

# Was She Too Drunk To Give Consent? Men & Women Think Differently About Consent

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## Abstract

College students were asked to imagine they were sitting on a university judicial panel while reading a description of a sexual encounter that the female participant claimed was non-consensual because of her previous consumption of alcohol (2, 4, or 6 drinks). Male college students were more likely to indicate that the female complainant was capable of giving consent than female college students and also believed that she bore more responsibility for the encounter.

## Methodology

Here's what we asked our research participants to do:

"Imagine that you were sitting on a university judicial panel and were making a judgment about whether a female college student was capable of providing consent to having sex with a male college student after drinking alcohol. She believes that she didn't provide consent because she had been drinking alcohol with this other student for two hours prior to their having sex. She indicates she was bewildered by his kissing her forcefully without any warning and didn't tell him to stop at that point because she was surprised and couldn't think of what to say or do because of the alcohol she had previously consumed. When he went further and initiated sexual intercourse she was so upset, afraid, and traumatized that she didn't attempt to push him away or tell him to stop. She said she had had (2 mixed vodka drinks, 4 mixed vodka drinks, 8 mixed vodka drinks) in the preceding two hours and that this classmate, whom she knew casually but with whom she never had sex, should have recognized that she was incapacitated from the drinking they did together. He claims that she didn't say anything while they were having sex but seemed into it since she made some noises that he interpreted as an indication of pleasure. She said she experienced no pleasure and only fear. Was the female college student too drunk to consent to sex even if, as the male college student claimed, she appeared 'into it.'"

## Introduction

It is generally accepted that if a participant in a sexual encounter is intoxicated that participant is incapable of giving consent (Peterson & Muehlenhard, 2004). And given that consent to initiate or continue a sexual encounter is often given non-verbally through subtle gestures and/or simply through the absence of resistance according to the self-reports of college students (Frankel, Anderson, Auguste, & Burgess, 2017), it is not surprising that there are occasions when the reluctant party's intentions are misinterpreted. Obviously, there would be many fewer genuine misperceptions of others' intentions if one of the participants in a sexual encounter asked permission to do x, y, and z and the other replied that it was perfectly okay to do x and y but not z, but such bold conversation seldom occurs most likely because of the perceived awkwardness of such an exchange. And given that alcohol consumption is likely to reduce one's ability to read another's nonverbal behavior accurately, there is a very real possibility that there can be genuine differences of opinion as to whether or not consent was actually given nonverbally (Frankel, Anderson, Auguste, & Burgess, 2017). We were curious as to whether such differences of opinion might be tied to gender.

## Dependent Measures

How drunk was she? (1-7) No significant finding

Was she capable of giving consent? (1-7)  $p < .05$

If you were able to divide up the responsibility for this event, how would you do it?  $P < .05$

The female student was \_\_\_\_ % responsible.

The male student was \_\_\_\_ % responsible.

Participants	Capable of Giving Consent
Male Ps	3.92
Female Ps	3.04

Participants	Assignment of Responsibility
Male Ps	36.29
Female Ps	25.71

None of the 18 male college students (0%) thought the woman bore no responsibility, whereas 11 of the 42 female college students (26%) thought the woman bore no responsibility.



## Discussion

Our results reveal that our suspicion was correct. Despite finding no overall difference between our male and female participants insofar as the perception of the female complainant's intoxication was concerned, we found that our male participants thought the complainant was more capable of giving consent (3.92 vs. 3.04,  $p < .05$ ) and more responsible for the encounter (36.29 vs. 25.71,  $p < .05$ ) than did our female participants and presumably these different perceptions would affect the outcome of a university judiciary panel adjudicating what we think is, unfortunately, a situation that is more common than many think given the nonverbal channel through which many (most?) female students provide such consent (Frankel, Anderson, Auguste, & Burgess, 2017).

As such, we recommend that college orientation programs emphasize the necessity of verbal affirmative consent prior to a sexual encounter and how such consent, if given, is nullified by the consenting party's intoxication, however determined.

## Selected References

Frankel, A., Anderson, M., Auguste, B., & Burgess, E. (2017). When women say "No" nonverbally, men may not be listening. Poster presented at the March meeting of the Eastern Psychological Association, Boston MA.

Peterson, Z. D., & Muehlenhard, C. L. (2004). Was it rape? The function of women's rape myth acceptance and definitions of sex in labeling their own experiences. *Sex Roles, 51*(3-4), 129-144.