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### November 21, 2017: The Revenge of Ruth Ann Dailey

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Title: The Revenge of Ruth Ann Dailey

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11/21/2017—Duquesne University has an apparent policy—I have never seen it written down, but I have seen it in practice often enough. The policy is, to call the police. When there is an alleged sexual assault, the University brings in the Pittsburgh police.

This policy serves to distinguish between crimes and matters for University discipline. Crimes are not appropriate for a non-governmental entity to deal with. They are for the authorities that investigate crime. Rape is rape, whether committed by a stranger or a fellow student.

Ruth Ann Dailey wrote a [column](#) in yesterday's Post Gazette that reminded me of Duquesne's policy. In it, she said, you should distinguish between crimes on the one hand and inappropriate behavior on the other. If you are not clear in your distinctions, real victims will not be served.

And, in addition to not addressing victims, we will be back at the helpless woman stage. A woman generally can be expected to tell a guy she is not interested in to leave her alone.

Dailey's own example of inappropriate but not criminal behavior was an older guy she did not know putting his hand on her backside while waiting in the rain. She was willing to say that is just gross behavior not rising to the level of sexual assault. This is the kind of gross behavior—groping strangers—that Trump and Franken have engaged in. There is no excuse for it, but it probably does not rise to the level of a crime. It would certainly cause me to lean to not voting for someone. But if not a pattern, I cannot see throwing someone out of the Senate for it. (Although if this had been her boss, I'm sure she would say that at least the civil law has to address such workplace harassment).

Compare that to statutory rape. That is what Moore is guilty of if there was any kind of touching of a fourteen year or sixteen year old girl. Similarly for any kind of touching of an underage boy. The statute of limitations has run on these actions, but criminals are criminals and have no place anywhere.

Where does that place Bill Clinton? Consensual sex in the workplace with an adult woman is not a crime. But it is a violation of the civil law because the law sees that genuine consent is not likely and because even the invitation to it creates a hostile work environment. This is similar to the prohibition on law professors having any kind of romantic involvement with students. It is bad for everyone and would get me fired. That does not deny that workplace relationships have led to happy marriages on occasion. It is just a dangerous practice on many levels.

But, of course, as Ross Douthat wrote on [Sunday](#) in the New York Times, Clinton was a serial predator who used government resources to pimp and then bribed witnesses to lie or obstruct justice—a lot more there than one instance of oral sex with an intern. Douthat has changed his mind about removal of Clinton after his impeachment. Maybe the rest of us should too.

But, Dailey's point is that behavior like some of that attributed to Glenn Thrush, the New York Times reporter, does not belong in this conversation. Laura McGann wrote an [article](#) in Vox describing Thrush engaging in unwanted touching with three unnamed women. About that I

don't know any of the details, but in one reported incident, Thrush was a bar with a young reporter and he came on to her, she rejected his advances and was left in tears.

There was certainly a power imbalance there as the woman was in her 20's and Thrush, as the article said, would be good to know as a seasoned media star. But he was not her boss and had no direct financial role in her life.

Other instances were different and amounted to groping out of the blue.

It seems to me that all this has to be treated on a cultural level. The rules are not that difficult. Crime is crime and consent, or lack of consent, is not that hard to discern—or in the case of children, not possible. No one should be subjected to unwanted touching of any kind. If it is sexual touching, it can rise to the level of assault. Power imbalances have to be addressed institutionally and not case by case—banned in the workplace and in professional relationships, like lawyer and client or doctor and patient.

That leaves the fundamental problem of the woman who thinks that a man respects her work and it turns out he is just interested in her sexually. Personally, I believe this is best dealt with by getting involved only with people you like and respect. But I'm not sure I know much about the world. I never went home with anyone from a bar.