

Words: Powerful Tools of Healing and Hurt  
By Terry Mutchler, J.D.

*“...That you should see and hear and above all feel the reality behind [the] words. For [words] are but a mask ... a mask such as the ancient Greek actors wore, a mask that expresses rather than conceals the inner drama.”*

*Ahab’s Wife, by Sena Jeter Nashlund*

Many people think words are just words. We even teach our children, when stinging from painful playground taunts, that sticks and stones can break their bones but words can never hurt them. While useful perhaps in assuaging a little one’s hurt feelings, we know this classic advice is not true. The power of words is immeasurable. Anyone who has responded to or supported a sexual assault victim or attended a criminal trial with her knows the power words possess to strip the soul, silence the voice or steal the will.

Much is said about how we are desensitized to the exploitation of women by images of scantily clad women being used to sell everything from cantaloupes to cars. Yet, rarely as a society do we examine the messages encoded in the language and words we choose to describe the realities of rape. Consequently, we gloss over the impact those words have on us individually and as a society. For example, rape is frequently referred to as “having sex” or “rough sex.” Victims are portrayed as fickle women or women who willingly had sex, but changed their minds later and accused the attacker simply to save face. Words choice often results in victim blaming.

In popular culture, we often hear these words: She asked for it. She shouldn’t have dressed that way. She shouldn’t have been out alone at night. She was in a bar. She knew what she was doing. She wanted it. She took the ride. He is her husband so it can’t be rape. She knew the guy. She kissed the guy. She didn’t scream. She’s a prostitute anyway. She dated the guy.

She already slept with him. She wasn't wearing underwear. She was wearing sexy underwear. She was dressed like slut. She said, "no" but she really meant, "yes."

All of these descriptions diminish the trauma of the crime and tell the victim she is not believed or taken seriously. These myths and misconceptions permeate every aspect of our culture from the family kitchen to courthouse. And, while these myths should not be tolerated in *any* aspect of our society, we should be more vigilant to rid them from the criminal justice system because that is the place where victims turn to for help and for justice; the place where every single word and phrase has grave consequences for a victim as well as an offender.

While in law school, and in a recent two-year judicial clerkship with the Illinois Supreme Court, I read hundreds of attorneys' briefs, trial records, judicial opinions and other legal materials. As I reviewed case after case, I was astounded at the word choices – both bland and blatant - used to describe rape and other forms of sexual assault. Many times, the most despicable acts of violence were described in ways that distorted or obscured what actually occurred. Attorneys and judges often use antiseptic language, or worse, frame rape with words that leave the impression that the rape was consensual lovemaking between two adults. Judges repeatedly pen the phrase "having sex with" instead of "sexual assault" or "rape."

Consider the following word choices to describe rape and other forms of sexual assault in various Illinois criminal cases.

A Cook County woman was stabbed 22 times, raped and murdered in front of her six-year-old son. Her attacker, John Childress, was sentenced to death. In denying the defendant's post-conviction petition alleging ineffective assistance of counsel, the judge wrote these words: "A neighbor, who responded to the screams of the victim, testified that she saw petitioner having

sex with the victim while the knife still protruded from her chest.”<sup>1</sup>

Those words - “Having sex with the victim” - creates the image that the rapist engaged in consensual sexual activity with the victim. To say “having sex with the victim” neutralizes the brutality of what occurred. A more accurate description would be: the offender raped the deceased while the knife still protruded from her chest. Describing the defendant’s prior convictions (a rap sheet that included kidnapping, unlawful restraint, burglary and attempted aggravated criminal assault), the same judge wrote that years prior, the defendant “was caught having sex with a mentally retarded woman.”<sup>2</sup> The phrase, “caught having sex,” is more descriptive of two teens discovered in the family room on Saturday night. This defendant was not “caught having sex;” he was caught raping a mentally retarded woman whose ability to consent may have been limited or non-existent.

Another Illinois defendant fatally smashed a woman’s head with a crowbar after she refused his invitation to “fool around a little bit, kiss and stuff like that.”<sup>3</sup> The judge wrote that the defendant tried to clean the blood splatters off the wall, cleaned himself up and “took off her green shorts and had sexual intercourse with her.”<sup>4</sup> He did laundry, packed his things and “he had sexual intercourse with her a second time.”<sup>5</sup> To say that he had “sexual intercourse” connotes consent, suggests mutuality and removes us from the reality of rape as a brutal act of power and control. Actually, he killed her and he raped her.

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<sup>1</sup>*People v. Childress*, 191 Ill. 2d 168, 180 (2000).

<sup>2</sup>*Childress*, 191 Ill. 2d at 180

<sup>3</sup>*People v. Macri*, 185 Ill. 2d 1, 12 (1998).

<sup>4</sup>*Macri*, 185 Ill. 2d at 13

<sup>5</sup>*Macri*, 185 Ill. 2d at 13.

In yet another Illinois case, a judge discussed the evidence of semen found on a rape victim's body. The judge wrote that a doctor testified that the defendant was "the donor of semen."<sup>6</sup> If a defendant had murdered a victim and his blood was discovered on the victim's body, would we choose the phrase: "The defendant was the donor of blood?" The defendant was not a "donor." He did not donate his semen. He ejaculated semen on a victim he was raping. The phrase "donor of semen" is more accurately reserved for cases regarding artificial insemination,<sup>7</sup> not rape cases. A better language choice that more accurately reflects the reality of what occurred is that defendant was the "source" of the semen.

The unfortunate reality is that the power of words, spoken by those in power, often camouflaged the raw realities of rape, and consequently, its toll on a victim of sexual assault and on the community. Why then would those in power, or anyone, not be more vigilant of our word choices?

According to Dr. Karen Moranski, an English Professor who studies the history of the English language at UIS, people will choose certain words to describe rape in an effort to distance ourselves from the trauma. The language, she says, helps us create emotional distance and it permits us to retain distance and to say, "It can't happen to me." "If we clean up the language we don't have to face the realities of rape. " In short, we can pretend it will not – or did not - happen to us or to the ones we love."

Dr. Larry R. Smith, Professor Emeritus of Communications at the University of Illinois at Springfield, who has studied language for more than three decades, agreed. Moreover, he says

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<sup>6</sup>*People v. Heaton*, 266 Ill. App. 3d 469, 474 (1994).

<sup>7</sup>*In re Marriage of Adams*, 174 Ill. App. 3d 595, 615, 620 (1988).

that the impact of words on victims and their families is incalculable. When judges pen insensitive or inaccurate descriptions of sexual assault, Dr. Smith believes, it is more than a mistake of choosing the wrong language; it may indicate that those judges do not consider rape, and its aftermath, important.

“Words do make a difference. It makes a difference to the victim and to the family who may say when they read inaccurate language, did my Jane really do this? Is she at fault? And we know that is wrong.”

Professor Smith continued: “When I see a judge making an error of that sort, I say you are making that error for a reason. You’re not making this error in language because you don’t know the language very well. You’re the judge. That’s the bottom line and it is one thing, as a judge, that you are supposed to be able to do: choose the correct language and understand the importance of choosing the correct language.”

Word choice affects public awareness and perceptions about sexual assault. Using the words “having sex with” interchangeably with the word “rape” blurs the distinction between them. It implies that no difference exists between consensual sex and forced sex. It bolsters the fallacy that when a woman says no, she really means yes. Consider the following newspaper article. Under the headline, “UI Student Acquitted of Criminal Sex Assault,” the journalist reported a case in which the defendant was acquitted of rape. The article stated that the defendant and victim were friends for several months and that he attacked her while she was in his dorm room.<sup>8</sup>

“The woman said she told [the defendant] more than once she didn’t want to have sex

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<sup>8</sup>Mary Schenk, *UI Student Acquitted of Criminal Sex Assault*, Champaign News-Gazette, October 13, 2000.

with him and struggled against him, even punching him in the throat with her fist. He continued his advances, pinning her down, eventually removing her underwear and having sexual contact with her ... Both police officers testified that the defendant “admitted having sex with the victim and that she resisted him. He said she said, “no,” but he was trying to convince her,” Officer Huffman said.<sup>9</sup>

The woman repeatedly said no (which should have been enough) and punched her attacker in the throat. Yet the assailant, police officers and journalist all referred to the assault as “having sex” rather than rape. Worse, the jury used the same distorted dictionary as the defendant; they acquitted him.<sup>10</sup>

In the justice system, words have specific consequences – they describe events in ways that are construed as fact, as truth. They set precedent. They define how future cases will be reviewed and decided. Even when a defendant pleads guilty or is convicted of sexual assault, the words that accompany such a decision can convey a message that sexual violence is not harmful or that an offender doesn’t deserve punishment.

Consider the Sangamon County (Illinois) case of child molester Frank Quandahl. During his young daughter’s slumber parties, and at other times, Quandahl penetrated girls with his fingers, put his mouth on their genitals and grabbed their hands and tried to put them on his penis. Quandahl faced 11 different charges and entered a negotiation to receive probation in exchange for a guilty plea. The negotiations ended when the prosecutor decided that Quandahl should be committed for treatment under the Sexually Dangerous Persons Act,<sup>11</sup> but withdrew that motion when Quandahl agreed to plead guilty to three criminal offenses. He was sentenced to five years each for two counts of criminal sexual assault and three years for one count of

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<sup>9</sup>*Id.*

<sup>10</sup>*Id.*

attempted aggravated criminal sexual abuse -- to be served consecutively.<sup>12</sup> During the sentencing hearing, the State presented evidence of these incidents as well as an assault against a babysitter years earlier.

An excerpt from Quandahl's sentencing hearing seems to convey the judge's sense of doubt about the severity of the crimes committed and the appropriate degree of punishment.

**The judge:** I guess one of the things that concerns me most about this case is the fact that this went on over a period of years, and in this case, I believe there's about a year, year and a half difference in time while these offenses were going on. This is not a one-time, isolated incident."

*To draw a distinction between repeated offenses and a one-time incident implies that a one-time offense is more understandable or permissible.*

**The judge:** "I think if it were, [a one-time incident] I think you could understand it, as one of the witnesses said, hey, we all make mistakes and you could make a mistake one time. But when it goes on numerous times over a period of years and you have multiple offenses, it causes me great concern. Like I say, this is not a one-time situation."<sup>13</sup>

*The suggestion that "we all make mistakes" implies that sexual assault is just a mistake, not a crime.*

**The judge:** "This has been going on for years, so I definitely think it does call for more than a minimum sentence. However, there are a lot of good things to say about you. There's no

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<sup>11</sup>Sexually Dangerous Persons Act, 730 ILCS 205/0.01 *et. seq.*

<sup>12</sup>*People v. Frank Quandahl*, 4-99-0357 (September 5, 2000), Appellate Court of Illinois, Fourth District.

<sup>13</sup>*People v. Frank Quandahl*, 4-99-0357 (September 5, 2000), Appellate Court of Illinois,

question you have been a productive member of society, active in church, Eagle Scout, coach. Your employer said you're good, honest, hard-working. You have no prior record. I definitely don't think it calls for a maximum sentence, but I think society does need to be protected."

*How many times does an offender have to put his finger into the vagina of a child or commit another type of sexual assault to draw a maximum penalty?*

When Quandahl made a motion to reduce his sentence, the judge offered this:

**The judge:** "We're talking about very serious charges here. We're talking about three young children, very tender age, and if this had been one incident with three children, not that that would be condoned, obviously, but if there were three children at one time and this was just one incident, but it wasn't."

Again, the suggestion is that one incident might be understandable. The message to these victims – to all victims – is that some amount of sexual violence is understandable – permissible. Intended or not, that is the message. It is a very powerful and dangerous message to send to victims and to those who sexually assault others. These words tell a victim that being sexually assaulted one time does not warrant a legitimate complaint. It says that someone who commits sexual assault one time may not deserve punishment.

To his credit, the judge acknowledged that the damage done to these little girls and their families cannot be measured and that it may take years for them to recover, if ever. But the other portion of his words conveys that if this had been one incident, or one time, (which he referenced at least five times,) he would have considered a lighter sentence. The tacit message woven into his words is that if the defendant had sexually assaulted one child just one time, or three children



at the same time, the justice system might brush it off as a “mistake.”

Words are not just neutral communicators. They are powerful tools of healing and hurt. They do send a message, and all of us, particularly judges, advocates, parents, lawyers and journalists, should heed their power. We should consider what we say or write in all matters, but particularly when the topic relates to the experience of a crime victim. We should choose words carefully and accurately – words that describe the reality of a victims’ trauma. There are appropriate times to choose muted words, but we should select accurate words that tell the truth, rather than words that varnish or vanish the realities and trauma associated with sexual assault. As an ancient but still accurate proverb observed: the word is quick and powerful and sharper than any two-edged sword and is a discernor of the thoughts and intents of the heart.

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