

Truth in the Brock Turner Case and Recall of Judge Aaron Persky

This white paper is a collection of views and personal opinions from alumni and other independent volunteers who have been following since mid-2016 the Brock Turner case and the recall of Judge Aaron Persky. Contributors include lawyers, medical professionals, former investigators and other interested persons. Chanel Miller's name is being used here because Ms. Miller revealed her identity with her recently published book and her subsequent media and other appearances. Prior to that, materials of this nature referred to her as "Doe" which is why that name may also sometimes appear. What follows are solely the personal views and opinions of the volunteer contributors. [11/23/19]

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NOTE: Throughout this white paper, the boldface and italics in quoted language has been added and was not in the original unless otherwise indicated.

OVERVIEW

This no doubt will come as a surprise to most readers, but as discussed below, the evidence is mounting that Brock Turner was wrongfully convicted. To quote from a paper written by two lawyers who independently reviewed the case, the facts did not support a finding of guilty and Turner was actually innocent as a matter of law. He should never have been prosecuted for let alone convicted of the crimes he was charged with. See <https://helpsaveoursons.com/a-campaign-of-disinformation-putting-it-in-perspective-brock-turner/>.

What also has surprised people who have been following the case is the extraordinary cruelty shown by the people who have been attacking both Turner and Judge Aaron Persky, as well as how long Stanford, Silicon Valley and the media have failed to address the lies that are part of a well-funded and ongoing campaign.

No matter how you might come out on this specific case, there is a critical need for an honest dialog about sex, allegations of sexual assault and the impact of excessive drinking on our college campuses. What happened nearly five years ago at Stanford University involving a 19-year-old freshman (Turner) and a 22-year-old visitor who had already graduated elsewhere (Chanel Miller) is a tragic story for everyone involved.

A key theme throughout this white paper is that the intentional distortion by third parties of what actually happened has resulted in a serious injustice, and with little if any critical examination of the facts or about who has been distorting the story and why.

The truth inevitably will come out. It always does.

Campus sexual assault is a serious and timely issue. The one-sided and even malicious presentation of this case has worked against the need for all parties to be treated fairly, that there be an environment where difficult issues like these can be openly and honestly discussed and that we find workable solutions. Read what follows and decide for yourself.

A matter of concern – excerpt from book not yet released

“The People v. Brock Turner story is a microcosm of all that afflicts today's criminal justice system and in a rampantly unregulated social media environment.

“On January 17, 2015, Brock Turner (age 19), a Stanford freshman and NCAA Division 1 swimmer, went with friends to a late-night fraternity party area where drinking abounded and in numerous ways contrary to Stanford’s alcohol policies.

“Emily Doe (now disclosed to be Chanel Miller, age 22 at the time), her sister and two friends were invited to attend this frat party scene by one of their Gunn high school friends then attending Stanford.

“The young women drank a substantial amount of alcohol at home and Chanel’s mother then drove them to Stanford, dropped them off and where they continued to drink heavily and wander the scene. Chanel would gradually drink herself into an alcoholic stupor (BAC 0.24) and what appears to have been a state of alcohol-induced blackout amnesia, a condition she told police and others she has experienced before but where, she further told them, although she doesn’t remember what happened she has always been able to get herself home safely.

“These were big well-attended late-night parties, one with more than 100 people.

“What ensued has resulted in Turner being a convicted felon, Chanel doing book tours and other appearances and reportedly receiving large payments from both Stanford and the book publisher, the

recall of a very capable judge who did nothing wrong other than follow the law, a serious and major abuse of the criminal justice system, and the undermining of decades of progressive reforms.

.....

“Why is this story important? To make known (1) the damaging effects of our broken and at times corrupt justice system on young defendants, (2) the catastrophic consequences of alcohol abuse on college campuses, and (3) the uncontrolled abuses by political players to use their positions of power and social media to achieve their own aims against the public interest and that ended in society’s loss of a bright young man’s future and the unseating of a judge who did no wrong.”

Questions to ask

Different people might come to different conclusions, but as you look at the details in the Turner case, ask:

1. **Facts and events** – What actually happened? It’s not difficult to sort out if you take the time to read what’s readily available in the public record.
2. **Intent** – What should "intent" mean for purposes of the criminal laws?
3. **Ms. Miller’s drunkenness** – Does it make sense that because 22-year-old Ms. Miller was drunk, her consent might be *invalid* under the law? Does it matter that Ms. Miller knew from prior experience that she blacks out from heavy drinking (meaning she appears perfectly fine to third parties, including to Turner, but hours later she can’t remember what she did) but nevertheless had three times the legal limit and then hooked up with Turner, a freshman?
4. **Turner’s drunkenness** – Does it make sense that although 19-year-old Turner likewise was drunk, the waiver of his legal rights, including his right to counsel, might be *valid* under the law? Or that he was held to a higher standard than Ms. Miller in determining Ms. Miller’s own actions?
5. **Sexual equality** – Women have rightly sought and made significant advances to sexual equality in recent years. What, if any, responsibilities come with that equality?
6. **The lawyers** – In what ways did the Santa Clara County District Attorney Jeff Rosen and the Deputy District Attorney/prosecutor Aleah Kianerci act inappropriately? Likewise, what might Turner’s lawyer have done differently? The entire Turner matter could make a good case study for future criminal law classes.
7. **Duties to disclose** – What were the obligations of the Santa Clara County DA’s office, the Stanford police and others to bring forward evidence that would have been to Turner’s benefit? There are laws that require that they do this. Did they fulfill those duties, or did they do something else?
8. **The recall** – What was motivating the people who raised over \$1 million to recall the judge in the case, Judge Aaron Persky? Judge Persky did what California judges are expected to do, which was to follow the professional recommendations of the County’s Probation Department. Yet the people attacking both Turner and Judge Persky wanted a different standard and waged a recall campaign against Judge Persky because he didn’t follow the standards they wanted. Since when have we let vigilante justice take over in this manner? And will reporters and others ever tell the full and true story?
9. **The book contract** – When were discussions of a book contract undertaken for Ms. Miller? The first public reference seems to have been in a NY Times interview in June 2016, only days after the sentencing. If any such discussions had been underway prior to or during the trial or sentencing, the relevant testimony, including Ms. Miller’s victim impact statement, all would be tainted. Also, when did the DA and prosecutor know about these plans.

False terminology

Using the term "rape"

Turner was never prosecuted for or convicted of the crime of rape. To refer to him as a "rapist" is false and defamatory.

- The prosecutor knew within days that Turner's DNA was not even on Ms. Miller or her clothing although her DNA was found under his fingernail, and in his drunken statement he said he had fingered her, although with what he thought was her consent. Under California law at the time, there was no "rape" but the prosecutor nevertheless kept the rape charges pending for nine months, until the day of the preliminary hearing and in likely violation of state and County rules.
- Turner's zipper, belt, pants and other clothing were never opened.
- Another person's DNA was found on Doe's underwear and Turner was specifically excluded as the source. No one bothered to identify whose DNA it was or how this happened. (*Trial transcript, vol. 7, page 493.*)

Using the phrase "behind a dumpster"

Turner and Ms. Miller were in full view of passersby. Another couple was making out nearby, similarly in full view of passersby. (*Trial transcript, vol. 6, page 281.*)

- Turner and Ms. Miller left the party consensually together, were heading to his dorm room, fell on the ground while drunk and began consensually making out.
- Turner did NOT drag or find an unconscious woman behind a dumpster, as the media have often portrayed based on a carefully orchestrated third party media campaign.
- From the lawn at the KA fraternity house, the bike path and all other nearby areas, Turner and Ms. Miller were IN FRONT of the dumpster and fully visible. As one of the Swedish graduate students testified, they were fully visible "between the wooden shed and the basketball court." (*Trial transcript vol. 6, page 280.*)
- See *A picture is worth a thousand words*, below.

Ironically, the Stanford law school professor who has been leading the campaign against Turner and Judge Persky, in her written statement to Judge Persky prior to sentencing, said what happened was all the worse because it was so public and in full view of everyone passing by. It apparently was later decided "hidden behind the dumpster" played better for media purposes.

Using the term "unconscious"

Ms. Miller was conscious at the party, while dancing with Turner and during their making out.

- Turner was never aware that Ms. Miller was not capable of making informed, personal decisions.
- It appears Ms. Miller went to sleep in the seconds when Turner got up and was tackled by the two graduate students. "She looked asleep," one of Swedish graduate students testified. (*Trial transcript, vol. 6, page 297.*)
- When checked by others, Ms. Miller was snoring, turned herself onto her side with her own voluntary movements and after vomiting was able to clear her own airway. According to medical experts, none of this is possible when a person is unconscious.
- Ms. Miller told police and doctors she has blacked out before when drunk. On this particular night, her blood alcohol level was three times the legal limit. But when she says "blacked out," Ms. Miller also told police, she doesn't mean she is unconscious but rather that she doesn't remember what she did hours earlier and that she has always been able to drive herself safely home.

- A very good analysis of Ms. Miller’s alcohol-induced blackout amnesia is contained in Malcolm Gladwell’s book *Talking to Strangers* https://www.amazon.com/Talking-Strangers-Should-About-People/dp/B07NJCG1XS/ref=sr_1_1?keywords=talking+to+strangers&qid=1573742249&sr=8-1.
- There also is a fact-based analysis of Ms. Miller’s alcohol-induced blackout amnesia posted here: <https://helpsaveoursons.com/the-role-of-alcohol-alcohol-induced-blackout-amnesia-in-people-v-brock-turner/>.

About the statement Ms. Miller read at sentencing

There is very substantial evidence that Ms. Miller did not write the sensationalized statement that she read at Turner’s sentencing, that within hours was carefully disseminated worldwide by third parties, that became the centerpiece of the recall of Judge Persky, that is the centerpiece of Ms. Miller’s recently published book and that may be the centerpiece of rumored movies. The evidence indicates that one or more third parties wrote or heavily edited Ms. Miller’s statement but have carefully hidden and sometimes even denied their roles. One third party has reportedly boasted that she (the third party) wrote it.

Among other things, the statement includes legal terminology that would not be generally used by Ms. Miller. It also contains a reference to a specific page number in the transcripts – transcripts that were not yet publicly available and supposedly had not even been transcribed as yet.

Note also that third parties, the media and others initially were praising the statement “that Doe wrote.” But when questioned about the authorship several months later, they always thereafter carefully said instead “the statement that Doe read” in court. On the other hand, Santa Clara County officials seemed to have known the truth from the very day the statement was read in court. Recent disclosures as a result of Public Records Act requests show that Santa Clara County officials never referred to the statement as “the statement that Doe wrote” but always carefully said instead the statement that Doe “read,” “disseminated” and similar words and phrases.

Recent media interviews of Ms. Miller, such as by Bill Whitaker on 60 Minutes, also have carefully avoided asking Ms. Miller, at least on camera, who wrote her statement even though they were sent weeks ahead of time information showing that Ms. Miller didn’t write the statement that was the centerpiece of their broadcast. Most responsible journalists would have pursued the issue and at least noted the issue in their broadcast.

In Ms. Miller’s book, the statement is reprinted at the end but with a similar carefully worded introduction, saying it is the statement that Ms. Miller “read” to Turner.

Which leads to the question, don’t Santa Clara County and Stanford University officials have an obligation to speak up when they see that their colleagues have been engaging in this sort of very public, worldwide lie? And especially when County and Stanford officials all continue to discuss the significance of the statement Ms. Miller “read”?

Stanford initially agreed to post selected quotes from Ms. Miller’s statement at a memorial (“contemplative garden”) Stanford built in honor of Ms. Miller even though they already knew Ms. Miller didn’t write the statement from which the quotes were to be selected. Stanford subsequently refused to abide by their prior agreement, but then under pressure from third parties – including from the faculty member who has been orchestrating the entire campaign and is likely the author or editor of the statement – nevertheless relented.

Which leads to this obvious question: On what basis does a university like Stanford yield to what they long have known is a campaign of lies by a member of their own faculty?

Their actual words

Contrary to the false story that has been carefully orchestrated by third parties, here are Ms. Miller's own words to the Santa Clara County Probation Department, before these third parties apparently wrote something different for Ms. Miller to read at Turner's sentencing:

". . . I don't want him to feel like his life is over and I don't want him to rot in jail. He does not need to be behind bars."

And here are Turner's own words at the sentencing hearing, even though the false stories being disseminated by third parties and their media advisers keep saying Turner has never showed remorse. It should also be remembered, anything Turner might have said at the sentencing could and almost certainly would have been used against him in other legal actions that he or others might bring, and also in the media campaign being waged against him by third parties:

"...Not only have I altered my life, but I've also changed [Ms. Miller's] and her family/s life. I am the sole proprietor of what happened on the night these people's lives were changed forever. I would give anything to change what happened that night. ***I can never forgive myself for imposing trauma and pain on [Ms. Miller].*** It debilitates me to think that my actions have caused her emotional and physical stress that is completely unwarranted and unfair. The thought of this is in my head every second of every day since this event has occurred...."

Note also, Turner's statement was written by him as opposed to the statement Ms. Miller "read" in court and that was almost certainly written by the third parties who were attacking Turner from the outset. (See *discussion below.*)

About alcohol-induced blackout amnesia

The issues of alcohol and sexual relationships on college campuses are timely and require an open and honest dialog. The carefully orchestrated campaign against both Turner and Judge Persky has worked against such a dialog and undermines progressive reforms. A critical element in what happened is the impact of alcohol, and on both Turner and Ms. Miller.

Malcolm Gladwell's recent book, *Talking to Strangers*, devotes an entire chapter to the Turner case and Ms. Miller's **alcohol-induced blackout amnesia**. It is worth reading.

https://www.amazon.com/Talking-Strangers-Should-About-People/dp/B07NJCG1XS/ref=sr_1_1?keywords=talking+to+strangers&qid=1573156184&sr=8-1.

An essay that **choices have consequences** was written by a Stanford alum and is posted at the SOS (Save Our Sons) website: <https://helpsaveoursons.com/essay-by-stanford-law-alum-choices-have-consequences-Ms.-Miller-miller-brock-turner/>.

The SOS website also has a fact-based white paper on the **medical issues** involved in alcohol-induced blackout amnesia: <https://helpsaveoursons.com/the-role-of-alcohol-alcohol-induced-blackout-amnesia-in-people-v-brock-turner/>.

Finally, the SOS website has a **legal analysis** written by two experienced trial attorneys who independently reviewed the case: <https://helpsaveoursons.com/a-campaign-of-disinformation-putting-it-in-perspective-brock-turner/>.

The need for the truth

In recent years, lawyers, journalists and others who had no prior involvement in the Turner case started looking at the public record as well as making their own inquiries. Among other things, their review found

that witnesses repeatedly changed their testimony to help the prosecution's case and in some instances appear to have lied; evidence in the possession of the police and the prosecutor was delayed in disclosure, hidden and in some instances appears to have been destroyed; and the prosecutor engaged in what many believe to be prosecutor misconduct.

Equally troubling is that a well-orchestrated and unchallenged media campaign against Turner and Judge Persky has been ongoing. Any neutral observer needs to ask: Why is such a vicious campaign being undertaken, and still ongoing five years after the fact? What motivates the people waging this campaign – a cause, or is it also for money, celebrity and political ambitions?

Versus the untruths that have been disseminated

Turner and Ms. Miller had been engaging in what modern generations consider safe sex, or not even sex. And it was with mutual and progressive affirmative consent. Contrary to the orchestrated untruths, Turner DID NOT find or drag an unconscious woman behind a dumpster nor open any of his clothing.

- Yet the false story that had been carefully nurtured by third parties, often with the involvement of professional media consultants and deniability through the use of social media, is that Turner somehow found or carried an unconscious woman to a darkened and dirty space behind a garbage dumpster, opened his and her clothing and was having intercourse when found by the two Swedish graduate students.
- As shown in the trial records and elsewhere, Ms. Miller consumed large amounts of alcohol before and during the party at the Kappa Alpha fraternity house even though she knew, from her own personal history, that she experiences alcohol-induced blackout amnesia (that is, she appears to be functioning fine to third parties, including to Turner, but hours later can't remember what she did).
- Ms. Miller was consensually dancing with Turner and consensually going with him to his dorm.
- Turner and Ms. Miller were making out in full view of others. (*See A picture is worth a thousand words, below.*)
- Another couple was nearby similarly making out and similarly in full view of others, although the Stanford police never bothered to identify them, or if they did, Stanford, the Stanford police and the DA then hid that information.
- Turner never opened his pants or any other parts of his clothing.
- Turner's DNA was not on Ms. Miller's underwear nor on any part of Ms. Miller's body although her DNA was found under his fingernail, and he had said in his drunken statement that he had fingered her, although with what he thought was her consent.
- Ms. Miller was not unconscious during their interaction. (*See discussions about alcohol-induced blackout amnesia throughout this white paper as well as the differences between a person in blackout, sleeping or being unconscious.*)
- Unfortunately, the prosecutor, Alaleh Kianerci, continued to inappropriately conflate the words "blackout" with "pass out" and "unconscious." (*Trial transcript volume 8.*) These are entirely different medical conditions.

A picture is worth a thousand words



The view the two Swedish graduate students had of Ms. Miller and Turner . . . in full view of all passersby and IN FRONT of the dumpster.



Kappa Alpha fraternity house on right, Jerry House on left

1. KA patio
2. Path where Turner and Ms. Miller walked from the KA patio
3. Where Turner and Ms. Miller were making out
4. Where graduate students tackled Turner
5. Path the graduate students came in on bikes
6. Area in bushes where Ms. Miller, her sister and their friend went to urinate an hour earlier

Before, during and after the party

Turner was already drunk before going to the party at the Kappa Alpha fraternity house

Turner, a 19-year-old freshman, was drinking in his dorm, contrary to Stanford's alcohol policy. The residential staff, instead of enforcing the policy, told him and his friends they were making too much noise and should go elsewhere. (See *shortcomings at Stanford, below.*)

The swim team regularly partied at the Kappa Alpha fraternity house, and so Turner and his friends walked there sometime between 10 p.m. and 11 p.m. At the party, ID's apparently weren't checked and other Stanford alcohol policies apparently weren't being enforced. Rather, members of the swim team told Turner to have a good time.

Ms. Miller drank heavily before going to the party

Ms. Miller was 22 at the time, had already graduated from college elsewhere and was living at her parents' home in Palo Alto. She had never been a student at Stanford.

As shown in testimony and elsewhere, Ms. Miller drank four shots of alcohol as well as a glass of champagne while at home before her mother (allegedly) drove her, her sister Tiffany and two friends to the party at the Kappa Alpha fraternity house at 11:00 p.m. that night.

Ms. Miller told her sister she possibly planned on going to the bars in downtown Palo Alto if things didn't work out at the fraternity party.

Ms. Miller continued drinking at the party

In addition to what Ms. Miller drank at home prior to going to the party at the fraternity house, she then drank four to five shots of straight vodka plus some beer in the first hour at the party, per her testimony at the preliminary hearing.

Between the preliminary hearing and the trial, Ms. Miller changed her testimony regarding her drinking that night.

Other incidents at the party

Ms. Miller was throwing cereal and other food in the fraternity house kitchen and reportedly had to be removed by her friends and others.

Ms. Miller, her sister Tiffany and a friend all took off their underwear to urinate in the bushes outside the fraternity house within an hour before Ms. Miller was seen dancing with Turner. The friend was so drunk that, without assistance, she couldn't put her own underwear back on.

They took a video of their doing all of this. (*Trial transcript, vol. 6, page 333.*) Ms. Miller testified she **took** other photos at the party, too. (*Trial transcript, vol. 7, page 475.*) Which again made those phone records important evidence, and yet, as discussed below, Detective Mike Kim and other Stanford police for some reason got rid of all of that evidence the very next morning.

Joking that Turner was someone else

Early at the fraternity party, Ms. Miller's sister and a friend started joking that Turner, someone they had never met before, looked like a guy at the college Ms. Miller's sister attended. For the rest of the night they referred to Turner using the other guy's name. (*Trial transcript, vol. 6, page 352.*)

Ms. Miller has "blacked out" before

Ms. Miller told police that she has previously blacked out from drinking, but in her view, she further told police, when she says "blacked out," she doesn't mean she has been unconscious but rather that she doesn't remember events although she said she also remains functioning and mobile. Ms. Miller testified that she blacked out from excessive drinking at least four or five times while in college.

Although she knew from repeated prior experiences that she blacks out from heavy drinking, Ms. Miller nevertheless drank so much that her blood alcohol was three times the legal limit. (*See prosecutor's opening statement. See also page 6 of 9 of Statement of Victim (VO1) given at 01-18-15, 8:25 p.m., Stanford Department of Public Safety Station, found at PR 045, Incident Report, case 15-018-0019U:*)

"She blacked out before from drinking, but only when she has been continually drinking for a long time, and it is usually at the end of the night when it happens. She has not blacked out often (she described a blackout to be where she is still functioning, but not remembering). She usually makes it home even when she blacks out."

Ms. Miller didn't say or believe she had been assaulted

When Ms. Miller woke up at the hospital, the only thing she requested was to go to the restroom.

Her specific words at the preliminary hearing: *"I had a loose Band-Aid on my hand and elbows so the first thing I thought was that I had fallen and that they had taken me, like somewhere on campus for being drunk in public or something. Or that they were just waiting. I don't know, to see who I was or something."*

Ms. Miller later claimed, apparently after being coached, that she "woke up in the hospital with dried blood and bandages on the backs of my hands and elbows". This specific statement was read in court and conflicts with her prior testimony. And remember, it's not clear who actually wrote the statement Ms. Miller read in court.

In fact, the blood bruises and bandages were solely from the medical staff attempting to start an IV. It was reported that it took the ambulance attendant three to four attempts to try and find a vein.

When asked at the same preliminary hearing whether she had any abrasions or scratches on her body, Ms. Miller testified: "Maybe a scratch on my neck but minimal scratches, I think."

No reports were ever produced by medical and other personnel that Ms. Miller had any pain or discomfort that night or the next morning. Somehow this all changed in her highly publicized statement read in court.

It's also curious, why didn't Ms. Miller's sister ask the police what was happening when she saw the police at the fraternity house after she got one friend back to the friend's dorm but still couldn't find Ms. Miller? And why didn't Ms. Miller's sister call the police when she got home and found that Ms. Miller still wasn't home but knowing there was police action at the fraternity house? Among other things, did she call others to see if they knew where Ms. Miller was, or did she assume Ms. Miller had gone to Turner's dorm since she had seen them together before she left the party?

Observations from third parties

COMMENT FROM A MOTHER not involved in the Turner case but who regularly monitors Title IX matters nationwide:

"I have always believed it is absurd that campus policies hold accused students responsible for the intoxication of another, particularly when the parties were equally and willfully intoxicated, but I wasn't aware that this same imbalance applied to criminal charges. A frightening world we live in if this is true, especially when it was a 19-year-old man being held responsible for the behavior of a 22-year-old, obviously much more experienced woman.

". . . Research about the blackout drunk phenomenon should be extremely relevant where Brock's accuser was knowledgeable and seemingly very cavalier about having experienced blackouts previously."

AUTOBIOGRAPHY BY A WOMAN AUTHOR who regularly blacked out from alcohol:

"**Blackout: Remembering the Things I Drank to Forget**" -- *Amazon summary:*

"For Sarah Hepola, alcohol was 'the gasoline of all adventure.' She spent her evenings at cocktail parties and dark bars where she proudly stayed till last call. Drinking felt like freedom, part of her birthright as a strong, enlightened twenty-first-century woman.

"But there was a price. She often blacked out, waking up with a blank space where four hours should be. Mornings became detective work on her own life. What did I say last night? How did I meet that guy? She apologized for things she couldn't remember doing, as though she were cleaning up after an evil twin. Publicly, she covered her shame with self-deprecating jokes, and her career flourished, but as the blackouts accumulated, she could no longer avoid a sinking truth. The fuel she thought she needed was draining her spirit instead."

FROM PALO ALTO ONLINE *[typos are in the original]*

Anonymous says:

[June 12, 2016 at 6:30 am](#)

"On Pg 6 of 9, of **Statement of Victim (VO1)**, given at 01-18-15, 8:25 PM, Stanford Dept of Public Safety Station, found at PR 045, Incident Report, Case 15-018-0019U:

"She has blacked out before from drinking, but only when she has been continually drinking for a long time, and it is usually at the end of the night when it happens. She has not blacked out often. (she described a blackout to be where she is still functioning, but not remembering.) She usually makes it home even when she blacks out."

"So what does the above tell you? It tells me that she is a pretty experienced party girl. I wonder how many times she's 'hooked up' at parties where she was totally sloshed and incoherent, but just chalked those up to 'having fun.' We are talking about an individual who clearly does not learn from her mistakes. Now not learning from her mistakes and getting 'caught' by the Swedes is ruining Brock Turner's life forever.

"If the Swedes didn't show up, there's a good chance this girl makes it back home (just like she said in the statement above) and then later laughs about it with her sister (while of course never telling her parents nor her boyfriend). But because the Swedes, the police and the hospital were involved, she was basically forced to 'save face' and play the role of 'victim' so her parents, sister and everyone else doesn't perceive her as some careless party groupie.

"If you were lying in the hospital with the police and doctors looming over you which would you say:

"Option A: I was a total dumbass, drank too much, hooked up with a cute guy behind a dumpster and passed out.

"Option B: I was a victim! He raped me!

"Option A above places the blame on yourself. Option B places none of the onus on yourself. Isn't it completely plausible that it was really Option A, but under the peer pressure of the situation she chose Option B?

"Regarding 6 months in jail + losing his scholarship + his Olympic dream he worked so hard for crushed + being registered as a sex offender + the ton of legal fees his family had to pay + his inevitable lawsuit the victim will file against him + 3 years of probation + not being able to be around alcohol + his name being associated with a rapist FOREVER. So you don't think that's a harsh enough punishment?!?! What do you want? Should he be drawn and quartered?"

The arrest, investigation and trial

The arrest

After the Swedish graduate students found Turner and Ms. Miller, Turner was taken to the Stanford police station.

At the Stanford police station, Turner was read his Miranda rights by Stanford police while Turner was still extremely drunk and not understanding what was happening. Initially he thought he was being protected from an attack by the two Swedish graduate students.

Turner was so drunk during the time of the collection of evidence from his body, he reportedly fell over one or more times and knocked all of the swabs to the ground, forcing the examiner to set up a new kit with the assistance of the deputy in the room.

There are significant questions whether separate and necessary legal consents were obtained before Turner's body parts were examined and body fluids taken by the female technician hired by Santa Clara County.

Medical experts who have reviewed the transcripts and related materials also suggest that Turner himself may have been in an early stage alcohol-induced blackout which, if true, would have affected what he remembered and didn't remember and what he told police and others afterward.

Incomplete investigation

Turner and Ms. Miller left the party consensually and in full view of others, but apparently no one ever interviewed others at the party. In reality, there's no way Turner could have carried an unconscious Ms. Miller outside nor done anything else without other attendees seeing whatever was happening.

Another couple was similarly making out nearby and in full view of others. No one bothered to identify and interview them, either.

The police took down the license plate numbers of all the cars in the parking lot that night, presumably to do followup investigations. Yet three weeks later they denied to Turner's lawyer that they even took down the license plate numbers – even though they said they had done all of this in the initial police report as well as in the criminal complaint filed in court. (*Page 18 of the criminal complaint.*)

The initial police report said there were five witnesses. Other than the two Swedish graduate students, there appears to have been little if any followup with the other three witnesses.

Ms. Miller, her sister Tiffany and their friend took photos and videos at the party and including when they urinated in the bushes. These photos and videos could have been important evidence about what was happening and when, but neither the Stanford police nor the prosecutor bothered to retain this evidence. Three weeks after the incident, the police and the DA's office told Turner's lawyer that they didn't have copies of what was on the phones or any phone records, although information from the phones and phone records was used regularly by the police and the prosecutor in the investigation and at the trial.

On the other hand, police pored through Turner's own phone and phone records and even by the time of trial had not returned his phone to him.

The original 911 caller reported only a case of alcohol poisoning. No mention was made of any alleged assault or other questionable activity, although presumably Ms. Miller, Turner and the two Swedish graduate students were in front of whoever made the call. It seems that no one bothered to track down the phone number and interview the caller.

In recent months, Stanford's police chief told one of the volunteer alums who has been reviewing the case that she (the police chief) was surprised Turner was prosecuted. She thought both Turner and Ms. Miller deserved counseling, and that Turner might have been subject to campus disciplinary procedures.

Another senior Stanford official has told one of the volunteers who has been reviewing the case that Santa Clara County District Attorney Jeff Rosen routinely refused to prosecute matters like this so this person and others at Stanford were very surprised at how Rosen and his office acted in the Turner matter, and from the very outset. Which again leads to questions about what role a member of Stanford's law school faculty had in the case, and possibly from the very outset.

The official investigating officer

Stanford Detective Mike Kim was the official investigating officer from the outset. He was then and presumably remains employed by Stanford's police department and not the Santa Clara County sheriff's department. As with the other Stanford police, however, Detective Kim is a sworn Santa Clara County deputy as well.

Because of his special role in the case as the official investigating officer, acting at the direction of the prosecutor, Detective Kim also was allowed to sit with the prosecutor throughout the trial itself. He along with the prosecutor had Brady and other obligations to turn over to Turner's lawyer any evidence, including his own case files, that might have supported Turner's innocence or might have undercut the veracity of the prosecutor's own witnesses. There are many indications these obligations weren't met. These obligations continue even now, especially for members of the bar, police, the DA, the prosecutor and other government officials.

Stanford's role and obligations were further complicated by the fact that one of its law school faculty members was leading a campaign aggressively and even maliciously attacking Turner, making it very difficult if not impossible for any on-campus investigations and hearings to proceed fairly. The professor's actions likewise were impacting what was taking place with Santa Clara County. Stanford was aware of the professor's similar activities in prior matters, several of which subsequently turned out to be false and several of which reportedly led to other complications.

And yet with so much at stake, Detective Kim, other Stanford police and other Santa Clara County deputies did little to investigate the case:

- Other than the tainted DNA lab tests, the major part of their investigation was to interview the two Swedish graduate students.
- They never tried to find and interview others at the fraternity party who might have seen Turner and Ms. Miller leaving together consensually. Nor did they try to find the couple who were making out a few yards from Turner and Ms. Miller and likewise in full view of passersby.
- Officers working with Detective Kim took down the license plate numbers of all the attendees at the fraternity party and made specific reference to their doing so in their initial police report and later in the attachment to the criminal complaint. Yet when Turner's lawyer asked for the license plate numbers, **Detective Kim said he was "not aware of any license check that was done."**
- When Turner's lawyer similarly asked for the results of any investigations done at Stanford, **Detective Kim said he didn't "have access" to anything at Stanford** – even though Detective Kim is employed by Stanford, he and other Stanford police were the ones doing the investigations and even though his boss, Stanford's police chief, reports directly to senior Stanford administrators as well as the Santa Clara County sheriff.

DNA overview

Turner's DNA was NOT on Ms. Miller's underwear nor was it found anywhere on her body. Ms. Miller's DNA was found on Turner's hands, but at least some if not all of that may well have come from their holding hands. Turner also admitted to "fingering" Ms. Miller but it's not clear he fully understood at the time what that meant.

The lab technician's DNA, on the other hand, was found on body samples taken from Turner, indicating improper procedures.

Still another person's DNA was found on Ms. Miller's underwear, and it was specifically determined NOT to be Turner's. (*Trial transcript volume 7, page 493.*)

The question also arises whether the examination kit showed other evidence that might not have been provided to Turner's lawyer, as required under the law. Presumably that kit and any related evidence have been preserved.

Santa Clara County's lab was one of only two labs in the U.S. that the FBI had threatened at the time to deny access to the national DNA data base because of the lab's repeated misconduct while handling and testing DNA evidence. Despite these serious problems, the Santa Clara County DA's office, in Turner's case and others, continued to present this lab's work as trustworthy. (*See book by Erin E. Murphy, "Inside the Cell."*) https://www.amazon.com/Inside-Cell-Dark-Side-Forensic/dp/1568584695/ref=sr_1_1?ie=UTF8&qid=1497830938&sr=8-1&keywords=inside+the+cell

Medical overview

Ms. Miller and Turner were in clear view to passersby, and the people who initially saw Ms. Miller noted then or a few minutes later that she was sleeping and snoring. Ms. Miller also turned herself onto her side with her own voluntary movements, and after vomiting she was able to clear her own airway as observed by the medical responders. According to medical experts, none of this is possible by an unconscious person.

Ms. Miller was not bandaged or bruised from a so-called assault, notwithstanding the impression third parties later have carefully tried to create. The bandages and small amounts of blood on Ms. Miller were solely from the IV and where the paramedics had trouble finding a vein.

A minor scratch on Ms. Miller's neck and at least some of the vegetation may very well have come from when Ms. Miller, her sister and their friend took off their underwear to urinate in the bushes. This all happened within an hour before Ms. Miller started dancing with Turner at the party.

When Ms. Miller woke up at the hospital, she had no sense that anything was wrong. She only asked to go to the restroom and then went back to sleep. Yet police and others, who did not yet have any actual facts, told Ms. Miller she had likely been assaulted, and she subsequently was given forms that said "rape victim" at the top.

More about the missing license plates

As noted above, shortly after arriving at the Kappa Alpha fraternity house, police logged all the license plates of the cars in the parking lot. The taking of license plates is specifically referenced in the original charge sheet and then was included in the criminal complaint filed against Turner in Superior Court on January 18, 2015 by Santa Clara County District Attorney Jeff Rosen and Deputy District Attorney Alaleh Kianerci. (*Page 18 of the criminal complaint.*)

Here's what it says:

*"Dep. ADAMS transported (601) TURNER to the SUDPS [Stanford University Department of Public Safety] Annex in vehicle 1445. Sgt. BARRIES notified the on-call detective, **Det. KIM and he was enroute to the scene.***

"Sgt. ARRIES [sic] and Dep. EDWARDS logged vehicle license plates that were found in the parking lot of 664 Lomita Ct. (Kappa Alpha.)"

The implication is that the police, including Detective Kim, intended to locate and interview more witnesses based on the license plates of the cars in the parking lot, and it appears that Detective Kim was on site and supervising the case when the license plates were being taken down by his fellow Stanford police officers.

Detective Mike Kim, who was and presumably continues as a member of Stanford's police department, was in charge of the investigation from the outset and through the trial. The prosecutor even referred to him in her opening statement as *"my investigating officer seated to my right,"* and because of this official role, he was allowed to sit through the trial with the prosecutor.

Only a few days after the incident, Turner's lawyer requested these license plates and the results of any investigations, but three weeks later, the Santa Clara County district attorney's office responded in writing: *"Det. Kim . . . is not aware of any license plate check done."*

In other words, the Stanford police department, the sheriff's office, the DA's office and the prosecutor either hid the information or forgot what they previously said in writing that they had done, including in the statement attached to the criminal complaint itself. Note also that the answer carefully refers only to Detective Kim and not whether others at the Stanford police department, the sheriff's office, the DA's office or others had the information being requested by Turner's lawyer. They all had obligations under the law to bring this and all other similar evidence to Turner's lawyer, but they apparently didn't.

Photos also reportedly showed a beer can was lying next to Ms. Miller's hand. That beer can was carefully cropped out of photos used at the trial. As far as is known, no one even checked whose DNA was on the beer can, how much of the beer was consumed, and what were the implications, if true, of Ms. Miller walking with Turner, a beer can in one hand and her other hand in his hand? Why was this not disclosed to Turner's lawyer and why was it not shown to the jury?

Which leads to these questions, among many:

- Did Detective Kim or others do this investigation and then keep the results hidden?
- Or for some reason did they decide not to do the investigation, in which case, who decided not to investigate, and why?
- What role, if any, did the Santa Clara County District Attorney Jeff Rosen, the prosecutor Alaleh Kianerci, Stanford Detective Mike Kim and others play in these decisions and actions?

Other missing evidence

When also asked in writing by Turner's lawyer for the results of other investigations, the Santa Clara County DA's office responded: ***"Per Det. Kim, Stanford University may have done their own investigation but neither he nor our Office [the DA's office] has access to whether or not this occurred."***

That also seems strange since Detective Kim was employed and paid by Stanford, Stanford's police are sworn Santa Clara County deputies, Stanford's police chief reports to and regularly coordinates with the

Santa Clara County sheriff as well as senior Stanford administrators, and the prosecutor and DA's staff had access to and used at the trial items obtained from Stanford.

Also, pursuant to the 2007 Memorandum of Understanding making Stanford police sworn Santa Clara County deputies (previously posted on the web but now removed), any investigation of an incident of this nature was to be investigated directly by Stanford police, so on what basis could Detective Kim and the people he reports to (in recent years, Stanford's general counsel) say that Detective Kim and others involved in the investigation had no access to the investigation? Especially if they were the ones doing the investigation?

Note also the careful wording of the response to refer solely to Detective Kim's knowledge versus providing the information requested by Turner's lawyer no matter the source. As far as is known, Turner's lawyer never followed up on these obviously misleading and what appear to be untruthful answers.

Turner's lawyer also asked for the phone records of Ms. Miller, Ms. Miller's sister Tiffany, and their friend. Although the Santa Clara County DA's office and the prosecutor pored through Turner's mobile phone and phone records, and although Ms. Miller, Tiffany and their friend took photos and videos at the party (including a video when they removed their underwear and urinated in the bushes within an hour before Ms. Miller's dancing with Turner), the DA's office responded:

“Per Det. Kim, there was no analysis done on the victim’s phone.”

Later in the same written response to Turner's lawyer: ***“Per Det. Kim, there are no phone records for the victim, the victim’s sister, or [their friend].”*** [

And yet those phones contained important timelines about what happened and when. Also, important information about Ms. Miller's phone calls, including screen shots, was continually used by the police and the prosecutor in their investigation and at the trial.

Voice mail and text messages to and/or from Ms. Miller's boyfriend also were recovered by the police and prosecutor and were used in the investigation and at the trial. Yet somehow the DA's office replied to Turner's lawyer "no phone records" were kept.

Shortcomings by Turner's own defense lawyer

A review by various attorney volunteers has led to a list of likely shortcomings by Turner's own defense lawyer:

1. Failure at the very outset to demand that Stanford postpone any Title IX investigations and hearings because of the likely impact such investigations and hearings would have on the criminal process, and especially if Stanford was turning over these materials to the Santa Clara County DA's office. Years later, the Stanford Daily reported materials of this nature were in fact being provided to the DA's office.
2. Failure to inquire about who had tampered with the Stanford police log as reported by Fountain Hopper.
3. Failure to hire an investigator, even when repeatedly requested to do so.
4. Failure to counter the actions that third parties at Stanford were taking in the media and potentially with the prosecutor from the very outset. At very least, failure to make demands on Stanford that these activities cease, including the improper use of Stanford time and resources.

5. Failure to disclose that he had previously represented the Stanford law school professor and/or members of her family. Likewise, failure to disclose that he was speaking at the law school professor's classes while preparing for Turner's trial and then again after the trial.
6. Failure to challenge the statement Turner gave to Stanford police while drunk (Turner actually fell over one or more times while being examined) and not understanding his Miranda rights). At very least, defense counsel should have made this objection to preserve it for appeal, even if court decisions often hold such waivers to be valid.
7. Failure to challenge the blood and other evidence that was taken. Separate knowing consents or a warrant were required before taking this evidence.
8. Failure to object to the false rape charges being left pending for nearly nine months when the prosecutor knew there was no probable cause from the very first week. In fact, the prosecutor agreed in preliminary meetings that there was no rape, and yet Turner's lawyer failed to insist that the charges be immediately amended to delete all references to rape. By leaving the rape charges pending for nine months, District Attorney Jeff Rosen, Deputy DA Alaleh Kianerci, the Stanford law school professor and others all were able to continually call this a rape case for media and other purposes.
9. Sending emails to the expert witness hired by defense counsel if he knew or should have known he ultimately might turn all of the emails over to the prosecutor.
10. Failure to object when the prosecutor directly contacted the expert witness without even the courtesy of giving defense counsel prior notice and opportunity to object.
11. Failure to assert attorney work product and other privileges when defense counsel realized the prosecutor planned to use these communications with the expert (he reportedly was acting on the wrong theory that he couldn't assert an attorney-client privilege because Turner had not been copied on the emails). Failure to assert the separate attorney work-product privilege. Many/most criminal defense lawyers also question whether any of these items are in fact required to be shared with the prosecutor, as opposed to actual written reports and other evidence that defense counsel plans to introduce at trial. (Note that when these email communications between defense counsel and the expert were read to the jury by the prosecutor, the expert's credibility was severely damaged and along with it the critical point of the expert's testimony, that is, what alcohol blackout amnesia means and the difference between being in blackout, unconscious or asleep.)
12. Failure to obtain the phone records of Ms. Miller's, of Ms. Miller's sister and of others. Those phone records would have included the videos and photos they took before and during the party; critically important timelines; communications before, during and after the party including whether the sister was even looking for Ms. Miller when the sister got home; and communications with others.
13. Failure to obtain all similar evidence and other materials from the prosecutor.
14. Failure to object to the intentional delays in being provided essential evidence (photos, police reports) for months when such evidence was required to be produced immediately. Including the stamps the DA and separately the Stanford police had placed on evidence to the effect that the evidence wasn't to be shown to defense counsel or others.
15. Failure to explore what appears to have been modification of documents and Bate stamps.
16. Failure to insist on being provided all the license plates that Stanford police took down the night of the incident, per the initial police report, and then following up to see if, among other things (a) who might have been able to provide essential facts and thus be called as witnesses, and (b) the possibility, as noted by some blogs, that Ms. Miller or her sister Tiffany might have driven themselves to the party.

17. Failure to challenge other written responses from the DA's office saying they had (a) "no access" to investigations at Stanford (even though Detective Kim is employed by Stanford and was in charge of the investigations) or (b) no phone records.
18. Failure to pursue the fact that the initial police report said there were five eyewitnesses.
19. Failure to insist on a postponement of the trial when the prosecutor handed defense counsel important evidence not previously seen just as they were walking into the courtroom on the first day.
20. Agreeing with prosecutor prior to the trial not to challenge the tainted DNA lab tests.
21. At the trial (and possibly in agreement with the prosecutor prior to trial), telling jurors he would put Turner on the stand to testify.
22. At the trial, failure to object, on the basis that this was highly prejudicial, when the prosecutor on 100 or more occasions referred to Ms. Miller as "the victim" and had routinely marked photos and other graphics with the words or letter "victim" or "v." Whether Ms. Miller was a "victim" or not was the purpose of the trial, and failure to object was even worse since there reportedly had been a prior agreement with the prosecutor not to use the word "victim" but instead to use alternative names like Emily Doe, Jane Doe, etc.
23. Failure to object when the prosecutor told jurors to ignore what they had been instructed.
24. Failure to object to the photos and prosecutor statements about Ms. Miller being bandaged and beaten, or at least failure to effectively counter this testimony with testimony that the only bandages and blood on Ms. Miller were from attempts to find a vein for the IV, and possibly the one or two minor scratches that came from Ms. Miller's urinating in the bushes.
25. Failure to put on the stand third parties who could testify that they saw Ms. Miller and Turner leaving together, consensually. Without those presumably available witnesses, the only such testimony came from Turner himself when he was put on the stand, whereas it was essential to have that testimony come from credible third parties.
26. Failure to object to the prosecutor's early and then continual statements to the jury that Turner and Ms. Miller were "hidden behind the dumpster" when in fact they were in full view of passersby and "in front of" the dumpster.
27. Failure to take and show photos that nothing happened "behind the dumpster."
28. Failure to locate the couple making out nearby, also in front of the dumpster and in full view of passersby, and having them testify.
29. Failure to put on the stand witnesses the prosecutor once had listed but then didn't call for testimony, including specifically identified swim teammates. Is this because their testimony would have supported Turner and not the prosecutor?
30. Failure to show who on the swim team had been circulating one or more photos and text messages. The very first week after the incident, third parties had circulated numerous false stories that it was Turner when it was one or more other members of the swim team, and Turner in fact was already in jail. Worse, it has been reliably reported that one of the swim team members who accused Turner of taking the photos was in fact the person who took and circulated the photos.
31. Failure to present evidence about the defects in the DNA testing (lab technician's DNA being on the evidence, unidentified third party's DNA being on the evidence, etc.) in addition to the fact that Turner's DNA was not on Ms. Miller's underwear nor any parts of her body.

32. Failure to provide more conclusive evidence about Ms. Miller's drinking before going to the fraternity party (during the day and at home) and then at the party, and especially her own longstanding and direct knowledge of what blackout amnesia might mean.
33. Failure to explore Ms. Miller's statements to her sister that she might go to bars in Palo Alto if things didn't work out at the party.
34. Failure to produce evidence of the Stanford law school professor's role, including the possibility the professor was coaching witnesses and helping manage the prosecution of the case. At very least, the prosecutor's witnesses should have been asked, who was coaching or otherwise communicating with them?
35. Failure to move for a directed verdict when the prosecutor rested her case without producing any evidence that Turner had fingered Ms. Miller (the most serious of the three felony charges), with or without Ms. Miller's consent (there being separate issues about Ms. Miller's consent). No third parties had seen the interactions between Turner and Ms. Miller, and Ms. Miller testified she couldn't remember anything. So the only witness was Turner himself, and for unknown reasons, the prosecutor did not introduce, at least at this stage of the trial, Turner's statements made to the Stanford police after waiving his Miranda rights while drunk.
36. Notwithstanding the above, Turner's attorney didn't move for a directed verdict but instead put Turner on the stand to testify as to all of the missing elements, including that he had fingered Ms. Miller and thereby made the case that the prosecutor hadn't, and on the most serious of the three felony charges. It also appears that Turner didn't understand the difference between "fingering" versus "penetrating" – a critical issue and one that Turner's lawyer apparently had failed to prepare Turner for but even more incredibly instead simply asked him, to the effect, "did you penetrate her?"
37. Failure to insist on a more complete answer to the jury's question about essential elements of the statutes. Rather, Turner's lawyer allowed a simple "no" answer to go back to the jury and without further explanation. Lawyers who have reviewed the transcripts also believe "no" was the wrong answer.
38. Failure to demonstrate throughout the trial, or at least in summation, an itemization of the testimony that was changed significantly by Ms. Miller, Ms. Miller's sister Tiffany and the Swedish graduate students – and pressing the issues about who had coached them to change their testimony. It's interesting that the apparently long-pending book contract wasn't announced until a few days after the statute of limitations for perjury had expired.
39. Failure to provide proper jury instructions, including one of the most essential of all: instructions on lesser included offenses. Judge Persky had obligations regarding this essential instruction as well.
40. Failure to object on approximately 100 occasions when objections were warranted. Worse, failure to make these objections made it impossible to raise these critically important issues on appeal.
41. Failure to impeach Ms. Miller's highly charged statement at sentencing, including among other things:
 - How it changed from what Ms. Miller told the probation department days earlier.
 - How and why what was filed with the court on May 26, 2016 was further revised from what Ms. Miller read in court on June 2, 2016.
 - Ms. Miller's Facebook postings in a bikini with her boyfriend in Bali and elsewhere were contrary to her statement read in court that she can't stand her body (those postings were subsequently scrubbed).
 - Ms. Miller's Facebook postings about her doing comedy club routines in the months after the incident and before her highly charged statement read in court were also contrary to her statement read in court (those postings also subsequently were scrubbed).

42. At very least, failure to counter the highly sensationalized and false media campaign that was being waged by the Stanford law school professor and others before, during and after the trial.

Questionable actions by the prosecutor

The prosecutor improperly kept the rape charges pending for nine months. She only dropped the rape charges on the day of the preliminary hearing, long after she knew there was no probable cause for rape and after months of widespread and sensationalized media coverage saying that Turner was being prosecuted for rape.

The prosecutor delayed turning over evidence and may even have withheld evidence. For example:

- **"Do not release for discovery"** stamp was placed on materials that were supposed to have been turned over immediately to Turner's lawyer but weren't provided to him until months later.
- The legend at the bottom of the Stanford police summary of evidence states, **"Important: The documents listed above should not be included as attachments to reports or listed in the report narrative."**

While walking into the courtroom the first day of the trial, the prosecutor handed Turner's lawyer important evidence (the EMT written report made 14 months earlier) not previously disclosed to him.

Although it was agreed in advance that Ms. Miller would be referred to as "Jane 1" and her sister Tiffany as "Jane 2", the prosecutor continually and aggressively referred to Ms. Miller as "the victim" throughout the trial. In fact, the prosecutor used the term "victim" over 100 times in front of the jury, and likewise marked all evidence with "Victim" or "V."

The prosecutor told jurors a different standard of what to accept as evidence and as true testimony rather than what is provided under the law. This was a violation of standard trial protocol and likewise should not have been allowed.

Somehow Ms. Miller, her sister Tiffany and various other witnesses were on a first name basis with the prosecutor ("Alaleh") and the official investigating officer ("Detective Mike") and regularly used those first names in front of the jury. The prosecutor resorted to this approach as well.

The rules of ethics prohibit a prosecutor from using third parties to take actions or make statements that the prosecutor may not do directly. Which leads to the question: How much coordination was taking place between DA Rosen, Deputy DA/prosecutor Kianerci and the Stanford law school professor who seems to have been involved throughout the case?

California State Bar Ethics Rule 5-110, SPECIAL RESPONSIBILITIES OF A PROSECUTOR, provides as follows:

http://www.calbar.ca.gov/Portals/0/documents/publicComment/2015/2015_AttachA-RAD-BOT122Rule5-110.pdf :

"The prosecutor in a criminal case shall:

*"(A) Refrain from prosecuting a charge that the prosecutor knows is **not supported by probable cause**;*
...

*"(D) Make **timely disclosure** to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;*

*"(E) Not subpoena a lawyer in a . . . criminal proceeding to present **evidence** about a past or present client unless the prosecutor reasonably believes: (1) The information sought is not protected from disclosure by any applicable privilege or work product protection; (2) The evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and (3) There is no other feasible alternative to obtain the information;*

*"(F) Exercise reasonable care to prevent persons under the supervision or direction of the prosecutor, including investigators, law enforcement personnel, employees or **other persons assisting** or associated with the prosecutor in a criminal case from making an **extrajudicial statement** that the prosecutor would be prohibited from making under rule 5- 120.*

*"(G) When a prosecutor knows of **new, credible and material evidence** creating a reasonable likelihood that a convicted defendant did not commit an offense of which the defendant was convicted, the prosecutor shall: (1) Promptly disclose that evidence to an appropriate court or authority, and (2) If the conviction was obtained in the prosecutor's jurisdiction, (a) Promptly disclose that evidence to the defendant unless a court authorizes delay, and (b) Undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the defendant was convicted of an offense that the defendant did not commit."*

Inappropriate communications with defense counsel's expert witness

Turner's lawyer had arranged for an expert witness, Dr. Kim Fromme, to testify about the various levels of drunkenness, including memory, motor skills and when a person is blacked out versus being asleep versus being unconscious – critical elements for Turner's defense.

On March 4, 2016, a week before the trial was to begin, the prosecutor directly contacted the expert, apparently without prior notice and without a copy to Turner's lawyer, asking for all of the expert's email and other communications with Turner's lawyer, all of the expert's notes, the names of everyone the expert consulted and other information including the expert's past testimony in other cases.

Criminal defense lawyers note that directly contacting an expert in this way is unprofessional even if technically permissible (a question in its own right), shows a prosecutor and a DA's office willing to go up to the line and possibly over the line of appropriate behavior, and significant impact on the fairness of Turner's trial.

Turner's lawyer reportedly didn't think his emails and other correspondence with the expert were privileged because Turner wasn't copied on the communications (the attorney-client privilege) but without asserting the separate privilege for attorney work product. There's also the question of why he engaged in these communications if he knew or should have known that he would turn them over to the prosecutor.

Many criminal defense attorneys also don't believe these types of communications – including informal and irrelevant chatter – were meant to be included in the type of "evidence" that is required to be shared with the prosecutor under applicable law. They believe it is only "real evidence" such as a weapon used in the commission of a crime.

As already noted, the issue of what is meant by "blacked out" (versus being asleep versus being unconscious) was critical at the trial. Ms. Miller herself told police that when she says she blacks out, she doesn't mean she is unconscious but rather that she doesn't remember what happened but has always been able to function, including getting herself home.

The expert gave what many observers believed to be very strong testimony, all of which was seriously undercut when the prosecutor then read to the jury ("shouted" according to some who were in the courtroom) selected communications between Turner's lawyer and the expert.

There was nothing wrong with those communications. They showed the normal banter that takes place when preparing for a trial. But they are not the types of communications expected to be shared with a jury.

Brady requirements

Questions also arise whether the prosecutor turned over similar materials to Turner's lawyer, including what may have been ongoing and non-privileged communications between the prosecutor and third parties who were and remain actively involved in waging the campaign against Turner.

Whether or not requested by Turner's lawyer, a prosecutor's obligations in this regard are far more extensive than for criminal defense counsel.

Under Brady, other court decisions and relevant statutes it was the duty of the Santa Clara County district attorney, the prosecutor, Detective Kim and others to disclose any information that would support a showing of Turner's potential innocence as well as information that could impeach the credibility of the prosecutor's own witnesses. As shown elsewhere, it does not appear these obligations were met.

Prosecutor's improper references to "victim" throughout the trial

Prior to the trial, it was agreed that Ms. Miller would be referred to as "**Jane 1**" and her sister Tiffany as "Jane 2."

Nevertheless, from the very outset of the trial and in front of the jury, the prosecutor intentionally and sensationally referred to Ms. Miller 50 to 100 times as "the victim," thereby prejudicing the jury throughout the trial.

Likewise, the prosecutor regularly showed evidence to the jury that systematically used the word "Victim" or the letter "V."

The question for the jurors was whether a crime had been committed or whether everything occurred with consent. When the prosecutor and her chief investigating officer continually and intentionally referred to Ms. Miller as "the victim," there had to be wrongdoing in the minds of jurors and it appears they were intentionally being prejudiced by the prosecutor from the outset.

Prosecutor's failure to introduce critical evidence at the trial

A critical element of the prosecutor's case was whether Turner had fingered Ms. Miller, including with Ms. Miller's consent. By the time the prosecutor rested her case, no such evidence was presented.

1. Turner's DNA was not on Ms. Miller nor on Ms. Miller's underwear.
2. Ms. Miller said she didn't remember what had happened.
3. The Swedish graduate students didn't see what had happened, and there were no other witnesses.
4. The only possible witness therefore was Turner himself.
5. The prosecutor also didn't introduce any statements Turner may have made, with or without proper legal warnings, to the police when the prosecutor concluded presenting her case. In fact, Turner, while very drunk, told police that he had fingered Doe but had done so with Doe's consent, and his pants and other clothing were always closed. Turner's statement to police also may have been invalid as evidence for the prosecutor to introduce because:

- Turner was too drunk to know what was going on, including waiving his Miranda rights;
- The evidence from his body required separate, knowing disclosures and consent, which hadn't happened; and
- Turner had no criminal intent under the statutes he was being prosecuted for and had no familiarity with the criminal process. In fact, he thought initially that he was with the police so they could protect him from an attack by the two graduate students.

You're therefore left with the question, what caused the prosecutor to **not** introduce Turner's statements during her presentation of the case?

Even though the prosecutor's case was missing critical elements, at the end of the prosecutor's presentation, Turner's lawyer did not seek a directed verdict.

Rather, Turner's lawyer put Turner on the stand and had Turner testify about the critical elements that were missing from the prosecutor's own case. Which then gave the opening for the prosecutor to try to discredit Turner's testimony by subsequently playing a tape of Turner's statement to Stanford police that was made while Turner was too drunk to even understand his rights and where he may himself have been in an early state of alcohol-induced blackout amnesia.

The jury

One of the jurors, in the *voir dire*, said his daughter had been "roofied" recently. He nevertheless was kept on the jury.

Jury instructions failed to include essential elements, including lesser included offenses. Such instructions were supposed to be included yet neither defense counsel nor the judge took steps to assure this.

There are indications jury instructions also may have been misunderstood or ignored by the jury, including as shown by the questions being asked by the jury during their deliberations.

During deliberations, the jury asked a critically important question about the instructions and got an incomplete and thus misleading answer. (*Trial transcript vol. 13, page 6.*) Compare that with what the jury was told at the start of the trial (*trial transcript, vol. 3 page 41*):

"The defendant is **not guilty of this crime** if he actually and **reasonably believed that the woman was capable of consenting** to sexual intercourse, **even if that belief was wrong. People have the burden of proving beyond a reasonable doubt** that the defendant did not actually and reasonably believe that the woman was capable of consenting." [*NOTE: there was no prosecution or claims for intercourse but this instruction was given to the jury anyway.*]

Also: "The defendant is **not guilty of this crime [penetration]** if he **actually and reasonably believed that the person was capable of consenting** to the act, **even if the defendant's belief was wrong. The People have the burden of proving beyond a reasonable doubt** that the defendant actually and reasonably believed that the woman was capable [sic - should be incapable] of consenting. If the People have not met this burden, you must find the defendant not guilty." (*Trial transcript, vol. 3, pages 42 and 43.*)

Also: "**To prove that the defendant is guilty of this crime [the third count re an unconscious person]**, the People must prove that: One, the defendant committed an act of sexual penetration with another person; two, the penetration was accomplished by using a foreign object; three, the other person was unable to resist because she was unconscious of the nature of the act; **and four, the defendant knew that the other person was unable to resist because she was unconscious of the nature of the act.**" (*Trial transcript, vol. 3, page 43.*)

The fact that jurors were raising questions during their deliberations rebuts the anonymous juror letter to Judge Persky a week following the sentencing saying that there were no issues or questions among the jurors.

Also, the anonymous juror letter to Judge Persky contained information reportedly never heard by the jury. If true, did someone involved in the trial help write that letter?

The jury rendered an inconsistent verdict. That is, if they found Turner guilty of specific elements, they could not have found him guilty on other elements. Neither Turner's lawyer nor Judge Persky addressed this inconsistency.

Disclosures as a result of Public Records Act requests show that a few days after Turner's sentencing (June 2016), the Stanford law school professor involved in the matter sent an email to Santa Clara County District Attorney Jeff Rosen urging him to attend a public reading of Ms. Miller's statement that same month and noting that two of the jurors would be attending as well. How did the law school professor know that? Were the jurors specifically invited? Were all the jurors similarly invited? Who had their contact information? And why would former jurors even consider attending such an event?

A judge's comments about prosecutor misconduct

Many of the problems in the Turner trial have arisen in other criminal trials in the past and have been discussed by prominent judges nationwide. The Duke/Lacrosse case is one example. Here's another example.

From the Washington Post:

https://www.washingtonpost.com/news/volokh-conspiracy/wp/2015/07/17/judge-kozinski-on-prosecutorial-misconduct/?utm_term=.0026a62c6bf4

"Prosecutors and their investigators have unparalleled access to the evidence, both inculpatory and exculpatory, and while they are required to provide exculpatory evidence to the defense under *Brady*, *Giglio*, and *Kyles v. Whitley*, it is very difficult for the defense to find out whether the prosecution is complying with this obligation.

". . . there are disturbing indications that a non-trivial number of prosecutors — and sometimes entire prosecutorial offices — engage in misconduct that seriously undermines the fairness of criminal trials. The misconduct ranges from misleading the jury, to outright lying in court and tacitly acquiescing or actively participating in the presentation of false evidence by police.

"Prosecutorial misconduct is a particularly difficult problem to deal with because so much of what prosecutors do is secret. If a prosecutor fails to disclose exculpatory evidence to the defense, who is to know? Or if a prosecutor delays disclosure of evidence helpful to the defense . . . , no one will be the wiser. Or if prosecutors rely on the testimony of cops they know to be liars, or if they acquiesce in a police scheme to create inculpatory evidence, it will take an extraordinary degree of luck and persistence to discover it — and in most cases it will never be discovered."

-- Judge Alex Kozinski, U.S. Court of Appeals for the 9th Circuit

Character evidence about Turner; followup

Since Turner was put on the stand, his credibility was important and especially for the jury. Yet Judge Persky, in preliminary rulings and apparently without objection from Turner's lawyer, prohibited such evidence being introduced. But here is some of what would have been relevant:

Turner was 19 and starting the second quarter of his freshman year at Stanford. He was getting along well with his fellow students and swim teammates, although still having the typical challenges and worries that

come with the start of college and especially with the changes from growing up in Ohio but moving to school in California.

Turner had the highest GPA of the freshmen on the team. He said his ultimate goal was to one day become an orthopedic sports medicine doctor.

Turner was a nationally ranked swimmer and was expected to compete for a possible position on the U.S. Olympic swimming team.

Turner's friends and others all describe him as somewhat introverted, somewhat bashful, and highly polite and respectful. His Stanford teammates described him as hard-working and said he motivated others with his work ethic.

Turner had a longtime, decent, and respectful relationship with his high school girlfriend. That relationship continued from time to time while in college, including when he returned from serving his time in jail.

Notwithstanding the disinformation that third parties were circulating from the outset, Turner is not from a wealthy or privileged family. Mrs. Turner is a nurse. Mr. Turner is a **civil servant** at a military base in Ohio. The Turner family was paying Turner's criminal defense attorney in installments, and since Turner couldn't afford an attorney to bring an appeal, the court appointed one.

There were major bruises on Turner's knuckles, back, and kidney area from the two graduate students tackling him while he was drunk and not understanding what was happening. When an MRI was done in Ohio days later, it also was confirmed that Turner's right wrist had been broken.

Disproportionate punishment

Lifetime sex registration has extraordinary consequences, including if Turner ever has a family of his own. And note, nothing in what Turner was prosecuted for has anything to do with children.

The mother who initially got the national sex registry laws enacted, Patty Wetterling, has publicly challenged its application in situations such as Turner's:

<https://www.apmreports.org/story/2016/10/04/sex-offender-registries-wetterling-abduction> [mother who obtained federal legislation now wants it reconsidered]

<https://www.youtube.com/watch?v=YXUSjY6DIhw> [Patty Wetterling interview]

<https://www.criminallegalnews.org/news/2018/may/15/ex-offender-registries-common-sense-or-nonsense/> [what works and doesn't work]

<https://www.nationalaffairs.com/publications/detail/rethinking-sex-offender-registries> [rethinking sex offender registries]

<https://www.prisonlegalnews.org/news/2017/may/5/registration-tracking-sex-offenders-drives-mass-incarceration-numbers-and-costs/> [unnecessary numbers and costs]

Turner and Ms. Miller were engaged in a consensual encounter while both were very drunk. For this, Turner is a convicted felon and must register for life as a sex offender. Even the Stanford law school professor who has been attacking him and Judge Persky has been quoted as saying ten years on the registry is more than enough. Ms. Miller, on the other hand, obtained a lucrative book contract with the help of third parties (rumors are that an advance of \$1 million to \$1-1/2 million was paid), on top of what now has been revealed as a \$150,000 payment to her and her sister Tiffany from Stanford.

CONFLICTING TESTIMONY

Witnesses continually changed their testimony

Witnesses continually changed their testimony to favor the prosecutor and gave conflicting testimony, including:

- At the preliminary hearing and trial.
- Before and after a critical recess suddenly requested by the prosecutor and after which the witness changed her testimony.

One of the most significant examples of witnesses being coached to change their testimony is what Ms. Miller told the Santa Clara County probation officer, versus what she said days later in the widely publicized statement Ms. Miller read at the sentencing hearing:

Ms. Miller told the probation officer: ***"I don't want him to feel like his life is over and I don't want him to rot in jail; he doesn't need to be behind bars."***

Yet Ms. Miller said something very different in the widely publicized statement she read at the sentencing hearing (see more detailed discussion below).

Ms. Miller also claimed at the sentencing hearing that her statement to the probation officer had been misconstrued despite the fact that her statement was quoted exactly and not altered by the probation officer. This was not an off-the-cuff meeting with the probation department, and there also are substantial questions noted elsewhere as to who wrote the statement that Ms. Miller read at the sentencing hearing.

About plans for the night

Ms. Miller testified at the trial: "Julia and [my sister Tiffany] were definitely going to hang out, but I wasn't sure if I was going to backpack onto their plans." When asked why not, Ms. Miller responded: "Because **I don't usually go with my sister to parties** because I feel like I'm more her mom than her sister." When then asked if Ms. Miller, her sister, etc. agreed to go to the party when talking hours ahead of time, Ms. Miller answered: "**No. I was going to think about it**, and I told them I would decide when we got home."

Ms. Miller also testified at the trial, when asked where they were going that night: "**We weren't sure exactly where we were going yet**. So [our mother] dropped us off in the parking lot near the bookstore."

Versus friend's testimony at the trial. When asked if earlier that day she had discussed with Ms. Miller and Ms. Miller's sister Tiffany their plans for later that night, the friend answered: "Yes."

- Prosecutor: "And generally, what did you guys discuss?"
- Friend: "That I had dinner plans, but afterwards, that **they were going to come meet up with me at KA, a fraternity house.**"
- Prosecutor: "And initially, had you ever been there before with either of them?"
- **Friend:** "With [Doe's sister Tiffany], **many times.**"
- Prosecutor: "What about [Ms. Miller]?"
- Friend: "No."

- Prosecutor: "Okay. And what was [Ms. Miller's] reaction, if you recall, to going to that particular party at KA?"
- Friend: **"We were all very excited to go together."**
- Prosecutor: "Do you recall [Ms. Miller] being excited?"
- Friend: "Yes."

Did Ms. Miller shotgun beer?

Ms. Miller's sworn testimony at the trial:

Q - You don't remember shot gunning a beer?

A - No, I don't.

Q - Have you ever shot gunned a beer?

A - **I can't.**

Q - Why can't you?

A - **Because it's hard.**

Versus sister Tiffany's sworn testimony at the preliminary hearing:

Q - Did you observe [Ms. Miller] to shot gun a beer?

A - **Yes, because she was making jokes about it.**

Did Ms. Miller and her sister bring alcohol to the party?

Prosecutor at the trial: "Do you remember if anyone in your group had any alcohol with them?"

- Ms. Miller: **"I'm not sure."**
- Prosecutor: "Okay. Do you recall if anyone had a bottle of water with vodka in it?"
- Ms. Miller: **"I don't remember."**

Separately at the trial, the prosecutor asked: "Okay. So fair to say you guys shared the vodka around with the group?"

- Ms. Miller's friend: "Yes. But I also know that [Ms. Miller] and [her sister Tiffany] brought a plastic bottle of alcohol with them."
- Prosecutor: "How do you know that?"
- Friend: **"I saw it."**
- Prosecutor: And how do you know what was in it?
- Friend: **"They told me."**
- Prosecutor: "And you remember them telling you that?"
- Friend: "Yes."

Was Ms. Miller slurring her words?

Sister's testimony at the preliminary hearing: "[Ms. Miller] seemed drunk but not out of control at all. **She was still speaking. She was still, like, speaking totally fine.**"

Sister's testimony at the trial: "**She was slurring her words** after the, during the rapping thing. She was kind of slurring. But I don't recall any specific conversations."

What was Ms. Miller's condition at the party?

Sister Tiffany's testimony at the preliminary hearing: "When I left her to go to Julia's dorm I told her I was like, I'll be back really soon. And **she seemed fine**. She seemed drunk, but **I was not concerned at all about her.**"

Sister's testimony after the lunch recess that the prosecutor had suddenly requested: "**I wasn't paying attention** to how she was doing. I meant more that – so everyone seemed really drunk. I was pretty drunk. I didn't brown out or black out at all, but I was significantly drunk. And I remember I wasn't paying attention to anyone specifically in how drunk they were, but I felt like I was more concerned about Trea and not passing out there because she was like stay on the bench like falling asleep, and I was way more focused on her. **I definitely wasn't paying attention** to [Doe] or my other friends for that matter. I just remember feeling okay with leaving her."

More about Ms. Miller's condition at the party

Sister at the preliminary hearing: "So me and Julia and [Doe] went down to the creek think that was, it was, like, 30 feet down the lawn. And Julia had to use the restroom. And I think [Doe] did too. And Doe was rapping and Julia was also rapping. And I thought it was really funny and **I remember it really well**. And then we were down there for probably ten minutes."

Sister also at the preliminary hearing when asked about Doe's condition: "**She was very, very drunk ... it was also the time where everyone was shot gunning beers and stuff.**"

Prosecutor at the trial: "And you had previously stated at the preliminary hearing that, or to the officers that you felt that she [Doe] felt fine. As you sit here now, **can you tell us how drunk [Doe] was** based on your observations?"

Sister: "**I can't.**"

What was Ms. Miller's condition when the two Swedish graduate students came upon the scene?

Turner's lawyer asked one of the two Swedish graduate students at the preliminary hearing: "You also testified here today that you said to [Turner] 'what the fuck are you doing?' **you said 'she's unconscious?'**"

- Lars Peter: "**Yes**"
- Turner's lawyer: "Because you've **spoken to the police twice before**; right?"
- Lars Peter: "**Yeah.**"
- Turner's lawyer: "You never mentioned that fact before, did you?"
- Lars Peter: "**I don't remember.**"

- Turner’s lawyer: “You spoke to the police shortly after this happened on that night, right?”
- Lars Peter: “Yes.”
- Turner’s lawyer: “Almost at the very same place that this occurred?”
- Lars Peter: “Yeah.”
- Turner’s lawyer: “And then approximately five days later you got a **telephone call from Detective Kim**; right?”
- Lars Peter: “Yes.”
- Turner’s lawyer: “**And you spoke to him on the phone?**”
- Lars Peter: “Yeah.”
- Turner’s lawyer: “**And you talked to him again last Thursday** when you went out to the scene?”
- Lars Peter: “Yes.”
- Turner’s lawyer: “**And on neither of those occasions did you tell him that, did you?**”
- Lars Peter: “**I’m not sure.**”

How was Turner tackled?

- **Lars Peter** at the trial: “I was sitting on his chest.” Question: Did your positions change at all? Lars Peter in response: “No.” Question: And when you tackled Turner, you tackled him in such a way that he ended up **being on his back**, correct?” Lars Peter in response: “Yes.”
- **Karl-Fredrik** at the trial: “The defendant **was face down.**” Question: Face-down? Karl-Fredrik in response: “Yes.”

What was the state of Ms. Miller’s clothing?

- Lars Peter at the preliminary hearing, when asked if he could see Doe: “Not immediately. But as I got closer – I mean, I could see her but **I couldn’t really tell anything.**”
- Lars Peter at the preliminary hearing, when asked about Doe’s clothing and whether her body parts were exposed: “**I didn’t take notice of that.**”
- Lars Peter at the preliminary hearing, after the prosecutor reminded him that he had talked in recent days to Detective Kim and after the prosecutor then read to Peter what Detective Kim had written: “**I can’t say for sure that I said exactly that.**”
- The prosecutor again reminded Lars Peter that he had talked to police, to which Lars Peter then responded: “I remember describing it, yeah, but **I don’t remember saying exactly that.**”
- At this point, the prosecutor asked: “Do you remember describing that her dress was pulled up?” to which Lars Peter responded “Yeah.” Prosecutor: Do you **remember seeing her dress pulled up?** Lars Peter: “**No.**”
- Lars Peter at the trial, when asked if he could **describe Doe’s state of dress**: “Uh, no. **Not really.**”

- Lars Peter at the trial, when being pressed still further by the prosecutor: “I could but I didn’t look straight there. So I just saw briefly that she looked – **she had her dress pulled up.**”

Who was doing the coaching?

The changes in sworn testimony by Ms. Miller, Ms. Miller’s sister Tiffany, the graduate students and others raise ongoing questions about who was doing this coaching and with what intent: Prosecutor? Stanford Detective Kim? Other police? Other third parties?

In most jurisdictions, some if not most of this would be considered witness tampering and possibly suborning perjury.

SHORTCOMINGS AT STANFORD

Stanford failed to enforce its own policies

Stanford policies prohibit the serving of alcohol to under-aged students such as Turner.

In addition, parties must have monitors. There are no indications they were present at the KA party or, if they were, that they were performing their functions.

Party hosts may not serve alcohol to minors nor to attendees who appear to be overly intoxicated.

ID's must be checked before serving alcohol to any individual, and special protections must be taken for anyone who appears intoxicated or out of control (for example, Ms. Miller, Ms. Miller's sister, and their friend).

Stanford took major steps to enforce its rules regarding sexual relationships, but it took no responsibility for its failing to enforce its party and alcohol policies which were meant to protect Stanford students, including an under-aged freshman like Turner.

How Turner otherwise was treated by Stanford

Turner was taken immediately to the Stanford police department where his Miranda rights were read to him while he was still too drunk to comprehend virtually anything. He had never been arrested before and had no idea about what he was being accused of.

While still drunk (he actually fell over), he was stripped and subjected to an invasive search of his genitalia and other body parts and fluids. This exam was done by the same female technician who then went to the hospital to examine Ms. Miller. A separate and informed consent or warrant was needed for this body search, which didn't happen.

Turner then was taken to Santa Clara County jail.

Although Turner had not yet been charged with any crime or other wrongdoing, when he returned to campus from the Santa Clara County jail the next morning:

- He was accompanied then and the following days by two plainclothes officers.
- He was allowed to attend one class but then ordered not to attend any more classes.
- He was allowed to return to his dorm but then suddenly ordered to move to temporary housing elsewhere and ordered not to leave that housing.
- He was not allowed to go to campus dining halls for meals.
- Because police had kept his wallet, money and phone he had no ID, no money for food or other necessities, and limited means to reach family and friends.
- No one at Stanford offered to assist for any of these basic necessities.

Title IX failings at Stanford

Stanford advised Turner it would immediately undertake a Title IX investigation.

Stanford, along with other universities, was under pressure at the time as a result of a policy that was adopted by the U.S. Department of Education through its issuance in 2011 of a so-called "Dear Colleague" letter. The use of a Dear Colleague letter allowed the Department of Education to avoid the requirements of the federal Administrative Procedure Act, but because of the threat of the loss of federal funding, virtually all U.S. universities felt they needed to comply.

The Title IX procedures that Stanford and most other universities adopted as a result of the Dear Colleague letter lacked fundamental protections about evidence, testimony and other due process rights. Interestingly, the same Stanford law school professor who now was attacking Turner and later headed the recall of Judge Persky chaired the Stanford committee that adopted its Title IX procedures that lacked these due process safeguards.

It should also be noted, the 2011 Dear Colleague letter was signed by Russlynn Ali, a friend of the Stanford law school professor when they were both at Northwestern Law School. Various published interviews and resumes show that, when the Stanford law school professor and her husband moved to Palo Alto in 2001, Ms. Ali had hired the professor's husband to consult for Ms. Ali's nonprofit organization even though the professor's husband was employed fulltime at Stanford. When Ms. Ali moved to Washington in 2009 to head the Office of Civil Rights in the U.S. Office of Education, somehow the professor's husband started doing paid consulting work for that department instead, and again even though he was employed full time at Netflix and then at Google. And it was over Ms. Ali's signature that the 2011 Dear Colleague letter was issued.

Which leads to numerous questions as to what roles the law school professor and her husband may have played in the 2011 Dear Colleague letter itself. It should be noted that since Ms. Ali left D.C. in 2012, she has been an executive for a non-profit based in Palo Alto that is funded and headed by a Stanford Trustee who also reportedly was a major supporter for the recall of Judge Persky.

In any event, the lack of due process safeguards under Stanford's Title IX policies was something that would complicate Turner's defense if a criminal prosecution also were to be brought since any statements and evidence would not have the protections required in a criminal prosecution. It turns out the concerns were real since more recently the Stanford Daily disclosed that Stanford often did in fact turn over information to the Santa Clara County DA's office gained from Title IX and other campus procedures.

Stanford also has a policy of non-intervention — that is, it will not intervene in student actions pending in the courts. Most universities also have policies, whether written or informal, of not allowing university resources or personnel to be used in prosecutions without a written agreement and standards. Nevertheless, a professor and others at Stanford, based on news and other accounts, appear to have used Stanford resources to assist in the prosecutor's case against Turner and also in the immediately launched and then ongoing media campaign against Turner and later against Judge Persky.

As a result, on advice of his criminal defense lawyer and to protect against actions by Stanford that didn't have the protections required for criminal cases yet could have been used against Turner in a criminal investigation and trial, Turner withdrew as a Stanford student.

Other actions and inactions by Stanford

A Stanford student services staff member was at the hospital checking on Ms. Miller within hours of her arriving at the hospital. Ms. Miller is not and never has been a Stanford student.

No one from Stanford, that night or ever, provided similar concerns or counseling for Turner, the actual Stanford student.

As shown elsewhere, the officer in charge of the investigation, Detective Mike Kim, is employed by Stanford's police department. Yet he and others did little if anything to find witnesses or otherwise investigate the matter and, as discussed elsewhere, important evidence seems to have been hidden or destroyed.

What others think

When an attorney (not a Stanford alum) who is familiar with this matter heard about the situation, he made this comment, similar to what others have said:

“I know only a little about criminal law (my sole experience consisting of one summer at the U.S. Attorney's office in XXX), but I seriously doubt that any competent criminal defense lawyer would have allowed Brock to participate in the Title IX proceeding. **For Stanford to prejudice him for asserting his constitutional rights is deplorable.**”

THE AFTERMATH

Ongoing attacks

Before, during and after the trial (it's now close to five years later), there has been an ongoing and relentless campaign attacking Turner as well as former Judge Persky. By way of example, here are photos of people with assault weapons outside the Turner home shortly after Turner was released from jail:



Disclosures as a result of Public Records Act requests show that during the same month when Turner was released from jail (that is, September 2016), Lauren Schoenthaler (at the time a member of the Stanford general counsel's office but since September 2016 the head of Stanford's Title IX operations) was proposing lunch at the Stanford Faculty Club for Schoenthaler, Cindy Hendrickson (the Deputy DA who a few months later would start campaigning for Judge Persky's seat for an election that was still nearly two years away) and the same Stanford law school faculty member who was orchestrating the attacks on Turner and the recall of Judge Persky.


More recently, it also has been publicly disclosed that Ms. Schoenthaler apparently was the person who handled the \$150,000 settlement by Stanford with Ms. Miller and Ms. Miller's sister Tiffany and in that same settlement had agreed to allow Ms. Miller and the law school professor to select quotes from the statement that Ms. Miller "read" in court but that apparently was written and/or significantly edited by the Stanford law school professor herself.

Judge Persky was removed from the bench in June 2018 as a result of a very well-funded (over \$1 million) recall campaign. As noted, he was replaced by a member of the Santa Clara County District Attorney's Office, Cindy Hendrickson.

The song

Note this Tweet about a song, along with the words to the song itself:



Michele Dauber  @mldauber · 3d
#BrockTurner appealed his conviction and said it was "all lies" and that he didn't do anything wrong. He isn't remorseful or accountable and learned nothing, which is exactly why the light sentence was wrong. Please enjoy this song. bit.ly/2iF5d3w

11:46 AM Dec 2, 2017

Here's our song that pays tribute to everyone's favorite scumbag!

DOWNLOAD SONG HERE: <https://meltedcrayons.bandcamp.com/tr...> Christian Cordes - Vocals Instagram - @thechristianattrel Twitter - @NextGenCordes Brandon Cordes - Guitar, Bass, Keyboard, Tuba, Glockenspiel, Drums Instagram - @theprincebrandon Twitter - @brandonprincec Written, Recorded and Produced by Melted Crayons At Bliss Studios in Howell NJ Arcade Records - 2016

(1st Verse) Brock Turner You're **the definition of scum** Get stepped on like old gum I hope your **face gets kicked in** Brock Turner Change your freaking last name Cause Timmy Turners got it claimed He doesn't need the shame

(Chorus) I hope you never get a job I hope you never get the girl Cause we all know what you'll do It makes us all want to hurl I **hope you get tossed in a dumpster Fuck Brock Turner**

(2nd Verse) Brock Turner You're like a **subway cockroach** A thing that no one will ever want to approach Brock Turner You mine as well be poop A thing that needs to be cleaned off the bottom of my boot

(Chorus) I hope you live your life with no fun or joy with the constant reminder of the life you destroyed I hope you **fall through a gutter Fuck Brock Turner**

(Bridge) We should never forget the two badass heroes of this story Peter J and Carl A Swedish super heroes who deserve all the glory Hey Brock Turner I got a question for ya For the day if you become a father How ya gonna tell your daughter that **you're a monster**

(3rd Verse) Brock Turner I hope you enjoyed your song I hope it was something that you could sing along too Not really I **hope you eat a dick** Or choose to **take a nosedive off the top of a cliff**

(Chorus) I hope you never get a job I hope you never get the girl Cause we all know what you'll do It makes us all want to hurl I hope you get tossed in a dumpster **Fuck Brock Turner.**

Media campaign

"I don't want him to feel like his life is over and I don't want him to rot in jail. He does not need to be behind bars."

That was the quoted statement from what Ms. Miller told the Santa Clara County probation officer who was charged with interviewing all the parties and making a recommendation to Judge Persky as to the sentencing. This was no informal, off-the cuff-meeting.

Somehow, Ms. Miller needed to retract that statement for the media campaign being orchestrated by third parties, so in the statement read later in court, she said contrary things.

This change in testimony, the legal nature of key elements of the statement (especially toward the end of the court-read statement), and other factors lead people to believe the statement Ms. Miller read in court was not written by Ms. Miller but rather was written and/or significantly edited by third parties. See the more complete discussion of this issue earlier in this white paper.

Who then orchestrated having the statement immediately disseminated via BuzzFeed, read in its entirety the next day for over 40 minutes air time on CNN, read in its entirety into the Congressional Record, referred to by Vice President Biden and constantly repeated by media entities nationwide and worldwide?

Who wrote the anonymous juror letter to Judge Persky a week after sentencing? Third parties note that it contained information not known by the jury. And who immediately got newspapers to publish stories about the anonymous juror letter?

Who wrote the statement published in Glamour magazine?

The text in all of these statements was carefully written, including with legal concepts and references. The text in Ms. Miller's statements differed markedly from the words and style Ms. Miller typically uses in her various writings, videos and other postings, and the anonymous juror letter used language a layperson juror would not typically use and reportedly contained information not known by the jurors.

Shortly after the incident, third parties also started getting reporters to say that Turner had taken and circulated photos that night. That was impossible since Turner was already in police custody. In fact, it's been reported that the photos were taken and circulated by one or more others on the swim team and apparently including one or more team members who had falsely accused Turner of doing so. The question arises, who initiated that false story and got it published in various newspapers in the U.S. and even overseas?

A year later, someone also got a textbook used in high schools and colleges to revise a section on campus rape and to use Turner's photo and wrong descriptions in that section. A high school student then posted on Facebook that this was contained in a revised section of the textbook, and third parties then used the Facebook posting as the basis for articles published for the next several days in various newspapers throughout the country.

These are merely examples of the well-orchestrated media campaign that was being waged against Turner.

People behind the campaign to recall Judge Persky

The web site for the committee that ran the campaign to recall Judge Persky showed that Becky Warren, a partner at the time in the Dolphin Group, headed the campaign's communication. She was listed with her phone number on campaign materials, although when her association with the Dolphin Group became an issue, she moved to another lobbying firm.

Ms. Warren, the Dolphin Group and then Ms. Warren's subsequent firm presumably were acting solely as volunteers since the required disclosures didn't show her or them as being paid nor did the required disclosures show any unreimbursed supplies and services being provided by her or them.

By using Turner's face and name, and even at one point selling coffee mugs and T-shirts with his face and name, the campaign apparently was using the Dolphin Group's original and notorious Willie Horton playbook of the past.

Here's what a Huffington Post article says about the Dolphin Group and their various political campaign activities in California (**what the Huffington Post article called the "Dark Messenger"**): http://www.huffingtonpost.com/2012/10/02/california-prop-32_n_1934213.html

Recall of Judge Persky

The campaign to recall Judge Persky raised approximately \$1.4 million.

The website for the recall campaign was routinely selling T-shirts and coffee mugs with Turner's and Judge Persky's faces and names.

There were intentional (and wrong) constant references in social and other media calling Turner "the Stanford rapist" and Judge Persky the "Stanford rape judge."

Media outlets including the NY Times, Washington Post, USA Today, San Francisco Chronicle, San Jose Mercury News, LA Times and others continually used the phrases "Stanford rapist" and "Stanford rape judge" in their web taglines even though volunteer lawyers brought the contrary facts to their attention several years ago. Nearly five years later, they still use these taglines since it apparently helps boost their rankings in the algorithms of Google, Facebook, Twitter, etc. Unless they've recently removed them, both the Washington Post and USA Today also posted videos shortly after the sentencing, attacking both Turner and Judge Persky as news even though the videos were campaign propaganda. These two publications further insisted the videos were done by their own reporters even though the text, photos and music at both sites were nearly identical and not what is typically produced by journalists and appear instead to have been produced by third party professionals.

Santa Clara County District Attorney Jeff Rosen was routinely listed at the top of the lists of people who were opposing the recall, along with several hundred sitting and retired judges and others. On the other hand, documents released as a result of Public Records Act disclosures now show that District Attorney Rosen was regularly coordinating with the Stanford law school professor and with much of the text of their emails (improperly) redacted. DA Rosen also regularly and improperly said in his news conferences and news releases that Turner had been convicted of rape.

On June 5, 2018 Judge Persky was recalled by Santa Clara County voters, who supported his removal by a margin of 61.51% to 38.49%. 56.4% of the total 846,228 County's registered voters didn't vote at all.

This reportedly was the first time in 87 years that a judge had been recalled in California.

Since his recall, former Judge Persky has been rejected for various coaching and other jobs, and in at least once instance he had his contract to be a high school tennis coach retroactively withdrawn, as disclosed in various news reports, because of news stories attacking the school for hiring him. As with Turner, the campaign against him in social and other media has been ongoing.