially as I started doing cases of sexual assault that involved adult victims. I realized that I was wrong about this assumption. That there was actually a third party that was involved in each and every one of the sexual assault cases that I ever tried or ever prosecuted.

Now this third party was not listed in the police reports, didn't show up in the charging document, didn't actually physically go into the court to testify, and didn't go back into the jury room to deliberate. But nonetheless, this party was clear. This third party's existence

and influence was clear. So much so that not only were they having an influence over the cases, they were having the lion's share of influence over the outcome of the cases. Their influence in these cases was more significant than the victim or the offender or any evidence that actually presented itself and developed in an actual case. I thought, "Boy, I had better get to know this," because I was starting to see some really interesting results and verdicts, and I thought, "I'd better get to know this third party because this is something that is really clearly an influence." I actually thought the first thing to do, you get to know something or someone, you give them a name, and so I did. I call this "The Unnamed Conspirator." This is going to be a tour through the influence of this Unnamed Conspirator in these kinds of cases and perhaps even in your lives and your thought processes. My goal for you is to basically leave here having examined the way that you think about sexual assault and the kinds of issues that come out of that by the time you leave this room, and I'll give you lots of opportunities to do that.

## Chapter 2

**MUNCH:** Once I discovered the Unnamed Conspirator, I thought, "Alright, now that I know what this concept is, and I see this influence everywhere," I pulled my head up. I pulled up from my cases, and I started looking around at just basic old life to see if I could find the influence of this Unnamed Conspirator in other places. The truth is you don't have to look too far.

So, I'm going to give you some examples from just daily life to start with. The first one comes from a day when – it was a Saturday, and I was at home and trying to pretend that I had a life. And that was all fine and well until I sent my dog out to get the newspaper, which she does every day loyally for a biscuit. She brought the newspaper back inside, and I opened up the newspaper and there went my day. Okay, because what I looked at when I opened the front page of the Denver Post was this picture that you see, and what this says - this is a breakout banner that the Chatfield High School cheerleading team painted to cheer on their football players that day - and what that banner says if you can't read it is, "Mighty Chatfield High School men rape the Raptors." Now, I don't know where the adults were when these high school students decided this was a good idea, that this was a great thing to not just paint but march out in front of God and everybody including the newspapers and photographers at the Denver Post, but sure enough this is what happened. Can you imagine what those football players are thinking? Right? They're like, "Oh wow, we thought we were here to play football." But they read the sign, and they're like, "You want us to what?" But the truth is, they ran through that and everybody was kind of surprised, and they did the things they should do. They educated the high school girls, the girls made apologies to the football players and to the other cheerleaders. They did all those kinds of things and they all kind of washed their hands of it except for me because I was bothered by it. My thoughts were, "What is it that tells these high school aged girls that wishing rape on anyone under any circumstance is an okay thing to do?" Where did they get the idea that that's appropriate? That if you really want to win, if you really want to dominate, if you really want to make a showing of the other side, you rape the other side. How is it that they thought that was okay? I think it's the influence of the Unnamed Conspirator, and it

bothered me because where are many of them going? From high school, you go to college, right?

### **Chapter 3**

**MUNCH:** Let's switch our focus for a second, and here's what we know. When you talk to women, young college aged women such as yourselves, six thousand of them are surveyed at thirty-two different colleges and universities around the country for this particular study, and you ask them what's their experience. And here's what we find out. We find out one in four during her college years experiences at least one rape or attempted rape. And how do we know that? We know that because we give them a survey. You get a survey, and in that survey is a question that would read something like the following. It would say, "Has anybody ever forced you to have sexual intercourse when you didn't want to by holding you down or twisting your arm, etc.?" So it's a behavior-based question, but if you answer "Yes" to that, that meets the legal definition of rape basically anywhere in the country. You don't ask in the survey, "Has anybody ever raped you?" because that might bring a different answer. You ask them, "Has anybody done this?" and when you ask that question, we have twenty-five percent of these young women who say yes.

Now here's the tricky part. Then we ask them whether or not they perceive that what happened to them was a rape. So they say "yes" to the behavior, and then you ask them, "Do you consider yourself to be a rape victim?" Barely over a quarter of them say "yes." So, the question is why? Right, why is that? And again, this is the influence of the Unnamed Conspirator. Part of what the answer to that "why is that" is on the screen, but I'll just ask you. Who do you think - typical, raised in this culture, college-aged women - who do they think is a real rapist? So I'll just ask you to describe this person for me. First of all, where does he come from? Where does this happen? Where does he come from? He jumps from?...

**AUDIENCE:** ...the shadows.

**MUNCH:** The shadows, or? The bushes, alternately. What's he wearing on his face? Or his head?

**AUDIENCE:** Ski mask.

**MUNCH:** Ski mask, thank you. And what's he carrying in his hands?

**AUDIENCE:** Weapon.

**MUNCH:** Some kind of a weapon, right? This is the stranger rapist. This is the guy that we all love to hate. This is the person, if you were raised watching the same TV that I'm raised, this is the person that we understand is a real rapist. And that's what we think about. And you know what? Fifteen percent of the time, that's true. And fifteen percent of the time, when that kind of rape happens, it's awful, it's terrible. I'm not minimizing that whatsoever. But the point is, when you have only twenty-five percent of the women who

are experiencing this, recognizing what happens to them as rape, it's because the person that assaulted them was a non-stranger. Eighty-five percent of the time, basically, that's what we're going to have.

The other part that's interesting is that fifty-seven percent of these happen on a date, so how does that complicate things? Think about it. You were raised to have good judgment. Right? Your parents raised you to have the best judgment that you can have, and having the best judgment that you have, you go into an environment like this or some other environment, and you make the decisions that are the best for you to make. You've learned how to trust people in your past probably, and your parents learned how to trust each other very likely, and that's why they probably got married. So using that kind of judgment, you meet someone and you're like, "Wow I really like this person. He's nice, and he's well spoken. He's a great athlete. Everybody likes him. He's good looking." All of these kinds of things. And using your best judgment, you agree to go and be alone with this person - to go on a date with this person. And because you can't tell by looking at them, who is the real rapist, sometimes, and luckily not too often, but that changes drastically. Who that person was that you thought you were dealing with is someone else. That person turns that date into a crime scene and rapes the other person. And that's a hard thing for them to reconcile because, oh my goodness, I trusted this person. I made these decisions. I actually even drank with this person. And it's confusing, and the Unnamed Conspirator knows that.

The other thing is that most people that have this experience, or an awful lot of them, forty-two percent of them don't even tell anybody. All right. Makes sense, intuitively, if you think about it. And only five percent report this to the police. Alcohol is a big factor. Approximately half are incapacitated at the time they are assaulted. The majority of these assaults happen during the first four semesters. The first four semesters. Because how are you the first four semesters of school, versus maybe the last four semesters of school? Are there differences in how you are, how experienced you are, etc.? Unfortunately what we know is that offenders know that and they look for that.

## **Chapter 4**

**MUNCH:** The easiest way for me to have you understand the influence of this character called the Unnamed Conspirator is to let me let you hear the voice of that Unnamed Conspirator in the voice of a victim. I just want to give you a heads up. I'm going to play a little bit - a portion of a 911 tape - and I'd like to give people a heads up about this because sometimes that's uncomfortable to listen to. In this tape, it's a young woman who calls to report a sexual assault.

[EMERGENCY TAPE]

*Female: Yes, I need to speak with somebody.*

*Dispatcher: Okay, how can I help you ma'am?*

*Female: I was raped earlier, or at least I feel like I was.*

*Dispatcher: Okay. Where are you right now?*

*Female: I'm at home.*

*Dispatcher: Where did the incident occur?*

*Female: At home.*

*Dispatcher: At home?*

*Female: Yes.*

*Dispatcher: Okay, by who, ma'am? Who did this to you? Ma'am?*

*Female: This piece of shit.*

*Dispatcher: Is he your boyfriend?*

*Female: No.*

*Dispatcher: Was he a friend of yours?*

*Female: No.*

*Dispatcher: Who is he?*

*Female: This guy that I met at a bar.*

*Dispatcher: Did you give him consent, ma'am?*

*Female: No.*

*Dispatcher: No? How long ago did this happen? Twenty minutes? Half-an-hour?*

*Female: About three hours ago.*

*Dispatcher: Three hours ago? Is he still there ma'am?*

*Female: No.*

*Dispatcher: No? He left?*

*Female: Yes.*

*Dispatcher: He left? Okay.*

*Female: I'm sorry. I wasn't gonna call this in.*

*Dispatcher: No, it's better that you do.*

*Female: But my doctor referred me to a hospital who also referred me and said, "No you have to make a police report before we'll do anything."*

*Dispatcher: Ok, but you didn't go to the hospital yet?*

*Female: No they won't let me go until I make a police report, that's why I called.*

*Dispatcher: Did he hit you?*

*Female: Yes.*

*Dispatcher: He did hit you?*

*Female: Yes.*

*Dispatcher: Ok.*

*Female: My head hurts.*

*Dispatcher: He hit you with what, ma'am?*

*Female: I don't know.*

*Dispatcher: Hit you with his hand?*

*Female: With his fist.*

*Dispatcher: With his fist?*

*Female: Yes.*

*Dispatcher: Okay. And you just met him at the bar?*

*Female: Yes... It's my fault!*

*Dispatcher: No, it's not.*

*Female: Well, part of it was. I was drinking.*

*Dispatcher: No, but that doesn't give him the right to violate you, ma'am.*

*Female: I said "No."*

*Dispatcher: Okay, what's his name, do you know?*

*Female: No.*

*Dispatcher: Was he black, white, Hispanic?*

*Female: White.*

*Dispatcher: White male. Do you know about how old he was?*

*Female: Twenty-eight.*

*Dispatcher: Twenty-eight. About how tall? About how tall, ma'am?*

*Female: Six-foot.*

*Dispatcher: Six-foot? Okay, how much do you think he weighed?*

*Female: About one-eighty.*

*Dispatcher: One-eighty. Okay, did he have a beard or mustache?*

*Female: No.*

*Dispatcher: No.*

*Female: No facial hair.*

*Dispatcher: Clean shaven, ok. What kinds of clothing was he wearing?*

*Female: A white t-shirt and blue jeans with a vest. A jean vest... Why am I doing this?*

*Dispatcher: Are you there by yourself?*

*Female: No... A friend of mine is over here.*

*Dispatcher: Okay. It's better that you report it. He doesn't have the right to violate you.*

*Female: No... But I think it's my fault.*

*Dispatcher: It doesn't matter, ma'am.*

*Female: [continues] I was drinking...*

*Dispatcher: No... it doesn't matter.*

*Female: I told him to come over, but then I said "No, leave," and he wouldn't leave. [crying]*

*Dispatcher: Okay. So, it's not your fault. You told him "No." So, it's not your fault, okay?*

*Female: [crying] He wouldn't leave.*

*Dispatcher: He left on a car or on foot?*

*Female: I don't know.*

*Dispatcher: You don't have no idea? How did he...*

*Female: I think he left in a car.*

*Dispatcher: Okay, so he followed you from the bar?*

*Female: No, he came with me in my car.*

*Dispatcher: He came with you in your car?*

*Female: Yes. It's my fault, see?*

*Dispatcher: No, it's not.*

*Female: I brought him over to my house... It's totally my fault.*

*Dispatcher: Mm-kay.*

**MUNCH:** All right, so let's talk about that for a second. First of all I want you to know that she got some bad medical advice. She was told by a physician, "Listen, you have to make a police report. Otherwise, I can't see you." Now, that's not true. Fair enough? So otherwise, my first question for you is, would she have called but for that? No. In fact, she tells us that, right? She says that was the only reason she was calling. So let's talk about this for a second. You know, this is clearly - you hear the influence of the Unnamed Conspirator in her? Who is she blaming for this offense?

**AUDIENCE:** Herself.

**MUNCH:** Herself. Let's talk about the reasons why. Three main reasons why she is blaming herself for what happened. Where did she meet him?

**AUDIENCE:** At a bar.

**MUNCH:** At a bar. Where did it happen?

**AUDIENCE:** At her house.

**MUNCH:** At her home. And what were they doing at the bar, very likely?

**AUDIENCE:** Drinking.

**MUNCH:** Drinking alcohol. All right, so basically this is how this works. The Unnamed Conspirator loves rules and loves rulebooks. And what the rules say is, "Listen." What's whispering in the back of her mind is, "You drank with him. You met him at a bar. You brought him home. What did you think was going to happen?" Can you hear that judgmental voice that probably rings true for all of us? That's the influence of the Unnamed Conspirator, even in a case where – let's look at this side, let's look at the other facts that we have. First of all, did she tell him "No?" Yeah, she told him "No" and she asked him to do something else, she asked him to leave. Right. And he refused to leave. And he used physical force or violence, right? Did you hear her say that? Where did he hit her? Hit her in the head about three hours earlier. And actually, I cut the tape off a little early, her physician is afraid that maybe her nose is broken. And so he's trying to get her in there to give her some medical attention. So, even under circumstances where she tells him "No," she asks him to leave, he refuses to leave, he forcefully does this, hits her in the face, maybe breaking her nose. She is still convinced because she met him at a bar, drank potentially alcohol with him, and because this happened at her house, that this is her fault. You see the strength of that influence? That's an important thing for us to look at because we're going to look and see a little bit more about that influence and how it affects us and detail it out a little bit.

## **Chapter 5**

**MUNCH:** All right, so let's flip the coin. There are two sides of this. Just like they give a survey to the college-aged women to find out what their experience was, they kind of do a similar thing with a survey for college-aged men. And they ask a very similar set of questions. Okay. So one of the questions would read very typically like this: "Have you ever forced anyone to have sexual intercourse when they didn't want to by holding them down or twisting their arm, etc.?" So it's basically the same question, right? It's a behavior-based question, and it is directed so that an answer of "Yes" to that question would meet the legal definition of rape anywhere in the country. When you ask that behavior-based question, what we find out, in studies of college-aged men, is that, basically, approximately more than six percent of college-aged men in college and university settings will admit, "Yeah, I've done that. I've crossed that line."

Now here's the influence of the Unnamed Conspirator. When you ask them, "Do you think that what you did was rape?" eighty-eight percent of them basically always - the vast majority of the men in these studies say, "Oh no, no, no. I mean, I did that, but I'm not a rapist." Why? Who's the person that they believe is the real rapist? Same guy, right? It's the same person who jumps out of the bush and does all of that. And so you see how we frame the problem. We have the vast majority of victims who experience this not understanding necessarily that that is a legitimate crime. And we have the vast number of people who commit this not seeing themselves as having done anything wrong because they don't have the weapon, they're not a stranger, they're not jumping out of the alley. And then we have this huge amount in the middle where the crime happens, where this is an absolute reality for lots and lots of people - not just on college campuses but in every community. But you see how the Unnamed Conspirators kind of worked this? That if it's not a real rapist, it's not a real rape.

Similarly, if you look at military communities, we see basically the same thing. And one thing I'll also say in here is that, just so that you're aware, when you also look more at these populations of men, what you find is that in both the military and the civilian studies, the majority of them admit to doing this multiple times. Okay, so the majority of them - sixty-one percent of the civilians and seventy three percent of the military men - who say they've done it once, admit to doing it several times, averaging somewhere between four and six rapes per rapist by the time they're about your age. And so, it's not typically, "He said, she said." It's typically, "He said, they said." And it's a point that I need to make.

## **Chapter 6**

Let's look at this again because we know that alcohol is going to be something that's really significant in here, and so I'm going to ask you to work with me on a visualization. Now, I'm not going to assume that everybody in here drinks because that would not be a nice thing for me to do. But I'm just going to ask you know, if perhaps you've been in a situation where you have drunk, maybe drunk too much, we're going to go right back to that situation. We're going to go right back to where you or maybe somebody that you care about decides to drink. Let's say it's going to be this Friday night, you've got this snowstorm that you're dealing with. Friday, it's time to let your hair down, that is if you have hair you're going to let your hair down and just enjoy a party or something with some friends. So you start your evening - and I want you to just picture - this is you now on Friday night. You start your evening with a couple of beers. Okay? So you can kind of sense and feel maybe what that's like - a couple of beers at this party. And very shortly after that, you go ahead and decide to follow up with three margaritas. So now you've consumed two beers and three margaritas. And I'm just going to ask you, "How you doing? How's that feeling?" Wondering if anybody's feeling like they're not quite themselves, fair enough? But you follow up, because the night's young, so you follow up and end your evening with four Jello shots. And so in this pretty short period of time, you've had two beers, three margaritas, and four Jello shots. How are you? Are you inebriated? Does anybody have a toilet in the picture, for example? Let's just start it there. So fair enough to say that that's a



lot of alcohol, and it's not that unusual sometimes for people to have that much alcohol to drink.

Now enter the Unnamed Conspirator to this common experience that we're all talking about now. And to set this up for you, I'll just tell you. It was another day when I was trying to have a life. I was on the 16<sup>th</sup> Street Mall in Denver. I was getting ready to go down and see a play with friends, and I walked into a tourist shop called, "Where the Buffalo Roam." And they have floor-to-ceiling t-shirts. It's kind of one of those places. And I spot this t-shirt, which, in case you can't read it, basically describes the same thing. It says, "Two beers: seven dollars. Three margaritas: fifteen dollars. Four Jello shots: twenty dollars. Taking home a girl who drank all of the above: Priceless." And I'm looking at this t-shirt and thinking, "Wait a minute. Isn't this really just kind of an advertisement for how to commit this?" I mean, honestly, my inner prosecutor - some people have an inner child, I have an inner prosecutor - and what it screams at me is that last word is wrong. If that last word said "prison" instead of "priceless," I think I'd be okay with the t-shirt. Because the truth is, do you want someone you care about around the person who wears that t-shirt? Their intention is on that t-shirt. Maybe the t-shirt is hidden. Maybe the t-shirt is covered up by another shirt or virtually in our minds. That's their intention. You can't see the t-shirt, but do you want them around this person? Absolutely not. But if you look at how the Unnamed Conspirator plays with this, it's like, "Hey, this is a great game is what this is." And having met too many survivors of this crime, I don't think so. And so, but it's important for us to look at the influence because the truth is what happens is we focus on a person making themselves vulnerable. That's what the Unnamed Conspirator has us do. But that's irrelevant. The vulnerability has no meaning unless somebody decides to take advantage of it in a situation like that. And yet, what you'll notice is the Unnamed Conspirator likes us to focus on the first part of that, which is, "why did they get that drunk?" as opposed to, "why did someone take advantage of that?" And it's something that, again, we see very prominently in my work, and so I want to talk about it.

## **Chapter 7**

All right. We also see the Unnamed Conspirator influencing us just generally, just the general public. And so sometimes, they will do these kinds of polls and they'll find out, "How do people feel about these issues like this?" They don't do them very often. But they do them enough for me to pay attention to them. One of the things that we find out is that a lot of men and a lot of women - and I think these numbers are higher and not lower - believe that a raped woman is partly to blame if she dressed provocatively. I hear this all the time around, "What was she wearing?" That's one of the things that people really want to know.

And so to illustrate this for you, or to challenge your thinking on this, I'm going to tell you another story. And it generates from another one of those days in my life when I was out trying to enjoy myself. I was at a wedding reception, and I was seated next to a guy that was just really rich. Really nice beautiful suit, very fancy watch. You know, I didn't want to wrinkle his suit because I couldn't afford to pay the bill if it came to me. You know, for the cleaners. I mean, he was just kind of... He just sweated wealth. He was just one of these

guys that just was very, very wealthy, and I'm just seated next to him, and he looked at me just to make conversation, and he said to me, "So, tell me what you do for a living?" I thought, "You know, I should probably lie to this guy," but I didn't. I told him the truth. I said, "Well, I'm a prosecutor and an educator in the area of domestic violence and sexual assault." And he stopped and he looked at me, and he said, "Sexual assault?" I said, "Yes." He kind of crossed his eyes at me and said, "Rape?" I said, "Yes." And he got this really stern, kind of almost angry grandfather-ish look on his face, okay. And this is what he said to me, and I quote because you just cannot make this stuff up. He said to me, "You know what, we wouldn't have that problem if those women would just stop wearing those floozy clothes." I thought, "Oh man." I was headed to get a piece of cake, but now I have to stop and educate a sixty-five year old. But you need take it where you get it. So I thought, I'll see if he'll work with me a little bit, and I pulled something out of jury selection - a way to maybe make him think differently, and so this is what I said to him, and this was our exchange.

I said, "Okay, sir. I hear what you're saying, but work with me for a second." I say, "Let's say that you leave this wedding reception and you realize that you're a little bit short on cash, and so you drive out of here with your nice car and you're dressed like this and you've got your fancy watch and you pull over and see an ATM terminal. So you get out of your car and you flash your watch, and you pull your big thick wallet out of your back pants. You saddle on up to that ATM terminal and you put your plastic card into that machine and it starts spitting money out at you. Everything's good." I said, "And then another guy, whose wearing blue jeans and a t-shirt, and he's in a rusted out Toyota Corolla, he pulls up at the other ATM machine. And he gets out. He's in blue jeans and a t-shirt. You know, he's a college student or whatever. And he pulls his little skinny wallet out of his pants, but he has that magic card too, you know? He pulls that debit card out, and he puts it in the other machine, and he starts getting money. So everybody's getting money, everybody's winning." I said, "And then from around the corner comes a robber. He sizes up the situation. Let's say he picks you. He takes your money, your card, your keys, loves the watch, takes your wallet, drives off in your car, leaves you standing there with your chin on the ground. And you look at the other guy who didn't get robbed, and you say, "Did you see that? That guy just robbed me!" What if the other guy looked at you and said, "Oh man. Look how you're dressed. This is your fault. You can't come to an ATM machine looking like that and not expect to get robbed. What were you thinking?" And you look at him, and you think, "Fine. You don't understand. I'm going to go call the police." So you do. You call the police, and you tell the police, "I was robbed!" And the police say, "Well, that's interesting. We'll get to that in a minute, but we need to do some background checking on you first. So, give me your name and your birthday, and I'll call you back." And so they do do a background check, and they find out that you give money away all the time. You give money to your wife, to your kids, to your grandkids. Two hundred dollars a week out of your paycheck goes right to the United Way. You're a philanthropist. And the police calls you back and tells you as much. 'Sir, you give money away all the time. Why is it that we're supposed to believe that you were robbed. This is your habit. And you can't go to an ATM machine looking like that.' And they hang up on you."

And so this man is looking at me like, you know, the trout look. And he said to me, "You know what? I really never thought of it that way." And I counted that as a win, and I went and got my cake, and I figured that was good because part of it was what this guy did - and this is important - because what he did was he tapped on the door of an idea that the Unnamed Conspirator has been providing to us for centuries - not just decades, for centuries. And here's kind of how it goes. So, I'm going to make you go through this with me a little bit more because this is what we need to look at.

He said that if you dress like a floozy and somebody rapes you, it's pretty much your fault. So I wanted to know, first of all, what is he talking about? So I did a Google search on the word "floozy," and this is what I came up with. So here's the thing. If the Unnamed Conspirator likes rules, here's the rule: Don't dress like a floozy, and you won't get raped. And so I care about the men and the women at this campus. I want each and every one of you to go home to your closets and get rid of this because this is the rule. It's like, "Don't dress like this, and you'll be all right." So you may be attached to it, you may think it's sexy and cute. Get rid of it. Don't put it in the dumpster, somebody else might find it, they'll wear it, and then they'll get raped, right? According to the Unnamed Conspirator, you can't dress like a floozy, so just get rid of this.

Okay Anne, sure. But we know that this is really about women. We're really pretty much talking about women. The rule doesn't really apply to guys. And how do we know that? We know that when we consider this: This is, of course, Mr. Plumber, who is sometimes in my house, perhaps has been in yours. And I have a question for you. When Mr. Plumber comes into my house, do you think that I say to him, "Sir, please! Pull your pants up. I don't want you to get raped. Do you have any idea of the message that you're sending?" I don't think the American Plumbers Association is doing rape prevention work with the plumbers because they're showing more than the floozy ever thought of showing, but it's different. Is that fair? It's different.

And so I'm going to talk to the guys in the audience for a second because I think this is important for you to think about. You know, you want to question these things. You want to question these ideas because they affect you. And here's what I mean by this. Finish the thought for me. The thought is, "If she dresses really hot, then he can't...?" What? Somebody tell me. Help himself, control himself. That's what we drag in from our history. If she dresses really hot, what's he supposed to do, right? And I think as men you should be offended by that. I really think you need to think this through. Because here's what this means. What this means is, we're sorry, but you were born and are ruled by a part of your body that begins with a 'P' and is not the pancreas. And that heaven help us, if she dresses really hot, like what are you supposed to do? It's like this launch series begins or something, and the whole world has to end because you can't help it. You can't control yourself. That's what's behind this thinking, and I think you should think about it critically because that is really what we're talking about, and we know that it's not true.

Part of the way we know it's not true is by this example. Let's say you got two seventeen-year-olds out in Amherst, Mass. They are madly in love with each other. They are in a long-term relationship of two weeks. Fair enough? And they've decided to start having sex with

each other, and they don't think that their parents know, and they're in love, and they found their soul mate, and the whole thing. Her parents go out of town for the weekend, starting on Friday. Her parents go out of town. Where do you think the two seventeen-year-olds go on Friday night? They go to her house, her mom's house. There they are, having sex on the floor because they can, because they're in love, because they're free and nobody's home. And picture then, if you will, there's a rattle of keys in the door, and the door opens up. Guess who walks in? Mom and Dad. Actually, Dad walks in carrying this. Now I have a question for you. Does the sex act stop? Yeah, okay, guys? Does the sex act stop yesterday? Right? I've had people say, "Oh, I was at the back door in like ten seconds," to which I said, "Thanks for sharing, but I wasn't really asking for your personal experience around this one." But very clearly in circumstances like that – the sex – that is over. Because stopping is a choice. And you know that, and I know that, but the Unnamed Conspirator doesn't. And we have to kind of challenge that or does this young, virile seventeen-year-old look at the father of his girlfriend and say, "I'm sorry, sir. Give me, oh, ten, fifteen minutes at the most. We'll meet you at the kitchen for our punishment. You should have seen what she was wearing. She was really hot. I really can't stop. We'll see you in a little bit, and I'm sure we're going to be grounded." It never happens because, of course, stopping is a choice. And you want to think about it because it went all the way back to this guy at this wedding reception who told me if she dresses like a floozy, she's going to get raped, all right? And these are the origins if we just go backwards.

## **Chapter 8**

Let's look at a couple other examples. The Unnamed Conspirator's influence on children, which is also really very evident. And what we find out when we talk to kids, here's a couple of the things that they say. A majority of both, a pretty significant majority, say it's okay to force a woman to have sex if they've been dating for more than six months. So just mark your calendar at the first date, just know, and before that six-month mark comes, you want to think about that. I mean is that absurd? But if these kids grow up and wind up on your jury, this is maybe what they're probably going to say.

In addition, seventy percent of the boys and fifty-three percent of the girls said that a man has a right to sexual intercourse against the woman's will if they've had intercourse before. This is what they think, and I am going to tell you that these are not just kids. These kids have grown up, and maybe some of them wound up on a jury in your neighboring state of Vermont.

I'm going to tell you how this looks today in a case that was just litigated there by some people that I know. At a university there, there was a medical student who went to a fraternity party, and he met a freshmen there, and they had a one time, kind of, casual sexual encounter – a consensual sexual encounter together, this college freshmen and he. But she basically felt used by him. She didn't want to have anything more to do with him in the future. That was it for her. So about one month later, he finds her again at this other party. And he wants to get together for sex, and he basically tells her that very directly. She's like, "No, I'm not interested." He follows her around the party, basically is trying to kind of cajole her and talk her and coerce her into having sex, convincing her it's okay if

they just go outside into the shadows of the fraternity house where the trees are, that nobody will know, and she's like, "I'm telling you. I don't want to do this. I'm not interested." Well, he gets her over to that part of the fraternity, and he decides it's going to happen whether she wants it to or not. He forces her to the ground, he forces her shirt up over her head and her skirt up as well, and he forcefully penetrates her with his penis. She is crying hysterically and screaming for help. There are three bystanders – three witnesses who hear this. They also hear him hitting her to subdue her. He's hitting her. They hear this, they come to her aid, and they intervene. He jumps up, pulls his pants up, and runs away. They take her to the hospital. She is treated for a split lip, a black eye. She's given a forensic examination, based on the sexual assault, and she reports to the police.

The case is given to a department that is stellar. They do a fantastic job. I know the people that do the investigations in this area, and they do a great job investigating this case. The case is given to the DA. The case goes to trial. At trial the defendant testified, and this is from the transcript from his testimony: "I only slapped her after she became skittish about having sex. She raised her voice. I tried to calm her down and convince her it was alright, but she raised her voice again. I told her to be quiet and I slapped her face." He was acquitted. There was a jury that found him not guilty, based on those facts that I just told you about. One of the female jurors actually sought out the police chief who was the person I told you was just a cracker jack investigator, did a great job on this, and told him - Tom Tremblay - that, "He had arrested an innocent man because they'd had sex before, she was drunk and just looking for sex again." If that sounds like about the most confusing and inconsistent thing in the world, it is. But that's the influence of the Unnamed Conspirator on this particular woman in this particular case.

## **Chapter 9**

In addition, these kids - when you talk to them - will say, half and half of them, will say that a woman walking alone is asking to be raped. That's their opinion. These are the mountains of Telluride, Colorado, which is a place where I was the DA for about three years. I don't know if you've ever been there, but it rivals – it's the most beautiful place in the world. It's a ski town. I was the DA there. I had a great life.

A young woman about nine o'clock at night went to get something to eat in Telluride. She went out for a slice of pizza at this place called "Baked in Telluride," which is appropriately named, where you could go and get something that's baked, and it was open about those hours. And so she walked down there by herself to get a piece of pizza. Unfortunately for her, she was abducted off the street by a stranger, stuck into a car, driven outside of town up onto a high mountain mesa, dragged through a field up on that mesa through a barbed wire fence where she was raped – where this man raped her. He then dragged her back through the barbed wire fence, put her back in the car, drove her back down into town, and released her. Those are the facts of the case.

Question for you: Do you think she recognized that as real rape? Yeah, right? This is the guy we all love to hate – probably smelled bad on top of it. This is the guy that jumps out of the bushes, and she knew that was rape. So do you think she called the police? Yeah, she

called the police. They did a great job. They got him apprehended. They got him identified. They did a show up, a line up. They created their case. They went to the crime scene. They found her clothing fibers in the barbed wire fence. They went to the field where she was raped. They collected evidence there. She was injured. They did a forensic evidence collection on her. Great case.

They give it to the DA, who was the person that was there right before I got there, so he tried the case. And he brings that case and those facts to a jury of twelve people, which is what is required in my state. You have to have a unanimous verdict of twelve people, either guilty or not guilty. If it's something else, if it's not unanimous, it's called a hung jury. And it's a mistrial, and you either try it again or the case is dismissed. So, based on those facts, this is a case that resulted in a hung jury. And I will tell you that most of the jurors wanted to convict this person. There were three holdouts. And those three holdouts happened to be of the same gender. They were women. All right, I have a question for you. Rhetorically speaking, what do you think these women were hung up on? The question in their mind was what?

**AUDIENCE:** She was walking alone.

**MUNCH:** Yeah. What is she doing walking by herself at night, right? And based on that myth, that the Unnamed Conspirator planted with them at some point, they ignore that evidence, and they instead cannot find this offender accountable because she walked alone at night. This is an important thing for us to look at and analyze because this happens a lot. And if these were just freak cases, I would tell you that too. They're not. This is something that is not that uncommon, and so it's important for us to look at that.

What might have been going on with these three women jurors? And I'm going to call out my gender here for a second just because I do think that there's some gender conditioning that you and I experience that really, really influences this. Okay, so here these three women come in, and they sit in this courtroom, and they find out, "Oh, I'm going to be on a jury." And then they hear the charge. And they hear that that charge is a rape charge, and it's like, "Oh boy, this is scary." Right? We were taught from the time we were knee-high to a grasshopper, if you will, by very well-meaning fathers, boyfriends, mothers, parents, whoever, "Honey, it's an unsafe world out there, and so I want you to be safe. So don't do these things, and do do these things, and play by these rules, and you should be okay." And I think what happened is that these women came in, heard what the charge was, and it is so terrifying to think, "Oh my god, that could happen to me." That is terrifying to think that could happen to you. And so, sometimes so strong is the psychological need for us to not identify with that, for us to not be the one that that could potentially happen, I think sometimes what women do will go, "Well, I don't want to be that person. I don't ever want to think that could happen to me. So what did she do? Because if I can point to something that she did then I won't do that thing, and then I'm safe." Classic cognitive dissonance, right? So what did she do? She walked alone at night? Oh okay, well that's the reason that it happened, and therefore they couldn't hold this man accountable. That is the strength of the Unnamed Conspirator and the influence, sometimes on women, sometimes on men as well. I mean, honestly. But this is a very real dynamic.

We are, as a gender – women are more vulnerable to this crime. Actually I know that we are. The numbers tell us that we are. It's something that we really just need to be aware of when we are interfacing with anybody else that this has happened to because it is kind of the birthing place of victim-blaming, which is rampant in our culture.

## **Chapter 10**

All right, and then finally, boy. Okay. Those kids grow up, and they go, and they sit in the jury room. They drink some Kool-Aid before they go in there. I swear they do because some of the verdicts that come out of these jury rooms are really pretty surprising.

What we find out when we talk to actual live jurors, who actually tried real cases - so not mock jurors, actual jurors – what they found in the early research was that the jurors were basing their decisions on these cases on an assumption of the risk theory, which means, "Well, what did she do? If she dressed a certain way, drank, went out, if she's a runaway, if she's this, if she's an immigrant, if she's whatever..." Those kinds of things, if those are in the background, what they would say is then she assumed the risk of what happened to her. You can't do certain kinds of behaviors, and if you do, you assume the risk of what happens to you – which, by the way, has no place in the criminal law. But they borrow this concept, they drag it into the criminal courtroom, and they make their decisions based on the assumption of risk theory.

The later research, it kind of got worse in a way. They will basically tell us - first of all, they held almost no one accountable. Most of these verdicts were not guilty verdicts, and so we had a lot to talk to them about – the researchers did. And what they said was, well, they actually admitted to making their decisions not based on the evidence. They will disregard the evidence. Evidence, schmevidence, right? They disregard the evidence, and they make their decisions based on their perceptions of the victims' character and lifestyle. Now, what's wrong with this picture? Who's on trial in a rape case? Is it the victim? No. But functionally, sometimes is it the victim? Absolutely. Do you see where we're wrong here? We've got things pretty topsy-turvy and reversed from where they're supposed to be. And honestly, I think this is what happens.

You and I were raised in the same swimming pool, you know? We've all been in the same pool, the same gumbo pot. We've all been in the same culture. And you have been enculturated to look at the world a certain particular way. And if you picture a compass in your mind, and then you picture "north" on that compass, north is victim behavior. And just think about it: last time you heard about a rape, last time you heard about something like this, your inside voice, did it sound something like this: "Well, what did she...? Why did she...? What was she...?" Most of the people that I have met in my career doing this, that is the first place we go. That is the compass orientation. Our first questions are about - we're curious about victim behavior. We don't even get to offender behavior. Sometimes we don't even talk to the offenders. We focus on victims, and that is the problem.

And what we've done by this system, if you will, is create a petri dish. We have created an absolute petri dish where this crime thrives because by focusing on victim behavior and blaming victims, we've created an environment where perpetrators are really active, and they're really successful. And so part of the secret to this, of course, is that the Unnamed Conspirator is you and me. It's what we bring to the table. It's how we think. It's the way that we were raised. It's what our parents perhaps or their parents or even their parents before them taught us – that we are still, kind of, even unknowingly nurturing and keeping alive. And there are several influences that the Unnamed Conspirator has on this topic, and we need to look at it because you and I have created this, and you and I need to really kind of undo it.

## **Chapter 11**

So now that you know what to not do, right? I've told you what to not do as a juror. I've told you the way that this shouldn't work. I've told you and given you some examples of things. I'm going to let you play jury on a case. All right, is that fair? I'm going to let you play jury. And what I'm going to do is I'm going to ask you - I'm going to give you the facts of a case - and I'm going to ask you to rate the case on a scale of one to ten. One is weak, and ten is strong. And after I give you these facts, I'm just going to ask you basically for what your rating is. All right, is that fair? So you're the jury. You, the jury, right here in this room, get to make a decision on this case. And I'll give you the facts one at a time.

So this is a case that involved a victim who was assaulted by a person with whom she had a brief encounter. Okay, so it wasn't a boyfriend. It wasn't a husband. It wasn't a stranger. It was somebody that she knew kind of start to finish for probably about one hour's time.

She was actually at work and on duty during the time that she was assaulted. She had been sent on a special assignment by her boss that was to take about thirty minutes. And it was during that thirty-minute period of time that she was away from her main duties at work and on this special assignment that she was assaulted.

She was supposed to, after this special assignment, if you will - she was supposed to come back and debrief with some people. There were about three people waiting to talk to her, and she was supposed to debrief about what happened on this special assignment. You know, like how that went. Rather than stopping and debriefing with them, she ran past them, and they described her as being clearly traumatized. This is a victim that happened to have blonde hair, and as she ran past these people that she was supposed to stop and talk to - they described her as a "blonde streak" who kind of ran through this public area. And she was supposed to - It was against protocol for her to not talk to them.

She went and she found her best friend, who also worked with her, and she made immediate outcry to him. She told him what had happened. It was the end of the shift. She said, "I need to get out of here." He said, "I'll sign out too. Let me make sure you get home okay. Let me drive you home." And she said, "No, I want to drive myself." He said, "Fine, then let me follow you." So he followed her. She drove her car, and he drove his car all the



way to get her home safely, and this nineteen-year-old girl drove fifteen miles under the speed limit on her way back to where she lived.

The best friend encouraged her to call the police, and she was not ready to do that. So she didn't want to do that. He was so upset – the best friend was so upset by what had happened to his best friend – that he woke his father up in the middle of the night to tell him about the rape and to tell him what had happened. Again, she was encouraged to call the police, and she was not in a place to do that.

She got home that night. She let her parents know that she was okay. She went to bed, tried to sleep, had a fitful night of sleep, and about eleven o'clock the next day, basically her life was imploding. The reality of what happened hit her. And her world was caving in on her. And so she knew that she needed some help, and so she called someone that she trusted – not the police, but she called her mom. And she told her mom what had happened the night before. And her mother came home from work to assist her daughter. And her mother, of course, called the police.

So police get involved and they tell her, "Listen, will you go for a forensic examination? We need to do this." And she said, "Sure." So she went for a forensic examination, a SANE examination where they look for injury and that kind of thing. This is a case that did result in injury. This is a victim who had two bleeding tears near her posterior fourchette. The vagina is basically shaped like a football. The posterior fourchette is toward the bottom and toward the back, and so there were two one-centimeter bleeding tears that were noted. In addition, she had numerous pinpoint injuries up higher in the anatomy near the cervical opening. And so, if you will, this is kind of akin to almost like non-lubricated friction. So maybe almost like a rug-burn, if you will, but internally. Okay, that kind of injury was also noted. And finally, the nurse noticed that she had a bruise on her neck. This is a defendant who held her and basically strangled her from behind and held her neck and squeezed in order to get her to submit, and that left a thumbprint bruise, which you can see up here inside the ruler as well as on the side of her chin. Now, I told you that these were bleeding injuries, so the defendant, when he finished, he wiped himself off with his t-shirt. So the victim bled onto his penis, and then he wiped himself off with this t-shirt. This is the t-shirt, you see, and inside those blue squares there, that is blood. That's the victim's blood, so those are the DNA and forensic markings for her blood.

Within a short period of time, probably within thirty-six hours, they talked to the defendant - or the suspect. And at first, he denied that there was any sexual contact. He said he was married, and there was no sex. Then they confronted him with the fact that she had been for a DNA examination - forensic examination - and he changed his story and said, "Okay, then it was consensual." And finally, during the course of this interview, he admitted to having his hands around her neck during the course of this assault.

So within the first, like I said, maybe thirty-six hours, this is the state's case. This is the evidence as it developed in this particular rape case. So, my question for you is, what's your rating? On a scale of one to ten, tell me where are you? One is weak, ten is strong.

**AUDIENCE:** Ten, ten.

**MUNCH:** All right, so strong case, fair enough? Right? That is exactly how the case was perceived and judged by the prosecution team. I want you to know that these are the facts of the case as they relate to this person, the People vs. Kobe Bryant. Pretty famous basketball player for the Los Angeles Lakers. Many of you may not have paid attention to this. But if you did, here's what I can promise you. This is not the impression that you probably had of this particular case. And that is because of the influence of the Unnamed Conspirator as well as the fact that there was a gag order in place, meaning that the prosecution team was not allowed to discuss the case publically to the press or anyone else. So you shouldn't hear those facts, right? You don't want the case tried in the media. You want the case tried in the courtroom. But you didn't hear any of that. What you saw more typically were kind of pictures of him maybe with his defense attorney kind of walking at the courthouse. There was a lot of publicity about this case because he is such a superstar, but there was a whole other piece of this that you didn't know and that I really need to make sure I communicate to you, and that is what the reality was for this particular victim.

So this is a survivor, who, first of all - during the course of the prosecution of this case - she had to move to five different states just to avoid the very aggressive media, the investigators, that kind of thing. She'd get set up someplace, people would figure out who she was, they'd drop a dime on the media, and she'd have to move. Finally talked her into getting some support from a psychologist, and this psychologist offered to sell her confidential records to The Globe. Her world narrowed very, very quickly as you can imagine. I mean, this guy's a big star.

So she was living in Eagle, Colorado outside of Vail, and it turned into just an absolute circus. And she couldn't even go home to see her parents, for example, unless she was somehow disguised with a blanket over her in the back of a car or something. She had hundreds of death threats - hundreds of death threats - two, of which, were so serious that two different men in two different states were investigated, charged, convicted, and sentenced to jail for very legitimate threats against her life. One was a man who left profanity-laced death threats on her home answering machine. The other was a murder for hire. And both of those people ended up criminally convicted as a result of those actions.

The details of her life were posted on the Internet and on the international media, so her privacy - it was very difficult to protect her privacy during the course of this. And she was on the cover of Globe magazine four different times. And quite frankly, at the end of fourteen months, we were in the process of picking a jury or trying to narrow a very huge jury panel as you can imagine - because it was such a high profile case to try to actually seat a jury - and she said, "You know what, I can't go through this anymore." And I guess my question is, could you?

So the prosecution dismissed the case, and Kobe Bryant's not convicted of anything. I want you to know that. He's not guilty, legally, of anything. But this was her experience and the influence of the Unnamed Conspirator in her life, as well as some of the fallout from that,

and other similar kinds of cases is very much alive and well today. I was on the backup team to the prosecutors, providing fifty percent of my time to the prosecution of this case and assisting in every way that I was able to do, and it was very eye opening and very interesting.

## **Chapter 12**

And so, here's the problem. Part of the problem is, can you find the sex offender in this picture? None of us wants to believe that somebody we know, that we like, maybe was a childhood hero, maybe is the teacher, maybe is a parent, maybe is a coach, maybe is a minister, maybe is a counselor, maybe is a brother, maybe is a sister. Nobody wants to believe that they can't tell who will do this.

And I want to say one other thing about the Bryant case. One of the reasons I hesitate to use that case is it reinforces an unfair stereotype. Right? You have in that case, a black defendant and a white victim, and I want you to know that that is an unfair, overly-emphasized in our criminal justice system dyad that has not been a fair one. We have disproportionately blamed men of color for this crime for a very long time. I need to acknowledge that because I don't want to reinforce a stereotype that I know is not valid. This is a crime that almost happens within cultures and within races, etc. It's black on black, it's white on white, etc. But I use this because really what was involved in this case was just unbridled power, money, prestige, etc.

But I just need to acknowledge that because the problem that we have - if you picture a coin, two sides of a coin - on the one side of the coin we've got victim-blaming, and on the other side of the coin we have holding offenders accountable - and there's this incredible tension on this side of the coin as we flip it in this culture, and what we find is almost all of the time it lands on the side of let's blame the victim. You know why? Because it's easier. Our world is safer if we think we can tell who the people are that do this. And it becomes very unsafe if we can't. The hard part of this is that we can't. Sex offenders look like all of us. They are among us in every single part of our world and they don't look like the stinky guy that we all love to hate, at least only eighty-five percent of the time, they're not like that. So it's a tough thing that we're up against, and we need to make progress on this. Because if we don't we're going to continue to get the same results that we do.

So, I want you to just consciously think about taking your focus off of victim behavior and putting it onto offender behavior, which is where in my opinion, of course, it belongs. And to do that, I'm just going to do a couple real quick examples.

I have a question for you. When you hear typically about a rape case, and you find out that he is drinking, hypothetically speaking - whether it's a jury or an admin board or whoever it is - do you think that the people that are making a decision about that rape, who hear that he is drinking - if it's a male perpetrator - do you think that is typically something they hold against him or is that something that might be used as an excuse? Excuse. Then they hear that she's been drinking. Is that something that typically is held against her, or is that something different? That's held against her, right? That's called a double standard, and it

is in our water. It is part of why we struggle with these cases, and it's something that we really have to confront.

If you've ever had a surgery. I've had enough for this side of the room. So when you have a surgery, I have a question for you, when you have a surgery do you have to agree to have that surgery before you let that person cut into you, right? So, when you had your surgery, did you agree to let them cut into you at this point or was it earlier? Earlier, right? Obviously. And that's partly because there's lawyers in the world, but it's also because you can't consent to something at this point, is that fair? The truth is when a person is inebriated, substantially incapacitated by alcohol, they're in the same state as this. This is basically the identical state. You know, you can almost do surgery on a person that is really very, very intoxicated by ethanol or alcohol. And yet, it's sometimes... We think about it differently. Sometimes I have run into the Unnamed Conspirator who thinks, "Well, she's passed out, what did she think was going to happen?" Well, I don't know. Maybe that she'd wake up and have a hangover. You know, the logical consequences to drinking too much alcohol is a hangover. It's not a rape. And I know that you know that, but you know these are the messages that we have been handed down and that we have to deal with.

So, you know you've got your marching orders now. Your marching orders are to look for it, pay attention to it, examine it and discard it. Make sure that you are not carrying forth the work of the Unnamed Conspirator. There's so much evidence of it, I've barely scratched the surface. But I wanted to give you an opportunity to kind of stop and look and think and examine the way sometimes that we struggle with these cases because of things that we've simply accepted having been born into this culture. Thank you.

[End]