

From: "[REDACTED] (USANYS)" <[REDACTED]>
To: "[REDACTED] (USANYS)" <[REDACTED]>, "[REDACTED]" <[REDACTED]>
Cc: "[REDACTED] (USANYS)" <[REDACTED]>

Subject: DAILY BEAST: Manhattan D.A. Cy Vance Finally Got Harvey Weinstein, but He's Still Letting Women Down

Date: Fri, 06 Mar 2020 15:28:01 +0000

Manhattan D.A. Cy Vance Finally Got Harvey Weinstein, but He's Still Letting Women Down

The prosecutor who says in 2020 that "rape is rape and sexual assault is sexual assault," signed a memo on behalf of NY's DAs in 2013 opposing a bill that would've made that so.

[ALEXIS GRENELL](#)

Updated Mar. 06, 2020 7:00AM ET / Published Mar. 05, 2020 4:54AM ET

Marissa Hoechstetter was sitting at her desk on the morning of June 28, 2018, when a blind number appeared on her cell phone. She picked up and her stomach dropped: "This is Cyrus Vance calling from Manhattan."

A week earlier, after repeatedly requesting to speak to the Manhattan District Attorney, Hoechstetter had had a one-hour conversation with one of his top deputies regarding the obstetrician who'd licked her vagina and sexually assaulted at least 18 other patients. The conversation was about the settlement the DA's office reached with [Dr. Robert Hadden](#) in 2016 to surrender his medical license and plead

guilty to a single felony count of third-degree criminal sexual act and misdemeanor forcible touching in exchange for prosecutors agreeing not to prosecute the other crimes they were aware of, or pursue prison time, even though they had grand jury testimony from victims—including Evelyn Yang—eager to go to trial. The assistant DA who'd called Hoechstetter—the same one who Vance later said “made a mistake” in asking to downgrade Jeffrey Epstein’s sex offender status in 2011, which a judge denied—successfully negotiated for Hadden to receive a lesser sex offender status than guidelines indicated, keeping his name out of a publicly accessible database.

Unsatisfied with both the outcome and the deputy, Hoechstetter continued to send emails requesting to speak to the man himself. When he finally called, she cut right to the chase: “My biggest issue, and the thing that I believe matters the most is the discretion that you have.” Noting that the public might not be aware of how many cases get resolved via plea deal as opposed to at trial, she added, “I think there are people who are negotiated with more frequently.”

That’s the central issue for #MeToo: Whose humanity counts more? Quid pro quo corruption sometimes tilts the scales of justice, but perhaps more salient is the institutional sexism that weighs a man’s right to reputational preservation as a factor in determining justice.

When it comes to that, Vance has at times seemed eager to lose, preemptively surrendering his power in anticipation of even the most ridiculous defense. A senior prosecutor recently [told the New York Times](#) that the Hadden case was “not a slam dunk” because his defense would have exploited the “serious proof issues” given that pregnant women don’t have a clear view of their own genitals. That’s like saying that if a proctologist touches a man with his tongue the patient is an unreliable witness because he can’t see his own rectum.

Hoechstetter shared with me the transcript of her conversation with Vance, which she received in response to a freedom of information request to his office. The clear motivation for his call, years after Hadden’s case had been settled, was [a BuzzFeed story](#) featuring Hoechstetter and drawing national attention to the case. Over the course of 40 minutes, Vance was respectful but also tone-deaf, acknowledging how “upsetting” Hoechstetter’s assault must have been, as if the miscarriage of justice is a matter of hurt feelings. Throughout, Hoechstetter was direct and collaborative, while holding Vance to account for the decision-making in her case. He lamely offered to send someone to speak about sex crimes at the women’s college where she works.

A deputy later described Hoechstetter as “crying toward the end.”

Except she didn’t.

"I was so proud of myself for not crying," Hoeshstetter told me. "So then when I got the documents and I saw how they were talking about me, 'who's going to call her back, make her feel heard' or whatever, and then this note that she was crying at the end really upset me. And I do cry, believe me, but I wasn't crying then and it felt like this reference that labeled me a victim. 'Oh, that's how you deal with those people.'"

Fast-forward to 2020 and Evelyn Yang, no longer just some Manhattan mom but the wife of a presidential candidate with a megaphone, [sounding off on CNN](#) about Hadden and her outrage over the deal. "It's like getting slapped in the face and punched in the gut," she said. "The DA's office is meant to protect us, is meant to serve justice, and there was no justice here."

All of sudden Vance is doing more than just placating victims in private phone calls, announcing last week that the office will reopen Hadden's case.

"We admire the courage of the survivors who have recently shared their stories," a spokesman said.

"Their voices will be heard, and the abuse they suffered will be thoroughly investigated."

Vance has changed his tune on Weinstein too, declaring victory Monday by praising the survivors who came forward, without ever acknowledging his own failure to prosecute the movie mogul in 2015 when [Ambra Battilana-Gutierrez recorded him admitting and apologizing for assaulting her](#).

A few days later Vance managed to [cede](#) that, "we were looking at that case with 2015 eyes. We weren't looking at that case with 2019 eyes." The only difference being that five years ago, the then assistant DA who first interviewed Battilana-Gutierrez (which somehow included asking her if she'd ever been a [prostitute](#))—and who retired in the middle of the Weinstein trial after much scrutiny—could blow off a 22-year-old crime victim and no one would know or care.

Going on about Weinstein, Vance continued to re-write history, saying, "Rape is rape, and sexual assault is sexual assault." But back in 2013 [he signed a memo on behalf of the District Attorneys Association of the State of New York](#) opposing a bill that would've made that legally true. Rape in New York is still defined as vaginal penetration, while forced oral and anal sex is defined as a criminal sex act requiring only that the prosecution prove genital "contact." The problem came to a head in 2011 when a jury convicted a cop of sexually assaulting Lydia Cuomo, a Bronx teacher on her way to work, but acquitted him of rape because they weren't sure whether or not he'd actually penetrated her. So Assemblymember Aravella Simotas, introduced the "rape is rape" [bill](#) in 2013 which would consolidate the crimes under the rape statute and change the elements necessary to prove rape from genital "penetration" to "contact." Vance's letter argued that it could reduce consecutive sentencing options for judges, and suggested creating "oral rape" and "anal rape" to address concerns about language.

Seven years later, Simotas is still completely exasperated: “The whole argument about consecutive sentencing is a red herring. So long as the prosecutors do their job then they can get consecutive sentences. Changing the definition doesn’t change the fact that prosecutors have to do their job. It doesn’t change specific pleading. As long as you explain the elements that you’re trying to prove you’re fine. We’re not merging the whole code. Just describe the acts and describe the numbers in the penal code in your charging document.”

But just doing the job is exactly where Vance seems to have so much trouble when it comes to powerful and privileged men, and why it’s galling to watch him praise survivors for their willingness to come forward like they haven’t been there all along begging him to do something.

It may be 2020, but he still doesn’t get it.

██████████
Public Affairs
United States Department of Justice
U.S. Attorney’s Office | Southern District of New York
██████████ | ██████████ | Press Office: (212) 637-1020