

**CAMPUS SEXUAL ASSAULT:
HOW AMERICA'S INSTITUTIONS OF HIGHER
EDUCATION RESPOND**

EXECUTIVE SUMMARY

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EXECUTIVE SUMMARY

BACKGROUND FOR THE STUDY

Contrary to the traditional image of college campuses as safe havens for young adults, students, and women in particular, are exposed to high risks of sexual victimization on campus (Fisher, Cullen, & Turner, 2000; Fisher et al., 1998; Koss, Gidycz, & Wisniewski, 1987). Obtaining a postsecondary education should be a time for healthy risk-taking and for social, intellectual and vocational maturation. Victims of campus sexual assault, however, face potential traumatization—intense fear and emotional numbing, loss of control, and the shattering of their trust and their belief in their ability to make sound judgements about the people and the world around them. The cost of this potential loss is inestimable.

During the last fifteen years, the issue of sexual victimization of students has attracted much needed attention partially through highly publicized campus sexual assault trials and allegations of reports being mishandled by school officials (Bohmer & Parrot, 1993; Sanday, 1990, 1996; Warshaw, 1988). In response to public pressure, Federal legislation has mandated that institutions of higher education grapple with—and respond to—the massive problem of young men’s sexual violence toward their coeducational peers. (In this summary, we will refer to institutions of high education with the acronym, “IHE”).

Congress passed the *Student Right-to-Know and Campus Security Act* (20 U.S.C. §1092) in 1990 to require all Title IV eligible IHEs to publicly disclose crime statistics and crime prevention and security policies and procedures on campus. The law was amended in 1992 to require that schools afford victims specific basic rights and again in 1998 to emphasize reporting obligations regarding sexual assault on campus¹. This most recent amendment is commonly known as the *Clery Act*.

Despite the emergence of concern about sexual victimization among postsecondary students, little systematic information has been published about the content of sexual assault policies, protocols, and programs that currently exist in IHEs. In Public Law 105-244, the United States Congress mandated a study designed to address nine issues relating to prevention efforts, victim support services, reporting policies, protocols, barriers, and facilitators, adjudication procedures, and sanctions for sexual assault. On 1 November 1999, the National Institute of Justice awarded a grant to Education Development Center, Inc., and its partners—University of Cincinnati and Police Executive Research Forum—to carry out this study.

RESEARCH DESIGN AND METHODS

To comprehensively investigate the wide array of issues and institutional contexts mandated in this research, multiple forms of data were used to address each issue. These data included a content analysis of published sexual assault policy materials from a nationally representative sample of IHEs, mail surveys of campus administrators from a nationally representative sample of IHEs, field research at eight colleges and universities, electronic focus groups conducted with campus administrators, and legal research of state-level legislation.

Our national sample comprises 2,438 institutions in the United States and Puerto Rico, including all HBCUs (N=98) and all Native American tribal schools (N=28). All nine types of schools eligible for Title IV funding were represented in the sample: four-year public, four-year private nonprofit, two- to four-year private for profit, two-year public, two-year private nonprofit, less-than-two-year public and private

¹ More recently, the *Campus Sex Crimes Prevention Act* was enacted 28 October 2000. As changes pertaining to this act are not in effect until 28 October 2002, they are not reflected in this report.

nonprofit, less-than-two-year private for profit, Native American tribal schools, and Historically Black Colleges and Universities (hereinafter referred to as HBCU). Field research schools exhibiting promising practices were chosen from the sample on the basis of nineteen primary criteria (i.e., utilize a coordinated response to reports, offer an anonymous reporting option) and ten secondary criteria.

All schools in the sample were contacted, by mail, twice, with requests for the survey of campus administrators and published policy materials. Telephone calls were placed to a portion of nonrespondent IHEs and the Internet was used to augment materials for schools that submitted incomplete sets of policy material. Field research schools were notified by mail that they were found to be exhibiting promising practices and invited by telephone to participate in the field research component of the study.

Response rates varied greatly by type of data collected and by type of school, with an overall response rate of 41 percent (41.6 percent for the policy materials, and 41.1 percent for the surveys). For four-year public and four-year private nonprofit IHEs—the school types which educate the majority of post-secondary students (Barbett, 1999)—the policy materials and survey components generated a 65.9 percent and a 49.1 percent response rate respectively. Response rate for field research schools was similar: six of the original ten promising practice schools declined, for a variety of reasons, to participate in the field research component of the study.

DEFINITION OF THE PROBLEM

Challenging popular belief in stranger-rape myths, the vast majority of sexual assaults against students—84 to 97.8 percent—are perpetrated by young men known to the victim (Fisher, Cullen, & Turner, 2000; Kahn & Andreoli Mathie, 2000; Kahn, Andreoli Mathie, & Torgler, 1994; Koss, Gidycz, & Wisniewski, 1987). A substantial majority of these victims, however, do not define their experiences using legal terms. That is, even though the incident is legally a criminal offense, they do not call their victimization a “rape” (Bondurant, 2001; Fisher, Cullen & Turner 2000; Kahn & Andreoli Mathie, 2000; Kahn, et al., 1994; Koss et al., 1988; Schwartz & Leggett, 1999). This is particularly true when weapons are absent, alcohol is present, and/or physical injury (e.g., choke marks, bruises) is not apparent—the characteristics that are most often found in acquaintance rapes (Bondurant, 2001; Warshaw, 1988). Victims not identifying and naming events that meet legal definitions of rape and sexual assault has serious implications for reporting campus sexual assault since one must conceptualize an event a crime before she, or he, attempts to seek justice, or heal.

Underreporting by victims of acquaintance sexual assault is one of the most, if not the most, significant factors in low reporting rates on IHE campuses (Fisher et al., forthcoming).

FINDINGS

This Final Report looks at how the nation’s IHEs are responding to reports of sexual assault and offers a comprehensive descriptive baseline. Nine major issues were investigated. Many of the topic areas addressed have not been previously examined, which underscores the importance of findings that are contained in this Final Report. Below, the findings—presented by the nine issues—are summarized.

Issue I: The Existence and Publication of IHE's and State's Definitions of Sexual Assault

The main findings for this issue are that most campuses that reported back did articulate some definition of rape and other forms of sexual assault that helped inform their response and reporting policies. Nonetheless, there are no standard definitions of rape and sexual assault. In other words, the ways in which rape and sexual assault are defined varies across institutions and states. For the most part, campuses draw on federal and/or state language, although most do not include the offenses of statutory rape and incest. It is important to reiterate that no matter which definition of sexual assault is being used, the IHEs or the state's, the majority of students do not define their experience of rape as a crime.

Currently, only 18 states have laws pertaining to campus security and campus crime statistics reporting.

Only 36.5 percent of schools reported crime statistics in a manner that was fully consistent with the *Clery Act*. Of the schools that responded to our request for materials, 77.9 percent sent—as requested—their annual security reports (ASR). This suggests that a large proportion of IHEs are complying with this aspect of the *Clery Act*. While over 8 in 10 schools which provided ASRs included three years of crime statistics in the ASR, there was less apparent compliance with the *Clery Act*'s stipulation that sexual offenses should be divided into “forcible” offenses and “nonforcible” offenses, however. Nearly half (48.5 percent) of the four-year public schools and 43 percent of the four-year private nonprofit schools included forcible and nonforcible sexual offenses in their crime statistics.

Ninety-seven percent of schools that had a sexual assault policy did not mention stalking in their sexual assault policies whereas two-thirds of these same schools either had a separate sexual harassment policy (45.9 percent) or mentioned harassment in their policy statement (19.6 percent).

Only 13.7 percent of schools collect statistical information on the use of drugs in the commission of rapes, although this figure raises to more than 1 in 3 in HBCUs and four-year public schools.

Issue II: The Existence and Publication of IHEs' Policies for Campus Sexual Assault

The main finding here is that four-year public and private nonprofit institutions, those IHEs which educate a majority of postsecondary students (Barbett, 1999), have made substantial strides in the direction of developing explicit sexual assault policies. Other types of schools—smaller, for profit, non-residential IHEs—are lagging behind in developing and/or making accessible these policies.

Approximately 60 percent of schools sent a written sexual assault policy as requested. The likelihood of sending a written policy varied considerably by school type. Four-year public (82.2 percent), four-year private nonprofit (70.4 percent) and two-year public (59.4 percent) were most likely to have a sexual assault policy whereas the percentage of all other types of schools having a policy fell below significantly below 50 percent.

Sexual assault policies were included in either the ASR (38.6 percent)—a document that all Title IV eligible institutions must compile per the *Clery Act*—or their student handbook (19.3 percent).

Almost three-quarters of schools mentioned in their sexual assault policies contact procedures in the event a victimization occurred. Almost all the schools included a telephone number to contact, although less than half of the schools states that that person could be reached 24 hours a day—a problem given that most campus sexual assaults take place during the evening and early morning hours (Fisher, Cullen, & Turner, 2000). Campus police or local police were the most frequently named contact persons.

Issue III: The Individuals to Whom Reports of Sexual Assault are Given Most Often and the Extent to Which These Individuals are Trained to Respond to the Reports

On the whole, few campuses provide sexual assault response and/or sensitivity training to those most likely to first hear of sexual assaults on their campus: friends and fellow students, campus law enforcement/security officers, and faculty members.

Very few female victims of rape (3.2 percent) or attempted rape (2.3 percent) report their victimization to the police or to campus authorities. However, two-thirds of rape victims disclosed their experience to a friend or someone else (e.g., family member) (Fisher, Cullen, & Turner 2000; Fisher et al., forthcoming). Active support of friends was found to be the primary factor that distinguishes those victims who report the crime to campus and/or local authorities and those that remain silent.

On the whole, 60 percent of schools provide no training to students. Four-year residential IHEs are, however, more likely to provide students sexual assault response training: 77 percent of four-year public schools, 65 percent of four-year private nonprofit schools and 61 percent of HBCUs. When training occurs, it is most often directed at residence hall assistants and student security officers rather than the general student population.

Only 37.6 percent of all schools require sexual assault training for campus law enforcement/ security officers. While sexual assault training for campus law enforcement/security officers is fairly standard at four-year public (80.3 percent) and HBCUs (72.7 percent), which rely primarily on sworn officers employed by the school, at many other institutions training is not provided to the people to whom formal complaints are likely to be submitted.

About half of all schools—including 3 in 10 four-year public schools—provide no training to faculty and staff about “how to respond to disclosures of sexual assault.” Training is mandatory in about 1 in 3 schools (33.7 percent) and voluntary in less than 1 in 5 (17.3 percent) of schools.

Issue IV: The On- and Off-Campus Reporting Options and Procedures (including Confidentiality) that are Articulated to Victims of Sexual Assault

The main finding regarding reporting options is that more than three quarters of the nation’s IHEs offer campus sexual assault victims confidential reporting options (84.3 percent). Anonymous (45.8 percent), anonymous internet (3.7 percent), and third party (34.6 percent) are also recognized reporting options, although at significantly less schools.

An anonymous reporting option was found at significantly less than half of small, non-residential, non-traditional school types and only slightly above half of four-year public, four-year private nonprofit and HBCUs. While a third of schools reported the use of a third party reporting option, only 6.5 percent of schools specifically mentioned a third-party reporting option in their sexual assault materials.

Although the figures are higher for four-year public and private nonprofit institutions, less than half of the schools (44.7 percent) have policies that include statements on the legal and disciplinary system options available to students. When such statements are available, the options most often listed are filing criminal charges (91 percent), filing a complaint with the campus judicial system (88.8 percent), and deciding not to file charges (58.1 percent).

Only half of schools’ sexual assault policies list procedures for reporting a sexual assault to on-campus and/or off-campus police (46.1 and 49.1 percent respectively). The majority of four-year public (78.8 percent), four-year private nonprofit schools (54.1 percent), and HBCUs (53.3 percent) have procedures for reporting a sexual assault to *on*-campus police. The majority of four-year private nonprofit (59.2

percent), two- and four-year private for-profit (74.6 percent), and Native American tribal schools (71.4 percent) have procedures for reporting to *off*-campus police.

The sexual assault policies for about 1 in 3 IHEs contain a statement concerning the importance of victims obtaining a (forensic) medical examination, and about 4 in 10 schools had a statement concerning the importance of preserving evidence that a sexual assault had transpired. Again, four-year public schools were higher than other institutions, with 6 in 10 providing such information. Of schools that did provide steps on how to preserve evidence, a majority of the schools' policies (61.3 percent) detailed specific steps for victims to take, such as not cleaning up the area in which the victimization took place, not bathing, and not changing clothes.

Issue V: The Resources Available on Campus and Within the Community for Victims' Safety, Support, and Medical Treatment and Counseling, Including How Well the Resources are Articulated to Sexual Assault Victims and the Campus at Large

Less than half of IHEs report providing new students with sexual assault awareness education.

Less than half of any type of school provides an acquaintance rape prevention program.

57.8 percent of schools notify victims of the availability of on- and off-campus counseling, medical treatment, or other student services in their published documentation. Schools listed student counseling (70.2 percent), campus law enforcement (62.8 percent), the dean's office (48.7 percent), student health services (47.7 percent), and campus housing services (28.1 percent) as on-campus resources provided to student victims of sexual assault. Of those that mentioned off-campus resources (33.4 percent), the most commonly noted resources were rape crisis centers (70.2 percent), police agencies (65.8 percent), medical services (56.4 percent), women's centers (26.3 percent), mental health services (26.1 percent), and victim advocacy offices (26.1 percent).

Roughly one quarter—though about 6 in 10 four-year public schools and 4 in 10 HBCUs—provide victim-related support services to special populations of students (e.g., living off campus, non-native English speaking, sexual minority, physically challenged, etc.).

Only 3.2 percent of schools report providing victims with legal support, such as access to legal services, or even a student law clinic. In four-year public institutions, the percentage is three times higher, but the proportion furnishing legal assistance is still less than 1 in 10 schools.

Issue VI: Policies and Practices that May Prevent or Discourage Reporting of Campus Sexual Assaults

Underreporting by campus sexual assault victims stems from a combination of individual, institutional and socio-cultural factors.

While stranger-rape myths have been largely eradicated throughout society, acquaintance rape myths have only recently begun to be challenged. Student victims of rape by someone they know fear that people will hold them responsible for their own criminal victimization--and are far less likely to report their victimization to campus or criminal authorities than victims raped by a strangers on their campus.

When acquaintance rape victims name their experience "rape," they are often naming a classmate or friend a "criminal"—a "rapist." Such labeling requires a radical redefinition of their previous relationship in a way that politicizes that relationship. Avoiding this process is one reason student sexual assault victims neither name nor report the crime they suffered.

IHEs unintentionally condone victim-blaming when they circulate materials that focus primarily on the individual victim's responsibility to avoid sexual assault without balancing this risk management information with prevention education targeted toward men that stresses the perpetrator's responsibility for committing the crime.

Any policy or procedure that compromises, or worse, eliminates the student victim's ability to make her or his own informed choices about proceeding through the reporting and adjudication process—such as mandatory reporting requirements that do not include an anonymous reporting option or require the victim to participate in the adjudication process if the report is filed—not only reduces reporting rates but may be counter productive to the victim's healing process.

Confidentiality issues—that is how information regarding the student's victimization will circulate—function as significant barriers to reporting and following through with adjudication on campus. Policies or procedures which students, moreover student victims, perceive as a risk to their ability to control information about their victimization experience function as barriers to the reporting and adjudication of the crime. For example, the establishment of reporting Memorandums of Understanding between a school and its local prosecutor's office that preclude the victim's consent to release her or his name.

Seeking to avoid a lengthy adjudication process—whether in the campus or the criminal justice system—that threatens to dominate the victim's college experience is one way some victims begin to assert control over their lives to begin healing from their rape trauma.

The victim's lack of belief in the system that the perpetrator, especially acquaintance rapists, will be punished, functions as a barrier to reporting. Institutional-level aspects of this perception are complex. Increased attempts made by campus judicial systems—or the legal system—to investigate and adjudicate an allegation, and subsequently punish a perpetrator, exacts an unavoidable cost on victims. The more schools try to punish perpetrators of sexual assault, the more likely it is that they will be sued civilly and forced—as they have been—to give perpetrators more due process. Due process, however, is the very thing that exacts costs on victims of sexual assault, because it treats the perpetrator as an “equal” party in the complaint (with the IHE functioning as neutral arbiter). Forensic evidence collection may thereby be crucial in providing the victim evidence corroborating her or his account of the events.

Issue VII: Policies and Practices Found Successful in Aiding the Report and any Ensuing Investigation or Prosecution of a Campus Sexual Assault

The most commonly mentioned policies and practices thought to facilitate reporting of sexual assault and participation in the investigation and adjudication process include

- provisions for confidential reporting,
- provisions for anonymous reporting,
- written law enforcement protocols for responding to reports,
- coordinated crisis response across campus and community,
- forensic medical evidence collection by trained and certified forensic nurses, such as sexual assault nurse examiners,
- on-campus victim assistance services office,
- sexual assault peer educators, and
- first year and new student orientation programs.

Issue VIII: On-Campus Procedures for Investigating, Adjudicating and Disciplining Perpetrators of Sexual Assault

The main findings here are that although the majority of schools report the use of some form of formal grievance procedure, the majority of sexual assault cases reported to campus administrators and/or law enforcement officials are dealt with, at the victim's request, through binding administrative actions (such as establishing "no-contact" orders and changing residences and classes). In the small percentage of complaints that do receive formal review by campus adjudication boards, the hearing processes utilized vary widely.

Over 7 in 10 schools report that they have "disciplinary procedures," a "judicial system," "grievance procedures," or some similarly named adjudication process, although they are less likely to be found in nonresidential, for-profit and in less-than-two-year IHEs.

Almost 6 in 10 schools provide students with information as to the existence of a process that a student could use to file a written complain concerning an alleged sexual assault. Whereas four-year public (77.6 percent), HBCUs (74.3 percent) and four-year private nonprofit (72.9 percent) are more than likely to provide such an option, less-than-two-year public nonprofit (10.7 percent) and two and four year private for profit schools (14 percent) provide student victims this option.

Almost half of four-year public schools utilize an "investigation stage" to gather evidence in order to substantiate or dismiss the complaint; only about one quarter of all IHEs demarcate an investigation stage.

Only 1 in 4 schools report using written protocols to coordinate the investigation efforts of campus and local law enforcement, although this figure is twice as high for four-year public and HBCUs.

Student judicial committees use a variety of hearing processes. Hearing boards may contain as few as a single board member and as many as 24. The 'burden of proof' ranges from 'preponderance of the evidence' to 'beyond a reasonable doubt.'

Only 52.6 percent of schools' policy materials mention that the complainant will be notified of the procedures that will be used in, and the outcome of, the complaint. The majority of IHEs (61.9 percent) with a disciplinary process notify the accused of the existence and nature of a complaint filed against them.

Due process procedures for the accused are utilized at only 37.3 percent of IHEs.

In 2000-2001, the bulk of cases of acquaintance rape involving college students were largely resolved out of court and never formally reported to criminal justice personnel.

Issue IX: The Types of and Procedures for Punishment for Offenders

For students found responsible for violating the school's code of conduct and/or found guilty of rape or sexual assault, sanctions range from loss of privileges to expulsion.

Of the schools with a disciplinary process, the most common sanctions employed by a school are expulsion (84.3 percent), suspension (77.3 percent), probation (63.1 percent), censure (56.3 percent), restitution (47.8 percent), and loss of privileges (35.7 percent).

The most common penalties employed by four-year institutions include expulsion, suspension, counseling, and administrative no-contact orders. Only a minority of institutions impose sanctions on fraternities and athletic teams.

MAIN CONCLUSIONS FROM THIS STUDY

The main conclusions from this investigation include:

- There are no standard institutional or state definitions of “sexual assault” and “rape.” No matter which definitions are used, the majority of student victims do not define their experience of rape as a crime.
- Only 36.5 percent of schools reported crime statistics in a manner fully consistent with the *Clery Act* which requires the reporting of forcible and non-forcible rape and sexual assault in Annual Security Reports (ASRs).
- Whereas about 3 in 4 traditional four-year public schools, four-year private nonprofit schools, and HBCUs provide information on the process to file a written complaint alleging sexual assault, only slightly more than 1 in 10 small, non-residential, for profit schools provide students with such information.
- IHEs utilize a variety of options to report sexual assaults and rapes on campus: confidential (84.3 percent), anonymous (45.8 percent), anonymous internet (3.7 percent), and third party (34.6 percent).
- Active support from friends is the primary factor that distinguishes victims who report the crime to campus and/or local authorities from those who remain silent. Yet, less than half of all IHEs provide new students with sexual assault awareness education; less than half of all IHEs provide students with acquaintance rape prevention programming.
- Only 37.6 percent of IHEs require sexual assault sensitivity training for campus law enforcement/security officers, although this training is fairly standard at four-year public schools and HBCUs.
- Only 40 percent of schools provide students with sexual assault response training (e.g., resident hall assistants and student security officers).
- Any policy or procedure that compromises, or worse, eliminates the victim’s ability to make her or his own choices about proceeding through the reporting and adjudication process--such as mandatory reporting requirements without an anonymous reporting option--not only reduces reporting rates but may be counter-productive to the victim’s healing process.
- Recognition of anonymous reporting, use of written law enforcement protocols for responding to sexual assault reports, coordination of crisis response procedures, access to forensic medical evidence collection, and sexual assault peer education are widely perceived by administrators, victim advocates, law enforcement officers and students activists to be strategies that facilitate the reporting of sexual assaults on campus.
- Roughly one quarter--though about 6 in 10 four-year public schools and 4 in 10 HBCUs--provide victim-related support services to special populations of students (e.g., non-native English speaking, living off-campus, sexual minority, physically challenged).
- Due process procedures for the accused are utilized at only 37.3 percent of IHEs.
- The most common penalties employed by four-year (residential) institutions include expulsion, suspension, and administrative actions such as no-contact orders. Only a minority of IHEs impose sanctions of fraternities and athletic teams.

RECOMMENDATIONS

Based on these study findings, we offer two types of recommendations: those aimed at providing support to IHEs and in creating comprehensive sexual assault policies that are specific to their school type, and those that suggest areas in need of further examination.

- Develop Guidelines for Meeting *Clery Act* Reporting Mandates.
- Develop a Model Sexual Assault Policy Manual.
- Develop a Model Sexual Assault Education Pamphlet for Students.
- Develop a Set of Model Services for Victims of Campus Sexual Assault.
- Design Policies and Protocols That Prioritize Victims' Needs.
- Investigate Barriers and Facilitators to Victim's Ability to Identify Rape as Crime.
- Investigate Ethnic and Other Cultural Factors in Campus Sexual Assault.
- Evaluate Policies Perceived to Be Barriers or Facilitators to Reporting.

These findings and recommendations should be useful not only to legislators and campus leaders, but also to a wide range of criminal justice professionals, health and mental health service providers, women's and victims' advocates. As the study findings are applied by IHEs to improve sexual assault prevention, response and reporting efforts, and recommendations are adapted by national educational funding agencies, students—in fact, all citizens—will benefit from safer learning environments at the nation's institutions of higher education.

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