

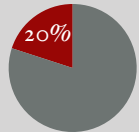
April 18, 2019

The Problem

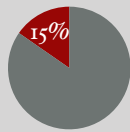
Sexual assault on college campuses is a very significant issue in modern U.S. policymaking. One key term in studying this policy area is **adjudication**, meaning the “process for investigating ... reported cases” (EROCC). While some cases are handled internally within universities, the victim may choose to pursue the prosecution route (RAINN: “What to Expect from the Criminal Justice System”). A few of the key organizations combatting the problem are the National Sexual Violence Resource Center (NSVRC) and End Rape on Campus (EROC). There are many myths and misconceptions surrounding sexual assault, including victim blaming and false reports. Victim blaming means accountability rests unfairly with the victim (Univ. of Wisconsin: Oshkosh). Additionally, there is a prominent myth that the number of false reports are significantly higher than they actually are: according to the NSVRC, only **2-10%** of sexual assault reports are false (Univ. of Wisconsin: Oshkosh; NSVRC: Info and Stats For Journalists).

How widespread is campus sexual assault?

College Women



College Men



Throughout college, **20-25%** of women and **15%** of men are subjected to forced sex (NSVRC).



According to the NSVRC, the rate of not reporting for campus sexual assault victims is over **90%** (NSVRC)

- Among the frequent reasons to not report are “fear of reprisal” and “believing it was not important enough to report” (RAINN: “Campus Sexual Violence: Statistics”).

Significant Federal Campus Sexual Assault Policies and Their Implications

1972 - Title IX - necessitates that survivors have a set timeframe for the entirety of the reporting procedure, the survivors and accused explain their cases, the adjudicator utilize “a preponderance of evidence standard,” having a write-up of the result and applicable sanctions, and ensuring equal opportunities (NCES; EROC)

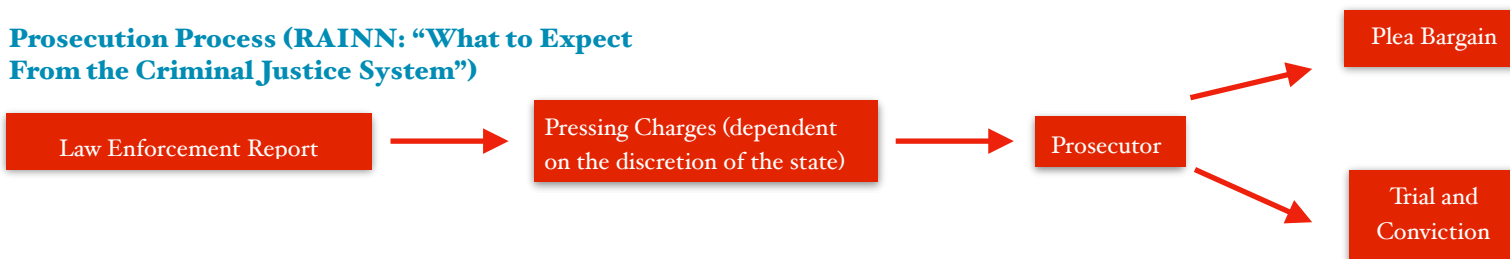
1998 - Jeanne Clery Act - mandates universities to have security policies and point students to resources for reporting (Kiss, 36)

2015 - Obama Administration - dismantling “rape culture” through “extensive regulatory requirements,” such as having a Title IX coordinator (Melnick; US Dept. of Education)

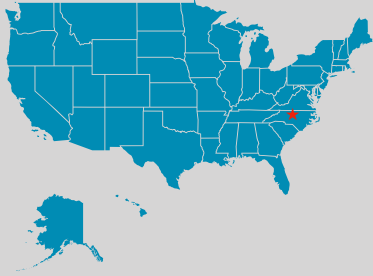
2018 - DeVos Policies - against prior policy - elevated standard of evidence, requirements for colleges to act only in on-campus incidents and for formal complaints, limiting the scope of what is seen as sexual harassment, incorporating cross-examination (Green)

What is **“Preponderance of Evidence?”** It means demonstrating that it was “more likely than not” that the assault happened (EROCC)

Prosecution Process (RAINN: “What to Expect From the Criminal Justice System”)



According to the FBI, convictions and prosecution are very rare: merely **13** per **1000** rape cases reach the prosecution stage, and merely **7** result in a conviction (RAINN: “What to Expect From the Criminal Justice System”)



Current Policy

A major roadblock is the inconsistency of state sexual assault laws and campus policies regarding sexual assault. In their study of state sexual assault laws, DeMatteo et al found that every state has sexual assault laws, but they significantly differ in terms of incapacity and consent (DeMatteo et al). For example, North Carolina does not give parameters for consent while California does (DeMatteo et al). The laws could even differ within the state: for example, Virginia does not give parameters for consent but does for incapacity (DeMatteo et al). For campus policy, many colleges have general policies such as a sexual assault disciplinary policy or a Title IX policy, but these can differ (Richards et al). Richards et al utilize a feminist-based organizational model to analyze campus sexual assault policy and find significant lapses in certain policy areas (Richards et al). For example, in their sample, only “**7%** of policies state that the accuser’s dress cannot be discussed at disciplinary hearings” and “**18%** of policies state that the accuser’s sexual history cannot be discussed at disciplinary hearings” (Richards et al). These results are problematic because focusing on external factors, such as the accuser’s sexual history or dress, detract from the legitimacy of the accusation. With the identification of these roadblocks, it is possible to see where policy can be improved.

Richards et al sampled 387 universities, and while **99%** of them “had a Title IX policy against sex discrimination,” only **29%** have “an amnesty policy for students using drugs and or alcohol when they were sexually assaulted” (Richards et al)

Specific universities have been making efforts to analyze their current policies and work to reform them. For example, in 2018, following federal investigation, it was determined that UNC Chapel Hill violated the Title IX anti-discrimination law (Stancill). In particular, it violated the “timely resolution” clause by not “resolving within the timeframe of the university’s procedures” (Stancill). UNC’s policy establishes a **25-business day** time parameter for adjudication, but also states that this is subject to change (UNC Chapel Hill). Out of the cases investigated, the 13 outside of the appropriate time parameter took **126 days**, on average, to adjudicate (Stancill). Following the Obama administration policies, the university did improve by having a more streamlined resource website, obtaining Title IX investigators and staff, being able to follow cases more easily, and prevention and training programs (Stancill). Clearly, with the more recent violations, however, there is still room to improve. In fact, since April 2011, out of **502** government Title IX investigations for universities, **305** are still ongoing (The Chronicle of Higher Education).

What is the best policy solution?

Many of the solutions advocated by scholars prioritize the victim and rightly so. The impact of sexual assault on mental health can be catastrophic, ranging from depression and post-traumatic stress disorder to self-harm and suicide, thereby necessitating prompt action (RAINN: “Effects of Sexual Violence”).

The **best** solution combines several approaches with the objective of handling cases as effectively as possible. Amar et al offer solutions from the campus administrative perspective and advocate for combined campus and community teams as a resource for victims and hearing boards for adjudication purposes, as well as advocating for not requiring survivors to attend hearings (Amar et al). The cultural approach involves instituting policies like the dress policy and protecting the accuser’s sexual history (Richards et al). It would also involve creating a culture unaccepting of sexual assault, such as ensuring that the severity of sexual assault is conveyed in how it is explained in daily life (Potter). The trauma-informed approach involves training for “sensitive response strategies for student disclosures” and drug and alcohol amnesty for victims (Richards and Kafonek).

Pros:
This combined strategy is comprehensive in addressing current policy lapses and prioritizing the victim. Additionally, this policy would mitigate the issue of victim-blaming in shifting the culture surrounding campus sexual assault.

Cons:
Some would argue that it could be possibly undermining due process for the accused (Melnick). Also, some of these measures such as the training and hearing boards would require increased university financial resources, which could be controversial (Richards and Kafonek). Creating the cultural aspect is also a somewhat intangible concept that might be difficult to implement.

Overall, despite the possible costs, this policy approach would be beneficial in addressing many of the current problems in campus sexual assault policies all while adhering to applicable federal law under the Clery Act and Title IX and maintaining the option of prosecution if the victim so chooses. DeVos’s proposed policies prioritizing the accused not only undermine the validity of the victim’s accusations, but also would likely directly affect the victim’s wellness (Green). Granted, the handling of these cases should be kept within the realm of justice, but policies like these should be fought against in order to create a culture supporting victims.

References

All graphics/images from Pages software shapes and charts

Amar, Angela F., Strout, Tania D., Simpson, Somatra, Cardiello, Maria, and Beckford, Sania. "Administrators' Perceptions of College Campus Protocols, Response, and Student Prevention Efforts for Sexual Assault." *Violence and Victims*, vol. 29, no. 4, 2014, pp. 579-593. *ProQuest Central*, <http://dx.doi.org.libproxy.lib.unc.edu/10.1891/0886-6708.VV-D-12-00154>.

The Chronicle of Higher Education. "Title IX: Tracking Sexual Assault Investigations." Accessed 17 April 2019, <https://projects.chronicle.com/titleix/>.

DeMatteo, David, Galloway, Meghann, Arnold, Shelby, and Patel, Unnati. "Sexual Assault on College Campuses: A 50-State Survey of Criminal Sexual Assault Statutes and Their Relevance to Campus Sexual Assault." *Psychology, Public Policy, and Law: American Psychological Association*, vol. 21, no. 3, 2015 August. *PsycArticles*, <http://dx.doi.org.libproxy.lib.unc.edu/10.1037/law0000055>.

ERO: End Rape on Campus. "Title IX." Accessed 17 April 2019, <https://endrapeoncampus.org/title-ix>.

Green, Erica L. "New U.S. Sexual Misconduct Rules Bolster Rights of Accused and Protect Colleges." *The New York Times*. 29 August 2018. Accessed 17 April 2019, <https://www.nytimes.com/2018/08/29/us/politics/devos-campus-sexual-assault.html>.

Kiss, Alison. "Chapter 2 – The Jeanne Clery Act: A Summary of the Law and Its Evolution in Higher Education." [https://www-worldcat-org.libproxy.lib.unc.edu/title/campus-crime-legal-social-and-policy-perspectives/oclc/840616726/viewport](https://www.worldcat-org.libproxy.lib.unc.edu/title/campus-crime-legal-social-and-policy-perspectives/oclc/840616726/viewport). From Fisher, Bonnie S., and John J. Sloan III. *Campus Crime: Legal, Social, and Policy Perspectives*. 3rd ed, Charles C. Thomas, Ltd, 2013. *ProQuest Ebook Central*, <https://ebookcentral-proquest-com.libproxy.lib.unc.edu/lib/unc/reader.action?docID=1160552&ppg=4>.

Melnick, R. Shep. "The Department of Education's Proposed Sexual Harassment Rules: Looking Beyond the Rhetoric." *The Brookings Institute*. 24 January 2019. Accessed 17 April 2019, <https://www.brookings.edu/blog/brown-center-chalkboard/2019/01/24/the-department-of-educations-proposed-sexual-harassment-rules-looking-beyond-the-rhetoric/>.

NCES: National Center for Education Statistics. "Fast Facts: Title IX." Accessed 17 April 2019, <https://nces.ed.gov/fastfacts/display.asp?id=93>.

NSVRC: National Sexual Violence Resource Center. "Sexual Assault in the United States." Accessed 17 April 2019, <https://www.nsvrc.org/statistics>.

NSVRC: Info & Stats for Journalists. "Statistics about Sexual Violence." 2015. Accessed 17 April 2019, https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media_packet_statistics-about-sexual-violence_o.pdf.

Potter, Sharyn J. "Reducing Sexual Assault on Campus: Lessons From the Movement to Prevent Drunk Driving." *American Journal of Public Health*, vol. 106, no. 5, 2016 May, pp. 822-829. *ProQuest Central*, <http://dx.doi.org.libproxy.lib.unc.edu/10.2105/AJPH.2016.303082>.

RAINN. "Campus Sexual Violence: Statistics." Accessed 17 April 2019, <https://www.rainn.org/statistics/campus-sexual-violence>.

RAINN. "Effects of Sexual Violence." Accessed 17 April 2019, <https://www.rainn.org/effects-sexual-violence>.

RAINN. "What To Expect From The Criminal Justice System." Accessed 17 April 2019, <https://www.rainn.org/articles/what-expect-criminal-justice-system>.

Richards, Tara N., Branch, Kathryn A., Fleury-Steiner, Ruth E., Kafonek, Katherine. "A Feminist Analysis of Campus Sexual Assault Policies: Results from a National Sample." *Family Relations: Interdisciplinary Journal of Applied Family Science*, vol. 66, no. 1, 2017 February, pp. 104-115. *Wiley Online Library*, <https://doi-org.libproxy.lib.unc.edu/10.1111/fare.12236>.

Richards, Tara N., and Kafonek, Katherine. "Reviewing State Legislative Agendas Regarding Sexual Assault in Higher Education: Proliferation of Best Practices and Points of Caution." *Feminist Criminology*, vol. 11, no. 1, 15 December 2015. *Sage Journals*, <https://doi-org.libproxy.lib.unc.edu/10.1177/1557085115621163>.

Stancill, Jane. "UNC Found in Violation of Federal Law In Its Handling of Sex Assault and Discrimination." *The News and Observer*. 26 June 2018. Accessed 17 April 2019, <https://www.newsobserver.com/news/local/article213838729.html>.

UNC Chapel Hill. "Sexual Assault Programs and Response Procedures: Process Timeline." Accessed 17 April 2019, <https://police.unc.edu/about/security-fire-safety-report/sfsr-2018/sexual-assault-programs-and-response-procedures/>.

University of Wisconsin: Oshkosh. "Myths and Victim Blaming." Accessed 17 April 2019, <https://www.uwosh.edu/cvpp/sexual-assault/myths-victim-blaming>.

U.S. Department of Education. "Notice of Language Assistance: Dear Colleague Letter on Title IX Coordinators." 2015. Accessed 17 April 2019, <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201504-title-ix-coordinators.pdf>.