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# Campus Sexual Assault: Suggested Policies and Procedures

(FEBRUARY 2013)

*The statement that follows was approved in October 2012 by the Association's Committee on Women in the Academic Profession and its Subcommittee on Sexual Assault on Campus. It was adopted by the Association's Council in November 2012.*

The American Association of University Professors has long recognized that the freedom to teach and to learn is inseparable from the maintenance of a safe and hospitable learning environment. Several Association documents identify important elements of such an environment. The *Joint Statement on Rights and Freedoms of Students*, formulated in 1967 (revised 1990–92), states that the “freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community.” The 1966 *Statement on Professional Ethics* (revised in 1987 and 2009) emphasizes the responsibility of faculty members to “avoid any exploitation . . . of students.” *Sexual Harassment: Suggested Policy and Procedures for Handling Complaints* (1995) reiterates this ethical responsibility, asserting that acts of harassment clearly violate expected standards of campus conduct. The same statement emphasizes that the success of any policy requires campus leadership to “provide appropriate ethical standards and to provide suitable internal procedures to secure their observance.”<sup>1</sup>

National attention has recently turned to sexual violence and the problems it poses for the classroom, campus, and community.<sup>2</sup> Actual or threatened sexual

assault raises issues for colleges and universities that go beyond those of sexual harassment. Whereas the prevention and management of sexual-harassment incidents are generally considered to fall within the purview of campus policy and procedures, incidents of sexual violence and sexual assault may constitute criminal offenses, require medical attention, and raise special concerns about reporting, record keeping, media attention, and police involvement. Because definitions of various acts and their status differ widely by state, community, research study, and institution, colleges and universities are urged to determine the terms and conditions applicable in their localities.<sup>3</sup>

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.gov/pdffiles1/nij/grants/221153.pdf. The April 4, 2011, “Dear Colleague Letter” from the US Department of Education’s Office for Civil Rights addresses the scope and significance of sexual violence in educational settings, and the accompanying fact sheet provides widely accepted statistics. “Dear Colleague Letter,” Office for Civil Rights, US Department of Education, <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

3. We use *sexual violence* as a blanket term for sexual harassment, sexual abuse, sexual assault, rape, stalking, domestic violence, and other forms of sexual misconduct. We use *sexual assault* to denote coercive physical contact of a sexual nature, including rape. *Rape*, a common legal term denoting forced sexual intercourse (with oral, vaginal, or anal penetration), has in many states been replaced by statutes defining and prohibiting activities encompassed by the more inclusive term *sexual assault*; we retain the term *rape* when used in cited documents. For more on definitions and terminology, see Heather M. Karjane, Bonnie S. Fisher, and Francis T. Cullen, *Campus Sexual Assault: How*

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1. AAUP, *Policy Documents and Reports*, 10th ed. (Washington, DC: AAUP, 2006), 273; 171; 244.

2. Christopher P. Krebs et al., *Campus Sexual Assault (CSA) Study* (Washington, DC: US Department of Justice, 2007), <https://www.ncjrs>

Some colleges and universities choose to incorporate sexual assault into existing policies governing professional ethics, sexual harassment, or campus violence. Institutions that wish to have a separate statement on the prevention and management of campus sexual assault may find the suggestions presented in this report useful in developing policy and procedures. Drawing on research findings and other sources, we first outline the scope of the problem, the consequences, and the management of sexual assault. We then summarize federal law pertaining to sexual assault, including the provisions of the Jeanne Clery Act and its reporting requirements for institutions of higher education. We then outline what a robust sexual-assault policy might look like, noting institutional and procedural elements that authorities consider promising as well as those that pose special challenges for the development of sound policy and procedures. We discuss the special role and responsibility of faculty members, a group often overlooked in campus sexual-assault prevention and training programs. We conclude by emphasizing the importance of coherent and consistent policy throughout the institution.

## I. Scope of the Problem

Campus sexual assault is a significant problem.<sup>4</sup> Women in the traditional age range for college students—from eighteen to twenty-one—are four times more likely to be sexually assaulted than women in any other age group, and college-bound women are at greater risk than their non-college-bound peers.<sup>5</sup> Between 20 and 25 percent of college women and 4 percent of college men report having been sexually assaulted during their college years.<sup>6</sup> The rate for gay, lesbian, bisexual, transgender, and queer students is estimated to be slightly higher.<sup>7</sup>

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America's Institutions of Higher Education Respond (Washington, DC: US Department of Justice, 2002), 2–3, <https://www.ncjrs.gov/pdffiles1/nij/grants/196676.pdf>.

4. See "Sexual Assault on Campus Statistics," American Association of University Women (AAUW), accessed January 17, 2013, [http://www.aauw.org/act/laf/library/assault\\_stats.cfm](http://www.aauw.org/act/laf/library/assault_stats.cfm), and Krebs et al., *Campus Sexual Assault Study*.

5. See, for example, Heather M. Karjane, Bonnie S. Fisher, and Francis T. Cullen, *Sexual Assault on Campus: What Colleges and Universities Are Doing about It* (Washington, DC: US Department of Justice, 2005), <http://www.ncjrs.gov/pdffiles1/nij/205521.pdf>.

6. Centers for Disease Control and Prevention, *Sexual Violence Facts at a Glance 2012*, accessed January 17, 2013, <http://www.cdc.gov/ViolencePrevention/pdf/SV-DataSheet-a.pdf>.

7. Lee van der Voo, "Sexual Violence on Campus: Not Just a Crime of Men against Women," *Investigate West*, February 25, 2010, <http://inww.org/node/941>; "National Statistics about Sexual Violence on

Studies of campus sexual assault indicate that many—perhaps most—assaults and attempted assaults are never reported or, if reported, not consistently counted as official.<sup>8</sup> The fact that sexual assaults on campuses largely take place between acquaintances blurs understandings both of consent and of assault, and lessens the likelihood of reporting.<sup>9</sup> Unlike "stranger rape," acquaintance rape may not even be perceived by those involved as "rape," a perception that may discourage or delay disclosure (which may occur days, weeks, even years after the event).<sup>10</sup>

## II. Consequences of Sexual Assault

The consequences of sexual assault are potentially very serious. An immediate concern is physical injury, which may be extensive enough to require medical treatment or hospitalization.<sup>11</sup> Pregnancy and sexually transmitted diseases (STDs), including HIV, are additional concerns.<sup>12</sup> Emotional damage may be serious and equally requiring of treatment. Sexual assault may

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Campus," New York University Student Health Center, accessed January 17, 2013, <http://www.nyu.edu/shc/promotion/svstat.html>. See also Ann Fleck-Henderson et al., *Beyond Title IX: Guidelines for Preventing and Responding to Gender-Based Violence in Higher Education* (San Francisco: Futures without Violence and Avon Foundation for Women, 2012), 5, [http://www.acha.org/topics/docs/Futures\\_Without\\_Violence\\_Beyond\\_Title\\_IX.pdf](http://www.acha.org/topics/docs/Futures_Without_Violence_Beyond_Title_IX.pdf): "Those on campus who may be marginalized, underrepresented, or especially vulnerable warrant special attention. These groups will differ from campus to campus, but may include LGBTQ individuals, women of color, women with disabilities, immigrant women, or international students."

8. Based on statistical extrapolation from many sources, some researchers estimate that only 5 percent of campus sexual assaults are officially reported: "Sexual assault is widely considered to be the most underreported crime in America." Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, ii.

9. It has been estimated that 90 percent of campus women who are victims of sexual assault know the person who assaulted them. Krebs et al., *Campus Sexual Assault Study*.

10. "Half of all student victims do not label the incident 'rape.'" Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, 2.

11. Sexual-assault advocacy groups recommend that all victims of physical sexual assault, even those reluctant to file an official report, undergo a medical exam and forensic evidence collection; this makes it feasible to file an official report or charge in the future. See <http://safercampus.org>, the website of the national activist organization Students Active for Ending Rape.

12. The AAUW states that 40 percent or more of sexual-assault incidents involve transmission of a sexually transmitted disease. Some states mandate testing of convicted attackers for HIV and other STDs. See <http://www.aauw.org/act/laf/library/assault.cfm>.

affect students' academic achievement as well as their capacity to contribute to the campus community. College students who have survived sexual assault rarely perform at their prior academic levels, are sometimes unable to carry a normal course load, and frequently miss classes. These changes stem sometimes from social withdrawal, sometimes from a desire to avoid the perpetrator. Assaulted students regularly drop courses altogether, leave school, or transfer. Along with decline in academic performance and social withdrawal, long-term outcomes may include increased risk of depression, substance abuse, self-harm, eating disorders, post-traumatic stress, personality disorders, and suicide.<sup>13</sup>

Beyond their destructive effects on individuals, incidents of sexual assault may have negative consequences for colleges and universities. First, they harm the institution's educational mission by undermining the safe and hospitable learning environment necessary for learning and teaching. Second, they cast doubt on stated commitments by campus leaders to end campus violence. Third, cases exposed in the national media may bring scandal to the institution and its leaders, create distrust toward the administration among parents and alumni, and erode fundraising efforts as well as legislative and philanthropic support. Fourth, institutions found in violation of basic preventive measures may be fined.<sup>14</sup> Finally, even incidents that stay local are likely to damage the institution's standing in the community.

### **III. Management of Campus Sexual Assault**

As we suggest in this document, sound campus policy and procedures should aim to eliminate sexual assault and its devastating consequences. Closer coordination with trained law-enforcement officials, for example, increases the likelihood that incidents will be more fully investigated and adjudicated. In terms of the conviction and punishment of perpetrators, however, the outcomes are not much better for cases handled by the criminal justice system. A 2011 *Chicago Tribune* investigation of six midwestern universities tracked 171 alleged campus sex crimes reported by students and investigated by police over the previous five years; twelve of the accused perpetrators were arrested, of whom four were convicted. In only one

of those four cases was the attacker another student, though student-to-student assault is the most common form of sexual assault on campuses.<sup>15</sup> Thus the rate of arrests and convictions in these cases is not only low—7 percent and 2 percent, respectively—but also well below the average reported nationally. As the *Tribune* article concludes, “The trend leaves untold numbers of college women feeling betrayed and vulnerable, believing that their allegations are not taken seriously.”

Such findings are disappointing. Despite progress over recent decades in public and professional understanding of sexual assault and sexual violence, recent research makes clear the persistence and influence of several entrenched myths: it is the victim's fault; most allegations of sexual assault and rape are false and typically motivated by revenge against particular men or against men in general; the presence of drugs or alcohol makes it difficult to investigate allegations or even establish whether an incident actually took place; and acquaintance rape is not rape.<sup>16</sup> Below we note additional factors that appear to influence the reporting, tracking, counting, investigating, classifying, and adjudicating of incidents of sexual assault.

### **IV. Federal Laws on Sexual Assault and Related Crimes**

Title IX requires institutions of higher education to report incidents of violence and to track patterns of sexual misconduct and other behaviors that create a hostile environment for women. In spring 2011, the Office for Civil Rights offered additional guidance for interpreting Title IX in its “Dear Colleague Letter.” The letter states that institutions are required to “take immediate action to eliminate the harassment, prevent its recurrence, and address its

13. Connie J. Kirkland, *Academic Impact of Sexual Assault* (Fairfax, VA: George Mason University, 1994).

14. Recent cases are highlighted on the AAUW's website at <http://www.aauw.org/act/laf/library/sexualassaultcases.cfm>.

15. Todd Lighty, Stacy St. Clair, and Jodi S. Cohen, “Few Arrests, Convictions in Campus Sex Assault Cases,” *Chicago Tribune*, June 16, 2011, <http://articles.chicagotribune.com/2011-06-16/news/ct-met-campus-sexual-assaults-0617-20110616>. The convicted student had pleaded guilty to sexual battery and criminal confinement.

16. Two forums on campus sexual assault held in Virginia in spring 2011 and 2012 brought together leaders in research, higher education, policy, and law enforcement. Among the presenters was David Lisak, a clinical psychologist and leading authority on interpersonal violence, including sexual assault. Lisak documented the influence and pervasiveness of such myths and stereotypes in all aspects of campus sexual assault. Two of his papers, along with other useful presentations from the 2012 forum, can be downloaded from the Virginia Department of Criminal Justice's website at <http://www.dcj.virginia.gov/vcss/training/SAForum/>.

effects.”<sup>17</sup> Title IX lays out the investigative process to be used in such instances. In 1990, Congress enacted a law that requires all two- and four-year colleges and universities to file annual reports with the federal government on campus crime, and campus security amendments passed in 1992, 1998, and 2008 further require campuses to develop and disseminate prevention policies, make specific assurances to victims, and report an expanded set of crime categories, including hate crimes. Together, these federal regulations on campus crime are now known as the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, or the Clery Act.<sup>18</sup> Yet, as we have noted, sexual violence encompasses a broad array of activities, including sexual harassment, sexual assault, and stalking. Definitions and classifications differ according to state, jurisdiction, investigatory agency, and institution; so do the campus, legal, and criminal status of specific acts and their penalties. This patchwork of laws and definitions confuses efforts to address campus sexual assault; indeed, roughly two-thirds of campuses file Clery Act reports incorrectly.<sup>19</sup> The same differences and inconsistencies muddy the activities of reporting, record keeping, researching, and bringing attackers to justice. A further complication is identified in a 2005 report on Clery to Congress: “the dual jurisdiction of campus administration and law enforcement.”<sup>20</sup> As the report notes, campus sexual assault is potentially subject to two parallel but not fully commensurate systems of investigation and adjudication: the campus disciplinary process, which seeks to determine whether the institution’s sexual misconduct policy was violated, and the criminal justice system, which seeks to determine whether the alleged attacker is guilty of a criminal act. Most reports of

sexual assault on campus are handled administratively. A perpetrator found in violation of campus policy may be disciplined in a variety of ways, including suspension or expulsion.<sup>21</sup> Given that these internal proceedings are likely to be confidential, the victim will probably not be notified of their outcome; if the campus does not consider the incident a crime, it will not be counted in Clery statistics. At the same time, campus authorities are often reluctant to refer incidents to the criminal justice system and thereby yield control of the proceedings, opening them to public as well as media scrutiny.<sup>22</sup>

While the requirements of the Clery Act have undoubtedly alerted many campus and public officials to the problem and extent of campus sex crimes, continuing confusion remains on several points. In the aftermath of the 2011 Penn State scandal, for example, media reports as well as statements to the press by college and university leaders revealed uncertainty about the meanings of and distinctions among such terms as *sexual assault*, *sexual abuse*, *sexual harassment*, and *rape*. Given the state-by-state patchwork of terms and statutes, this uncertainty is perhaps to be expected. Research on Clery reporting, however, also indicates confusion over the meaning of *student*, *campus*, *crime*, and other terms central to Clery reporting mandates.<sup>23</sup> Obviously, terminological confusion confounds statistical estimates as well as meaningful cross-campus comparisons. While a small number of institutions have put in place rigorous procedures for obtaining, collating, tracking, processing, and reporting Clery statistics, a standardized model for the overall process does not yet exist. Accordingly, as with terminology, practices may be very different from one campus to the next. This inconsistency is confirmed by a 2011 study by the Center for Public Integrity: comparing sexual-assault data submitted in universities’ annual Clery security reports with data collated from the records of service and advocacy agencies connected

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17. See <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html>.

18. The act was renamed in 1998 to honor Jeanne Clery, a student sexually assaulted and murdered in her dormitory room on the Lehigh University campus in 1986. At the same time, her parents founded the nonprofit foundation Security on Campus, Inc.; see <http://www.securityoncampus.org/summary-jeanne-clery-act> for a summary of the Jeanne Clery Act. Institutions that fail to comply with the Clery Act may be fined or lose eligibility for federal student-loan programs.

19. See Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, and Krebs et al., *Campus Sexual Assault Study*. Four-year institutions and historically black colleges and universities are more likely to report correctly; four-year public institutions do better than their private counterparts.

20. Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, 10.

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21. Alternatively, accusers found in violation may be censured, required to pay restitution, lose privileges, issued a no-contact order, or placed on probation.

22. This “parallel judicial universe” is believed by some to have contributed to the scandal at Pennsylvania State University and to the poor handling of other cases. See, for example, Nina Bernstein, “On Campus, a Law Enforcement System to Itself,” *New York Times*, November 12, 2011, <http://www.nytimes.com/2011/11/12/us/on-college-campuses-athletes-often-get-off-easy.html>.

23. “Sexual Assault on Campus,” US Department of Justice, last modified October 1, 2008, <http://www.nij.gov/nij/topics/crime/rape-sexual-violence/campus/welcome.htm>.

to or near campuses, the center found “troubling discrepancies in Clery Act numbers.”<sup>24</sup> Numerous cases of student assaults reported by the advocacy agencies, though sent to the universities, were routinely omitted from the Clery summaries.

Accordingly, it seems clear that closer collaboration with local law enforcement, greater knowledge of what constitutes “a crime,” and better coordination between campus and community service providers would aid many colleges and universities in more effectively addressing the problems of campus sexual assault. As of this writing, however, such coordination is the exception rather than the rule.

## **V. Development of Robust Policy and Procedures**

Several points emerge from our comments thus far: terms and definitions matter; policies and procedures should be coherent across the institution and consistent with state and federal law; coordination across relevant campus and noncampus units will encourage better understanding of the problem; policies and procedures should be consistent with collective bargaining agreements, if applicable; and the effective management of campus sexual assault will be aided by broader changes in campus culture. In addition to these general principles, a number of policy and procedural measures are recommended by most experts on campus sexual assault.<sup>25</sup>

1. All members of the campus community—faculty members, administrators, staff members, and students—share responsibility for addressing the problem of campus sexual assault and should be represented in the policy-development process. Once policies and procedures are in place, the institution must make them widely available.<sup>26</sup>
2. Early in the policy-development process, the institution needs to determine the rules, definitions, laws, reporting requirements, and

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24. “Campus Sexual Assault Statistics Don’t Add Up,” Center for Public Accountability, last modified June 4, 2012, <http://www.publicintegrity.org/2009/12/02/9045/campus-sexual-assault-statistics-don-t-add>.

25. Obviously, an institution’s size, financial situation, and resources will affect its capacity to carry out these recommendations. Nonresidential institutions and those governed by collective bargaining agreements, for example, may need to adapt these suggestions to their own circumstances.

26. Some institutions have policies and procedures on the books but do not widely publicize them.

penalties that pertain to sexual assault in the local criminal justice system.<sup>27</sup> More broadly, because incidents of campus sexual assault may be reported to noncampus authorities and may in fact take place off campus, the institution is advised to consult and coordinate procedures with campus and noncampus police, health-care providers, and community service providers experienced in dealing with sexual assault. Establishing and maintaining an ongoing network will help coordinate campus policy with off-campus law enforcement and facilitate the important activities of counseling, treatment, referral, record keeping, investigation, adjudication, and Clery reporting.

3. Policies and procedures must be clear, readable, and accurate; information must be widely disseminated and readily accessible to all members of the campus community; and materials must include descriptive (operational) definitions of sexual assault, rape, and other forms of sexual violence, explaining why these actions violate acceptable standards of conduct and, in some cases, constitute criminal offenses. Potential campus and criminal penalties should be made equally clear.
4. Guidelines for reporting an incident of sexual assault should be clear and explicit and include names, titles, and contact information. They should state when and where to report an incident, file a complaint, or press a charge. The policy should encourage victims to report the incident to campus authorities and to off-campus police, and should generally indicate what each procedure entails and what purpose the reporting will serve. Procedural options following the report of an incident should likewise be clear and explicit. The policy should include an official statement prohibiting retaliation against individuals who report incidents of assault and specify the disciplinary actions that will follow threats and attempts to retaliate.
5. The reporting of sexual assault is essential for accurate record keeping and to prevent repeat offenses. Given the widespread underreporting of sexual assault, reporting should be

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27. For specific information, consult the state-by-state listings on the website of the Rape, Abuse, and Incest National Network at <http://rainn.org/public-policy/laws-in-your-state>.



facilitated as much as possible—for example, by providing for direct reporting by name, confidential reporting, and anonymous reporting. Some campuses provide for third-party reporting; others have developed systems for centrally collating reported incidents from all sources without double-counting.<sup>28</sup> Mental health and religious counselors are explicitly exempted from Clery reporting requirements, but the legislation encourages institutions to establish a confidential or anonymous reporting procedure to which counselors may refer their clients.<sup>29</sup>

6. Ideally, a single official or office should be charged with overseeing and coordinating the many responsibilities associated with allegations of sexual assault.<sup>30</sup> This office or individual should be one with appropriate experience, established authority, and sufficient resources. Such duties would include responding to incident reports, coordinating communication and record keeping among offices and agencies, disseminating information to the campus through materials and training sessions, ensuring that the victim receives whatever immediate care and follow-up are needed, establishing procedures for classifying and counting incidents, and filing Clery reports that are as comprehensive and accurate as possible. The name and contact information for the individual and office should be widely publicized; preferably a live responder would be available round the clock.
7. Campus policy and procedures should be publicized through a multimedia approach that includes press releases, brochures, posters, radio and video spots, and web-based messages. Again, all information should include the name and contact information of experienced campus officers as well as contact information for campus and appropriate off-campus law-enforcement officials. Contact information should also be provided for relevant campus, community, and online resources (for example, ride services, the local mass-transit system, emergency phone locations, rape hotlines, and Twitter alerts). Some campuses post stickers with emergency information on the doors of all campus buildings.
8. Prevention programs, required on some campuses for all entering and transfer students, aim to work “proactively to end sexual violence.”<sup>31</sup> Often using trained peer educators, such programs may focus on healthy relationships, the meaning of consent, and strategies for bystander intervention. Workshops and training sessions should play a continuing role in campus education.
9. Physical and electronic prevention and security measures include improved campus lighting; trimming of vegetation; trained student and security officer patrols; carded access to residence halls; presentations by campus police to student, faculty, and staff groups; and widespread distribution and publication of campus security information.<sup>32</sup>
10. While education and prevention efforts typically focus on women, the most likely victims of sexual assault, campuses should also direct education toward men, the most likely perpetrators. Education and training programs for men have the potential to change the culture of the campus with respect to sexual violence of all forms.<sup>33</sup> Among the most promising practices are prevention and intervention programs designed for all-male campus groups (male athletes, fraternity brothers, and male members

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28. Institutions that conscientiously count and report Clery sex crimes note that their diligence may backfire, making their campuses appear less safe than those that file more casual reports. See Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, 12–14.

29. The issues posed by different campus reporting requirements and the need for confidentiality are complex and may actually discourage faculty and staff cooperation.

30. Oversight for these multiple responsibilities seems most often to be assigned to campus security, women’s programs and services, or student services.

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31. The quoted statement and examples of prevention programming are from the Campus Acquaintance Rape Education (or CARE) program, founded in the 1990s at the University of Illinois at Urbana-Champaign.

32. See Westat, Diane Ward, and Janice Lee Mann, *The Handbook for Campus Safety and Security Reporting* (Washington, DC: US Department of Education, 2011), <http://www2.ed.gov/admins/lead/safety/handbook.pdf>.

33. According to the AAUW, 43 percent of college men said that during their college years they had used some form of coercion to obtain sex. Attention to men can clarify for them the meaning of consent and of the phrase “no means no”; it can also help identify behavioral precursors to assault (such as sexual harassment and stalking). “Sexual Assault on Campus Statistics,” AAUW, [http://www.aauw.org/act/laf/library/assault\\_stats.cfm](http://www.aauw.org/act/laf/library/assault_stats.cfm).

of the Reserve Officers' Training Corps). Such programs explore what men can do, individually and collectively, to prevent these crimes. For example, a University of California, Santa Cruz, program identifies intervention strategies available to bystanders (such as friends, roommates, or fraternity brothers) when a male peer seems on the verge of committing a potentially criminal sexual offense.

11. Recent educational projects aimed at “bystanders” may sound casual or unlikely to succeed. In fact, such projects are aimed at the peers and peer groups of potential perpetrators and potential victims and thus may provide significant education to the campus community and have an impact on the larger campus culture.<sup>34</sup>
12. Though students are the focus of the current document, a campus assault policy should eventually cover all campus constituencies.

## **VI. Faculty Responsibilities**

While the foregoing suggestions are generally applicable to campuswide strategies for managing sexual assault, the role of faculty members in protecting student rights and freedoms is distinctive and merits further discussion. As advisers, teachers, and mentors, faculty members may be among the most trusted adults in a student's life and often are the persons in whom students will confide after an assault. A faculty member may also be the first adult who detects changes in a student's behavior that stem from a sexual assault and can encourage the student to talk about it. Faculty members may thus find themselves in the role of “first responders” to reports of sexual assault, yet few consider themselves adequately equipped for the role—in part because they are the least likely campus constituency to receive information about sexual assault and guidance about reporting and responding to it.

The reporting question is important. The Clery Act mandates that campus crime statistics be gathered from “campus police or security, local law enforcement, and other school officials who have ‘significant responsibility for student and campus activities’ such as judicial affairs directors.” It is the view of this committee that faculty members, as a general rule, do not

fall into this category and are therefore not mandated Clery reporters.<sup>35</sup> As a consequence, faculty members are thus usually not expected to be trained investigators, nor, except in specific circumstances as defined by individual institutions, are they normally expected to be mandated reporters of incidents about which they are told or happen to learn.<sup>36</sup> But they can provide other important forms of support and assistance:

1. They can listen to the student's disclosure and then make a referral to an experienced campus official or service provider; obviously, the more information the faculty member has about the quality and track record of available services, the better the advice and referral will be.
2. They can state explicitly that they take it seriously and help the student clarify points of doubt or confusion.
3. They can consider whether any immediate action (such as medical attention) may be wanted or needed.
4. They can describe campus policy, procedures, and reporting options; urge the student to file a report (while making clear that the decision to do so is ultimately the student's); and offer to accompany the student in taking any actions.
5. They can help the student think through immediate and longer-term options (the immediate collection of medical evidence, for example, makes future reporting possible)

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35. The phrase “significant responsibility for student and campus activities” will have different meanings at different institutions. Clearly there may be circumstances in which faculty members do have significant supervisory responsibilities for students—for example, when they lead field trips or trips abroad or sponsor debate or music competitions or athletic events. Each campus must clarify oversight and reporting responsibilities as activities require. Where faculty members have student advising as an assigned responsibility in their job description, mandated reporting might be required. Other conditions may prevail at nonresidential campuses, community colleges, and institutions working under collective bargaining agreements.

36. The faculty and staff web page of the Office of Women's Affairs at the University of Illinois at Chicago, which addresses sexual-assault and sexual-harassment issues for the campus, states that “[a]ll faculty and staff who supervise student activities are considered Jeanne Clery-mandated reporters. If you are given information about the occurrence of a crime on campus, you are required to make a report. In [the] future the Office of Women's Affairs will offer an online training program for all mandated reporters.” Here the key phrase is “supervise student activities,” but there is no real explanation of what these activities encompass. See “Faculty and Staff,” University of Illinois at Chicago Office of Women's Affairs, accessed January 18, 2013, <http://www.uic.edu/depts/owa/facstaff.html>.

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34. Karjane, Fisher, and Cullen, *Sexual Assault on Campus*, 12. See also J. Katz, “Reconstructing Masculinity in the Locker Room: The Mentors in Violence Prevention Project,” *Harvard Educational Review* 65, no. 2 (1995): 163–74.

and offer assistance in navigating the campus bureaucracy.

6. Faculty members who are knowledgeable about and committed to principles of justice and due process are well equipped to help develop policy and see that its procedures protect the victim while ensuring due process for the accused perpetrator. They can also advise and support student activist groups that are pressing the campus to respond more forcefully to the problem of sexual assault.<sup>37</sup>
7. Qualified faculty members can promote through their research a better understanding of the issues surrounding campus sexual assault. David Lisak, a leading authority on sexual assault, observes that the heated public discourse in this controversial field “often makes no reference to actual research.” “It is remarkable,” he writes, “how little research has been done in the United States,” noting that the major government-funded studies of rapes and their low rate of prosecution come from the United Kingdom and Australia, where the field is less characterized by confidentiality and fragmentation.<sup>38</sup>
8. Faculty members should be aware that they could be called to testify in a criminal proceeding about a conversation with a student regarding sexual assault and may want to consider professional liability insurance as a safeguard.

## VII. Final Considerations

In this document, we have presented suggestions culled from research, media commentary, higher education policy, local and national women’s advocacy groups, and law-enforcement models. Yet despite intense concern and some progress, campus sexual assault remains a field, as Lisak has put it, “fraught with controversy” and “enmeshed in dispute and in the politics of gender and sexuality.”<sup>39</sup> We have mentioned many of the issues that fuel controversy and

dispute and that in many ways impede the just and fair resolution of incidents of campus sexual assault. As we have noted, the widely accepted estimate is that fewer than 5 percent of completed and attempted sexual assaults on college students are brought to the attention of campus authorities or law enforcement. Even fewer of these incidents are rigorously adjudicated. While the difficulties of reporting, counting, sorting, and record keeping could presumably be reduced by sound policy and procedures, it is less clear how investigation, adjudication, and resolution might best be improved. The stark fact is that alleged attackers almost uniformly go unpunished, and many victims of sexual assault believe that no reporting or disciplinary process will produce justice.<sup>40</sup> Moreover, in the words of the Center for Public Integrity, campus proceedings are typically “shrouded in secrecy,” and neither the public nor the victim is likely to be told how the case was resolved. And, as we have noted, the outcomes are little improved when handled by the criminal justice system.

In an effort to improve the likelihood of bringing perpetrators to justice, the Office for Civil Rights has proposed lowering the standard of proof in disciplinary proceedings involving sexual assault. The office argues in its “Dear Colleague Letter” that replacing the prevailing standard of “clear and convincing evidence” with a “preponderance-of-the-evidence” standard would help level the playing field for victims of sexual violence. The proposal has in general been favorably received by women’s advocacy groups and sexual-assault support agencies but has been opposed by many organizations representing both progressive and conservative values. The AAUP advocates the continued use of “clear and convincing evidence” in both student and faculty discipline cases as a necessary safeguard of due process and shared governance. The committee believes that greater attention to policy and procedures, incorporating practices we have suggested here, is the more promising direction.

Approaches to the critical problem of campus sexual assault will continue to evolve, and the growing body of research and experience may eventually make possible the identification of a definitive set of best practices. In the meantime, careful attention to policy demonstrates the institution’s resolve to reduce rates of campus sexual assault on a continuing and

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37. The national activist organization Students Active for Ending Rape (<http://safercampus.org>) identifies additional ways in which faculty members can support efforts to establish policy and procedures for handling campus sexual assault.

38. David Lisak et al., “False Allegations of Sexual Assault: An Analysis of Ten Years of Reported Cases,” *Violence against Women* 16 (12): 1319; 1331.

39. *Ibid.*, 1318.

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40. See [http://www.publicintegrity.org/investigations/campus\\_assault/articles/entry/1838/](http://www.publicintegrity.org/investigations/campus_assault/articles/entry/1838/).



sustained basis. Attention to the procedures that implement policy is no less important: well-designed procedures strengthen a campus culture of respect and safety, ensure an appropriate institutional response to incidents of assault, and add to our knowledge of incidents and outcomes. In turn, that knowledge enables an institution to measure the effectiveness of its policy and procedures over time. ■