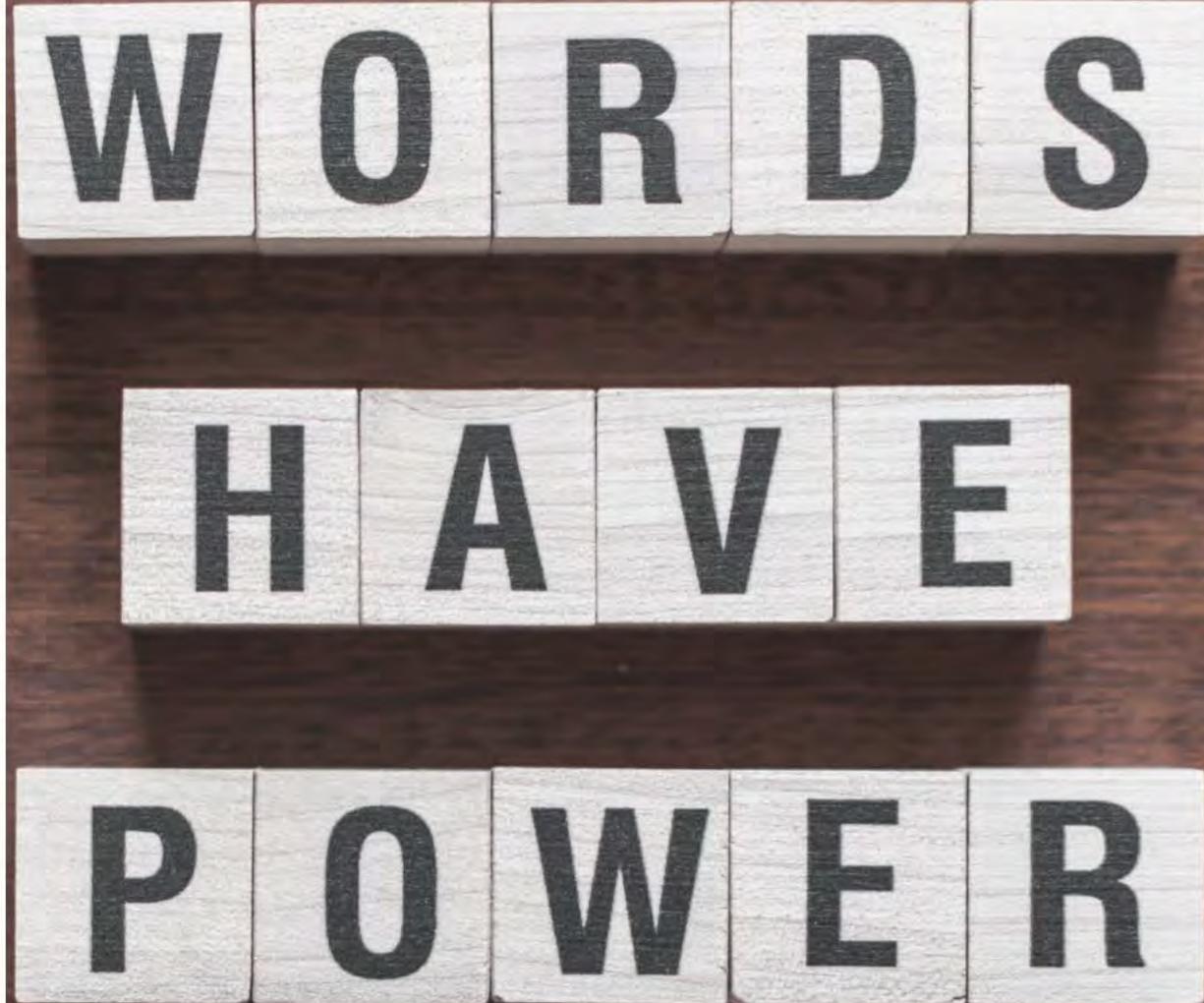


KCSARC'S

WordWatch

REFLECTING ON HOW LANGUAGE IMPACTS OUR
RESPONSE TO ASSAULTIVE ACTS

This presentation was adapted from Legal Momentum's curriculum *Raped or "Seduced"?: How Language Helps Shape Our Response to Sexual Violence*. © 2013 National Judicial Education Program: A project of Legal Momentum in cooperation with the National Association of Women Judges.





WordWatch: How is Sexual Violence Being Talked About in Court?

- WordWatch is a KCSARC Project
- Reviews language used in court documents and court proceedings
- Identifies successes and challenges
- Hope to make recommendations to increase accountable language choices

Objectives

01

Why Accountable Language Matters

02

Importance of Language

03

Types of Language to Avoid

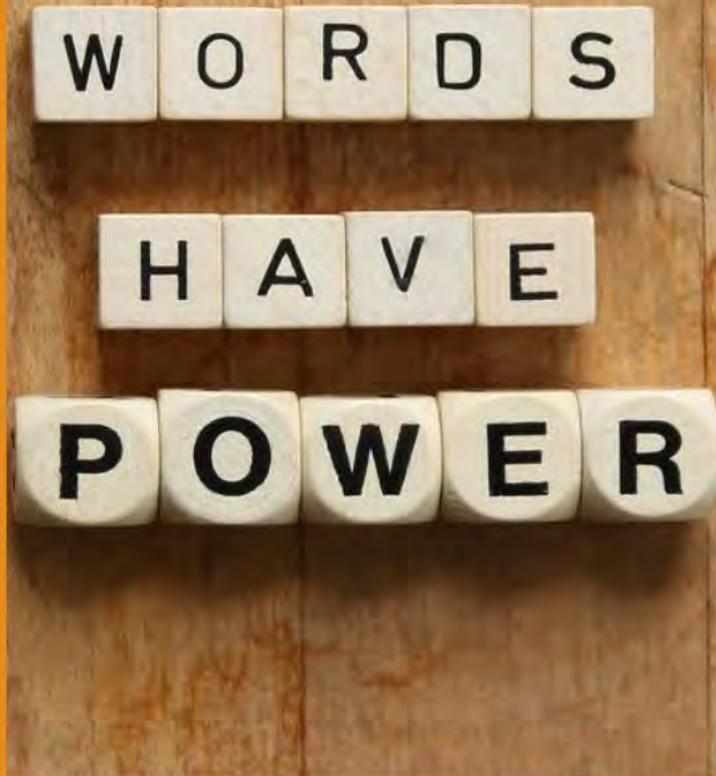
04

Applications

Why Does This Matter?

- Language plays a crucial role in producing social relations
- Language, far from reflecting an already given social reality, constitutes social reality
- Analyzing language can be useful in evidencing the ways patriarchy operates to sustain gender violence





Why Does It Matter?

- Language can never be neutral
- The words we use to talk about sexual violence influence the way we perceive and respond to the issue
- Unaccountable language perpetuates a culture where victims are devalued, sexual violence is tolerated and perpetrators are not held accountable
- This is especially critical within the legal process, as the language used directly impacts public discourse around sexual violence

Issues Specific To Sexual Assault

Sexual assault is one of the few crimes that requires intense scrutiny into the believability of the victim's description of the event.

Sexual assault is possibly the only crime where the suspect can successfully defend themselves by claiming the victim consented to the crime.



Why Monitor Language In The Court?

- Language has a very important role in the legal system.
- Examples: Probable case, testimony, court arguments, a trial judge's summary, the historical precedents found in case law, etc.
- Language from those examples becomes the official version of events, in the courtroom and beyond.

A stack of books and newspapers is shown, with a white text box overlaid on the right side. The books and newspapers are stacked horizontally, with some pages visible. The text box contains the title 'Legal Language' and a list of findings from a study on domestic violence homicides. The background is a dark teal color.

Legal Language

In a large-scale study of 230 articles about domestic violence homicides and attempted homicides:

- One in five articles relied on law enforcement sources
- One in four articles relied on court records

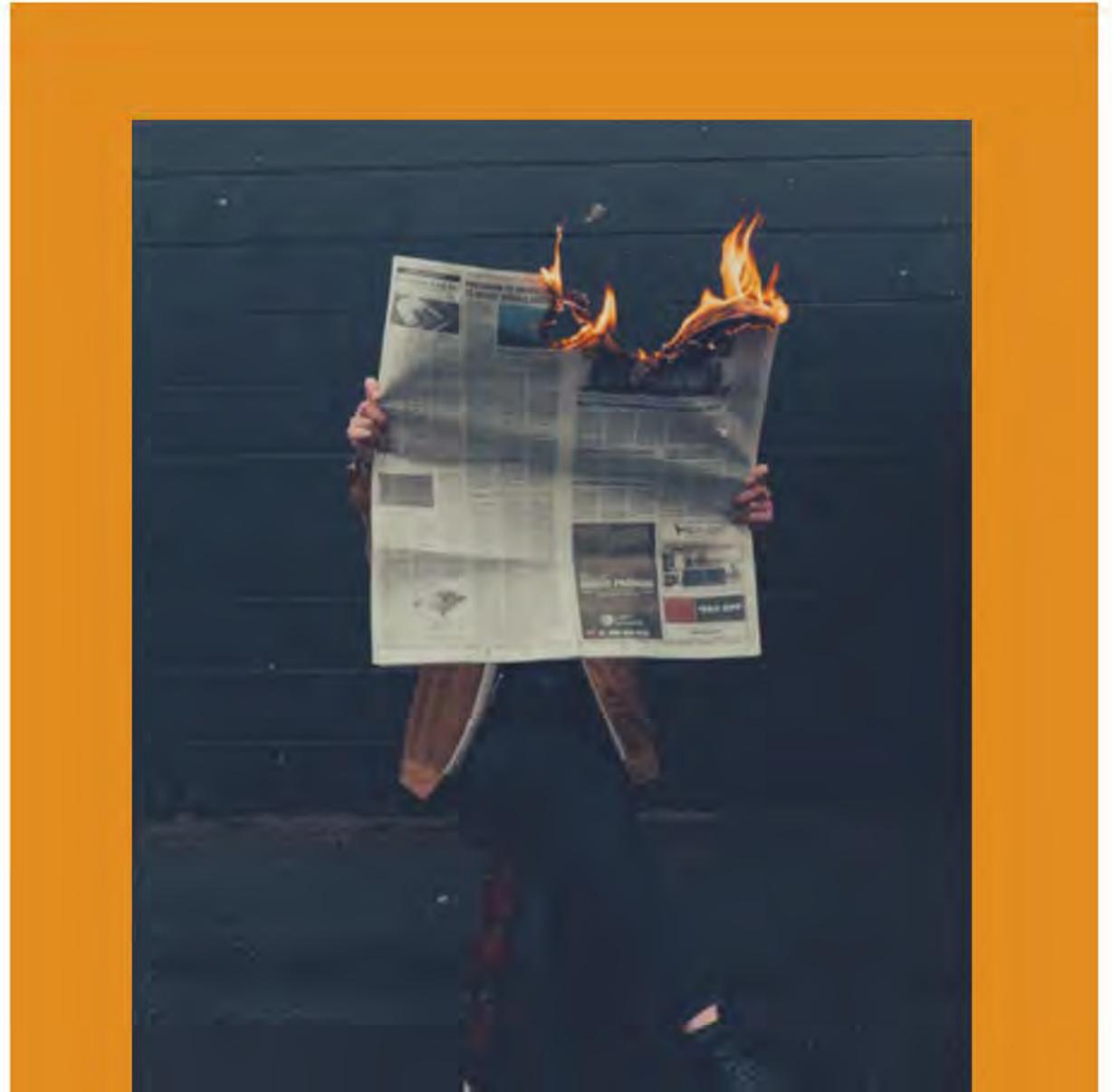
Legal Language

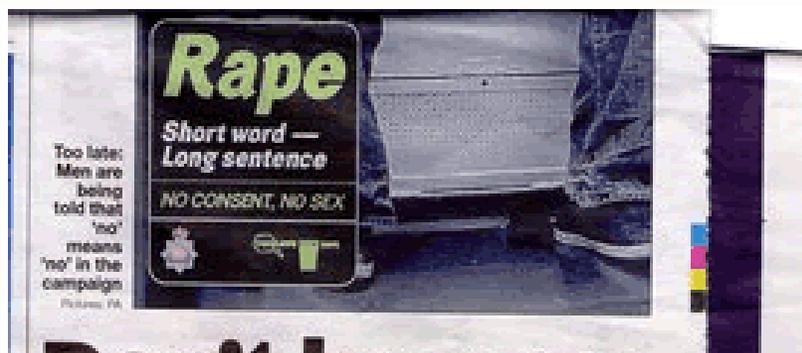
The researchers examined all rape-related news stories published by 279 newspapers in the United States between 2000-2013.

The data correlates biased news coverage with an increase in rape reports and a decrease in police response.

Biased news coverage of rape blames victims, questions their credibility, implies consent and empathizes with perpetrators. This can deter victims from coming forward, and ultimately increases the likelihood of rape, the study showed.

Matthew Baum, Dara Kay Cohen, and M. zhukov. 2018. "Does Rape Culture Predict Rape? Evidence from U.S. Newspapers 2000-2013." *Quarterly Journal of Political Science*, 13, 3, Pp.263-289.





News › Crime

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Married City worker 'raped drunk clubber after dragging her to filthy alleyway'



Language to Avoid

01

Victim Blaming

- Role reversal: turns the victim into the perpetrator and the perpetrator into the victim
- Suggests that if the victim had/had not acted in a certain way, they would not have been assaulted
- Conveys judgement about the victim's actions

02

Implies Consent

- Harder to visualize the acts as violent
- When there is no context of force, the assaultive act appears consensual
- Implies mutuality

03

Minimizes

- Does not convey the seriousness of conduct
- The perpetrator is made "invisible" and responsibility is not accurately conveyed



Language That Implies Consent

- Eroticized language that creates an intimate and non-threatening scene
- Statements that imply consent without the context of force (physical, emotional, intimidation, coercion)
- Performed oral sex
- Fondling
- Sexual intercourse
- "Had sex with..."
- Sexual relationship
- Kissed, hugged, caressed, massaged
- "Engaged in..."

Montana Judge Criticized for 60-Day Sentence for Man Who Has Sex With His Preteen Daughter

Reader Response:

"Has sex with?" We have a word for "sex with a pre-teen." That word is "rape."...Perhaps if the judge himself had thought of the defendant as a rapist, he would have handed down a more appropriate sentence."

Minimizing Language

- Passive voice:
 - "Creates acts without agents and harm without guilt."
- Euphemisms:
 - Violent Home
 - He said/She said case
 - Kiddie Porn
 - Inappropriate Touching
 - Misunderstanding
 - Domestic Dispute
 - Date Rape/Gang Rape
 - Choked
 - Sex Scandal



Minimizing Language

YES	NO
AGGRAVATED ASSAULT FACTORS / HOMICIDE FACTORS	
Domestic Issue - Lovers' Quarrel	
OFFENSE LOCATION	



Victim Blaming Language

- Unnecessary focus on the victim.
For example:
 - What the victim was wearing
 - Victim's previous partners
 - Whether the victim had "engaged in" prostitution
- Accuser
- Victim "confessed"
- Juvenile prostitute or child prostitute

Examples

S told her to be quiet and with his free hand reached under her

Between April 2007 and May 2007, D. spent the night at D.'s home and the
As the oral sex was occurring, S took his hand and caressed V's vaginal area.

S moved his hand to her vaginal area and massaged her vaginal area over her shorts.



Victim Perspective

- It's important to recreate the reality of the sexual assault from the victim's perspective.
- Investigators must be neutral fact finders and any decisions and conclusions must be evidence-based.



Impact of Trauma

"We have learned that trauma is not just an event that took place sometime in the past; it is also the imprint left by that experience on mind, brain and body. This imprint has ongoing consequences for how the human organism manages to survive in the present. Trauma results in a fundamental reorganization of the way mind and brain manage perceptions. It changes not only how we think and what we think about, but also our very capacity to think."

Van der Kolk B. 2014. *The Body Keeps The Score: Brain, Mind and Body in the Healing of Trauma*. Viking.

Language in Victim Interviews

01

Trauma impacts what can be retrieved and put into words.

02

If victims feel unsafe when questioned, they may not be able to use their prefrontal cortex to understand the questions and retrieve certain memories.

03

If victims feel traumatized by questioning, this may trigger the bottom-up retrieval of fragmentary sensations and emotions that are nearly as intense as the assault itself.



Applications

- Life of documents
- Reviewing legal documents
- Reviewing media reports of sexual violence
- Making referrals for community support
- Working with the public, survivors and community organizations
- Safety and well-being of our community
- Rebuilding public trust
- Other ways?



**Questions?
Thoughts?**

Thank you!

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