To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit a published paper I co-authored with my advisor Dr. Kathryn Holland. I have attached the paper here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral candidate
Social Psychology
Department of Psychology
University of Nebraska- Lincoln
“A victim/survivor needs agency”: Sexual assault survivors’ perceptions of university mandatory reporting policies

Kathryn J. Holland¹ | Allison E. Cipriano² | T. Zachary Huit²

¹ Department of Psychology and Women’s & Gender Studies Program, University of Nebraska, Lincoln, Nebraska
² Department of Psychology, University of Nebraska, Lincoln, Nebraska

Abstract
In institutions of higher education, mandatory reporting policies require certain employees to report students’ sexual assault disclosures to university officials, even if the student does not want to report. It is commonly assumed that these policies will benefit survivors, but there is a paucity of research to substantiate this assumption. The current study examined college sexual assault survivors’ perceptions of mandatory reporting policies, including three specific policy approaches (Universal, Selective, Student-Directed). Interviews were conducted with 40 college sexual assault survivors and thematic analysis was used to analyze these data. Results found that the mandatory reporting policy approaches that survivors prefer, which limit the number of mandatory reporters and offer more autonomy and flexibility, do not align with the policy approaches most frequently implemented within institutions of higher education (i.e., Universal). Survivors anticipated more harms resulting from mandatory reporting than benefits (e.g., pushing survivors into disclosures before they are ready, increasing stress and anxiety, discouraging help-seeking from trusted sources of support on campus). Survivors lacked substantive knowledge of their university’s mandatory reporting policy. Findings suggest that policy makers at institutional, state, and federal levels should consider survivors’ perspectives when crafting such policies.
When college students experience sexual assault, they face serious psychological and academic harms (Dworkin et al., 2017; Jordan et al., 2010; Jordan et al., 2014; Mengo & Black, 2016). As a result, sexual assault survivors may consider seeking help from people on campus who can provide supports or resources (e.g., faculty members, resident assistants). One reason that survivors disclose to informal providers is a desire to receive emotional and tangible support (Ahrens et al., 2009; Demers et al., 2017; Ullman, 1999). However, in many institutions, these university employees would be required to report a sexual assault disclosure to university officials, even if doing so contradicts the wishes of the survivor (Holland et al., 2018). These mandatory reporting policies that require employees to report sexual assaults to a university official have been informed by federal guidelines, such as The Clery Act and Title IX. It is commonly assumed that these policies will benefit survivors, but there is a paucity of research to substantiate this assumption and existing evidence suggests that mandatory reporting policies may have adverse effects on survivors and campus communities (Holland et al., 2018). To address this need, the current study examined college sexual assault survivors’ perceptions of mandatory reporting policies.

MANDATORY REPORTING POLICIES IN INSTITUTIONS OF HIGHER EDUCATION

Mandatory reporting policies for sexual assault have been shaped by federal policy and guidelines, wherein mandatory reporters can be designated as “Campus Security Authorities” or “Responsible Employees.” The Clery Act (34 CFR 668.46(a)) states that academic institutions must designate certain employees as Campus Security Authorities. This includes those who are in charge of campus safety and employees “who have significant responsibility for student and campus activities” (e.g., residence staff, faculty advisors to student organizations; US Department of Education, 2016). In the role of Campus Security Authority, employees are only required to report general information (e.g., assault type, assault location) to the university officials in charge of publishing the university’s Annual Security Report (US Department of Education, 2016). Although the current administration within the Department of Education has rescinded the 2016 Handbook on Campus Safety and Security Reporting (Office of Postsecondary Education, 2020), institutions are still required to designate Campus Security Authorities under Clery. Responsible Employees, on the other hand, are required to report all relevant information about a known sexual assault to university officials—most frequently the Title IX Coordinator. This reporting role was established through Title IX Guidance from the Department of Education Office for Civil Rights (OCR). Responsible Employees were defined as an employee who “has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility” (US Department of Education, 2001; p. 13). Because the mandatory reporting role under Title IX guidance requires the reporting of identifiable information (e.g., a victim’s name), the current study focuses on this role rather than the role of Campus Security Authority.
There is variability in how colleges and universities have interpreted and implemented the mandatory reporter mandate under Title IX guidance (Holland et al., 2018). In addition to the definition of “Responsible Employee” provided in the 2001 OCR guidance (US Department of Education, 2001), the Department of Education released a Q&A document in 2014 that offered more information about Responsible Employees (e.g., best practices for training employees designated as Responsible Employees; Lhamon, 2014). However, there is no prescriptive mandate as to which members of the campus community should be placed in the role of Responsible Employee. In fact, in recent rulemaking, the Department of Education explicitly stated that institutions have the latitude to make these decisions:

“... these final regulations leave each institution flexibility to decide whether the institution desires all (or nearly all, or some subset) of its employees to be 'mandatory reporters' who must report notice of sexual harassment to the Title IX Coordinator.”(US Department of Education, 2020; p. 1959–1960)

There are at least three distinct approaches to designating mandatory reporters, including Universal, Selective, and Student-Directed approaches (Holland et al., 2018; Holland et al., 2019). One of the most common approaches is Universal mandatory reporting, which is a policy that designates all faculty, staff, and students employed by the university as mandatory reporters (Holland et al., 2018; Saviano, 2015). A less common approach is Selective mandatory reporting, which designates a specific list of employees as mandatory reporters, generally employees in positions of leadership (e.g., heads of departments, directors) and those with significant responsibility for student wellbeing (e.g., housing staff; Holland et al., 2018). A third, and novel, approach implemented by the University of Oregon (2018) is a Student-Directed policy. This approach designates a limited list of employees as mandatory reporters (similar to the Selective approach) and requires all other employees to give survivors “information, resources, support and... only report the information shared to the university administration when the student requests that the information be reported (unless someone is in imminent risk of serious harm or a minor)” (University of Oregon, 2018). This approach requires Student-Directed employees to provide students with adequate knowledge of resources and reporting options, while ultimately deferring to students’ decisions on whether or not to file a formal report (for more information see Freyd, 2016).

THE EFFECTS AND EFFECTIVENESS OF MANDATORY REPORTING

A common assumption underlying the implementation of mandatory reporting policies is the belief that such policies benefit students who experience sexual assault (Holland et al., 2018). However, there is little research to substantiate this claim. The small body of existing research has primarily focused on students’ knowledge and perceptions of mandatory reporting in general, not among survivors. For instance, a study by Mancini et al. (2016) found that students held mixed feelings about the efficacy of mandatory reporting, with some imagining positive outcomes (e.g., survivors receive services) and others imagining negative outcomes (e.g., survivors are stripped of autonomy). A recent doctoral dissertation (Amin, 2019) found that while many students favored mandatory reporting policies, other students indicated that mandatory reporting would hinder reporting. Newins & White (2018) examined students’ perceptions of employees having to report “sexual harassment” and “rape,” and found that more than half of the sample were unsure if they would disclose or were less likely to disclose to an employee who was a mandatory reporter,
and students who had personally experienced sexual assault were least likely to say they would disclose. Regaining a sense of autonomy and control is a key component to healing after experiencing sexual assault (Frazier, 2003; Walsh & Bruce, 2011; Zweig & Burt, 2007). Thus, a critique of mandatory reporting policies is that they do not allow survivors to have autonomy in the decision to report an assault to the university—a decision that can have significant implications for their lives (e.g., Holland et al., 2018; Weiss & Lasky, 2017). However, additional empirical evidence is needed to elucidate how survivors feel about mandatory reporting and the implications of these policies for survivors’ lives.

CURRENT STUDY

The purpose of the current study was to gain insight into college sexual assault survivors’ perceptions of university mandatory reporting policies. We conducted in-depth qualitative interviews with campus sexual assault survivors to answer three research questions. First (RQ1), what are survivors’ attitudes toward three mandatory reporting policy approaches? Given the autonomy that institutions have in designating mandatory reporters on their campuses, we assessed survivors’ perceptions of Universal, Selective, and Student-Directed mandatory reporting policy approaches. Second (RQ2), how do survivors think mandatory reporting will affect survivors? Third (RQ3), what do survivors know about their university’s mandatory reporting policy? In sum, our questions gained insight from survivors—addressing salient gaps in literature, elucidating the real-world impacts of mandatory reporting policies on survivors, and offering an opportunity to inform empirically driven, survivor-focused policies.

METHOD

Procedures and participants

We interviewed forty undergraduate student sexual assault survivors at a large, Midwestern university. The interview data analyzed in the current study were collected as part of a larger longitudinal study. Participants were recruited via flyers and electronic postings both within and outside of the university (e.g., residence halls, coffee shops, class announcements, campus listservs, university social media pages). Additional efforts were made to recruit LGBTQ students (an aim of the larger study) by distributing LGBTQ-specific recruitment materials via the university LGBTQ student center and LGBTQ-specific student organizations. Current students were invited to contact the study team if they had an unwanted sexual experience while attending the university. Each participant completed a brief screening call to verify their eligibility, which included being: (a) age 17 or older, (b) currently enrolled as an undergraduate at the university, (c) enrolled for the following semester, and (d) had an unwanted sexual experience while attending the university. Study procedures were approved by the university’s Institutional Review Board.

One hundred and sixty students expressed interest during the recruitment phase, with 124 of those students engaging in the eligibility screening (33 students did not follow-up and 3 withdrew interest). Seventeen did not meet eligibility criteria. Of the 107 eligible student that were scheduled to complete the in-person baseline survey session, 7 students did not attend. The 100 participants who did attend the baseline session were provided information about study procedures and informed consent by a trained member of the research team. Surveys were computer-based
Forty of the aforementioned students participated in an in-depth interview at the time of their follow-up survey, roughly 6 months following the baseline. We used maximum variation sampling approach to select the interview participants, which helps to capture diverse experiences related to the phenomenon under study (Merriam & Tisdell, 2016). First, we stratified all participants by gender identity, sexual orientation, and whether or not they used formal resources at the university based upon data collected during the baseline session; the groups included: (1) LGBTQ survivors who used formal university resources (n = 19); (2) straight, cis-gender women who used formal university resources (n = 34); (3) straight, cis-gender men who used formal university resources (n = 2); (4) LGBTQ survivors who had not used any formal university resources (n = 7); (5) straight, cis-gender women who had not used any formal university resources (n = 16); (6) straight, cis-gender men who had not used any formal university resources (n = 1); and (7) those who were uninterested in participating in an interview and/or were ineligible (e.g., did not indicate their gender or sexual identity in the survey; n = 21). Due to the small number of LGBTQ-identified survivors who had used formal resources (n = 7) and straight, cis-gender men (n = 3), we invited all of these participants to interview, of which, four of the LGBTQ survivors who used resources and all three straight, cis-gender men agreed to participate. Initial random samples of 10 participants from each of the remaining groups were invited to participate, with additional rounds of random invitations being extended to reach the final sample size of 40. The decision to conduct 40 interviews was driven by the breadth of our overarching research aims, our intention to recruit a more heterogeneous sample, our collection of rich interview data, and our available funding for participant compensation (Merriam & Tisdell, 2016). Interviews were audio recorded and lasted approximately one hour (range: 17–88 minutes). Each of the interview participants were compensated US$30.

Twenty-one (52.5%) of the 40 interview participants identified as straight, cis-women while three (7.5%) identified as straight cis-men. Sixteen (40%) of these participants were members of the LGBTQ community, with nine identifying as cis-women, three as cis-men, and the remaining four identifying as transgender or gender diverse. In terms of sexuality of the LGBTQ participants, a majority identified as bisexual (n = 9), three identified as asexual, two identified as gay, one identified as pansexual, and one identified as queer. The majority of the sample identified as white (62.5%; n = 25), while 17.5% (n = 7) identified as multiracial, 7.5% (n = 3) as African American/Black, 7.5% (n = 3) as Latinx, and 5% (n = 2) as Asian/Asian American. Table 1 contains participants’ chosen pseudonyms and demographics.

**Interview materials**

Participants were asked a series of semistructured interview questions. The current study examined answers to the questions that focused on mandatory reporting policies. First, the interviewer generally described mandatory reporting policies. Next, the participants were instructed to read three different policy approaches and rank them from best = 1 to worst = 3. The descriptions of three policy approaches—Universal, Selective, and Student-Directed—were developed for the study based on language generally seen in these approaches (Holland et al., 2018). The participants then explained their rankings, for instance, describing the potential positives and negatives of each approach. Finally, participants were asked how mandatory reporting policies would affect
<table>
<thead>
<tr>
<th>Pseudonym</th>
<th>Gender identity</th>
<th>Sexual identity</th>
<th>Race/ethnicity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kirby</td>
<td>Nonbinary</td>
<td>Queer</td>
<td>White</td>
</tr>
<tr>
<td>Ryan</td>
<td>Cisgender Man</td>
<td>Gay</td>
<td>White</td>
</tr>
<tr>
<td>Rose</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Biracial</td>
</tr>
<tr>
<td>Jane</td>
<td>Cisgender Woman</td>
<td>Pansexual</td>
<td>Biracial</td>
</tr>
<tr>
<td>Lucy</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>Biracial</td>
</tr>
<tr>
<td>Charlotte</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Biracial</td>
</tr>
<tr>
<td>Jeff</td>
<td>Trans man</td>
<td>Gay</td>
<td>White</td>
</tr>
<tr>
<td>Mika</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Penelope</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>Biracial</td>
</tr>
<tr>
<td>Emily</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>Biracial</td>
</tr>
<tr>
<td>Sally</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Max</td>
<td>Genderqueer</td>
<td>Asexual</td>
<td>White</td>
</tr>
<tr>
<td>Abby</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Tom</td>
<td>Cisgender Man</td>
<td>Straight</td>
<td>Latinx</td>
</tr>
<tr>
<td>Paul</td>
<td>Cisgender Man</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Manuel</td>
<td>Cisgender Man</td>
<td>Bisexual</td>
<td>Latinx</td>
</tr>
<tr>
<td>Shelby</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>White</td>
</tr>
<tr>
<td>Jan</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Demini</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>White</td>
</tr>
<tr>
<td>Melissa</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>White</td>
</tr>
<tr>
<td>Miles</td>
<td>Cisgender Man</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Quinn</td>
<td>Cisgender Man</td>
<td>Asexual</td>
<td>Black</td>
</tr>
<tr>
<td>Abigail</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Latinx</td>
</tr>
<tr>
<td>Alexandra</td>
<td>Cisgender Woman</td>
<td>Asexual</td>
<td>White</td>
</tr>
<tr>
<td>Ashley</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Biracial</td>
</tr>
<tr>
<td>Diamond</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Asian</td>
</tr>
<tr>
<td>Cecilia</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Black</td>
</tr>
<tr>
<td>Maria</td>
<td>Genderqueer</td>
<td>Bisexual</td>
<td>White</td>
</tr>
<tr>
<td>Zoe</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Sara</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Tiffany</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Ivy</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>Asian</td>
</tr>
<tr>
<td>Charlie</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Brooke</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Easton</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Brooklyn</td>
<td>Cisgender Woman</td>
<td>Bisexual</td>
<td>Black</td>
</tr>
<tr>
<td>Emma</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Susie</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Sammy</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
<tr>
<td>Sarah</td>
<td>Cisgender Woman</td>
<td>Straight</td>
<td>White</td>
</tr>
</tbody>
</table>
students and what they knew about the mandatory reporting policy at their university. The entire interview script is included in the Appendix.

When this study was conducted, the university was employing a selective mandatory reporting model. In this model, there was a specific and selective list of employees who were required to report sexual assaults they learned about to a university official (e.g., directors, heads, managers, deans, chairs, advisors to student groups, and housing staff members). These reports would be made regardless of the victim’s wishes. All other employees were encouraged to report. At the end of the interview, we provided participants detailed information about the university’s mandatory reporting policy, including the list of all mandatory reporters.

Analysis approach

First, interviews were transcribed verbatim. We analyzed these data using thematic analysis (see Braun & Clarke, 2006). This process begins with reviewing the transcripts and generating codes that capture discrete pieces of information related to the research questions. For this analysis, we identified codes related to our three research questions: (1) What are survivors’ attitudes toward three mandatory reporting policy approaches? (2) How do survivors think mandatory reporting will affect survivors? (3) What do survivors know about their university’s mandatory reporting policy? For instance, the Student-Directed is best code would be applied to any text that communicated a participant’s preference for the Student-Directed policy approach. We compiled the codes into a codebook, which contained the complete list of codes and their definitions. Next, these codes were applied to these data using Dedoose version 8.2, which consisted of excerpting text and applying relevant codes in the interview transcripts and making memos regarding any questions with code application. Interrater reliability between the authors was excellent (Cohen’s kappa = .90; Cohen, 1960) and all discrepancies in coding application were resolved through discussion. After coding, we identified themes within each of our research questions, which involved a close analysis of the codes and how they related to one another. To ensure the validity of our findings, we checked our themes against the transcripts to ensure that they fit participants’ experiences and conducted a discrepant case analysis (i.e., searching for information that differs from the primary themes (Creswell, 2014; Merriam & Tisdell, 2016).

RESULTS

Attitudes toward mandatory reporting policy approaches

First, we examined sexual assault survivors’ perceptions of three mandatory reporting policy approaches: Universal, Selective, and Student-Directed. Nearly all of the survivors in our sample (n = 38, 95%) believed that the Student-Directed policy approach was the best. Most of the participants then identified the Universal reporting policy as the worst (n = 31, 78%) and the Selective reporting policy as their middle choice (n = 31, 78%). The themes that arose in survivors’ explanations of these rankings are discussed below. Quotes included to illustrate the themes are associated with participants’ pseudonyms and may be edited for length and clarity.
Student-directed is best

We identified two main themes in students’ reasons for selecting this policy as the best approach. First, participants discussed how this approach gives survivors information, which allows students to have more options for support and coping. Lucy, for example, stated that she ranked this policy as the best because it “gives more information to the victim in general...the employees have to give all sorts of different options instead of just going straight to the reporting.” Both Jeff and Rose expressed a similar belief: “Telling them the options and walking them through the process is really beneficial” (Jeff) and “People telling you your resources is better because...you have more knowledge about what you can do after the fact” (Rose). Survivors believed that having this knowledge would be essential for them (and other survivors) when making decisions about seeking help:

*It gives them options...asking, ‘Do you want me to report? No? Okay, here are these resources for you.’...It would be a lot better because my professors didn’t really give me resources, they were just like, ‘That’s really brave of you for telling me’ and now that I look back on that, I kind of wish they would have encouraged me to go to resources. So, I think that would be a better thing than just encouraging employees to report... that would have felt more supportive, and even if I chose not to go to one of the resources, I think I would have felt better knowing that. (Brooke)*

*They’re required to give you reporting options or therapy or counseling options...and I think it’d be beneficial to have someone offer resources, so I know they’re there even if I don’t choose to accept them. (Charlie)*

These quotes illustrate the importance of employees being required to provide information after a disclosure; even if survivors chose not to use the resources that were offered, a Student-Directed policy approach lets survivors make well-informed decisions about where to seek help.

Second, participants believed that a Student-Directed approach was the most empowering for survivors. They expressed the benefit of a policy that respects survivors’ wishes and allows them to control decisions that are made. For instance, Sarah said that she thinks this is the best policy approach because “it keeps the victim in mind, and it gives them consideration and voice as well.” Similarly, Tom explained that “the student is probably gonna feel more comfortable and respected if they are offered information and the ability to choose whether or not they want it reported.” Ashley identified the how this policy “gives you some sort of power and lets you have a choice, which in itself is power you didn’t have before.” Several survivors in our sample believed that a Student-Directed policy would help to protect survivors from the harms that can occur when their decisions are, once again, taken away. For instance, “People shouldn’t have to be forced to report...they’ve already been forced to do something that they didn’t want to do” (Brooklyn) and “Ask if you want to report, I think that is the best, and just make people feel empowered instead of literally taking all their agency away all over again after they’ve been hurt” (Max). These survivors believed that a Student-Directed approach would be less harmful because it does not force survivors into decisions (i.e., a mandated report) after they have already been forced to endure unwanted sexual contact.

Universal is worst

Most survivors believed Universal mandatory reporting was the worst policy approach. They were often deeply negative in their views, for instance, Brooklyn stated that it “seems unnecessary, and
invasive, and intrusive.” There were two common themes that came up for why survivors believed that a Universal mandatory reporting approach was the worst of the three policies. First, they believed that this approach could create barriers to help seeking. For instance, Emily expressed that this policy “might stop someone from even saying anything because they don’t want you to report it.” Similarly, Ashley discussed how “it can discourage students from coming to talk to employees that they would feel comfortable talking to.” Manuel believed that this chilling effect would cause harm, “I feel like it would alienate the student even more from the university community if everyone had to report.” Several participants explicitly mentioned how survivors may be hesitant to disclose to friends or peers if they were an employee (e.g., a resident assistant): “you’d have to hide it from some people, and that’s not fair. Like if you can’t even tell your RA…” (Alexandra) and “students might be more reluctant to speak to friends or anyone who is an employee of the university if they’re forced to report it” (Zoe). This chilling effect was real for survivors in this sample, with some participants stating that they were unwilling to disclose when they needed help. For example, Jane was struggling in her classes after the assault and had to approach her professor for academic accommodations:

“I told a professor that I had a very uncomfortable experience and that’s all I shared because I just wasn’t sure if they were someone that needed to report it or not... I was really struggling with something that made it hard to go to class.”

Second, survivors described how being forced into a reporting process under a Universal mandatory reporting policy would be harmful for survivors. One way that it could be harmful is by taking away survivors’ sense of control. For instance, Susie was concerned that she “would feel out of control of the situation.” Similarly, Ashley discussed the harm that can arise when survivors do not control the decision to report:

“It can be detrimental to somebody’s mental health... because they aren’t in control of the situation and that’s most likely what happened when they were [assaulted]... it’ll come out better if you feel like you’re in control of how you’re dealing with it.”

Survivors also expressed that Universal policies can be harmful by compromising their confidentiality and sense of safety. For example, Ivy was concerned that Universal policy would “make a lot of people know about these things, even if the victims don’t want to.” Brook also expressed that a Universal approach would “make me feel less safe at the university knowing that my wishes weren’t respected.” For these survivors, a Universal policy approach could make survivors’ lives even harder in the aftermath of an assault.

Selective is the middle

Most survivors in this sample rated the Selective policy as falling somewhere between Student-Directed (the best choice) and Universal (the worst choice). Fewer students provided detailed explanations for this ranking. Survivors primarily mentioned how a Selective policy was less harmful than a Universal policy but less helpful than a Student-Directed policy. For example, Melissa explained how Selective reporting would create fewer help-seeking barriers than the Universal approach—“You can find out who you can talk to, cause then you can avoid a place or position of leadership”—but she qualified this by stating that the policy must be clear: “it should be clear of
who is and who isn’t [required to report].” The most common theme was that survivors liked this policy approach better than the Universal approach because it limited the number of mandatory reporters. For instance, Easton stated “I don’t know if all employees should be reporting.” Several students discussed how they understood why certain members of the campus community, such as leaders, may need to report. Sally, for example, stated that “[selective mandatory reporting] is a little bit better [than universal] because it, I think it makes more sense because they are in leadership roles.” Similarly, Sarah explained, “I like how that one puts the responsibility on someone with a little bit more authority.” Manuel expressed a similar view, stating that “People that I see in a higher place of authority wouldn’t necessarily be the first people that I would go to for such a thing, so I’d be ok with them being the mandatory reporters.” These survivors did not believe that every university employee should have to report, so they preferred this approach to a Universal approach.

Discrepant cases

There were two survivors—Cecelia and Sammy—who believed that the Universal approach was the best, Student-Directed was the middle, and Selective was the worst. Both believed that all sexual assaults needed to be reported. Cecilia stated, “I feel like it should be everyone’s, like, duty to like report things that they hear. So that’s why I think the universal one would be the best one.” Similarly, Sammy explained:

“Even if a student has a reason that they do not want to report, I think all sexual assaults should be reported. If in the future that person sexually assaults someone else, they can look back and see that it has happened more than once—a lot of times Title IX or different places won’t believe women or men when they say that they’ve been assaulted.”

These young women believed that all employees needed to have a duty to respond to sexual assault disclosures, and saw the Universal policy as a way to accomplish that, followed by a Student-Directed approach (e.g., “the [student-directed] employees still have their duty too, not just higher up positions [in the selective policy]. I like how it kind of includes that.” Cecelia). There were six survivors—Kirby, Ryan, Lucy, Mika, Jan, and Miles—who rated Student-Directed as best, Universal as middle, and Selective as worst. For some of these students, a reason why the Selective reporting policy was their least favorite approach was its potential lack of transparency. For example, Kirby explained, “it’s better to have it be everyone rather than people just choosing.” Lucy and Jan thought that a Selective approach could create confusion for survivors, for instance, if they were unsure how an employee might respond to a disclosure:

“If you know for a fact that directors, managers, they’re going to report it, but if you just tell another employee, you don’t know if they’re going to report it...because they’re encouraged but not required.” (Lucy)

“I don’t like [universal mandatory reporting] but at least it’s consistent and you know, if I talk to any employee, this is what is going to happen, rather than guessing...Who can I go to that’s not gonna report it and who can I go to that’s going to report it?” (Jan)
Some of these students also saw some potential benefit to requiring all employees to report sexual assault, which was why, for them, a Universal approach could be better than the Selective approach. For instance, Miles explained that “if you think about like, janitors are always in those dorms and stuff, what if they hear something? What if they see something?...If it’s a universal thing, then they have to report that.” Ryan expressed a similar view:

“[Selective] doesn’t require the staff to report the incident if it was to occur...for the universal, the pro would be everyone is reporting it, but I guess the con would be that the report has to be made regardless of the victim’s consent.”

While these survivors believed that a Universal approach is more straightforward than a Selective approach, and could have some benefits (e.g., assaults are reported), they also believed that reporting would not be beneficial for all survivors.

**Perceptions of the effects of mandatory reporting on survivors**

Participants also shared their thoughts about how mandatory reporting will affect survivors. The students in our study mostly discussed the potential harms of mandatory reporting, especially when a report is made against a survivors’ wishes. Some students identified general harms that might occur. For example, Mika stated, “if you have to report it when you are not ready to report it, that can be more destructive than helpful.” Another participant, Emma, explained that, “they probably have a reason why they don’t want to report and so it could put them in a dangerous or just a bad situation.” In addition to these general concerns, survivors identified several specific harms that can arise from mandatory reporting.

First, survivors expressed concerns that bringing survivors into a reporting process before they are ready can cause mental and emotional harm. For instance, Quinn believed that it “can be another stressor that adds to your bad experiences” and Jane stated, “When I’ve already had my choice removed... having it removed even more just is really damaging to the soul.”

Second, survivors expressed concerns that mandatory reporting policies are too prescriptive, and, as a result, will harm survivors who may need more time to report. As Sally described, “everyone takes their own different time... They might need some resources... before they are even comfortable [reporting].” Penelope echoed this concern:

“That should be a personal choice, if you want to report that or not. Some people are never ready to do that, and some people are ready to do that the second after it happens, and some people it takes them a little bit and then they are like... now I’m ready to do it.”

Second, survivors expressed concerns that bringing survivors into a reporting process before they are ready can cause mental and emotional harm. For instance, Quinn believed that it “can be another stressor that adds to your bad experiences” and Jane stated, “When I’ve already had my choice removed... having it removed even more just is really damaging to the soul.”

Third, participants described that mandatory reporting can be harmful for survivors because the outcome of sexual assault reports is often harmful. Jeff stated that, “It would be nice if the people who committed the assault got in trouble, but they’re not always going to be even if they are reported. And that could just create a lot of problems for the victim.” Sarah imagined many possible problems that could result from a negative reporting experience:

“If [reporting] didn’t turn out positively for them, it could affect them in so many ways. Their mental health could decline a lot more, especially if they’re already struggling with...
that, they could commit suicide, they could get really bad into drugs, they could drop out of school, it could ruin friendships or family relationships. It has a lot of consequences.”

Fourth, survivors believed mandatory reporting can erode survivors’ trust and lead them to avoid seeking help from people on campus who may be able to provide support. Max stated, “I think a lot of people maybe do want to stay anonymous because they’re like me, they don’t trust cops and they don’t trust officials, and [mandatory reporting] would just take trust away.” Maria also believed that mandatory reporting “would hurt more people than it helps… Their agency is already been taken from them, so… They won’t tell their RA, they won’t tell people who can help them.” Jan described how mandatory reporting limited her options for support:

“The harm of being forced to report is that a lot of people don’t go to campus resources… like, I really trusted my RA’s, I loved them, but I didn’t tell them. I knew that they could’ve helped me with resources, but I didn’t tell them because they were upfront, ‘If you say this, we will have to report’… you feel like you can’t go to them.”

When a survivor does not want to report, mandatory reporting can make it more challenging for survivors to receive any assistance from those they trust on campus. Finally, survivors believed that mandatory reporting create a deep sense of fear. Brooklyn explained that, “a sense of security, a sense of well-being, a sense of confidentiality, a sense of trustworthiness would all be taken away and turned into vulnerability, fear, and worry.” Jane also explained that with mandatory reporting, “The environment starts to feel less safe and then that just makes it harder to finish.” For these participants, the sense of fear and vulnerability can be harmful for survivors.

While the majority of participants discussed the potential negative effects of mandatory reporting policies on students, some did identify possible benefits. First, a couple of participants thought that mandatory reporting could communicate to survivors that sexual assault is being taken seriously. For example, Mika explained that:

“The positives to mandatory reporting is there, it’s almost like an instant gratification if it gets handled right away and if the victim feels it is super serious and this needs to be taken care of and there needs to be some sort of punishment… then that’s great.”

Thus, mandatory reporting could benefit survivors if the action of making a report illustrates that the institution cares about sexual assault and leads to consequences for perpetrators. Second, there were a few participants who thought that mandatory reporting policies could make it easier for survivors to receive assistance. For instance, Tom stated that “a benefit would be that somebody who’s afraid to reach out or knows that they need to but are not willing to take the steps… This is one way to get them the help they need.” Lucy expressed a similar belief, explaining that “It would make it a little easier to make a report, just because anyone would be required to do it.” For these students, mandatory reporting could benefit a survivor who may be struggling to make a report—removing the pressure of indecision.

However, there were participants who explicitly discussed how the potential benefits of mandatory reporting do not necessarily outweigh the risks. For instance, Kirby discussed how the fears associated with reporting outweigh any benefits:
“While [reporting] would be good for you and good for everyone around you, it’s also terrifying because you don’t know what the risks are. You could lose friends or be made fun of, lose respect and credibility. There’s just so many fears that go into it.”

Another participant, Max, stated that, “I get it that maybe [mandatory reporting] would help with creating less violence, but a victim/survivor needs agency.” In their perspective, reporting an assault could be positive for survivors and the community (e.g., reducing violence), but the potential harms of mandatory reporting (e.g., removing agency) could not be discounted.

**Knowledge of their university’s mandatory reporting policy**

Finally, we asked participants what they knew about the mandatory reporting policy that was in place at their institution. There were 16 survivors (40%) who did not know that there was a mandatory reporting policy. For instance, Mika stated “I did not know there was. Well, I just figured that out today apparently, that there is a mandatory reporting policy.” Another said,

**Interviewer:** Can you tell me what you know about the mandatory reporting policy at [institution]?

**Emily:** I don’t know anything about it.

**Interviewer:** Did you know we have a mandatory reporting policy at [institution]?

**Emily:** No, I didn’t.

There were then 17 survivors (43%) who knew, or assumed, that the university had a mandatory reporting policy, but they had no knowledge of the details of that policy. For example, Jane stated, “I don’t know about it. I know that there is something in place just because I assume… but I don’t know the exact details.” Similarly, when asked what she knew about the mandatory reporting policy, Maria answered, “I do know there was one. I don’t even know.”

Three (8%) survivors in the sample knew there was a policy in place and knew some correct information about that policy—specifically, that resident assistants (RA) are required to report. For example, Tom explained “I know that our RA mentioned this…they’re obligated as RAs to report anything and everything they hear.” Rose also knew that housing staff would have to report, explaining “I know that there are certain people, specifically RAs who have to tell someone about them about it. I don’t know all of the people who have to tell.”

Finally, there were four (10%) participants who knew the university had a policy and knew more extensive details about that policy. For example, Manuel answered “I think it looks like the selective mandatory reporting, where it’s only a few people…who need to report to [the Title IX Office].” Brooklyn was also able to explain that employees must disclose their reporter status if asked: “I know that anybody you talk to, if you ask them, ‘Are you a mandatory reporter?’ they’re required to tell you if they are.”

Overall, the vast majority of survivors in our sample knew little or nothing about the mandatory reporting policy at their institution. Some of the survivors in our sample discussed the consequences of this lack of knowledge. Shelby, for example, lamented her lack of awareness of the policy and how she might find it:
"You're not particularly sure unless you go in and read... the actual full policy somewhere, and even then it's like, how easy is that to access?... If you don't even know what you're looking for, how are you supposed to find it?"

Kirby stated that knowledge can provide survivors with agency, “It would be good for students to know that if they share, then their story's going to get reported. That way they can make the choice of whether they want to keep it private.” Rose also discussed that it is essential for survivors to know someone’s mandatory reporting status before a disclosure takes place, stating that, “I knew that my RA was a mandatory reporter when I told her because they've made it very clear... but if I didn't know they had been a mandatory reporter, I would have felt really betrayed.” Similarly, Brooke disclosed to her professor without knowing his reporting status:

“I think [mandatory reporting] is something that should be clear because I had no clue that my professor was a mandatory reporter and I went to him and told him because I was failing the class and I was scared and I needed to tell him why... but it would have been nice to know that he was a mandatory reporter.”

Together, these findings illustrate the importance of students having adequate knowledge of university mandatory reporting policies for sexual assault.

**DISCUSSION**

Our analysis identified several key pieces of information regarding mandatory reporting policies for college sexual assault. First, survivors preferred mandatory reporting policy approaches that afford them autonomy, flexibility, and the opportunity to make informed decisions. Nearly all of our participants believed the *Student-Directed* approach was the best. A major perceived benefit of the *Student-Directed* approach was that this policy ensures that survivors receive valuable information about their options, which empowers survivors and helps them make the best, most informed decision about reporting and help-seeking. Some participants also considered a *Student-Directed* approach to be less harmful than other approaches because survivors would retain control of the decision to report, thereby avoiding the harm that can occur if survivors are forced into reporting. Our participants' concerns are supported by previous research, which suggests that regaining a sense of autonomy and control after a sexual assault is an essential component to healing (Frazier, 2003; Walsh & Bruce, 2011; Zweig & Burt, 2007). Responses from support providers that attempt to control survivors' decisions and behavior are associated with increased symptoms of posttraumatic stress and depression (Orchowski et al., 2013; Peter-Hagene & Ullman, 2014). It was for this reason that most survivors in our study ranked *Universal* mandatory reporting as the worst policy approach. Participants believed that this policy was too prescriptive and would strip survivors of a sense of control and autonomy. Many cited concerns that requiring all employees to report would create barriers to help-seeking for survivors who might otherwise seek support from trusted employees. Most survivors then ranked the *Selective* mandatory reporting approach as falling somewhere between the best and worst approaches. Survivors liked that this approach was less prescriptive than a *Universal* approach—affording survivors some autonomy and flexibility—and understood why leaders may need to hold a reporting role. However, there were a group of survivors who expressed concerns about the *Selective* approach. For instance, they were concerned
that this approach could cause confusion for students, especially if universities did not offer sufficient information about who was and was not required to report under their policy.

Another major finding was that survivors identified substantially more harms than benefits of mandatory reporting. Participants believed that mandatory reporting conflicts with survivors’ healing process. There is a wide range in the time between when survivors experience an assault and decide to disclose to informal and formal support providers, with some disclosing immediately and others waiting years (Ahrens et al., 2010; Dworkin & Allen, 2018). Many participants described how survivors may need time before they feel ready or are willing to initiate a report, and mandatory reporting may not afford the flexibility needed to accommodate survivors’ timelines. Survivors believed that bringing survivors into a reporting process before they were ready would be harmful for their mental health. For instance, participants believed that mandatory reporting could cause survivors to feel out of control. This is a legitimate concern. When a mandatory reporter makes a report on a survivor’s behalf, survivors will not always be able to retain control over the reporting process. Prior Title IX guidance (i.e., 2011 Dear Colleague Letter) stated that when a report is made, university officials are required to “take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation” (Ali, 2011, p. 5). New Title IX regulations state that “recipients are not forced to expend resources investigating situations over the wishes of a complainant, unless the Title IX Coordinator has determined that such an investigation is necessary” (US Department of Education, 2020; p. 379). In other words, a survivor’s request to not investigate a report must be considered (and would likely be respected), but the final decision to pursue an investigation is made by the Title IX Coordinator.

Moreover, survivors lacked faith in the reporting process—stating that reporting will be psychologically taxing and unlikely to result in justice for the survivor. Thus, a student who is brought into the reporting process may experience serious consequences (e.g., stress, loss of friends) without achieving the intended outcome of a report (i.e., disciplinary action against the perpetrator). Unfortunately, there are many well-publicized cases of institutions of higher education mishandling survivors’ reports of sexual assault (for one example, see The Hunting Ground documentary; Ziering & Dick, 2015). Moreover, evidence suggests that when assaults are reported, the majority of students who are found to be “responsible” for committing sexual assault are not removed from campus (Richards, 2019). Survivors expressed that mandatory reporting can further erode survivors’ trust in the institution, making it more challenging to seek help when it is needed. Survivors in our sample described how they deliberately avoided disclosing to people on campus who could have provided needed assistance—including professors (e.g., when they needed class accommodations) and RAs (e.g., when they needed resources)—because they knew or were unsure if these employees were required to report. Survivors only identified a few potential benefits of mandatory reporting. For instance, these policies can communicate that the institution takes sexual assault seriously and make it easier for survivors to report and receive assistance. However, several survivors stated that, for them, the potential benefits of mandatory reporting would not outweigh the potential harms.

A third key conclusion from our findings is the lack of knowledge of mandatory reporting policies among these survivors. In our sample, 83% had either no knowledge that the university had a mandatory reporting policy or knew no details about what that policy entailed (e.g., who were required to report). This substantiates similar findings in a recent doctoral dissertation—that many students lack knowledge about mandatory reporting policies (Amin, 2019). In our study, participants who knew more about the university’s policy tended to know that RAs were required to report and learned this from their RA. This finding is not entirely surprising, as RAs are
increasingly designated as mandatory reporters and expected and trained to respond to sexual assault disclosures consistent with this role (Holland, 2019; Holland & Cortina, 2017; Letarte, 2014). Our findings highlight the important role that RAs can play in informing students about mandatory reporting policies—and their role within it—but also raise concerns about knowledge equity on campus (e.g., not all students live in university housing). Some of our participants discussed the consequences that can arise from their lack of knowledge, such as survivors disclosing to a mandatory reporter without knowing that they are required to report disclosures to the university. Our participants asserted that information about the university’s mandatory reporting policy is crucial for survivors to have when making disclosure decisions.

Policy and practice implications

Our findings demonstrate the need to develop more survivor-centered and empirically informed approaches to university mandatory reporting policies. The Student-Directed approach was the preferred policy for nearly every student survivor we interviewed. However, evidence suggests that the vast majority of universities use a Universal approach, few universities use a Selective approach, and the Student-Directed approach is (currently) only used by one university (i.e., University of Oregon; Holland et al., 2018). This finding suggests that a discrepancy exists between survivors’ preferences and needs, and the mandatory reporting policies adopted by institutions of higher education. The Department of Education gives universities the power to decide which members of their campus community should be designated as mandatory reporters and legal scholars have also argued the legality and benefits of a Student-Directed approach (Weiner, 2017). However, empirically informed policy efforts must be undertaken at the state level as well. For instance, Texas recently passed a bill (SB 212) that requires all university employees to report all sexual assaults to their Title IX Coordinator, and failure to do so can result in criminal charges (a Class A or B misdemeanor) and termination. Virginia also passed legislation requiring universities to inform law enforcement about sexual assaults when they deem it “necessary to protect the health or safety of the student or other individuals” (Virginia Code § 23.1-806). Involving student survivors in policy decision-making may help to remedy the disparity between the implementation of expansive and prescriptive reporting policies and student survivors’ needs.

The results of this study also suggest that campus communities would benefit from increased education and training around mandatory reporting. Very few students in our sample knew any details about their university’s mandatory reporting policy. It is essential for both students and employees to be informed of their institution’s mandatory reporting policy for sexual assault. Education efforts should include information on who is and is not a mandated reporter, what employees are required to report, how employees should report, and what confidential resources exist on campus and in the community. Moreover, it would be beneficial for mandatory reporters to receive training on trauma-informed methods of responding to sexual assault disclosures. Previous guidance from the OCR that outlined expectations and best practices for training mandatory reporters (i.e., in the 2014 Q&A on sexual assault, Lhamon, 2014) has been repealed by the current administration (Jackson, 2017). However, the expectations outlined in the 2014 Q&A can still be met by individual institutions. Additionally, states have introduced bills mandating trauma-informed, survivor-centered, and comprehensive training for mandatory reporters (e.g., Massachusetts and Delaware; Richards & Kafoneck, 2016). Similar education efforts for students would be beneficial as well.
Limitations and future directions

Although the current study makes an important contribution to our understanding of survivors’ perceptions of mandatory reporting policies, it is limited in several ways. First, all of the participants in the sample were students at a single university in the Midwest. Therefore, the generalizability of our findings to other university contexts may be limited. It would be useful for future research to build upon this work by investigating students’ perceptions of mandatory reporting policies across different institutions of higher education. This would provide more comprehensive insight into how students perceive mandatory reporting and its effects on survivors. For instance, students’ perspectives may differ across institutions with different types of mandatory reporting policy approaches (e.g., compare those at schools with a Universal approach vs. a Selective approach), which can be empirically tested.

Second, while it is beneficial to understand survivors’ perceptions of mandatory reporting policies, our qualitative data did not allow us to test broader questions about how and why survivors’ preferences for different policy approaches may differ. For instance, evidence suggests that trust in institutional response to sexual assault reports is a strong predictor of support for mandatory reporting (Holland, 2019). Entrenched institutional racism, heterosexism, and cissexism can have a significant impact on institutional trust for students of color and sexual and gender minority students (Brubaker et al., 2017). Straight white women may face fewer barriers to using campus reporting mechanisms (Mennicke et al., 2019). Thus, are survivors who prefer a Universal reporting approach more likely to hold positions of social privilege and power? Additional research is needed to determine the factors that predict survivors’ support for different mandatory reporting policy approaches.

Finally, our data was unable to assess how other groups perceive mandatory reporting. While mandatory reporting policies should be crafted around survivors’ needs (i.e., those who will be most affected by the policies and their outcomes), these policies have implications for all members of the campus community. For instance, additional research will be needed to understand the perspectives of employees who are required to report, and employees who help craft mandatory reporting policy approaches (e.g., in the Title IX Office or in General Counsel).

CONCLUSION

Colleges and universities across the United States have implemented policies that require certain employees to report all sexual assaults to university officials, regardless of a survivor’s wishes. Our study suggests that the mandatory reporting policy approaches that survivors prefer—that limit the number of mandatory reporters and offer survivors more autonomy and flexibility—do not align with the policy approaches most frequently employed by institutions of higher education (e.g., see Holland et al., 2018). Survivors anticipate more harms resulting from mandatory reporting than benefits, including pushing survivors into disclosures before they are ready, increasing stress and anxiety, and discouraging help-seeking from trusted sources of support on campus (e.g., RAs, professors). Policy makers at institutional, state, and federal levels should consider survivors’ perspectives when crafting mandatory reporting policies. Moreover, given survivors’ lack of knowledge of these policies, institutions should also increase efforts to educate students about mandatory reporting.
ACKNOWLEDGMENTS
This research was made possible by Nebraska Tobacco Settlement Biomedical Research Development Funds and a Layman Seed Research Grant awarded through the University of Nebraska Foundation. We would like to thank the students who participated in this research. The interview transcripts are not publicly accessible to protect participants’ confidentiality, but a codebook containing a detailed list of codes, definitions, and example excerpts is accessible from the first author. This qualitative study was not preregistered.

CONFLICT OF INTEREST
We have no conflicts of interest to disclose.

REFERENCES


**AUTHOR BIOGRAPHIES**

**Kathryn J. Holland** is an assistant professor of psychology and women’s & gender studies at the University of Nebraska-Lincoln.

**Allison E. Cipriano** is a graduate student in the Social-Cognitive Psychology program at the University of Nebraska-Lincoln.

**T. Zachary Huit** is a graduate student in the Clinical Psychology program at the University of Nebraska-Lincoln.

---

**How to cite this article:** Holland KJ, Cipriano AE, Huit TZ. “A victim/survivor needs agency”: Sexual assault survivors’ perceptions of university mandatory reporting policies. *Analyses of Social Issues and Public Policy*. 2020;1-21. https://doi.org/10.1111/asap.12226

---

**Appendix**

**INTRODUCTION TO MANDATORY REPORTING**

Every campus has confidential resources, such as [the counseling center] at [institution]. If a student discloses sexual misconduct to the counselors working in these resources, they are not required to report the student’s name and information to the university. Mandatory reporting policies require other employees to report any sexual misconduct they learn about to a university official, such as the Title IX Coordinator. Sexual misconduct can include behaviors such as sexual harassment, sexual assault, and rape. The report must include the student's name and any other relevant facts, such as the name of the perpetrator or any witnesses. When creating these policies, there different approaches that colleges and universities have taken. I would like to get your thoughts about three different approaches. Please read all three policies and rank order them from best = 1 to worst = 3. After, I will ask you to briefly explain your rankings.

**POLICY APPROACHES**

**Universal**

All employees—including leaders, faculty, staff, and students—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and
Selective
Employees who are in positions of leadership and/or have significant responsibility over students’ wellbeing—such as directors, heads, managers, deans, chairs, advisors to student groups, and housing staff members—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and any other relevant facts (e.g., the alleged perpetrator’s name). The report must be made even if the victim does not want to report. All other employees are encouraged to report.

Student-Directed
Employees who are in positions of leadership and/or have significant responsibility over students’ wellbeing—such as directors, heads, managers, deans, chairs, advisors to student groups, and housing staff members—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and any other relevant facts (e.g., the alleged perpetrator’s name). The report must be made even if the victim does not want to report. All other employees are required to (1) provide the student with information about reporting options, (2) ask if the student wants you to make a report to a university official and respect their decision, (3) provide the student with information about confidential resources that can offer more extensive support (e.g., victim advocate, counseling center), and (4) ask if the student wants you to help them connect with a confidential resource and respect their decision.

INTERVIEW QUESTIONS
1. Please explain how you ranked the policies. For instance, what are potential positives/benefits and negatives/harms?
2. How would these policies affect students?
3. Can you tell me what you know about the mandatory reporting policy at [institution]?
To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit a published paper I co-authored with my advisor Dr. Kathryn Holland. The paper is titled “The Fear is Palpable”: Service Providers’ Perceptions of Mandatory Reporting Policies for Sexual Assault in Higher Education.” I have attached the paper here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral student
Social Psychology
Department of Psychology
University of Nebraska-Lincoln
"The Fear is Palpable": Service Providers' Perceptions of Mandatory Reporting Policies for Sexual Assault in Higher Education

Kathryn J. Holland,* Allison E. Cipriano, and T. Zachary Huit

University of Nebraska-Lincoln

In many universities/colleges, employees are required to report students’ sexual assault disclosures to university officials, even if the student does not want to make a report. These “mandatory reporting” policies have been shaped by federal mandates and guidelines, including Title IX. There is a notable lack of research on the implementation and effectiveness of these policies. The current study examined formal service providers’ beliefs about university mandatory reporting policies and perceptions of three specific policy approaches (universal mandatory reporting, selective mandatory reporting, and student-directed mandatory reporting). Focus groups were conducted with 12 service providers and these qualitative data were analyzed using thematic analysis. Participants had strong reservations about mandatory reporting policies, particularly universal approaches that designate all employees as reporters. Although they believed mandatory reporting may have been implemented with good intentions, they discussed how such policies may harm both survivors and employees. Lack of transparency and training in the implementation of mandatory reporting policies can create a climate of fear on campus, where neither survivors nor employees feel comfortable discussing sexual assault. Findings suggest the need for more empirically informed approaches to mandatory reporting of sexual assault in higher education and more comprehensive training for employees and students.

What happens when a college student tells a university employee that they have experienced sexual assault? In many institutions, that employee would be

*Correspondence concerning this article should be addressed to Kathryn J. Holland, Department of Psychology and Women’s and Gender Studies Program, University of Nebraska, 225 Burnett Hall, Lincoln, NE 68588-0308. [e-mail: kholland4@unl.edu].

required to report the assault to university officials—such as the Title IX Office or Campus Police—even if the student did not want to make a report. These "mandatory reporting" policies have been shaped by federal mandates and guidelines, including The Cleary Act and Title IX. Given the prevalence of sexual assault within college communities (Fedina, Holmes, & Backes, 2016) and the detrimental impact of assault on survivors' mental health (Campbell, Dworkin, & Cabral, 2009; Dworkin, Menon, Bystrynski, & Allen, 2017; Jordan, Campbell, & Follingstad, 2010), mandatory reporting policies may seem like a useful approach to addressing this issue. Common assumptions about mandatory reporting of college sexual assault include the belief that such policies will benefit survivors, the university employees to whom survivors disclose, and the institution (Holland, Cortina, & Freyd, 2018).

However, there is a notable lack of research on the implementation and effectiveness of these policies, which is particularly problematic given evidence that suggests these policies may not achieve their assumed benefits and may have adverse effects on survivors and campus communities (Holland et al., 2018). For example, if a sexual assault survivor does not want to initiate a report, the employee they disclosed to may be forced to make a report against the survivor's will. Controlling responses from support providers are associated with increased psychological distress and psychopathology (Dworkin, Brill, & Ullman, 2019). A mandatory reporting role is one of great consequence for employees and students alike, and deserves critical examination. The purpose of the current study is to examine university employees' perceptions of mandatory reporting policies. More specifically, the perspectives of formal service providers who work directly with students—including sexual assault survivors. These findings can enhance our understanding of how mandatory reporting policies affect both employees and survivors.

**Background on Mandatory Reporting Policies in Higher Education**

Federal mandates and guidelines have helped shape college mandatory reporting policies for sexual assault. Mandatory reporter roles fall into two categories, "Campus Security Authorities" and "Responsible Employees." Universities must designate certain employees as Campus Security Authorities under the Clery Act (34 CFR 668.46(a)), which includes employees who are responsible for campus security, student life (e.g., residence staff, advisors to student groups), and victim advocacy services. These employees are only required to report general information about sexual assaults disclosed to them in their official role as a Campus Security Authority (e.g., the type of assault, the location of the assault) to the university officials who prepare the campus Annual Security Report (U.S. Department of Education, 2016). Because Campus Security Authorities do not report
identifiable information about survivors, the focus of the current study is on the second reporter role: Responsible Employees.

Institutions must designate some employees as Responsible Employees under Title IX guidance. The Responsible Employee role was defined in the Department of Education Office for Civil Rights (OCR) 2001 guidelines on sexual harassment of students (U.S. Department of Education, 2001), and includes an employee who "has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility" (p. 13). The Department of Education and The Supreme Court have long recognized sexual harassment, which includes sexual assault, against students as sex discrimination under Title IX. Unlike the Campus Security Authority role, when a Responsible Employee learns about a sexual assault, they must report all information they learned, including identifying information about the survivor. Although Title IX protects against sex discrimination experienced by all members of institutions of higher education (e.g., discrimination in payment and promotion of faculty and staff members; U.S. Department of Education, 1991), the Responsible Employee mandate has focused on student survivors.

There is variability in how colleges and universities have interpreted and implemented this mandate. The Department of Education's 2014 Q&A document (Lhamon, 2014) provided more detailed information about Responsible Employees (e.g., best practices for training employees designated as Responsible Employees), but there is still ambiguity as to which members of the campus community should be placed in this role. To further compound the lack of clarity in these guidelines, the Department of Education under Betsy DeVos repealed the 2014 Q&A along with other Obama-era Title IX guidance (Jackson, 2017). Recent research finds at least three distinct approaches to designating Responsible Employees within U.S. colleges and universities: universal, selective, and student-directed (Holland et al., 2018; Holland, Cortina, & Freyd, 2019). "Universal" mandatory reporting policies—the most common approach—designate all employees (faculty, staff, and student employees) as Responsible Employees (Holland et al., 2018; Saviano, 2015). "Selective" mandatory reporting policies are less common, but more moderate than universal approaches; this approach designates a specific list of employees as Responsible Employees, and generally only includes faculty and staff in leadership positions (e.g., Directors, Department Heads) and other employees who have significant responsibility for student safety and well-being (e.g., housing staff members, advisors to student groups; Holland et al., 2018). A third approach—currently enacted at the University of Oregon—is a "student-directed" mandatory reporting policy (University of Oregon, 2018). This unique policy designates a select list of employees as "Designated Reporters" (i.e., Responsible Employees) and requires most other employees to
provide survivors with “information, resources, support, and... only report the information shared to the university administration when the student requests that the information be reported (unless someone is in imminent risk of serious harm or a minor)” (University of Oregon, 2018). Under the student-directed approach, most employees must provide adequate information about reporting options and resources and respect students’ decisions about making a formal report (see Freyd, 2016).

Understanding Effects and Effectiveness of Mandatory Reporting

Holland et al. (2018) summarized and critiqued major assumptions that underlie reporting policies. These major assumptions are that Mandatory Reporting policies will: (a) surface instances of sexual violence that may go undetected, (b) benefit students who experience sexual assault, (c) benefit employees who are designated as Responsible Employees, and (d) reduce institutional legal liability and increase compliance with Title IX guidance (Holland et al., 2018). Their analysis concluded that there is mixed, weak, or no evidence for these major assumptions, which raises questions about whether mandatory reporting policies will achieve their intended goals. Thus, research is needed to understand how these policies affect students and employees. Some prior research has examined employees’ and students’ attitudes about state laws requiring colleges and universities to report sexual assaults to the police (e.g., in Virginia; Brubaker, & Mancini, 2017; Mancini, Pickett, Call, & Roche, 2016). This work finds mixed support for such policies among both students and employees (Brubaker, & Mancini, 2017; Mancini et al., 2016). There is also little research on employees’ and students’ attitudes toward Responsible Employees and their duties. A notable exception is a study conducted by Newins and colleagues at two timepoints at one university (Newins, & White, 2018; Newins, Bernstein, Peterson, Waldron, & White, 2018). In the study, employees and students were presented with scenarios and asked a series of questions about their knowledge and attitudes about reporting (e.g., agreement that a Responsible Employee should report it). In general, participants were more likely to agree that the more stereotypically “severe” descriptions should be reported (e.g., a student was “raped” vs. “sexually harassed”, a student was “raped by a faculty member” vs. “another student”; Newins et al., 2018; Newins, & White, 2018). The study also found that students who personally experienced sexual assault stated they would be less likely to disclose an assault to a faculty member who was a Responsible Employee (Newins et al., 2018; Newins, & White, 2018). This prior work provides important, preliminary insight into employee and student perspectives of mandatory reporting.

The current study adds to this work through an in-depth qualitative examination of service providers’ beliefs about mandatory reporting of sexual assault in institutions of higher education—specifically, policies that require Responsible
Employees to report disclosures to the university. Service providers’ perspectives on mandatory reporting policies—including specific approaches to designating Responsible Employees—will provide critical insight into the potential effects and effectiveness of such policies. Service providers who work one-on-one with students are in a unique position to speak to the impact of mandatory reporting policies on employees, student survivors, and the campus community. Therefore, the purpose of the current study was to examine formal service providers’ general beliefs about university mandatory reporting policies for sexual assault and perceptions of three specific policy approaches (i.e., universal, selective, and student-directed).

Method

Procedures and Participants

Data were collected from service providers working at a large Midwestern university. The first author identified and recruited service providers who worked closely with students and who either provided direct services for students who had experienced sexual assault or provided information and referrals for students who had experienced sexual assault. The first author sent emails to 21 service providers introducing the study, asking if they would be willing to participate in a focus group to better understand their perspectives on university policies and services for sexual assault, and instructing them to contact the study team if they were interested. Sampling took both a convenience and purposive approach: the larger pool of service providers at one institution was a convenience sample (to facilitate conducting the focus groups) but the 21 service providers approached was a purposive sample (i.e., worked with survivors in some way).

Of those contacted, five did not respond, four expressed interest but were unavailable during the data collection period, and 12 agreed to participate (demographic information for those who did not participate is unavailable). The participants worked in university counseling services \( (n = 7\); pseudonyms: Madelyn, Lilith, Pam, Jenny, Ashley, Marie, and Sarah), student centers \( (n = 2\); pseudonyms: Athena and Toni), and sexual assault services (e.g., advocacy, education, and prevention, \( n = 3\); pseudonyms: Audrey, Victoria, and Nancy). The first author knew six of the participants before the time of the focus group as a result of working within the field of anti-sexual assault research and education. Participants were all women and most were white \( (n = 10\); two identified as biracial). This reflects university staff demographics, most staff members are white (approximately 88% in 2018) and more than half are women (approximately 54% in 2018), as well as service provider occupations more generally (e.g., 72% of counselors in the U.S. in 2018 were women; Bureau of Labor Statistics, 2019). Participants worked in their position from 6 months to 20 years (average of approximately 5 years).
We conducted three semi-structured focus groups with these providers—the first with four participants, the second with five participants, and the third with three participants. Each of the focus groups took place in a private meeting room on campus, lasted approximately 90 minutes, and were conducted by the first author (identifies as a woman), who has experience with qualitative data collection and analysis, and facilitated by the third author (identifies as a man) and an undergraduate research assistant (identifies as a woman). The focus groups were audio recorded with participant consent. The first author asked participants questions about the services available at the university to help students who experience sexual assault, efforts to inform students of these services, reasons students choose not to use services after an assault, and their perspectives on university sexual assault response efforts (including mandatory reporting policies). Participants were paid US$50 to compensate their time. Notes were taken by the third author to ensure that we had correct information regarding the participants’ pseudonym and service provider role. No new information was present at the conclusion of the third focus group, and we did not seek new service providers for additional focus groups. The focus groups were transcribed by a research assistant, and potentially identifying information was redacted (e.g., a participant referred to the specific title of their position on campus). Transcripts and findings were not returned to participants, but to ensure reliability of the data, a second research assistant double-checked all focus group transcripts. Study procedures were approved by the university Institutional Review Board.

Materials

The current study focused specifically on the questions that assessed perceptions of mandatory reporting. To gain participants’ general perspectives on these policies, we first asked, “How do you feel about mandatory reporting policies in higher education?” After participants completed their discussion of this question, we asked participants to provide their thoughts about three specific university mandatory reporting policy approaches: (1) universal, (2) selective, and (3) student-directed. For the study, we developed general definitions for each policy approach (see Table 1), which were based on language typically seen in these policies (see Holland et al., 2018). To introduce this question, we told participants: “When creating mandatory reporting policies, there are different approaches that colleges and universities have taken. I would like to get your thoughts about three different approaches.” We then provided participants the three policy definitions (printed on paper) and asked them to read and rank the policy approaches from “best” = 1 to “worst” = 3 and think about the potential positives and negatives of each approach. After, we asked participants to explain their rankings and thoughts about each policy approach.
### Table 1. Mandatory Reporting Policy Approaches

<table>
<thead>
<tr>
<th>Policy</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Universal Mandatory</td>
<td>All employees—including leaders, faculty, staff, and students—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and any other relevant facts (e.g., the alleged perpetrator’s name). The report must be made even if the victim does not want to report.</td>
</tr>
<tr>
<td>Reporting</td>
<td></td>
</tr>
<tr>
<td>Selective Mandatory</td>
<td>Employees who are in positions of leadership and/or have significant responsibility over students’ wellbeing—such as directors, heads, managers, deans, chairs, advisors to student groups, and housing staff members—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and any other relevant facts (e.g., the alleged perpetrator’s name). The report must be made even if the victim does not want to report. All other employees are encouraged to report.</td>
</tr>
<tr>
<td>Reporting</td>
<td></td>
</tr>
<tr>
<td>Student-Directed</td>
<td>Employees who are in positions of leadership and/or have significant responsibility over students’ wellbeing—such as directors, heads, managers, deans, chairs, advisors to student groups, and housing staff members—are required to report any sexual assault they learn about to a university official. The report would include the victim’s name and any other relevant facts (e.g., the alleged perpetrator’s name). The report must be made even if the victim does not want to report. All other employees are required to (1) provide the student with information about reporting options, (2) ask if the student wants you to make a report to a university official and respect their decision, (3) provide the student with information about confidential resources that can offer more extensive support (e.g., victim advocate, counseling center), and (4) ask if the student wants you to help them connect with a confidential resource and respect their decision.</td>
</tr>
<tr>
<td>Reporting</td>
<td></td>
</tr>
</tbody>
</table>

### Analysis Approach

We analyzed participants’ responses to these questions using thematic analysis (see Braun & Clarke, 2006). The first author and trained research assistants reviewed these data and created a codebook (i.e., a detailed list of words or phrases that capture an analytical idea present in data). The codebook was refined by applying the codebook to subsets of the focus group data and revising it. When the codebook was finalized, the first author and two research assistants coded all data using Dedoose version 8.2. Inter-rater reliability for the code application was excellent (Cohen’s kappa = 0.84; Cohen, 1960). We then identified themes by analyzing the coded data for meaningful patterns, ideas, and concepts. We began by identifying themes related to participants’ perspectives of mandatory reporting policies in general. This analysis resulted in five overarching themes: policy intentions, problems for survivors, problems for reporters, problems with implementation and training. We then identified themes related to participants’ perspectives of three specific mandatory reporting policy approaches. These themes were best organized according to the service providers’ ranking of the three
approaches (i.e., which policy they ranked the best and why, which policy they ranked the worst and why, and which policy they ranked in the middle and why). All of the themes are discussed in detail below. Potentially identifying information (e.g., the official name of the Title IX Office) was redacted from quotes included in the results to protect anonymity for the participants and the campus.

The first author acknowledges that her analysis of these data are shaped by her previous experience as a victim advocate for sexual assault survivors and a researcher and instructor who has worked closely with survivors of campus sexual assault. The second and third authors acknowledge that their perspectives of the data are influenced by their current role as graduate students with interest in university response to students’ sexual assault reports. All authors note that they believe survivors are best suited to make decisions about their assault disclosures.

Results

General Perceptions of Mandatory Reporting

*Policy intentions.* The first theme we identified was “policy intentions”—service providers’ perception of the intention of these policies or why institutions may want to implement them. A few participants discussed the idea that mandatory reporting policies are often implemented with good intentions and/or understood the possible benefits that institutions see in these policies. For instance, two participants spoke about the possible benefit of gathering more accurate reports of the number of sexual assaults taking place on campuses:

> In some ways, some information is necessary for the university to know how prevalent this is. Because we know that a lot of instances don’t get reported. And so if the university knows there is this number that has been reported, then that might be another way in prevention efforts or intervention or those sort of things, programming for that. Where I feel conflicted is, I don’t think all of the information is necessary. I don’t think, necessarily, the student’s name is necessary.” (Lilith)

> I do understand wanting to know what’s happening, but people could report that in generic numbers. “I had this many people come talk to me about this.” That way the information is there without it being about “I, okay, now, if you’re talking to me, I have to call the police or I have to call [the Title IX Office].” (Toni)

Another participant expressed her belief that there may be good intentions behind mandatory reporting policies, but that these policies have resulted in consequences that policy makers and administrators did not consider:

> I think mandatory reporting policies were made, for the most part, with good intentions. Right? It was this idea of all these people up here, thinking about ok, what would this policy look like. And I think what’s happened is that it’s had a lot of, like I said, unintended consequences for survivors on campus. (Audrey)
Perceptions of Mandatory Reporting

Unlike these participants, one participant believed that mandatory reporting policies are primarily designed and implemented to protect institutions from legal liability:

I think that, I understand that the purpose is to make sure that institutions aren’t sued for not providing services to victims. I think there are ways to do that, one is to provide services to victims. (Laughter). You know? (Athena)

These service providers could see why mandatory reporting policies may seem appealing to institutions (e.g., encouraging reporting, preventing lawsuits), and possibly implemented with good intent, but also believed there were substantial problems with these policies.

Problems for survivors. The second theme we identified was that mandatory reporting creates problems for sexual assault survivors. All three focus groups identified and discussed that these policies create barriers that can prevent survivors from seeking help after an assault. Some participants discussed how survivors would not want to tell anyone when they found out that their identity could be disclosed. For example, one participant stated, “It goes back to the barriers, too. If they know that their identity is going to be disclosed if they disclose, they’re not going to.” (Lilith). Another participant echoed this concern:

I think it prevents victims from coming forward... Just requiring people to report is gonna make students not come forward and then victims will not have their needs met and will be, we will see all the bad things that happen to victims who don’t have an opportunity to get some help. (Athena)

Participants also discussed how mandatory reporting policies create barriers that prevent survivors from seeking help from people on campus whom they already trust if those people are designated as mandatory reporters (e.g., resident assistants, professors). In one example, Victoria stated: “those are often the individuals that are interacting with students the most and have those really close relationships with students. And how horrible to take that really close connection and relationship away, a resource away.” Nancy was also concerned about the barriers these policies could create for students who have fewer supports: “[mandatory reporting] could be a huge barrier, especially if it’s your first semester and you just have a really good connection with one of your professors.” (Nancy). On the other hand, several service providers identified that improving and increasing confidential resources—rather than mandating reporting—would make it easier for students to seek help after experiencing an assault. For example, Athena stated:

If victims have confidential people to talk to... and we have positive relationships between the confidential, the advocates, and the people that you need to report to, Title IX and the police, and it’s clear what the policies are and what they’re able to do, and a trusting relationship within all those agencies, then good things can happen. And the university will have met their obligation to provide services and make a safe climate.
In addition to creating help-seeking barriers participants discussed the harms that mandatory reporting policies can cause for sexual assault survivors, including taking control away from survivors, compromising survivors’ confidentiality and safety, and causing further trauma. Toni, for instance, believed mandatory reporting could be a source of re-victimization: “Personally, I think that it takes control away from somebody who’s been victimized and it’s a form of re-victimization.” Audrey provided a potential scenario in which mandatory reporting takes control from survivors and causes fear:

You know, let’s say, for example, it’s a 101 class in Psychology or Sociology and sexual assault comes up and they...disclose their own experience and then the faculty member goes “whoa, whoa, whoa, sorry, I’m responsible employee.” And this freshman had no idea, and the fear that they come in and they say to me “I told this person, and now what?” They lose control...And so there’s some real betrayal. Some institutional betrayal that survivors are experiencing because of mandatory reporting policies.

Additionally, several participants discussed repercussions that can arise for survivors when their identity and confidentiality is compromised by a mandated reporting process:

I think, especially when you think about people in positions of power with mandatory reporting, that can have huge repercussions for that student. And once that’s out there...there’s no going back. There’s no retracting that. And so if you think about a student’s gonna be here for four years and now their entire environment has shifted. That can just be very, very challenging, and especially in the case that they don’t have mental health services set up before this takes place. Now they kind of have this added stressor and they have no support kind of to help cope with that. (Jenny)

And I think for LGBT survivors that’s even more important. I mean, a mandated report could be outing them and doing things that they definitely don’t want to do, when, and when you have that coming-out process taken away from you, that is definitely pretty traumatizing too. (Nancy)

These quotes illustrate the complications that service providers see as a result of mandatory reporting policies, especially for students who are in vulnerable positions (e.g., first-year students, LGBTQ students).

Problems for reporters. Participants also identified problems that these policies create for the employees designated as mandatory reporters. Some of the service providers discussed how these policies complicate employees’ relationships with students, which is particularly difficult when their job includes building trusting relationships with students. Athena, for example, discussed two groups of employees who may be particularly affected by this issue: faculty members and resident assistants (i.e., students who work for university housing). In both cases, she identified the erosion of trust between these employees and their students: “Staff and faculty are afraid. They want to help students... If they feel like they can’t be a resource for students, it just puts a barrier between them and their students.” and “What’s the point of having student RAs if not to have peers that they trust to talk to?” (Athena).
Another problem that these service providers discussed was an intense fear of "getting it right"—employees wanting to ensure that they are following the rules, which could possibly be to the detriment of the student disclosing and go against the reporters own beliefs. For example:

I work for the university, I need to be damn well sure I know what my role is here. Do I report or do I not? ‘Cause I don’t wanna get in trouble. I wanna support the student the best I can. Like, I think that just is a little bit nerve-wracking. (Pam)

Hyper-vigilance on the mandatory reporting... prioritizes a sexual misconduct report over a person. And that is so problematic. Because, like you said, faculty, staff, these responsible employees get hyper-focused on what do I need to do, who does this report need to go to, and when do I need to have it in. And you forget that you have a person in front of you who has experienced trauma and that we have to respond in a compassionate and supportive way... I think it just happens because when you drill down on this message of, "you gotta do this, you gotta do this, you gotta do this," we lose that this is a person... And so, students are saying to me they’re feeling blindsided. (Audrey)

The problem of holding dual roles was another complication that came up, specifically, when an employee holds a role that is designated as “confidential” in one context (e.g., mental health counselor) and a role that is designated as a “mandatory reporter” in another context (e.g., advisor to a student group). Several service providers expressed how this bind causes confusion for both employees and students, for instance:

I think about us and our roles with [the counseling center], like we're both psychologists, but we also both advise student groups. And so that would get super complicated, because the student's not sitting in my office for therapy, which, that's pretty known that that's confidential. And then all of a sudden when I'm... meeting with the [student group] and all of a sudden I become not a psychologist for [the counseling center]? Like, no, like that feels really uncomfortable. (Lilith)

There’s been times where we work with students as their therapist and we may have the dual role where they are a part of [a student group] that we are a part of... I think it just compromises our professional integrity. And, of course... it takes away [the student’s] authority and autonomy of like, wait a second, I have to figure out which role you're in and I can tell you in this role, but I can't tell you in this role. (Marie)

Collectively, this theme illustrates the myriad of complications that service providers believe mandatory reporting policies can cause for university employees, especially when the employee wears multiple hats within the institution and needs to build trusting relationships with students.

Problems with implementation. In addition, service providers discussed problems with the implementation of mandatory reporting policies. First, several participants discussed how there are too many people being designated as mandatory reporters under these policies. Jenny, for example, identified the discomfort she felt with employees who work closely with students, and serve as a source of trust and support, being designated as reporters: I think advisors to student groups, housing staff members, so those individuals I feel should... be able to protect that student's identity. I think that those should be safe people, especially since
those are people that likely this student’s gonna feel more comfortable talking to.” Several other participants echoed this concern. For instance, Lilith stated, “It might make sense for directors, heads, managers, deans, chairs, those sort of folks who are not having maybe that daily individual contact with students. But I agree, that feels really uncomfortable to think about advisors of student groups, RAs, RDs, those sort of roles, having to report.” Two other participants discussed the need for university police to be exempt from the Responsible Employee role:

I don’t think that [campus police] should be referring to [the Title IX Office] or passing along that information. I think that shuts down students feeling like they can go to campus police … We don’t wanna create any barriers for people feeling like they can contact the police. (Audrey) … Yeah, “cause it’s not, then it’s not like you can say oh I can go through an investigatory process on campus or off campus. It’s basically if you choose one, you have to do both. (Madelyn)

As evidenced in these quotes, the service providers understood why positions of top leadership may need to be “mandatory reporters” under university policy, but strongly believed that employees whose job roles involve supporting and protecting students (e.g., RAs, advisors, professors) should not be required to report an assault disclosure if that goes against the student’s wishes. In one focus group, the participants also discussed that campus police should not be required to report assaults to the Title IX Office so that survivors can make their own decisions about initiating an institutional investigation and/or a criminal justice investigation.

The second problem with policy implementation that participants identified was a lack of transparency. One participant noted how students may not actually know enough about these policies and what the role of “responsible employee” really entails: “Students might not know what responsible employee means.” (Sarah). Another participant identified how this lack of transparency could create a real problem for students: “If you think that this is a safe person and then all of the sudden they’re like I have to report this. I mean, that’s not something that you were expecting or aware of. That would be really jarring.” (Ashley). Another participant discussed all of the questions that often arise for the employees who are designated as reporters: “Again, we’re back to transparency. What do you need to say? Who needs to get the information? What happens when it goes there?” (Madelyn).

In addition to these general issues with transparency, participants also discussed more specific transparency problems. For instance, participants discussed how undergraduate RAs are in a uniquely difficult position under these policies because they are also students:

The questions I was getting from RAs was, like, well am I still a responsible employee if I’m not wearing my RA hat? What if I hear this third party? What if I overhear this at the dining hall? What if I’m on spring break and this is my friend but technically I’m still their
Moreover, participants discussed that faculty members may not fully understand what information they need to report and how detailed that report must be. Even in cases when most faculty are exempt from mandatory reporting policies (e.g., under a selective mandatory reporting policy), students may not know that their professor could hold another role that does designate them as a reporter (e.g., a department chair):

I think about if you’re an instructor and you’re watching a film maybe that features some intense, graphic discussion of sexual violence or a portrayal of sexual violence and you know, you give your students kind of a trigger warning and saying, you can excuse yourself at any time if you need to kind of, take a break and come back. What if a student steps out and you think “oh, well maybe they’re a survivor, maybe I need to make a [report].” I mean, it’s like, there’s just not the clarity of what constitutes enough information to make a report. There’s not the clarity of who’s a responsible employee, who’s not a responsible employee. (Madelyn)

There’s a lot of faculty that are deans and they’re faculty in terms of teaching courses. Students don’t know that. If we’re putting out there, “faculty doesn’t have to report,” they’re not gonna think, “oh, are you also a dean, are you also a chair, are you also in this other role?” . . . so many layers of confusion that students, there’s so many bureaucratic policies already to try to figure out. (Marie)

Participants also discussed how the lack of transparency creates a climate of fear on campus. Victoria, for example, stated “of all the conversations I’ve had, I think the one that comes up consistently is, “ok wait, who’s a responsible employee? Who can I not talk to?” . . . the theme that I keep getting when those conversations come up is just being scared and afraid. Audrey echoed this concern, stating that “it’s created a chilling effect and the fear is real. The fear is palpable for the students that I work with.” The quotes in this theme illustrate how a lack of transparency around who is and is not a mandatory reporter—and what that role actually entails—is a source of anxiety and fear for both employees and students who have experienced sexual assault.

Training. The final theme that we identified was training. Many of the participants discussed that mandatory reporters must have proper training, for instance “We have to train them how to be responsible employees” (Nancy) and “My one hope . . . is that those [responsible employees] get the proper training that they need, to be able to do that in a compassionate and proper way” (Madelyn). Several service providers discussed what high-quality training should look like. A few participants discussed how this training should educate employees about the resources that are available on campus and how to refer survivors to those resources in a way that is supportive and compassionate. Two illustrative examples include:
I don’t think someone needs a ton of training . . . I think you give people packets with all of that information [about resources] . . . talk to them about what respecting [a survivor’s] decision really looks like . . . those are the biggest steps for me. Knowing what those resources are . . . believing them, not doubting them. (Madelyn)

Faculty are stressed out. They wanna do the right thing. They care about their students. But let’s just acknowledge that there’s some anxiety around this, you know, there’s a lot of responsibility as that person who’s responding to a disclosure. And there’s this responsibility to do it in a way that’s, like you said, compassionate, proper, supportive, all of those things that we want victims to have. So just having those training opportunities where they can see [service providers who work at the resources], and now I feel like I can make that connection with the student in front of me. (Audrey)

In addition to educating responsible employees about resources and how to refer survivors to those resources, a few participants discussed the need for in-depth and ongoing training for responsible employees on understanding trauma:

I don’t think that people always have a good understanding that somebody who’s experienced a trauma might not even be acting like they’re traumatized but that there’s an impact . . . I don’t think you can just do a one-time training and think everybody’s good. I think that you have to do ongoing but very brief kind of situational training. (Toni)

I think all the things that you have mentioned are so critical, empathic listening . . . trauma-informed listening, are really important for people who are being reported to. (Sarah)

Unfortunately, the participants also discussed that they did not see this type of training being implemented on campus. Several participants discussed the problems that they saw in training. Toni, for example, identified how some employees received no training at all: “people were told, but there was no training—you’re a responsible employee, if this happens, you have to report it.” Athena and Victoria also discussed the issue of teaching responsible employees the minimum they needed to do (i.e., report), rather than how to respond well to a survivor:

A lotta times we’re trained to the minimum expectation instead of what would be the best thing. (Athena) . . . Like here’s how not to mess up. Rather than, here’s how to do it. (Victoria) . . . Here’s the least that’s expected of you. You know? And that’s not right, that’s not what we wanna be. (Athena)

Within this theme, the service providers discussed how quality training could help to address many of the problems that mandatory reporting policies cause (e.g., confusion, fear), but that this type of training does not seem to be widely implemented on campuses. One participant mentioned a concern about the feasibility of properly training all employees. Sarah, for instance, expressed concern that “90% of professors are never going to have a sexual assault reported to them. And so taking the time and resources to train every single person . . . it’s just, I think it’s trying to broaden the spectrum too far.” At the same time, participants believed training improvements would help to address some of the problems they identified with these policies.
Perceptions of Three Mandatory Reporting Policy Approaches

Best policy. All of the service providers selected the student-directed policy as the best approach. The primary reasons that they saw this as the best policy was that it provides options, respects survivors, and protects confidentiality. These themes are seen in the following quotes:

"The [student-directed policy], is probably the best one... [A survivor] could maybe go to someone who's in a lower ranking and still maintain their confidentiality. And in doing that as well, they're also required to give them information. They can respect their decision not to report." (Ashley)

"I ranked the [student-directed policy] as the best option of the three presented... I really like that ability to provide students with information about reporting options, confidential resources, and then helping them connect to that if they want to. And then of course respecting their decision to do that." (Audrey)

"The part that I really like about [the student-directed policy] is the second paragraph, that all employees would have information about reporting options, giving the student some autonomy to be able to make a decision about reporting to a university official and then doing as they choose to do. Helping provide them with information about confidential resources and helping them connect." (Lilith)

Several participants who selected the student-directed policy as their preferred approach articulated their belief that they did not necessarily agree with any employees being "mandatory reporters" but noted that this was the best of the approaches presented and strikes a balance between the desires of the university and the needs of the students. For instance,

"I feel like [the student directed policy] balances the needs that the university has in terms of reporting to national guidelines and everything, of rates of sexual assault and everything, but also it protects the independence of students while giving them the sort of resources that have a positive benefit as well." (Sarah)

"I think that [the student-directed policy] is the best middle way in between continuing to run the business side of the university and caring for the students... could be better, if the only objective was to care and protect the students. But I think that is the best middle ground." (Victoria)

Although the service providers felt negatively about mandatory reporting policies and how they have been implemented, they believed that a student-directed policy approach could help address some of the concerns that they raised about mandatory reporting policies in general.

Worst policy. Every service provider identified the universal mandatory reporting policy as the worst of the three options. They believed that this policy approach was too broad (i.e., included too many employees), could harm survivors, and create a chilling effect on campus—making it harder for survivors to come forward after an assault. For example, one of the participants who believed universal mandatory reporting was too broad discussed that student employees were a primary reason she ranked this policy approach last:
I put [the universal policy] last because I think the biggest con with it also is that students are mandatory reporters in that if they're employees... it's still a negative thing to have student employees who may have a personal relationship with another student and they hear it through that but are they a student or employee, it gets real complicated. (Nancy)

Several other participants discussed that they did not like a universal mandatory reporting policy approach because it takes away survivors’ control and autonomy and would not allow for any nuance in determining if a report should be made. For example, when asked to explain her ranking, Sarah stated, “For the universal mandatory reporting, I literally wrote ‘no, just no.’ There’s no protection for the students. There’s no leeway in terms of individual situations that mandatory reporters are being presented with.” Another participant stated:

The [universal policy], is probably the worst one... I feel like it’s taking away all autonomy possible. So that might not be best for a victim, who probably already feels like their autonomy has been violated. It might be going through a re-traumatization at that point. (Ashley)

Due to these issues, some of the participants believed that a universal approach could make it more difficult for survivors to disclose sexual assault, which would be harmful for students and the campus community. For example, Athena stated “Universal mandatory reporting would be the most devastating. Nobody would ever report anything.” Audrey echoed this concern, stating “The worst one, in my opinion, would be universal mandatory reporting. I think that would have a chilling effect. Nobody would be coming forward and it would be bad for campus.”

Middle policy. Finally, all of the participants ranked the selective mandatory reporting policy in between the student-directed and universal approaches. Most of the participants did not elaborate on their ranking for this policy—spending more time discussing what they liked about the student-directed policy and disliked about the universal mandatory reporting policy. However, participants generally believed the selective approach lacked the benefits of the student-directed policy (e.g., requiring reporters to provide information about reporting options and resources), but was at least more specific and selective than the universal approach. For instance, Toni stated, “The [selective policy], at least it limits who is forced to report, and it leaves it to people who are in positions of authority.” Audrey also clarified that the lack of a mandatory informing requirement was the reason this approach was not her first choice: “I put [the selective policy] second because I think that informing piece is so important.”

Discussion

The current study identified several themes relating to service providers’ perceptions of college and university mandatory reporting policies for sexual assault. While some service providers believed that these policies are/were created with
good intentions and can have some benefits for an institution (e.g., maintaining accurate crime statistics, guarding against lawsuits), they also recognized and discussed a number of problems with mandatory reporting policies. A frequent concern raised by our participants was how these policies may negatively affect students who experience sexual assault. For instance, providers expressed concerns that mandating reporting policies would make it harder for students to seek help after an assault, and would deter survivors from confiding in important figures in their academic lives (e.g., professors, resident assistants) about their experiences and needs. Students who have personally experienced sexual assault state that they would be less likely to disclose to a faculty member who is a Responsible Employee (Newins & White, 2018; Newins et al., 2018). Survivors make very specific and strategic decisions about disclosures, and the vast majority prefer to disclose to informal support providers rather than formal reporting systems (Ullman, 2010). These decisions can be protective for survivors, as formal reporting systems frequently respond negatively to disclosures (e.g., doubting, blaming, controlling) and such responses can be detrimental for survivors’ mental health (Campbell, 2008; Dworkin et al., 2019).

The service providers in our study also believed that these policies strip survivors of autonomy and the right to choose whether to pursue formal reporting procedures. Prior Title IX guidance (i.e., 2011 Dear Colleague Letter) stated that when a report is made, university officials must “take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation” (Ali, 2011, p. 5). Thus, a student who unknowingly discloses to a Responsible Employee could request that the Title IX Office not investigate the report. However, when a report is made, the final decision to pursue an investigation—whether in the university disciplinary process or the criminal justice system—lies in the hands of the institution. A survivor’s request to not investigate will be weighed against potential risk to campus safety and the institution can decide to conduct an official investigation if the incident is deemed a sufficient threat (Ali, 2011). Although the current administration within the OCR has since repealed the 2011 Dear Colleague Letter (Jackson, 2017), institutions are already following this practice. States are also encoding this practice into law. California and Virginia have passed state laws that require schools to notify law enforcement about sexual assaults (regardless of the survivors’ consent) under certain circumstances (e.g., the alleged perpetrator is judged to be an “ongoing threat”; Richards & Kafonek, 2016).

Drawing on their work with students, the service providers in this study strongly believed that mandatory reporting policies take control away from assault survivors and can be re-traumatizing. These beliefs align with the vast literature on sexual assault disclosure. Research finds that a key component to healing after sexual assault is regaining a sense of autonomy and control (Frazier, 2003; Walsh & Bruce, 2011; Zweig & Burt, 2007). Survivors experience greater psychopathology,
such as posttraumatic stress and depression, when support providers try to control
their decisions (Dworkin et al., 2019; Orchowski, Untied, & Gidycz, 2013; Peter-
Hagene & Ullman, 2014). Service providers were also concerned that the negative
effects of mandatory reporting policies could have a more detrimental impact
on students who are in vulnerable positions (e.g., first-year students, LGBTQ
students).

Our participants also discussed the ways in which mandatory reporting poli-
cies may be problematic for those designated as Responsible Employees. For
many employees—especially faculty members, resident assistants, and academic
advisors—the participants believed that being a Responsible Employee would
conflict with employees’ other job roles, such as building trusting and positive
relationships with students. Similarly, previous research with university victim
advocates found that being designated as a Responsible Employee hindered advok-
cates’ ability to assist survivors (Moylan, 2016). In addition to job role conflict,
participants also mentioned the confusion that arises when they are considered a
Responsible Employee in one role (e.g., student group advisor) and a confidential
resource in another (e.g., counselor). Several of our participants were concerned
that students may be unaware that an employee who is usually a confidential
service provider could be mandated to report a sexual assault disclosure in an-
other context. Some have argued that implementing universal mandatory reporting
policies—where every employee is required to report—can eliminate confusion
about who is and who is not required to report (e.g., Association of Title IX Ad-
ministrators, 2015), but our participants illustrate how this is not entirely true (e.g.,
if confidential counselors also hold other roles on campus that have mandatory
reporting duties).

In addition, service providers discussed the problems they perceived with
the implementation of mandatory reporting policies. First, participants expressed
concerns about the number and type of employees being designated as Responsible
Employees when institutions create their policies. Our participants understood why
employees in top leadership positions may need to be in mandatory reporting roles,
but did not believe that employees charged with supporting and protecting students
(e.g., resident assistants, advisors, professors) should be mandated to report sexual
assaults against a survivors’ wishes. According to these service providers, such
employees should be free to respect students’ decisions and not proceed with
a report if the student wants their disclosure to remain private. Under compelled
disclosure policies, the service providers in our study identify that survivors are not
the only ones who may be compelled to disclose against their will—Responsible
Employees may also be forced to disclose information that goes against what they
know would be best for the student. Thus, the requirement to report against a
survivors’ will could be experienced as “institutional betrayal” (Smith & Freyd,
2014) for both the student and the employee, for instance, by perceiving that the
inaccurate or harmful policies.

Another problem with implementation identified by our participants was the lack of transparency. Service providers were concerned that many students may not be aware of these policies and what they actually mean. Moreover, employees may not be aware of the type of information they are required to report and/or how to appropriately inform students that they are Responsible Employees. Participants also discussed the unique transparency concerns that arise for student employees, such as resident assistants. For instance, would a Responsible Employee resident assistant need to report a friend’s sexual assault disclosure or a classmate’s sexual assault disclosure? In their view, mandatory reporting policies are not implemented in a way that is desirable (or even feasible) for student employees. This lack of transparency fostered a climate of fear on campus—with students and employees left wondering what they can and cannot do under such policies. This climate of fear around reporting may jeopardize open communication between students and key campus members (e.g., faculty; Weiss & Lasky, 2017).

Participants believed some of these issues could be resolved with proper training. Most participants expressed that every Responsible Employee should receive high quality training on their responsibilities and best practices for supporting sexual assault survivors, including ongoing training on trauma-informed responses to disclosures, campus resources, and providing referrals. Unfortunately, service providers did not see comprehensive, trauma-informed training for Responsible Employees on university campuses. In a 2014 Q&A document, the OCR provided expectations for Responsible Employee training that outlined (1) the responsibility to inform survivors about their role as a mandatory reporter; (2) their obligation to report sexual assault; (3) the duty to explain all of the reporting options available to survivors; (4) survivors’ right to request confidentiality and/or confidential resources; and (5) how to respond appropriately to survivors’ disclosures (Lhamon, 2014). However, the current OCR administration repealed this guidance document in a 2017 Dear Colleague Letter (Jackson, 2017). The lack of official guidelines for Responsible Employee training is problematic, as inadequate training could contribute to employees responding inappropriately and causing survivors further trauma (e.g., asking questions that blame or doubt the victim; Campbell, 2008; Orchowski et al., 2013). In order to address this issue, some states (e.g., Massachusetts and Delaware) have proposed bills requiring training for Responsible Employees that is trauma-informed, survivor-centered, and comprehensive (Richards & Kafoneck, 2016).

Finally, when considering different university approaches to mandatory reporting, we found a clear preference for a student-directed approach. Every participant selected the “student-directed policy” as the best, the “selective mandatory reporting policy” as the middle, and the “universal mandatory reporting policy” as the worst approach. Perceived benefits of the student-directed policy included
that it provides students with options (e.g., seeking help from a confidential resource and/or making a formal report), respects the wishes of survivors (e.g., whether or not to report), and protects confidentiality. Some participants also saw the student-directed policy as striking a balance between the needs of the students and of the university. Service providers believed the universal approach was too broad (i.e., too many employees were mandatory reporters) and could create a chilling effect on campus (e.g., create barriers to help-seeking). Providers regarded the selective approach as lacking the benefits of the student-directed policy (i.e., explicit instructions to provide information and follow students’ wishes) but was, at least, more discriminating than the universal approach. However, these service providers’ perspectives do not reflect the actual policy approaches within institutions. Evidence suggests that most universities adopt a universal (or near universal) approach, few adopt a selective approach, and only one has adopted a student-directed approach (Holland et al., 2018).

Implications for Policy and Practice

Our findings demonstrate the need for more empirically informed approaches to mandatory reporting of sexual assault in higher education. From the experiences of the service providers in our sample, certain types of reporting policies may have more (unintended) consequences for students, employees, and campus communities. Although student-directed policy approaches appear to be rare, all of the service providers in our sample preferred this approach for both employees and survivors. While some institutions may hold concerns about whether a student-directed approach is compliant with Title IX guidance, a recent legal analysis outlines the ways that broader mandatory reporting policy approaches (e.g., universal mandatory reporting) can violate Title IX guidance (see Weiner, 2018). Our findings also identify the need for careful consideration of the boundaries of Responsible Employees’ roles and responsibilities. A “report everything you hear in any context” approach will be particularly problematic for employees who hold multiple roles, especially undergraduate resident assistants who are likely to encounter disclosures outside of their job (e.g., from friends, in classes). Institutions should carefully consider the potential harms to student survivors when designating mandatory reporters and establishing their reporting expectations.

Our findings also suggest the need for more comprehensive training for Responsible Employees. The service providers in our sample outlined potential improvements for training, including direction on how to respond to survivors’ disclosures in ways that are trauma-informed, education on all of the confidential resources available to survivors, and instruction on how to refer survivors to resources in a manner that is both supportive and compassionate. It would also be useful to provide more education about mandatory reporting policies for students and employees who are not Responsible Employees (e.g., who is and is
not required to report, what are they required to report and in what context, and which resources are confidential). The service providers in our sample discussed a general lack of knowledge of mandatory reporting among students and the confusion and fear this can cause for sexual assault survivors.

Limitations and Future Directions

Although the current study makes an important contribution to our understanding of mandatory reporting policies, it is not without limitations. First, all of the participants in the sample were employed at a single institution in the Midwest. Therefore, the generalizability of our findings to other institutional contexts may be limited. It would be useful for future research to build upon this work by investigating service providers' perceptions of mandatory reporting policies at a variety of institutions of higher education. This would provide more comprehensive insight into how service providers perceive the effects of mandatory reporting policies. It would be especially interesting to determine if service providers' perspectives differ across institutions that have implemented different mandatory reporting approaches (e.g., compare those at schools with a universal approach vs. a selective approach).

Second, our study focused on service providers. While service providers' perspectives are useful in gaining a more complex understanding of the effects of mandatory reporting policies, it is also essential for future research to investigate students' perceptions of mandatory reporting policies. Service providers may have differing perceptions of mandatory reporting policies than students. Future research should explicitly examine college students' impressions of mandatory reporting policies, how they have been implemented, and how they affect students' lives. This work would benefit from examining the perspectives of both sexual assault survivors and students who have not experienced assault.

Finally, our sample only includes the perspectives of campus service providers—most of whom occupied a “confidential” service provider role (e.g., counselor in the counseling center). More research is needed to understand mandatory reporting policies from the perspectives of different groups of employees. For example, groups of employees that warrant attention in future research include employees who are involved in reporting processes (e.g., Title IX Office employees, campus police officers), faculty members who are and are not Responsible Employees, and student employees who are designated as Responsible Employees.

Conclusion

The current study provides novel insight into mandatory reporting policies from the perspectives of campus service providers—who are employees and serve students who experience assault. Our findings suggest that service providers have
strong reservations about mandatory reporting policies, particularly those that designate all (or nearly all) employees as Responsible Employees. Although they believe these policies may have been implemented with good intentions, they identified how such policies may harm both survivors and employees. The lack of transparency in the implementation of mandatory reporting policies and training of Responsible Employees can create a climate of fear on campus, where neither survivors nor employees feel comfortable discussing sexual assault. Findings suggest the need for more empirically informed approaches to mandatory reporting of sexual assault in higher education and more comprehensive training for employees and students.

Acknowledgments

This research was made possible by Nebraska Tobacco Settlement Biomedical Research Development Funds and a Layman Seed Research Grant awarded through the University of Nebraska Foundation. We would like to thank the service providers who participated in this research and the research assistants who helped facilitate the study. The focus group transcripts are not publicly accessible to protect participant’s confidentiality, but a codebook containing a detailed list of codes, definitions, and example excerpts is accessible from the first author. This qualitative study was not preregistered.

References


Perceptions of Mandatory Reporting


24 Holland et al.

University of Oregon (2018). *Student directed employee responsibilities.* Retrieved from https://titleix.uoregon.edu/student-directed-employee-responsibilities


KATHRYN J. HOLLAND is an assistant professor of Psychology and Women’s & Gender Studies at the University of Nebraska-Lincoln.

ALLISON E. CIPRIANO is a graduate student in the Social-Cognitive Psychology program at the University of Nebraska-Lincoln.

T. ZACHARY HUIT is a graduate student in the Clinical Psychology program at the University of Nebraska-Lincoln.
To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit a chapter that has been accepted for publication in the 2021 edition of The Oxford Handbook of Psychology and Law I co-authored with my advisor Dr. Kathryn Holland. The chapter is titled "Emerging policy issues related to sexual violence in higher education: Investigation and adjudication procedures and mandatory reporting policies." I have attached the chapter here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral student
Social Psychology
Department of Psychology
University of Nebraska- Lincoln
Emerging policy issues related to sexual violence in higher education:
Investigation and adjudication procedures and mandatory reporting policies

Allison E. Cipriano 1
Kathryn J. Holland 2

1 Department of Psychology, University of Nebraska, Lincoln, Nebraska
    allison.cipriano@huskers.unl.edu

2 Department of Psychology and Women’s & Gender Studies Program, University of Nebraska,
    Lincoln, Nebraska

*Accepted for publication in the 2021 edition of The Oxford Handbook of Psychology and Law
I. Introduction

Sexual misconduct is a pervasive and harmful issue within universities across the U.S. (Coulter et al., 2017; Fedina et al., 2016). The term sexual misconduct, used throughout this chapter, refers to all forms of sex- and gender-based discrimination that institutions of higher education must address according to federal and state laws, including rape, sexual assault, sexual harassment, gender-based harassment, stalking, and intimate partner violence. In this chapter, we review two emerging policy issues regarding sexual misconduct in institutions of higher education: (1) investigation and adjudication procedures and (2) mandatory reporting policies.

We first clarify terminology that will be used in this chapter when referring to those who have experienced and been accused of sexual misconduct. Next, we review key policymaking regarding sexual misconduct investigation and adjudication and discuss a current and controversial issue in these procedures—due process and the use of live hearings with direct cross-examination. We then provide an overview of mandatory reporting policies for sexual misconduct, reviewing federal guidance and state legislation that have shaped these policies and discuss the important issue of survivor autonomy and control in reporting decisions. Finally, we discuss recommendations for policy reforms and future research on these two issues.

Terminology

When describing those who have experienced sexual misconduct, there is continued debate regarding using the terms victim versus survivor. Both terms, “victim” and “survivor,” are used by those who have experienced misconduct (Hockett & Saucier, 2015) and we use them interchangeably to describe those who have experienced sexual misconduct. The term complainant is used when referring to victims who have reported sexual misconduct, and the
term respondent is used when referring to those who have been accused of sexual misconduct. The terms college and university are used interchangeably for institutions of higher education.

II. Investigation and Adjudication Procedures

Background

There are two main federal laws that have shaped how universities investigate and adjudicate sexual misconduct after it has been reported, Title IX and the Clery Act. Title IX of the Educational Amendments of 1972 is a civil rights statute prohibiting discrimination on the basis of sex within educational institutions receiving federal funding. The application of Title IX to cases of sexual misconduct has been established through case law and federal guidance. In 1980, Yale students successfully argued that sexual harassment was a form of sex discrimination prohibited under Title IX (Alexander v. Yale University, 1980). Following Alexander v. Yale University, the Supreme Court ruled multiple times that students who report instances of sexual misconduct perpetrated by an employee or fellow student are able to sue their school for monetary damages under Title IX if the educational institution does not demonstrate an adequate response to their report (including in Franklin v. Gwinnett County Public Schools in 1992, Gebser v. Lago Vista Independent School District in 1998, and Davis v. Monroe County Board of Education in 1999). In addition, The Department of Education Office for Civil Rights (OCR)—the federal office responsible for enforcing Title IX—has issued guidance on investigation and adjudication procedures for sexual misconduct. In 1997, the OCR first provided guidance regarding how educational institutions must respond to student reports of sexual misconduct under Title IX; for instance, schools must adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment (U.S. Department of Education, 1997). The OCR released a revised guidance in
2001, clarifying that the requirements for institutional response to sexual misconduct must be enforced even in circumstances where the complainant is not eligible for a monetary damage claim under Title IX (U.S. Department of Education, 2001). Ten years later, President Obama’s administration took significant steps to ensure that educational institutions were adequately responding to sexual misconduct. In 2011, the OCR issued a *Dear Colleague Letter* (DCL) reminding schools of their responsibility to take immediate and effective action in response to sexual misconduct reports and issued new recommendations for investigation and adjudication processes (e.g., training all persons involved in implementing grievance procedures in handling complaints of sexual misconduct, using the preponderance of evidence standard, aiming to resolve complaints within 60 days, providing equal opportunity to complainants and respondents to present witnesses and evidence, providing complainants and respondents written and concurrent notice of outcomes and the opportunity to appeal a decision; U.S. Department of Education, 2011). The 2011 DCL also reiterated that informal processes (i.e., mediation) would not be appropriate for resolving sexual misconduct reports involving sexual assault, which was originally established in the OCR 2001 revised guidance on sexual harassment. In 2014, the OCR released a Questions and Answers (Q&A) document further clarifying universities’ obligations under Title IX (U.S. Department of Education, 2014). These guidance documents provided specific recommendations for creating investigation and adjudication procedures that are equitable for complainants and respondents (U.S. Department of Education, 2011, 2014).

The second federal law that has substantially shaped sexual misconduct reporting procedures is The Clery Act. In 1990, Congress passed the Student Right-to-Know and Campus Security Act (later termed The Clery Act, 20 U.S.C.A. § 1092), which requires colleges and universities receiving federal funding to collect and distribute information about the prevalence
of sex-related crimes on and near campus (U.S. Department of Education, 2016). Institutions are required to publish an Annual Security Report (ASR) that summarizes statistics on the types and locations of crimes committed and describes information about the institution’s procedures for reporting sexual misconduct. In 2014, the Campus SaVE Act was signed into law as part of the 2013 reauthorization of the Violence Against Women Act (VAWA). The Campus SaVE Act amended The Clery Act, expanding its legislative scope with regard to university response to sexual misconduct. For instance, The Campus SaVE Act required that institutional policy include a statement of the standard of evidence used to determine responsibility (although, it does not prescribe an evidentiary standard) and the sanctions that may be imposed after a determination of responsibility. Additionally, this law required that university officials conducting the investigation and adjudication proceedings be trained to investigate and conduct hearings with methods that protect the safety of the victim and promote accountability, allow both complainants and respondents to have an advisor of choice present during a disciplinary proceeding, and simultaneously notify the complainant and respondent of the outcome in writing.

In addition, states have introduced laws relating to sexual misconduct on college campus, including investigation and adjudication procedures (Richards & Kafonek, 2016). For example, Massachusetts HB 1041 required that university employee training around sexual misconduct be trauma-informed, Virginia SB 1193 required that a transcript notation of disciplinary proceedings be provided for sexual violence convictions, and Louisiana A 255 mandated a transcript hold during the sexual misconduct disciplinary process (Richards & Kafonek, 2016). Although not all of the introduced legislation will become law, there is a clear trend of increasing state intervention in university investigation and adjudication procedures for sexual misconduct.

**Current Issues**
The increased attention to improving the investigation and adjudication of sexual misconduct within institutions of higher education via federal and state policymaking was driven, in large part, by survivor activists. College students who experienced and reported sexual misconduct shared their personal stories of how the inadequate and inequitable university responses often exacerbated their trauma (Behre, 2020). For instance, survivors described being discouraged from initiating an investigation and being retaliated against when they reported (e.g., Huckabee, 2013; Kingkade, 2016). An article published in the Huffington Post detailed how rarely students found responsible for sexual misconduct were suspended or expelled (Kingkade, 2014) and the documentary The Hunting Ground (Kirby & Dick, 2015) drew further public attention to universities failing to appropriately investigate and adjudicate sexual misconduct. Students also helped increase the public’s awareness of Title IX and the OCR’s role in holding universities accountable for failing to respond appropriately to sexual misconduct reports (Pérez-Peña, 2013), resulting in hundreds of Title IX complaints being filed with the OCR (The Chronicle of Higher Education, n.d.). These efforts were a call to establish investigation and adjudication procedures that are equitable for complainants and respondents but also avoid retraumatizing victims during the process.

For example, the 2011 DCL and 2014 Q&A documents did not require live hearings and discouraged direct cross-examination (i.e., a respondent or an advisor for the respondent is able to directly question a complainant and witnesses). The use of direct cross-examination of complainants in sexual misconduct cases takes advantage of common myths about sexual violence (Smith & Skinner, 2012, 2017) and exacerbates trauma responses in sexual misconduct survivors (Chou et al., 2018; Konradi 2007; Parsons & Bergin, 2010; Valentine & Maras, 2011). Cross-examination in sexual misconduct cases is not intended to uncover an accurate and
unbiased account of the reported incident; instead, defense lawyers (or in the case of university disciplinary procedures, a respondent’s advisor) frequently use leading and close-ended questions to interrogate complainants in an effort to control evidence and offer a plausible alternative story (Smith & Skinner, 2012, 2017; Zajac & Cannan, 2009). Cross-examination frequently draws on deeply held myths and misunderstandings of sexual violence, depicting the complainant’s behavior as inconsistent with a “real victim” (Smith & Skinner, 2012, 2017). Legal scholars have argued that “cross-examination, by definition, represents an attempt to discredit the witness” (Zajac & Cannan, 2009 p. 48). Thus, in the effort to establish equitable procedures and avoid further trauma for survivors, the OCR recommended indirect questioning in which the complainant and respondent could submit questions to a trained hearing panel who would determine the relevance of the questions and ask the questions of the respective parties (U.S. Department of Education, 2014)—a procedure that was already in use by universities and was determined to offer respondents sufficient opportunity to probe complainant and witness statements (Migler, 2017).

However, in response to the OCR’s renewed focus on university response to sexual misconduct, a “disciplined student” narrative emerged (Behre, 2019; 2020). So called “men’s rights” groups (e.g., Families Advocating for Campus Equality, the National Coalition for Men Carolinas, and Stop Abusive and Violence Environments) openly opposed the 2011 DCL and lobbied for increased due process rights for respondents (see Barthélemy, 2020 for review). These groups asserted that universities have overcorrected for their earlier failures by “adopting a presumption of guilt for all male students reported for sexual misconduct violations” (Behre, 2020, p. 110). For instance, they contend that the preponderance of the evidence standard of proof can yield greater consequences (e.g., expulsion, suspension) than typically results from
civil cases where the preponderance of the evidence standard is used and that investigation and adjudication procedures are not in line with the procedural safeguards they are constitutionally guaranteed (Johnson, 2012; New, 2015). This narrative has been bolstered by some university faculty who penned open letters and books supporting these positions (Bartholet, et al., 2017; Kipnis, 2017). Those accused of sexual misconduct have positioned themselves as victims of overzealous and wrongful discipline by universities (Behre, 2020). U.S. courts have received a substantial influx of litigation from students accused of sexual misconduct, alleging their due process rights were infringed upon in the investigation and adjudication of sexual misconduct (Buzuvis, 2017). Men’s rights activists also met a sympathetic ear from OCR leadership under the Trump administration (Barthélemy, 2020).

In 2017, the Department of Education released a new *Dear Colleague Letter*, which rescinded both the 2011 DCL and 2014 Q&A documents and stated its intention to develop new Title IX regulations, citing concerns about adequate due process rights for students accused of sexual misconduct (U.S. Department of Education, 2017). The OCR released proposed regulations in 2018, which included a myriad of requirements for investigation and adjudication procedures, including a mandate that postsecondary institutions conduct live hearings with direct cross-examination to resolve formal sexual misconduct complaints (U.S. Department of Education, 2018). A 60-day Notice and Comment period followed the proposal of new regulations, during which over 124,000 public comments were received by the Department of Education (U.S. Department of Education, 2020). In May 2020, the Department of Education released a 2,033-page document detailing the final regulations, discussing the public comments on the proposed regulations submitted during the Notice and Comment period, and providing justifications for the final regulations (U.S. Department of Education, 2020). Several notable
changes have been made in the new regulations; institutions of higher education are no longer required to: resolve sexual misconduct complaints within 60 days, use the preponderance of the evidence standard in disciplinary hearings, or avoid informal mediation for sexual assault reports (U.S. Department of Education, 2020). Although, one of the most controversial changes was the requirement that universities conduct live hearings with direct cross-examination (§106.45 (b)(6)(i)). The Department of Education asserted that adversarial cross-examination was needed to ensure due process protections for respondents due to “credibility” issues within sexual misconduct allegations (U.S. Department of Education, 2020).

Two Supreme Court cases in the 1970s established initial parameters on the due process protections that must be afforded to students accused of misconduct within a disciplinary hearing. *Goss v. Lopez* (1975) ruled that (public school) students who may be temporarily suspended from school are entitled to notice of the case against them and an opportunity to have their account heard prior to disciplinary action. *Mathews v. Eldridge* (1976) then established a “balancing test” that lower courts can use to determine whether or not a respondent received adequate due process within a disciplinary proceeding. While private colleges enjoy a greater level of discretion in investigating and adjudicating student code violations, they are not able to dismiss a student “arbitrarily or capriciously” and must provide the students accused of misconduct with procedural protections that meet a “basic fairness” standard (Behre, 2020).

Although the recent Department of Education regulations on Title IX frame cross-examination as a due process right for students accused of sexual misconduct, courts are split on this issue. A few recent cases have ruled in favor of cross-examination as a means of ensuring due process for respondents in sexual misconduct disciplinary proceedings. In *Doe v. University of Cincinnati* (2017), the Sixth Circuit Court of Appeals ruled that due process rights require the
opportunity to cross-examine one’s accuser to assess their “credibility” in the “most serious cases” (i.e., sexual assault). In *Doe v. Baum* (2018), the Sixth Circuit Court of Appeals again ruled that “if a public university has to choose between competing narratives to resolve a case, the university must give the accused student or his agent an opportunity to cross examine the accuser and adverse witnesses in the presence of a neutral factfinder.” Additionally, in *Doe v. Allee* (2019), the California Court of Appeal, Second Appellate District ruled that when a student accused of sexual misconduct faces “severe” disciplinary sanctions and the “credibility” of witnesses is central to the adjudication of the allegation, “fundamental fairness requires, at a minimum, that the university provide a mechanism by which the accused may cross-examine those witnesses, directly or indirectly, at a hearing in which the witnesses appear in person or by other means (e.g., videoconferencing) before a neutral adjudicator with the power independently to find facts and make credibility assessments.”

However, far more courts have ruled that live and direct cross-examination is not required to provide due process for an accused student in university disciplinary procedures, including the First, Second, Fourth, Fifth, Tenth, and Eleventh Circuit Courts, and district courts in the Seventh and Eighth Circuits (Migler, 2017). For instance, in *Plummer v. University of Houston* (2017) the Fifth Circuit determined that the university had granted respondents adequate due process rights by allowing the respondents to cross-examine witnesses through written questions, testimony, and witness presentation. Further, the First Circuit decision in *Haidak v. University of Massachusetts-Amherst* (2019) explicitly contradicts *Doe v. Baum* (2018) and *Doe v. Allee* (2019), asserting that direct cross-examination is not required for due process in sexual misconduct proceedings. Instead, the court ruled that due process of law was satisfied if the
university conducted “reasonably adequate questioning” (p. 26), such as indirect cross-
examination through a hearing panel (Haidak v. University of Massachusetts-Amherst, 2019).

In sum, while some courts have ruled that live hearings with cross-examination are necessary to provide accused students their due process rights, many others have determined that live and direct cross-examination is not necessary for due process and that indirect questioning sufficiently allows respondents to probe complainants’ allegations. Some state lawmakers have attempted to intervene on this issue as well, for instance California Senate Bill 493 (passed in 2020) states that cross examination cannot be conducted directly by a party or a party’s advisor, in direct contradiction to the Department of Education’s 2020 regulations on Title IX. Criticism of university response to sexual violence has continued alongside these inconsistent legislative decisions, with student survivors asserting that universities are not addressing their sexual misconduct claims well enough while accused students argue that university adjudication procedures are acting against their constitutional due process rights (Goldman, 2020). Scholars have also continued to weigh in on this issue, with recent arguments stating that students accused of sexual misconduct actually have more due process rights than students accused of other types of code violations (Goldman, 2020), and that the centering of respondent rights has resulted in student survivors being “pushed off the scales of justice” (Goldman 2020, p. 319).

III. Mandatory Reporting Policies

Background

Mandatory reporting policies refer to university policies that require certain employees to report experiences of sexual misconduct that they learn about to university officials—or, in some cases, law enforcement—regardless of whether or not the victim wants their experience to be reported (Holland et al., 2018). Mandatory reporting policies have been shaped by federal law,
including The Clery Act and Title IX. The Clery Act requires colleges to assign individuals to the role of Campus Security Authority, who are responsible for reporting aggregate information about crimes (e.g., crime type and location) to inform the university’s Annual Security Report (U.S. Department of Education, 2016). Because the Clery Act does not require reporting of victims’ names or other identifying information, we will not be focusing on Campus Security Authorities in this chapter. Title IX guidance has also driven mandated reporting. In the 2001 revised guidance on sexual harassment, the OCR required universities to assign some employees into the role of “Responsible Employee” (U.S. Department of Education, 2001). Responsible Employees were defined as employees with the “authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees, or an individual who a student could reasonably believe has this authority or responsibility” (U.S. Department of Education, 2001, p. 13). These employees would be required to report any sexual misconduct they learn about to university officials (e.g., the Title IX Coordinator) and reports may include identifying information about the victim, perpetrator, and witnesses, when it is known. The OCR retained this definition of Responsible Employees in the 2014 Q&A guidance, with the slight adjustment of using the term “sexual violence” instead of “sexual harassment,” and offered best practices for training Responsible Employees (U.S. Department of Education, 2014).

Neither the Clery Act nor Title IX guidance require universities to report sexual misconduct cases to the police. In fact, the Campus SaVE Act stipulates that victims must retain the choice to report to the university, the police, both, or neither. However, state lawmakers have introduced bills that would require universities to report sexual misconduct to law enforcement. In 2015, both California and Virginia passed laws that require university administrators to report
sexual misconduct to local law enforcement under certain circumstances and other states have introduced similar bills (e.g., Utah House Bill 326 and Georgia House Bill 51 in 2017, although neither have been signed into law). California Assembly Bill 636 (2015) states that postsecondary institutions must report sexual assault to law enforcement when the victim has made a report “for purposes of notifying the institution or law enforcement,” but that the institution should not identify the victim “unless the victim consents to being identified.” However, the alleged assailant can be identified “even if the victim does not consent to being identified, if the institution determines both that the alleged assailant represents a serious or ongoing threat to the safety of students, employees, or the institution” (California Assembly Bill 636, 2015). Virginia House Bill 1930 (2015), on the other hand, offers no option for victim anonymity. University Title IX Coordinators are required to refer sexual assault reports to a committee that will review the report and will then disclose the incident to law enforcement—including personally identifiable information—if they determine that it is necessary to “protect the health and safety of the victim or other individuals” (Virginia House Bill 1930, 2015).

Current Issues

A major issue around mandatory reporting policies that has been raised by survivor-activists and scholars is that they strip survivors of autonomy and control (Deamicis, 2013; Holland et al., 2018). After experiencing sexual violence, regaining one’s sense of autonomy and control is an important component of the healing process (Frazier, 2003; Walsh & Bruce, 2011). Survivors report increased symptoms of posttraumatic stress and depression when support providers respond by taking away their control (Orchowski et al., 2013; Peter-Hagene & Ullman, 2014). Researchers find that survivors are less supportive of mandatory reporting policies compared to non-victims (Holland, 2019a; Newins et al., 2018; Newins & White, 2018) and
survivors overwhelmingly prefer policies that grant them autonomy and control over the decision to report (Holland et al., 2020a). Moreover, many student survivors lack knowledge about their university’s sexual misconduct reporting policy (Amin, 2019; Holland et al., 2020a), which means they may disclose experiences of sexual misconduct to university employees without adequate knowledge about the employees’ reporting requirements.

Despite these concerns, institutions of higher education across the U.S. have implemented expansive mandatory reporting requirements. The majority of institutions require all or nearly all of their employees to report any instance of sexual misconduct they learn about to university officials, even if the victim does not consent to the report (Holland et al., 2018). The move toward these “universal” or “wide-net” reporting policies is based in assumptions that mandated reporting will benefit survivors and increase reports of sexual misconduct, thereby allowing universities to investigate and resolve more sexual misconduct cases (Holland et al., 2018). However, available empirical evidence does not support these assumptions (see Holland et al., 2018 for review). Fewer institutions have taken a more nuanced approach to crafting mandatory reporting policies. For example, some schools have implemented selective mandatory reporting policies, which limit those who are required to report to employees in leadership positions and employees in other roles with significant responsibility over student welfare (e.g., housing staff; Holland et al., 2018). In addition, at least one university (University of Oregon) has implemented a student-directed reporting policy, which designates a limited list of employees as mandatory reporters and requires all other employees to provide survivors who disclose with information, resources, and support (Holland et al., 2018; Holland et al., 2019a).

The OCR defined Responsible Employees but did not provide a prescriptive mandate about which campus community members should be assigned this role, leading to the variability
in how colleges and universities have interpreted and implemented the mandatory reporter mandate (Holland et al., 2018). The most recent regulations on Title IX from the OCR more explicitly states that institutions do not need to designate all employees as mandatory reporters, leaving “each institution flexibility to decide whether the institution desires all (or nearly all, or some subset) of its employees to be ‘mandatory reporters’ who must report notice of sexual harassment to the Title IX Coordinator” (U.S. Department of Education, 2020, p.1959-1960). The 2020 regulations made another notable change regarding mandated reporting of sexual misconduct, which deserves some explanation.

The 2020 regulations removed the title of “Responsible Employee” and introduced the role of “Official with Authority” (U.S. Department of Education, 2020). The regulations stipulate that institutions are only obligated to respond to sexual misconduct when “any official of the recipient who has authority to institute corrective measures on behalf of the recipient” (referred to herein as ‘officials with authority’) conveys actual knowledge to the recipient” (U.S. Department of Education, 2020, p. 30039, emphasis added). Complainants are only able to sue their school for monetary damages under Title IX if the institution had actual knowledge of the misconduct (Davis v. Monroe County Board of Education, 1999; Gebser v. Lago Vista Independent School District, 1998), but all previous Title IX guidance has stated that schools can be considered in violation of Title IX guidance by the OCR if they knew or should have known about the misconduct (e.g., due to its pervasiveness) and failed to respond. Thus, within the 2020 regulations, the explicit statement that schools can limit the number of mandatory reporters is coupled with a reduction in institutional responsibility to address sexual misconduct.

While federal guidance has moved away from universal mandated reporting, state laws have introduced more expansive and restrictive policies. For instance, Texas Senate Bill 212
(passed in 2019) requires all college employees to report any sexual misconduct involving a student to the institution’s Title IX coordinator, and those who fail to report can be fired and charged with a class B misdemeanor punishable by up to 180 days in jail and a $2,000 fine. Passed in August of 2020, *California Senate Bill 493* requires federally funded institutions of higher education to designate nearly all of their employees as mandatory reporters, including (but not limited to) housing staff, faculty members, lecturers, graduate student instructors, lab directors and principal investigators, and internship and study abroad directors. In effect, nearly every university employee in the state of California is now mandated to report sexual misconduct, regardless of the wishes of the survivor disclosing to them. These state laws could serve as a model for other states, leading to increased imposition of universal mandated reporting and severe consequences for non-compliance (e.g., employment termination, incarceration), without recognition of how such policies may harm survivors (e.g., stripping their autonomy).

**IV. Recommendations for Policy & Future Research**

When examining current issues concerning investigation and adjudication procedures and mandatory reporting policies, a common problem is that these mechanisms intended to address sexual misconduct do not consider those who experience sexual misconduct. There has been a shift toward centering the rights of those accused of misconduct in university investigation and adjudication procedures. Further, most university mandatory reporting policies offer few options for survivors to control what happens to their personal information when they disclose to university employees. In these policy decisions, the wishes and consent (or lack thereof) of survivors are not being considered, whether they want their sexual misconduct experience to be reported or whether they want to endure live cross-examination in disciplinary proceedings. As previously stated, policies that do not consider survivors’ needs can be harmful, as regaining
control and autonomy are key components of the healing process following sexual victimization (Frazier, 2003; Walsh & Bruce, 2011). The recommendations outlined below shifts the focus back to those who have experienced sexual misconduct.

**Policy Recommendations**

First, we recommend investigation and adjudication procedures that allow for indirect cross-examination, which entails both parties submitting questions to a trained investigator and/or hearing panel who will determine the relevance of the submitted questions and ask the questions of the respective parties. Requiring adversarial cross-examination in this context—which is explicitly aimed at interrogating and undermining the “credibility” of those who have reported sexual misconduct—offers inadequate due process protections for complainants and can further traumatize survivors (Holland et al., 2020b; Konradi, 2007; O’Toole, 2017). Case law overwhelmingly allows indirect cross-examination to probe complainant, respondent, and witness statements (Migler, 2017).

Second, we recommend survivor-centered mandatory reporting policies that (1) limit the number of employees who are designated as mandatory reporters and clearly communicate which employees are mandatory reporters, (2) set reporting exemptions (e.g., a report is not required if an employee learns about misconduct in a class assignment), and (3) afford survivors control over whether a report will be made to university officials and/or law enforcement. While (currently) uncommon, survivor-centered policies do exist. The University of Oregon is an excellent example of a student-directed policy, in that most employees are required to provide a student who discloses sexual misconduct with information about campus resources and reporting options, ask whether the student wants a report to be made, and respect the student’s decisions (University of Oregon, 2018, para. 1). A different approach has been taken by Tulane
University’s “care connection” policy, in which employees are required to report sexual misconduct disclosures to victim support services. While the Title IX coordinator is informed of incidents (i.e., copied on the care connection message), it is trained advocacy staff who reach out to survivors instead of Title IX investigators (Tulane University, 2020). Both the University of Oregon and Tulane University policies outline reporting exceptions, including disclosures made within an academic context (e.g., discussions and assignments). These policies serve as helpful models for other universities interested in shifting to a more survivor-centered policy approach.

Future Research Recommendations

Additional research is needed to further our understanding of the policy issues outlined in this chapter. First, research is needed to further understand survivors’ experiences with university investigation and adjudication procedures, particularly their experiences in live hearings with cross-examination. Given the new Department of Education Title IX regulations requiring live hearings allowing for cross-examination in university sexual misconduct cases, students will be increasingly subjected to this type of hearing process. While research on cross-examination of sexual violence survivors already exists, there is a lack of research on live hearings with cross-examination of survivors within the university disciplinary hearing context. Research is needed to understand the actions (or lack of actions) that institutions are taking to minimize harm to survivors in disciplinary hearings. For instance, the new Title IX Regulations did not require universities to implement trauma-informed training for those who are conducting or presiding over cross-examination in disciplinary hearings (Holland et al., 2020b). This work will be helpful in informing policy makers about the experiences of students seeking justice through university investigation and adjudication procedures and ways to improve these processes.

Future research might also investigate survivors’ perceptions of different mandatory
reporting policy models. There is limited research on this topic, but some emerging evidence suggests that survivors prefer student-directed approaches over other models (e.g., selective, universal; Holland et al., 2020a). Further, research is needed to understand the factors that driving people’s support for expansive mandatory reporting policies, including survivors (i.e., which survivors support mandatory reporting and why?) and other key groups (e.g., university administrators, state lawmakers). For example, some research suggests that survivors are less supportive of mandatory reporting because they lack trust in how the university responds to sexual assault reports (Holland, 2019b). Larger, more representative samples examining the reasons why people support policies that mandate reporting without victim consent will be helpful in informing efforts to create more survivor-centered reporting policies.

References


Alexander v. Yale University, 631 F.2d 1781980 (1980).


Davis v. Monroe County Board of Education, No. 97–843 (11th Cir. 1999).


Doe v. Baum, 903 F.3d 575 (6th Cir. 2018).

Doe v. University of Cincinnati, 872 F.3d 393 (6th Cir. 2017).


**Franklin v. Gwinnett County Public Schools,** 503 U.S. 60 (1992)


**Goss v. Lopez,** 419 U.S. 565 (1975)


Postsecondary institutions; reporting and investigation of certain crimes by officials and employees; provide manner, H.B. 51. Georgia General Assembly (2017–2018).


https://doi.org/10.1177/0964663916680130


Walsh, R. M., & Bruce, S. E. (2011). The relationships between perceived levels of control,
psychological distress, and legal system variables in a sample of sexual assault survivors.


To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit an article my PhD advisor, Dr. Kathryn Holland, authored along with topic expert Dr. Lillia Cortina that was published in the highly reputable journal *American Journal of Community Psychology*. The article is titled “*It Happens to Girls All the Time*: Examining Sexual Assault Survivors’ Reasons for Not Using Campus Supports.

I have attached the article here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.  
Doctoral candidate  
Social Psychology  
Department of Psychology  
University of Nebraska- Lincoln
"It Happens to Girls All the Time": Examining Sexual Assault Survivors’ Reasons for Not Using Campus Supports

Kathryn J. Holland and Lila M. Cortina

Highlights

- Identifies reasons why college students who experience sexual assault do not use formal sources of support on campus.
- Examines how reasons for not using formal supports differ across sources of support: Title IX Office, sexual assault center, and housing staff.
- Provides an in-depth, contextual understanding of sexual assault survivors’ use and avoidance of campus supports in the wake of substantial policy change.
- Contributes recommendations for institutional policy and practice based on findings, including taking a stronger stance against “less serious” forms of sexual assault, reducing a quasi-criminal justice approach to investigation and adjudication, and limiting mandated reporting.

Abstract

Sexual assault is a prevalent problem in higher education, and despite the increasing availability of formal supports on college campuses, few sexual assault survivors use them. Experiencing sexual assault can have devastating consequences on survivors’ psychological and educational wellbeing, which may intensify if survivors do not receive adequate care. Drawing from existing theoretical frameworks and empirical research, this study used a mixed methodological approach to examine why survivors did not use three key campus supports—the Title IX Office, the sexual assault center, and housing staff—and if these reasons differed across the three supports. Using data from 284 women who experienced sexual assault in college, our qualitative findings identified four overarching themes, including logistical issues (e.g., lacking time and knowledge), feelings, beliefs, and responses that made it seem unacceptable to use campus supports, judgments about the appropriateness of the support, and alternative methods of coping. Quantitative findings revealed that survivors’ reasons for not seeking help differed across supports. Collectively, our findings suggest that community norms and institutional policies can make it challenging for survivors to use campus supports. We propose several suggestions for institutional change (e.g., taking a stronger stance against “less serious” forms of sexual assault, reducing a quasi-criminal justice approach to investigation and adjudication, limiting mandated reporting).

Keywords College students • Sexual assault • Help seeking • Support systems

Introduction

Approximately 20–25% of women are sexually assaulted in college (Fedina, Holmes & Backes, 2016; Fisher, Cullen & Turner, 2000). Sexual assault can have a devastating effect on survivors’ lives, psychologically (e.g., depression, posttraumatic stress, suicidality; Chang et al., 2015; Kaltman, Krupnick, Stockton, Hooper & Green, 2005) and academically (e.g., low GPA, withdrawal from school; Jordan, Combs & Smith, 2014; Mengo & Black, 2016). These negative outcomes may intensify if a survivor does not receive adequate care and assistance.

Within recent years, federal and institutional policies have attempted to address this issue, and many college students have more formal support options than survivors in other contexts; yet, very few student survivors report or seek help (Sabina & Ho, 2014). This study used a mixed methodological approach to examine why survivors did
not seek help from three key campus supports—the Title IX Office, the sexual assault center, and housing staff—and if these reasons differed across the three supports. Our qualitative and quantitative analyses provide an in-depth, contextual understanding of sexual assault survivors use of campus supports in the wake of substantial policy change.

Formal Supports for Sexual Assault Survivors on Campus

Within the last 6 years, there have been substantial shifts in federal and institutional policies to address sexual assault on college campuses. The Department of Education Office for Civil Rights (OCR) Dear Colleague Letter provided additional guidance around sexual assault as a prohibited form of sex discrimination in higher education (Ali, 2011). This guidance requires universities to appoint a Title IX coordinator who will ensure compliance with Title IX, oversee complaints, and provide other important services (e.g., training employees; Ali, 2011). Additionally, universities must establish clear procedures for reporting sexual assault, including the Title IX coordinator’s office and contact information and where a complaint can be filed (Ali, 2011). As a result, schools have created specific positions/offices to address sexual assault (e.g., reporting, investigating, sanctioning, providing accommodations); while the specific titles will differ across campuses, we refer to this support as the Title IX Office. The Title IX Office handles all official reports and grievance procedures.

Additionally, the OCR encourages universities to provide comprehensive resources for survivors that can provide services and support. Although resources vary across campuses, many universities have centers specifically for sexual assault (Carmody, Ekhomu & Payne, 2009). Sexual assault centers (SACs) place survivors’ needs and interests at the very center of their mission, and specially trained advocates can provide a range of services, such as explaining reporting procedures, providing support during an investigation, and connecting the survivor to other resources. Moreover, the OCR encourages universities to designate SAC employees as confidential—meaning they will not share a survivor’s personally identifying information with the police or campus officials, unless she/he explicitly asks them to (Lhamon, 2014).

University housing staff members are another potential resource for survivors. For example, Resident Assistants (RAs) play an important role in students’ lives, with responsibilities like building community and trusting relationships with their residents, intervening during crisis situations, and providing referrals to campus resources. Housing staff members are also increasingly mandated to manage students’ sexual assault disclosures (Letarte, 2014). For instance, many universities are designating housing staff as “Responsible Employees,” which means (under Title IX guidance) that they have a duty to report all information about a sexual assault disclosure to the Title IX coordinator or another designee (Ali, 2011; Lhamon, 2014). As Responsible Employees, housing staff would be required to report an assault to the university even if that goes against the express wishes of the survivor. In addition, the OCR states that Responsible Employees’ responsibilities also include explaining confidentiality and providing information about possible accommodations (e.g., changing classes) and resources (Lhamon, 2014).

Despite an increasing availability and variety of supports on college campuses, students who are sexually assaulted rarely use formal supports (Sabina & Ho, 2014). To date, most research on students’ use of formal supports has examined reporting to the police. According to national studies, only 2–11% of college women report sexual assault to law enforcement (Fisher, Daigle, Cullen & Turner, 2003; Wolitzky-Taylor et al., 2011). Less research has focused on survivors’ reliance on campus supports, but this also appears to be rare. For instance, studies have found that only 0% to 5.3% survivors made a formal grievance through university reporting procedures (Fisher et al., 2003; Lindquist et al., 2013). Similarly, 0% to 17.8% of survivors sought help from SACs or women’s centers on campus (Kreb, Lindquist, Warner, Fisher & Martin, 2007; Nasta et al., 2005; Wolitzky-Taylor et al., 2011). These studies provide important descriptive information on the incidence of (non)disclosure, but more research is needed to understand reasons for non-disclosure. Moreover, no study to date has closely investigated survivors’ disclosures to housing staff, which are an important source of support on college campuses.

Survivors’ Help Seeking

Survivors who do not seek help report greater psychological distress and symptoms of depression and PTSD (Ahrens, Stansell & Jennings, 2010). However, seeking help from formal supports is not always feasible, suitable, or even beneficial. Survivors are more likely to disclose to informal help providers first, and they are more likely to receive positive reactions from informal support providers and more likely to receive negative reactions from formal support providers (Ahrens, Campbell, Tremier-Thames, 2014). The OCR does not require all universities to designate all undergraduates RAs as Responsible Employees. Housing staff do have reporting requirements as a Campus Security Authority (CSA) under the Clery Act (34 CFR 668.46(a)), which only requires reporting aggregate, non-identifying information about sexual crimes to campus officials.
Wasco & Seif, 2007; Starzynski, Ullman, Filipas & Townsend, 2005; Ullman, 1996). Some studies find that survivors who receive positive support from formal and informal sources report better mental health (Ullman, 1999). On the other hand, unsupportive reactions (e.g., asking questions that are intrusive, communicating doubt and blame) exacerbate survivors’ distress (Ahrens et al., 2007; Orchowski, Untied & Gidycz, 2013; Ullman, 1999). Although seeking help from formal campus supports may not be the first or best choice for all survivors, these supports have the capacity to provide essential resources for recovery, including information, emotional support, housing and/or academic accommodations (e.g., moving the perpetrator to a different residence hall). Moreover, policy makers and administrators are putting a lot of time and resources into creating formal campus supports. Thus, it is crucial to better understand the reasons why survivors are not using them.

However, there is a lack of systematic, theoretical conceptualization of the reasons why college student survivors are not using available services (Sabina & Ho, 2014). Nearly all research has presented survivors a list of possible reasons that they chose not to report to the police or use campus supports (with twelve options, on average). Some of these studies use or adapt items from national surveys, such as the National Violence Against Women Survey (e.g., Thompson, Sitterle, Clay & Kingree, 2007; Zinzow & Thompson, 2011) and the National College Women Sexual Victimization Survey (e.g., Fisher et al., 2003; Walsh, Banyard, Moynihan, Ward & Cohn, 2010); others have developed their own list (e.g., Allen, Ridgeway & Swan, 2015; Amar, 2008; Moore & Baker, 2016; Nasta et al., 2005; Sable, Danis, Mauzy & Gallagher, 2006).

Several existing models have conceptualized the process of help seeking for survivors of interpersonal violence. For instance, Liang, Goodman, Tummala-Narra and Weintraub (2005) identified three important components for survivors of intimate partner violence: (a) recognizing and defining the problem, (b) making a decision to seek help, and (c) selecting a particular type and source of support. A recent conceptual model of help attainment for victims of sexual assault and intimate partner violence proposes that formal help seeking—within any given developmental and situational context—is influenced by survivors’ perceptions of their needs, the availability of help and fit with support systems (Kennedy et al., 2012). While these models help elucidate steps within the entire help-seeking process, this study focused explicitly on understanding the reasons why survivors did not use specific supports for sexual assault in the campus community.

Existing theory can help conceptualize the reasons survivors did not use supports. For instance, Penchansky and Thomas (1981) categorized several overarching dimensions to health service utilization, including the volume of services in the community, the cost of services, the physical accessibility of services (e.g., location, hours), and clients’ attitudes and personal characteristics. Drawing from this model, Logan et al. conducted two studies (Logan, Evans, Stevenson & Jordan, 2005; Logan, Stevenson, Evans & Leukefeld, 2004) examining reasons that women with victimization experiences—including sexual assault and intimate partner violence—in urban and rural communities did not use physical and mental health services and criminal justice services. This work identified four primary factors that impeded service use: First, availability included a lack of resources in one’s community. Second, affordability included the costs of care. Third, accessibility barriers occurred when reporting options and/or resources were available, but survivors could not use them (e.g., lack time or transportation) or did not know enough to use them. Finally, acceptability included a wide range of feelings, beliefs, and responses that made it seem unacceptable to use supports, such as experiencing embarrassment, shame, and self-blame, fearing backlash from their community, worrying about confidentiality, anticipating that services would not help or would cause further trauma, considering characteristics of the assault (e.g., being financially dependent on their abuser means they should not risk using supports), and believing they did not need help. This theoretical framework also helps to identify how survivors’ reasons for not using supports are shaped by the larger structural context—an institution does not make supports available, affordable, accessible, and/or acceptable. Thus, this model helps illustrate how survivors’ willingness and ability seek help is constrained by community norms, policies, practices, and resources.

Study Purpose

This study had two primary aims. The first aim was to examine and categorize reasons that survivors did not use three formal supports for sexual assault on campus: the Title IX Office, the SAC, and housing staff. Most prior research was conducted before the 2011 Dear Colleague Letter outlining new Title IX guidance and the significant subsequent changes to university sexual assault support systems and/or collapsed across a variety of campus supports rather than examining why survivors did not use each support (e.g., Amar, 2008; Fisher et al., 2003; Lindquist, Crosby, Barrick, Krebs & Settle-Reaves, 2016; Nasta et al., 2005; Sable et al., 2006; Walsh et al., 2010). Two more recent studies asked students (both women and men, not specifically sexual assault survivors) to imagine why sexual assault survivors would be unwilling to use campus supports, and some of the top reasons identified were shame, guilt,
survivors did not use supports differed for the Title IX students may perceive and use campus supports differ-
specific supports for sexual assault. Most previous
research does not look for variation across sources of sup-
port. However, knowing the reasons survivors are not
using different formal supports would allow institutions to
improve supports and increase survivors’ willingness and
ability to use them. For example, if survivors did not use
the SAC because they lacked knowledge of this resource
(i.e., an accessibility issue), addressing this would require
a different approach than if students mainly feared retali-
ation (i.e., an acceptability issue). Some studies suggest
that students may perceive and use campus supports differ-
ently. For example, Orchowski, Meyer and Gidycz (2009)
assessed students’ likelihood to use different supports if
they experienced a sexual assault; students indicated the
greatest likelihood to report to the police, followed by the
counseling center and a resident advisor. Another study
asked students how helpful campus supports would be for
female sexual assault survivors; they rated the sexual
assault center as most helpful, followed by the campus
police and housing staff (Allen et al., 2015). In this study,
we used quantitative analyses to examine if the reasons
survivors did not use supports differed for the Title IX
Office, the SAC, and housing staff.

Method

Procedures and Participants

Participants were part of a larger IRB-approved study.
Survey data were collected from (a) resident assistants
(RAs) and (b) undergraduate women living in university
housing at a large Midwestern university in 2015. These
two complementary surveys examined knowledge and per-
ceptions of sexual assault policies and resources, and
reporting and help-seeking behavior among RAs—an
important support for survivors—and the students they
serve. This study examined the women resident survey
data.

The Registrar’s Office sent recruitment and reminder
emails (containing a link to the survey) to 80% of all
undergraduate women with a university housing address
(our target sample; n = 3412).2 A total of 1031 students
responded to the survey, for a 30% response rate. Of
those, 152 were ineligible: 79 worked as housing staff,
two identified as men, 52 did not currently live in univer-
sity housing, and 19 did not provide gender or housing
information. Following recommendations for web survey
research (e.g., Meade & Craig, 2012), we thoroughly
inspected the data provided by the eligible participants
and removed 39 who had excessive missing data (e.g.,
missing more than 50% of survey items) and/or failed
attention check items (e.g., gave a wrong answer for items
that asked for a specific response, such as “please select
5”); this careful “cleaning” helps improve the quality of
survey data (Meade & Craig, 2012). Our final sample was
840 women. In this study, we only analyzed data from
the participants who had experienced some form of sexual
assault as a student at the university—termed “survivors”
hereafter.

Survivors’ mean age was 18.6 (range 18–22). The
majority were white (71.8%, n = 204), and the rest identi-
ified as Asian American (11.3%, n = 32), multiracial
(8.1%, n = 23), African American/Black (5.3%, n = 15),
Middle Eastern (2.1%, n = 6), Latina (0.7%, n = 2), or
another race/ethnicity (0.7%, n = 2).3 Most of the women
identified as heterosexual (77.5%, n = 220), but some
identified as mostly heterosexual (17.3%, n = 49), bisexual
(3.2%, n = 9), gay or lesbian (0.8%, n = 2), or another
sexual identity (e.g., queer; 1.4%, n = 4). Two-thirds were
first-year students (68.9%, n = 195), and the rest were in
their second year (26.9%, n = 76), third year (2.1%
n = 6), fourth year (1.1%, n = 3), or fifth year and above
(1.1%, n = 3). There were students from every university
residence hall or apartment community in the sample.

2 The Registrar’s Office selects and contacts a random sample of
80% of any student population requested (e.g., all women in univer-
sity housing) to avoid overburdening students with research
requests.

3 The ethnic distribution of the sample contained slightly fewer
Latina students and slightly more White and multiracial students
than the total undergraduate population.
Measures

Sexual Assault

We used a modified Sexual Experiences Survey Short-Form (SES-SF; Koss et al., 2007) to measure sexual assault. Seven items assess a broad spectrum of behaviors: unwanted sexual contact (e.g., “Has anyone fondled, kissed, or rubbed up against the private areas of your body (lips, breast/chest, crotch or butt) or removed some of your clothes without your consent?”), attempted oral, anal, and vaginal penetration (e.g., “Even though it did not happen, has anyone TRIED to have oral sex with you, or make you have oral sex with them without your consent?”), and completed oral, anal, and vaginal penetration. The SES-SF specifies five tactics through which the behaviors could be obtained “without consent” (e.g., physical force, coercion, incapacitation due to alcohol or drugs). Participants indicated if they had experienced any of the behaviors while they were a student at the university. In this study, we included those who experienced any form of sexual assault while they were a student. The SES-SF is one of the most widely used measures of sexual victimization and exhibits good reliability and validity (Johnson, Murphy & Gidycz, 2016).

Title IX Office

Following the SES, participants were asked, “Have you formally reported the incident to the University? In other words, have you filed a complaint against the person(s) who committed the behavior with the University?” Response options included 1 = Yes and 2 = No. Those who answered “no” were asked to please tell us why, and a text-box was provided for students to type their answer.

Sexual Assault Center

Students were also asked, “Have you sought help for the incident at the SAC?” Again, response options included 1 = Yes and 2 = No, and participants who answered “no” were asked to please tell us why.

Housing Staff

Respondents (all of whom lived in university housing) indicated if they had sought help from housing staff: “Have you told anyone who works for University Housing about the incident?” Participants could select anyone from a list of staff: 1 = Resident Advisor, 2 = Community Assistant, 3 = Diversity Peer Educator, 4 = Peer Academic Success Specialist, 5 = Other [write in option]; participants could also select: N/A, I have not told anyone who works for University Housing. Students who had not told any housing staff member were then asked to please tell us why.

Qualitative Analysis Approach

We pooled participants’ open-ended responses—describing why they did not use the supports—and analyzed them using thematic analysis (see Braun & Clarke, 2006). First, the first author and trained research assistants reviewed these data and created a codebook (i.e., a detailed list of words or phrases that capture an analytical idea present in data). The codebook was refined over several iterations by applying the codebook to subsets of data and revising it. When the codebook was finalized, two research assistants coded all data using Dedoose version 6.1. Interrater reliability was excellent (Cohen’s kappa = 0.89; Cohen, 1960). We then identified themes by searching for patterns and meaning across the coded data. Following a deductive approach, we used the Logan et al. (2004, 2005) four-factor framework to guide our interpretation of themes (i.e., does this theme fit within or fall outside?). Additionally, we checked all themes against the dataset to ensure that they adequately fit these data (i.e., does this theme clearly describe what participants are expressing?).

Results

Descriptive Results

Of the total sample, 33.8% (n = 284) had experienced at least one form of sexual assault as a student: 48.9% (n = 139) unwanted sexual contact, 26.8% (n = 76) attempted oral, anal, and/or vaginal penetration, and 24.3% (n = 69) completed oral, anal, and/or vaginal penetration. Of the 284 women who experienced sexual assault, only 16 (5.6%) disclosed to any of the three campus supports: five made a formal report to the university, 11 sought help at the SAC, and nine told someone who worked for university housing (10 survivors used only one support and six used two or more).
Qualitative Themes: Why Did Survivors Not Use Campus Supports?

We identified four overarching themes: two fit within the Logan et al. (2004, 2005) four-factor framework (accessibility and acceptability) and two fell outside of it (appropriateness and alternative coping). Moreover, we identified five unique sub-themes within the acceptability theme. The themes are summarized in Table 1 and discussed below.

Accessibility

First, participants identified accessibility issues—logistical barriers that rendered a support too difficult or impossible to use. These women primarily described two types of accessibility problems: having time constraints and lacking knowledge about a support. For instance, one student stated that her time needed to be spent elsewhere: “I’m too busy with schoolwork” (ID 540). Some students stated that they did not know a support existed at all: “I didn’t know about it” (ID 304). Others did not use a support because they lacked knowledge about the services provided. For instance, “I don’t know whether [the SAC] is confidential or not” (ID 664).

Students also lacked knowledge about what the support could provide help for. For example, some survivors thought that they could only use a support for a recent assault: “Once I finally accepted the fact that the incident did take place, I believed it had been too late to report it” (ID 796). Another student stated, “I didn’t know much about [the SAC] at the time and once I learned more about it, I felt it was too late to talk about the situation” (ID 228). There are no time limitations for reporting to the Title IX Office or seeking help from the SAC or housing staff (on this campus), but some survivors who did not immediately acknowledge the assault believed too much time had passed.

Acceptability

Many survivors identified acceptability concerns as a reason they did not use campus supports—thoughts, beliefs, and affective responses related to the assault that made it seem unacceptable to use a support. Logan et al. (2004, 2005) studies identified a wide range of acceptability concerns, but they were not classified into set of specific subtypes, generalizable across the samples. Our analysis identified five acceptability sub-themes. Additionally, our analysis more clearly differentiated survivors’ thoughts and beliefs about the assault and their own reactions to it—which made it seem unacceptable or unjustifiable to seek help (i.e., acceptability)—and survivors’ thoughts and beliefs about the support (i.e., appropriateness, a new theme that is described in detail below).

Negative emotions. First, experiencing negative emotional reactions to the assault deterred survivors from

<table>
<thead>
<tr>
<th>Theme</th>
<th>Definition</th>
<th>Example excerpt</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accessibility</td>
<td>Logistical issues that made a support difficult or impossible to use, including time constraints and lacking knowledge about the support</td>
<td>“I’m too busy with schoolwork.”</td>
</tr>
<tr>
<td>Acceptability</td>
<td>Thoughts, beliefs, and responses related to the assault made it seem unacceptable/unjustifiable:</td>
<td>“I was scared and it was difficult to process. I just wanted to forget it ever happened.”</td>
</tr>
<tr>
<td>1) Negative emotions</td>
<td>Experiencing negative emotions after the assault hindered their use of a support, including shame, fear, and self-blame</td>
<td>“Reporting it would cause me a lot of stress and anxiety.”</td>
</tr>
<tr>
<td>2) Consequences</td>
<td>Anticipating negative consequences for themselves and/or the perpetrator hindered their use of a support</td>
<td>“It was a party and I didn’t think I would be taken seriously since alcohol was involved.”</td>
</tr>
<tr>
<td>3) Contextual characteristics</td>
<td>Interpreting circumstances around the assault (e.g., where it happened, who the perpetrator was) as a reason not to use a support</td>
<td>“I was not extremely affected emotionally by the incident.”</td>
</tr>
<tr>
<td>4) Minimizing impact</td>
<td>Believing their reaction to the assault was not severe or extreme enough to warrant or justify using a support</td>
<td>“I didn’t consider it serious enough because it happens to girls all the time.”</td>
</tr>
<tr>
<td>5) Minimizing behaviors</td>
<td>Minimizing the assault, by normalizing sexual assault or comparing their assault to more “severe” forms, hindered their use of a support</td>
<td>“I knew they would have to report it and I wasn’t comfortable with that.”</td>
</tr>
<tr>
<td>Appropriateness</td>
<td>Assessments about the usefulness or helpfulness of a support made it undesirable to use, like lacking efficacy, familiarity, or confidentiality</td>
<td>“I’ve told my friends, I didn’t feel the need to tell anyone else.”</td>
</tr>
<tr>
<td>Alternative coping</td>
<td>Actions taken made it unnecessary to use a support, like telling informal supports, stopping the behavior, or using passive coping strategies</td>
<td></td>
</tr>
</tbody>
</table>
using campus supports. For example, some students described feeling shame or embarrassment: “Because I am embarrassed.” (ID 683). Some students also experienced self-blame, which hindered their willingness and ability to use supports. For instance, one student stated, “I knew I shouldn’t have been drinking as much as I was at the time. It was partially my fault.” (ID 602).

Consequences. For the second sub-theme, survivors’ concerns about personal consequences that might arise made it seem unacceptable to use supports, including how their mental health or personal life might suffer. For instance, survivors were afraid of feeling stressed and revictimized: “reporting it would cause me a lot of stress and anxiety.” (ID 302) and “I didn’t want to be forced to relive things over and over throughout the investigation.” (ID 698). Participants were also concerned about consequences in their social network: “It would have affected my friend group at the time so I just pretended it wasn’t a big deal.” (ID 15). Additionally, some survivors did not use supports because they were concerned about how it might harm the perpetrator: “I was drinking and wasn’t sure if I had given consent, and he seemed like a decent guy that I didn’t want to get in trouble.” (ID 348) and “I didn’t want to ruin the guy’s life” (ID 678).

Contextual characteristics. In the third sub-theme, survivors believed that contextual characteristics surrounding the assault—where it happened, what they were doing when it happened, who committed the assault—made it unacceptable to use campus supports. For example, participants stated, “I did not feel the need to tell anyone who works for university housing because it happened off-campus” (ID 224) and “I was drunk and it was at a party, so I felt as though the incident would not be taken seriously” (ID 154). Students were particularly hesitant to use campus supports if the assault took place off-campus and/or if there was alcohol involved. Additionally, some women believed that who committed the assault made it unacceptable to seek help. For some students, not knowing the perpetrator was the reason: “I didn’t know who the person was. It was a random guy at a frat party.” (ID 326). For others, the reason was knowing the perpetrator well: “He was my boyfriend at the time and I didn’t want to tell anybody. I felt ashamed and thought people would blame me.” (ID 228).

Minimization of personal impact. The fourth sub-theme concerned survivors’ beliefs about their reaction to the assault, and feeling as though the outcomes were not bad enough to warrant or justify using formal campus supports. Most of these participants discussed psychological or physical outcomes: “I didn’t feel significantly traumatized.” (ID 58), “It did not majorly affect my psychological health” (ID 377), and “I was not extremely affected emotionally by the incident.” (ID 348). Some discussed their everyday lives: “The incident was not anything that affected my daily life that much.” (ID 435). These survivors felt it would only be acceptable to use campus supports if the assault had a “severe” or “extreme” impact on their lives in some way.

Minimization of assaultive behaviors. For the fifth sub-theme, many survivors did not use campus supports because they perceived the behavior(s) to be insufficiently severe. These women primarily described instances of unwanted sexual contact and/or attempted rape, and evaluated these behaviors as less serious than other forms of sexual violence. For instance, some survivors did not seek help because there was no vaginal penetration: “It [penetration] didn’t happen, therefore, I didn’t find it a big deal, but I now realize it was” (ID 143) and “I didn’t realize until a while later that it was bad that I was pressured into oral sex which I didn’t want to have.” (ID 341). Others discussed how the assault could have been worse:

The situation wasn’t very serious, I was dancing and he pulled his penis out of his pants and rubbed up against me. I thought he was disgusting and capable of doing other things but...I don’t think that his actions are serious enough to report.

I felt that others were going through worse things than me and they needed help more.

I didn’t think it needed to be, a guy grabbed my ass and I yelled at him and he laughed. I was wearing a tight skirt...When I told someone they shrugged and said “What did you expect”.

Additionally, participants minimized the assault by interpreting the behavior as a normal part of being a woman in college: “Because these things are normal for most women and are seen as part of teenage sexual experiences.” (ID 93) and “I didn’t consider it serious enough because it happens to girls all the time.” (ID 780). Some survivors also believed that campus supports would be uninterested in these “normal” behaviors:

I’ve been grabbed inappropriately by drunk guys on MANY occasions here as a student. I’ve never reported it because...I didn’t think anybody would care since it happens to everybody.

It happens all the time, if people reported all instances of sexual harassment that take place at fraternities, the university would never be finished investigating.
It is important to note that for the fourth and fifth sub-themes—minimization of personal impact and assaultive behaviors—participants’ assessments were made when thinking about and explaining why they did not use specific supports. Thus, these responses should not be interpreted as experiencing false consciousness or representing the full impact of the assault on survivors’ lives.

**Appropriateness**

A new theme that we differentiated from the Logan et al. (2004, 2005) framework concerned survivors’ explicit assessment of campus supports. In these assessments, survivors communicated that they did not think it would be useful or helpful to tell the support about their assault. Some participants believed that seeking help from the support would lead to an inappropriate or undesired response. For instance, some believed nothing would actually happen: “I am afraid of what may happen to me and if the person will actually be punished.” (ID 297), and “Misconduct cases get thrown out. Universities don’t do shit about them.” (ID 479). Survivors were also afraid they would be disregarded, doubted, or blamed for the assault: “I felt I would not be taken seriously.” (ID 154) and “I didn’t think they would care or help.” (ID 12).

Additionally, participants described supports as lacking qualities they were looking for: in particular, familiarity and confidentiality. First, some survivors wanted to seek help from people they felt close to personally and emotionally, and the support did not meet this need: “I am not really comfortable enough with anyone in university housing. I prefer to confide these things to friends, parents, and therapists.” (ID 341) and “The last thing I want is for someone I see all the time but barely know to intimate details about my life. That is not helpful in this incident.” (ID 93).

Second, some survivors stated that they did not want to disclose their assault to a source of support that was not confidential. For example, one participant wrote: “I knew they [housing staff] would have to report it and I wasn’t comfortable with that.” (ID 45). Another survivor stated, “. . .I’m afraid it will not be kept private.” (ID 558). These quotes illustrate that some survivors prefer supports that can offer confidential assistance.

**Alternative Coping**

Another new theme was engaging in alternative methods of coping. These survivors described not using campus supports because they had coped with the assault in other ways, such as seeking help from an informal source of support, taking action during the assault to stop the behavior, or ignoring the assault altogether. First, many students chose not to use formal supports because they told an informal source of support, usually a friend: “I’ve told my friends, I didn’t feel the need to tell anyone else.” (ID 76). Others told a trusted adult, like a parent or professor.

Additionally, some women did not use campus supports because they had taken action during the assault. These women described being able to stop the perpetrator from touching them further or penetrating them. For example, some were able to get away before things escalated: “I handled the situation by removing myself and was able to move on from it.” (ID 18) and “I was able to easily escape” (ID 255). Another said:

> When hooking up with a guy he tried to insert himself and I stopped him and left. Had I been unable to stop him, I most likely would have reported it, I hope. (ID 656)

However, some survivors did not seek formal help because they engaged in passive coping strategies, like ignoring the assault altogether: “I would rather not think about it” (ID 69) and “I just wanted to forget it ever happened.” (ID 10). Several women expressed the desire to just “move on” with their lives, for instance: “I didn’t really want anyone involved and prolonging it. I just wanted to ignore it and move on.” (ID 15).

**Quantitative Comparisons: Do Reasons Differ Across Campus Supports?**

Our second aim was to examine if the reasons survivors did not use formal campus supports differed across the three supports: the Title IX Office, the SAC, and housing staff. For each theme, we summed the number of participants who identified the theme in their response to each support. For example, a total of 33 survivors expressed the accessibility theme (e.g., lacking knowledge about a support), but 10 of these women identified this theme for more than one support: 26 survivors identified accessibility issues as a reason they did not use the SAC, 13 survivors identified this for the Title IX Office, and five identified this for housing staff. Next, we conducted a One-Way Repeated Measures ANOVA for each theme. For each test, the independent variable was the three supports and the dependent variable was the average number of participants who identified a particular theme. Significant F-tests were followed by pairwise comparisons. Figure 1 illustrates the frequency of themes across the three supports.

**Accessibility**

A total of 33 survivors identified accessibility reasons for at least one of the three supports (10 identified it for more
than one support); most of these women identified accessibility issues for the SAC \((n = 26)\), followed by the Title IX Office \((n = 13)\), and housing staff \((n = 5)\). Statistically, there were significant differences across supports \((F(2, 566) = 10.90, p < .001, \eta^2_p = .04)\). More participants identified accessibility issues as a reason they did not use the SAC compared to both the Title IX Office \((p < .02)\) and housing staff \((p < .001)\). There was no significant difference between the Title IX Office and housing staff \((p = .136)\).

Acceptability/Negative Emotions

There were 30 women who identified negative emotions (e.g., shame) as a reason they did not use at least one support (seven identified it for more than one); most identified this reason for the Title IX Office \((n = 20)\), and equal numbers identified this reason for the SAC \((n = 9)\) and housing staff \((n = 9)\). There were significant differences across supports \((F(2, 566) = 4.22, p < .018, \eta^2_p = .02)\). Survivors were more likely to express that experiencing negative emotions was a reason they did not use the Title IX Office compared to the SAC \((p < .02)\) and (marginally) housing staff \((p = .08)\). There were no differences between the SAC and housing staff \((p = 1.00)\).

Acceptability/Consequences

In total, 21 women identified concerns about consequences as a reason they did not use one or more of the supports (four identified this for more than one); most of these survivors communicated that they did not use the Title IX Office because they anticipated negative consequences \((n = 17)\), followed by the SAC \((n = 5)\) and housing staff \((n = 3)\). There were significant differences across supports \((F(2, 566) = 8.40, p = .001, \eta^2_p = .03)\). More participants identified this as a reason they did not use the Title IX Office compared to the SAC \((p = .008)\) and housing staff \((p = .003)\). There were no significant differences between the SAC and housing staff \((p = 1.00)\).

Acceptability/Contextual Characteristics

There were 63 women who identified contextual characteristics about the assault (e.g., off-campus, alcohol-involved) as a reason they did not use one or more of the three supports (15 identified this for more than one support); these participants were most likely to identify this reason for the Title IX Office \((n = 51)\), followed by housing staff \((n = 20)\) and the SAC \((n = 13)\). These differences were statistically significant \((F(2, 566) = 23.21, p < .001, \eta^2_p = .08)\). Survivors were significantly more likely to identify this as a reason they did not use the Title IX Office compared to both housing staff \((p < .001)\) and the SAC \((p < .001)\). There were no significant differences between housing staff and the SAC \((p = .38)\).

Acceptability/Minimizing Impact

A total of 82 survivors perceived a lack of severe outcomes as a reason they did not seek help from at least one of the campus supports (37 identified this for more than one support); survivors were more likely to identify this as a reason they did not use the SAC \((n = 77)\), followed by housing staff \((n = 27)\) and the Title IX Office \((n = 22)\). There were significant differences across supports \((F(2, 566) = 42.39, p < .001, \eta^2_p = .13)\). Survivors were more likely to identify this as a reason they did not use the SAC compared to both housing staff \((p < .001)\) and the Title IX Office \((p < .001)\). There were no significant differences between housing staff and the Title IX Office \((p = 1.00)\).

Acceptability/Minimizing Behaviors

There were 167 women who minimized the assaultive behaviors when describing why they did not use one or more of the supports (86 identified this for more than one); participants were more likely to identify this as a reason they did not report to the Title IX Office \((n = 152)\), followed by housing staff \((n = 72)\) and the SAC \((n = 70)\). This reason significantly differed across supports \((F(2, 566) = 63.57, p < .001, \eta^2_p = .18)\). More participants identified this as a reason they did not use the Title IX Office compared to both housing staff \((p < .001)\) and the SAC \((p < .001)\). There were no differences between SAC and housing staff \((p = 1.00)\).
Appropriateness

In total, 58 survivors cited appropriateness concerns as a reason they did not use at least one of the three supports (eight identified this for more than one support); nearly all of these women viewed housing staff as an inappropriate source of support (n = 51), followed by the Title IX Office (n = 12) and the SAC (n = 5). These differences were statistically significant (F(2, 566) = 37.09, p < .001, ηp2 = .12). Survivors were significantly more likely to identify this as a reason they did not seek help from housing staff compared to both the Title IX Office (p < .001) and the SAC (p < .001). There was no difference between the Title IX Office and the SAC (p = 0.16).

Alternative Coping

A total of 116 women stated that they did not use at least one of the three supports because they engaged in an alternative coping strategy (50 identified this for more than one support); approximately half of these survivors identified this as a reason they did not use the Title IX Office (n = 96), followed by the SAC (n = 48) and housing staff (n = 40). The differences across supports were significant (F(2, 566) = 31.05, p < .001, ηp2 = .10). More participants identified alternative coping as a reason they did not use the Title IX Office compared to the SAC (p < .001) and housing staff (p < .001). There was no difference between the SAC and housing staff (p = 0.65).

Discussion

Universities across the U.S. have been expanding their sexual assault response efforts, including creating Title IX coordinator roles and offices, establishing sexual assault centers (SACs), and designating housing staff members as help providers. Yet, very few survivors use these supports (Sabina & Ho, 2014). Why might that be? We sought in-depth answers to this question, to inform efforts to improve sexual assault response systems in higher education.

First, using qualitative data, we examined survivors’ reasons for not using three informal campus supports: Title IX Office, SAC, and housing staff. We drew from Logan and colleagues’ (2004, 2005) theoretical framework to help guide the conceptualization and classification of survivors’ responses. None of our participants described availability (e.g., complete lack of resources for sexual assault) and affordability (e.g., cost of care) concerns. This finding was not unexpected—college students have increasing access to free sources of support for sexual assault (Sabina & Ho, 2014) and our participants were in a well-resourced institution. However, the availability of supports differs across campuses (U.S. Senate Subcommittee on Financial & Contracting Oversight, 2014), and these barriers will likely arise in less-resourced institutions and communities.

In accordance with Logan and colleagues’ (2004, 2005) framework, we found that student survivors experienced problems with accessibility—logistical issues, such as lacking time and knowledge, that prevented them from using campus supports. The survivors in our study also experienced a wide variety of acceptability issues—feelings, beliefs, and responses related to the assault that made it seem unacceptable to use campus supports. Building upon the Logan et al. (2004, 2005) framework, we classified and clarified the responses that fall under acceptability: identifying five unique acceptability subtypes. We found that survivors did not use campus supports because they (a) experienced negative emotions (e.g., self-blame), (b) anticipated personal consequences (e.g., they will disrupt their friend group), (c) interpreted contextual characteristics of the assault (e.g., off-campus, alcohol-involved), (d) minimized the outcomes (e.g., no “severe” psychological damage), and (e) minimized the assaulting behavior(s). In addition, we more clearly differentiated survivors’ thoughts and beliefs about the assault and their own reactions to it that made it seem unacceptable or unjustifiable to seek help (i.e., acceptability) and survivors’ thoughts and beliefs about the support (i.e., appropriateness).

Appropriateness

When describing why they did not seek help from campus supports, some survivors discussed their assessments of a support: Was it suitable? Would it be helpful? Some survivors believed that seeking help from a support would lead to an inappropriate or undesired response. For instance, nothing would actually happen (e.g., the perpetrator goes unpunished) and/or they would be disregarded, doubted, or blamed for the assault. Additionally, some survivors identified ways that a support lacked qualities they sought. Two primary qualities discussed were familiarity (i.e., a sense of comfort or closeness with the person to whom they would disclose) and confidentiality (i.e., assurance that what they say would not be shared with others). Prior studies find that concern about confidentiality is a reason survivors choose not to report their assault to authorities (e.g., Krebs et al., 2007; Nasta et al., 2005; Walsh et al., 2010). Additionally, some survivors are highly selective when choosing a confidante—only disclosing to someone who is emotionally close to them (Guerette & Caron, 2007).
Alternative Coping

Another new theme that we identified, why survivors did not use campus supports, was the use of alternative methods of coping, including interrupting the assault, using passive coping strategies, and disclosing to informal sources of support. Some survivors described actively intervening during the assault (e.g., stopping the perpetrator from touching her further or penetrating her). On the other hand, some survivors engaged in more passive coping strategies (e.g., ignoring or denying the assault). Research suggests that, in some instances, avoidance can exacerbate psychological distress following an assault (Littleton & Henderson, 2009).

Other survivors did not use campus supports because they had sought help from an informal support, usually a friend. It is well established in the literature that sexual assault survivors are most likely to disclose to friends and loved ones. Banyard, Moynihan, Walsh, Cohn and Ward (2010) found that one in three female and one in five male undergraduates had at least one friend (mostly women) disclose an experience of sexual assault to them. Unfortunately, some students report not knowing what to do or how to help when a friend disclosed an assault (Ahrens & Campbell, 2000; Banyard et al., 2010). Although survivors find tangible aid helpful, informal support networks do not usually provide this type of support (Ahrens, Cabral & Abeling, 2009; Filipas & Ullman, 2001). Research suggests that college student survivors rarely receive information about campus sexual assault resources from their peers (Orchowski & Gidycz, 2012). There is no “right” way to disclose sexual assault, and seeking help from an informal support (vs. a formal support) may be the best choice for a survivor. However, it is essential to understand why formal supports are rarely used and what would make them a more desirable option.

Examining Reasons for Non-Use Across Supports

Of the three supports examined, survivors reported many different reasons for not using the Title IX Office (i.e., utilizing formal grievance procedures), including negative emotions, consequences, contextual characteristics, minimization of behaviors, and alternative coping strategies. For example, survivors anticipated more adverse outcomes in their personal lives as a result of using the Title IX Office compared to the SAC. The college context—where students are often living, learning, working, and socializing together—may especially foster survivors’ worries about social ostracism if they speak out about an assault committed by a peer. Logan et al. (2004, 2005) identified similar concerns among survivors living in insular, rural communities.

Our results also suggest that contextual characteristics have a complex link to reporting in college settings. While some participants were hesitant to seek help from the Title IX Office because they knew the perpetrator well, others did not use this support because they did not know the perpetrator at all (e.g., a “random guy” grabbing her at a party). If campus party culture fosters situations where women are assaulted by acquaintances and strangers, and survivors are reluctant to report in either situation, rates of service use will remain low. Additionally, survivors were hesitant to use the Title IX Office if the assault happened off-campus. Title IX covers off-campus assaults if the behavior was committed by a university member and creates a hostile environment on campus (Ali, 2011); yet, it is currently unclear if universities are investigating and adjudicating on- and off-campus assaults similarly.

Alternative coping—such as taking action during the assault to prevent it from escalating—was another reason that survivors were more likely to identify for the Title IX Office, compared to the SAC and housing staff. Prior research finds that some women do not report sexual assault to the police because they “handled it” (Zinzow & Thompson, 2011). Our results help to contextualize this finding—the survivors in our study described avoiding a completed rape, which stopped them from reporting. Feminist scholars have made a strong and impassioned case for training women in resistance and self-defense (e.g., Gidycz & Dardis, 2014). It is certainly important to equip women with the confidence and tools to stop an assault from escalating, but we should also consider how resistance messages may inadvertently reify myths about what counts as “real rape,” and undermine help seeking. A sexual assault in progress that is interrupted is still a sexual assault. Survivors should never be forced to use supports, but disclosure decisions are made in a context where unwanted sexual contact is normalized and people believe only certain kinds of sexual assault (forced vaginal penetration) can be reported.

Two common reasons that survivor did not use the SAC pertained to accessibility and minimization of personal impact. Prior research suggests that students who know that sexual assault resources exist on campus may be more willing to use them (e.g., Amar, 2008; Walsh et al., 2010). However, it may not be enough for survivors to simply know that a SAC exists on campus or in the community. For example, some survivors in our study believed they could only use the SAC for a recent assault. Many women do not (immediately) acknowledge and label experiences of sexual assault and rape (Cleere & Lynn, 2013). If a student was assaulted her freshman year, but did not identify the incident as “sexual assault” until her junior year, she may believe it is too late to use the
SAC if she is not informed about services for non-acute crises. Educational efforts should reduce these (mis)perceptions by including more detailed information about the SACs mission and services.

Moreover, many participants believed the outcomes of the assault were not bad enough to warrant the use of the SAC. Prior research finds that perceptions of harm—such as physical injury—predict survivors’ reporting to the police (Amar, 2008; Fisher et al., 2003). However, we found that perception of harm was more likely to hinder seeking help from the SAC compared to Title IX and housing staff. For instance, our survivors believed that they needed to be severely traumatized or distraught to use the SAC. This reveals another myth that informs survivors’ decisions about disclosure.

Finally, survivors’ judgments about the appropriateness of a source of support—such as the familiarity and confidentiality of the support—particularly inhibited disclosure to housing staff members. Housing staff have an interesting role in sexual assault response: their job includes building trusting relationships with students and supporting them in times of crisis, but housing staff are also frequently required by their universities to report sexual assault disclosures to campus authorities (e.g., Title IX Office; Letarte, 2014). Our findings demonstrate the need for campus supports that can offer emotional and tangible aid in a way that feels both safe and private. Housing staff have the potential to fulfill this need for more familiar supports—if they do their job well—but mandatory reporting policies may deter survivors from using them.

Most Prevalent Reasons for Non-Disclosure

Experiencing negative emotions is one of the most prototypical acceptability constraints. When researchers ask students (in general) why survivors may not report or seek help, these feelings are among the most commonly identified reasons (Allen et al., 2015; Sable et al., 2006). However, experiencing negative emotions was one of the least identified reasons in our study. Perceiving the sexual assault as insufficiently severe (i.e., minimization of behaviors) was, by far, the most frequent reason mentioned. In studies that provided survivors a list, believing the assault was not serious enough was a top reason for not using campus resources (e.g., Lindquist et al., 2016; Walsh et al., 2010). Our work extends and contextualizes these findings. Survivors who minimized the assault frequently described unwanted sexual contact (e.g., groped at a party) and attempted rape (e.g., a man tried to penetrate her, but did not succeed), and evaluated these behaviors as less serious on an unspoken spectrum of sexual violence. While many of these women expressed annoyance, anger, or fear, they still believed these “less serious” assaults were an inevitable—or even normal—part of campus culture.

The cultural acceptance of non-penetrative violence against women acts as a powerful deterrent to formal help seeking. Girls and women describe experiences of sexual harassment, coercion, and violence as commonplace in their interactions with boys and men (e.g., Weiss, 2009). Taking advantage of women who are drunk is accepted, and even expected, behavior in some male peer groups (e.g., fraternities, athletics; Martin, 2015). Moreover, our culture has a very narrow conceptualization of “rape” (e.g., a stranger forcibly penetrates a woman), and survivors who experience non-stereotypical assaults are less likely to report to the police (Fisher et al., 2003). Yet, “less serious” forms of sexual assault still cause psychological harm (Muldoon, Taylor & Norma, 2016). While some may dismiss women who minimize their assault (if they don’t think these behaviors are serious, why should we?), it is really community norms and the ubiquitous nature of these assaults that stand in the way of reporting and help seeking.

Implications for Policy and Practice

Despite the expansion of sexual assault policies and resources, sexual assault survivors rarely seek help from formal supports. Our findings suggest that this may be fueled, at least in part, by community norms and institutional policies. First, universities must take a stronger stance against “less serious” forms of sexual assault. In policy and the media, there is a tendency to rank the severity of sexual assault, with forced vaginal penetration (particularly by a penis) marked as the foremost problem. Journalists have criticized researchers for including unwanted sexual contact in college sexual assault statistics (Yoffe, 2015). A man rubbing his penis on a woman at a party without consent is prohibited under university policy, and illegal under criminal law, 6 but the campus context does not facilitate reporting these behaviors. Yet, these behaviors are so widespread that they are considered a normal part of women’s lives in college. Education programs must emphasize the seriousness of unwanted sexual contact. Additionally, universities must take reports of unwanted sexual contact seriously—survivors will be discouraged from coming forward if there are no sanctions for these behaviors.

Second, universities should carefully examine the choices being made when interpreting federal laws and guidance and establishing sexual assault policies. Our results suggest that some policy choices may

6 For example, this behavior could be considered criminal sexual conduct in the fourth degree (750.320e), a misdemeanor under Michigan law.
(inadvertently) make it more challenging for survivors use supports, in particular, modeling investigation and adjudication processes on the criminal justice system and expanding mandatory reporting.

Quasi-criminal Justice

Although Title IX is a civil rights statute, universities are increasingly adopting aspects of the criminal justice system in their investigation and adjudication of sexual assault (Hartmann, 2015). In our study, reasons that survivors did not use the Title IX Office's formal grievance procedures mirrored top reasons that survivors do not report to the police (e.g., thinking it is not serious enough to report, fearing negative consequences; Fisher et al., 2003; Lindquist et al., 2016; Thompson et al., 2007). Thus, it may be beneficial to examine if there are effective alternatives to a quasi-criminal justice model. For instance, restorative justice models hold perpetrators accountable, provide victims validation and control, and actively include both parties in the process of identifying how harm can be repaired (see Koss, Wilgus & Williansen, 2014 for a review of restorative justice in cases of sexual assault).

Mandatory Reporting

Across the U.S., universities are increasingly designating every faculty and staff member as a Responsible Employee (Savino, 2015). Under Title IX guidance, when a Responsible Employee receives a sexual assault disclosure, they are required to report all information, including identifying information about the victim and perpetrator, to the Title IX Coordinator or another appropriate designee (Lhamon, 2014). Written guidance from the OCR does not require universities to make all faculty and staff responsible employees (Lhamon, 2014), and our results suggest that such expansive policies may discourage survivors seeking help. For instance, some survivors stated they did not seek help from housing staff because they are required to report.

Limitations and Future Directions

Although our study makes important contributions, it has limitations. First, we asked survivors who had experienced any form of sexual assault about their use of three formal campus supports. There are additional supports that deserve attention in future research, both on- and off-campus (e.g., counseling centers, healthcare services, community rape crisis centers). It will also be critical to examine students' disclosure to other individuals who may be designated as mandatory reporters, including faculty members, coaches, and academic advisors. Additionally, women who experience more stereotypically “severe” sexual assaults (e.g., force or a weapon is used) are more likely to disclose to formal sources of support (Fisher et al., 2003; Starzynski et al., 2005). While it is important to consider the full spectrum of sexual assault—as we did in this study—future studies may build upon this work by examining different types of assault.

Second, our participants were primarily white, heterosexual women. We chose to examine women because they are more likely to experience sexual assault (Banyard, Ward, Cohn & Plante, 2007; Breiding et al., 2014). However, students of color may face institutionalized racism that further hinders help seeking (Amar, 2008; Koo et al., 2015). International students may also encounter unique issues, such as cultural norms and language barriers (Koo et al., 2015). In addition, lesbian, gay, bisexual, and transgender (LGBT) students may experience barriers related to institutionalized homophobia and heterosexism. Although sexual assault is less prevalent among college men, male survivors may not disclose due to unique issues stemming from cultural norms and stereotypes around masculinity (Allen et al., 2015; Sable et al., 2006). Future research will be needed to better understand (lack of) service use by such groups.

Moreover, the survivors in our study were students in a well-resourced and highly residential campus. While this represents the campus context for many survivors nationwide, future research is needed to explicitly examine survivors' use of supports in institutions with fewer resources and more students living in the community. In this work, it will be crucial to continue determining how the reasons survivors are not seeking help from formal supports differ across sources of support and settings. Creating a comprehensive (quantitative) measure that taps into the dimensions proposed in our theoretical framework can help researchers study reasons for non-use more easily and consistently—including how such reasons vary across contexts and supports.

Conclusion

Our study extends research and theory on factors that hinder sexual assault survivors’ use of formal supports. Building on previous work, we propose that there are at least six overarching reasons that survivors do not use supports: availability, affordability, accessibility, acceptability (with five sub-types), appropriateness, and alternative coping. Our findings characterize a wide range of reasons for non-disclosure that arise through interactions between survivors, institutions, and larger social contexts. These findings can drive efforts to change policies, allocate resources, and improve formal supports and increase survivors' willingness and ability to use them.
Acknowledgments. This research was made possible by funding from: CEW Riecker Graduate Student Research Grant, IRWG Graduate Student Research Award, Raackham Graduate Student Research Grant, Psychology Department Dissertation Grant, and Women’s Studies Research Funds Grant.

Compliance with Ethical Standards

All authors assert that accepted principles of ethical and professional conduct have been followed.

Conflict of Interest

There are no conflicts of interest to report.

References


U.S. Senate Subcommittee on Financial & Contracting Oversight (2014). *Sexual violence on campus: How too many institutions of higher education are failing to protect students*. Washington, DC: U.S. Senate.


To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit an article my PhD advisor, Dr. Kathryn Holland, authored along with topic experts Dr. Jennifer Freyd and Dr. Lillia Cortina that was published in the highly reputable journal *American Psychologist*. The article is titled *Compelled Disclosure of College Sexual Assault*.

I have attached the article here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.  
Doctoral candidate  
Social Psychology  
Department of Psychology  
University of Nebraska- Lincoln
Compelled Disclosure of College Sexual Assault

Kathryn J. Holland and Lilia M. Cortina
University of Michigan

Jennifer J. Freyd
University of Oregon

Sexual assault is a widespread problem on college campuses. In response, many institutions are developing policies mandating that certain employees report any student disclosure of sexual assault to university officials (and, in some cases, to police), with or without the survivor’s consent. These policies, conceptualized here as compelled disclosure, have been prompted and shaped by federal law and guidance, including Title IX and The Clery Act. Proponents of compelled disclosure assert that it will increase reports—enabling universities to investigate and remedy more cases of sexual assault—and will benefit sexual assault survivors, university employees, and the institution. However, many questions remain unanswered. How broad (or narrowly tailored) are contemporary compelled disclosure mandates in higher education? Do any empirical data support assumptions about the benefits of these policies? Are there alternative approaches that should be considered, to provide rapid and appropriate responses to sexual violence while minimizing harm to students? The current article begins with an overview of federal law and guidance around compelled disclosure. Next, a content analysis of a stratified random sample of 150 university policies provides evidence that the great majority require most, if not all, employees to report student sexual assault disclosures. A review of the literature then suggests that these policies have been implemented despite limited evidence to support assumptions regarding their benefits and effectiveness. In fact, some findings suggest negative consequences for survivors, employees, and institutions. The article concludes with a call for survivor-centered reforms in institutional policies and practices surrounding sexual assault.

Keywords: sexual assault, mandatory reporting, Title IX, Clery, Office for Civil Rights

More and more, universities are requiring employees to report student experiences of sexual assault to university officials (and, in some cases, to police), even if the survivor does not want to report. These mandates have been prompted and shaped by federal law and guidance, including Title IX and The Clery Act. In this article, policies that require reporting of sexual assault are labeled compelled disclosure policies (they come under various names, however, including “mandatory reporting”). Although most university policies require reporting of various types of gender-based violence, the current article focuses specifically on sexual assault. Sexual assault encompasses a range of nonconsensual sexual acts: unwanted sexual contact, sexual coercion, attempted and completed rape. Sexual assault is a widespread problem on college campuses (e.g., Fedina, Holmes, & Backes, 2016), and resulting harms can be psychological (e.g., posttraumatic stress), physical (e.g., gynecological problems), behavioral (e.g., substance use), and academic (e.g., withdrawal from school; for a review, see White et al., 2015).

Compelled disclosure policies are a newer facet of evolving federal and institutional efforts to address campus sexual assault, giving rise to important questions: How broad (or narrow) are compelled disclosure mandates, and what are their effects? Proponents of compelled disclosure assert that it increases reports—enabling universities to investigate and remedy more cases of sexual assault—and benefits sexual assault survivors, university employees, and the institution. Do any empirical data support these claims? These are timely questions, with relevance to psychological sci-
COMPELLED DISCLOSURE

Kathryn J. Holland

ence, practice, education, and policy. The purpose of this article is to (a) review federal law and guidance around compelled disclosure, (b) analyze a sample of compelled disclosure policies to shed light on their scope, and (c) evaluate key assumptions about the benefits of compelled disclosure through a review of the literature. The article concludes with a call for survivor-centered reforms in institutional policies and practices.

Overview of Compelled Disclosure

Law and Guidance

Compelled disclosure laws are not new: State laws requiring the reporting of sexual abuse against children and elders have existed for decades. Legally, our society has established that children lack the maturity or authority to make many important decisions for themselves, and as result, cannot be expected to decide whether abuse should be reported (Bledsoe, Yankeelov, Barbee, & Antle, 2004). All U.S. states have laws that identify mandatory reporters for child abuse (Child Welfare Information Gateway, 2016); some require any adult who suspects child abuse to report, but most designate specific professions (e.g., teachers). Eleven states have explicitly required university employees (e.g., athletics staff) to report child abuse—possibly in response to events at Pennsylvania State University, where university officials failed to report former football coach Jerry Sandusky for sexually abusing children on campus (Kim, Gostin, & Cole, 2012).

However, college students are not children—under U.S. law, most are adults with the right to self-determination. Adults, unlike children, have the capacity to make signifi-
Colleague Letter (Lhamon, 2014). In its 2014 Q&A document, the OCR defined Responsible Employee—the compelled disclosure role under Title IX guidance—as any employee:

who has the authority to take action to redress sexual violence; who has been given the duty of reporting incidents of sexual violence or any other misconduct by students to the Title IX Coordinator or other appropriate school designee; or whom a student could reasonably believe has this authority or duty. (Lhamon, 2014, p. 15)

Unlike CSAs, Responsible Employees are required to report not only relevant facts but also identifying information—including the names of the victim, alleged perpetrator (if known), and any witnesses. Responsible Employees must report this information to a university official (often the Title IX Coordinator).3 Survivors who do not want the assault reported have no voice in the matter if they said something to a Responsible Employee designated by the university. Education about the importance of consent is central in sexual assault prevention efforts; yet, compelled disclosure policies can and do result in reports made without survivors’ consent.

Some schools’ policies take this a step further, requiring employees and/or the Title IX Coordinator to report all sexual assaults to the police (whether or not the survivor has consented to this action). California and Virginia have passed state laws requiring universities to notify law enforcement about sexual assault reports under certain circumstances (e.g., the perpetrator is an “ongoing threat”; Richards & Kafonek, 2016), and other states are introducing similar bills (e.g., Delaware, Georgia, Maryland, New Jersey, North Carolina, Rhode Island). The OCR encourages schools to establish and maintain collaborative relationships with law enforcement, but does not dictate that Responsible Employees must report survivors’ personally identifying information to the police (Lhamon, 2014). Compelled disclosure policies that require reporting of personally identifying information, irrespective of survivor consent, are the primary focus of this article.

Analysis of Compelled Disclosure Policies

When establishing these compelled disclosure policies, institutions are responding to multiple, and often conflicting, directives. For instance, Title IX guidance provides autonomy in designating “Responsible Employees”—instructing institutions to consider a range of factors, such as employees’ positions, students’ perceptions and situations, and the school’s formal and informal practices (Lhamon, 2014). However, some Resolution Agreements following OCR investigations have approved the designation of all employees as Responsible Employees (e.g., University of Virginia OCR Case No. 11-11-6001). Other Resolution Agreements, in contrast, have not specifically required all employees to be designated as Responsible Employees (e.g., Hunter College OCR Case No. 02-13-2052). How are institutions interpreting these instructions? How broad (or narrowly tailored) are contemporary compelled disclosure mandates? To answer these questions, we analyzed a stratified random sample of university sexual assault policies.

Sample

First, using the Carnegie Classification of Institutions of Higher Education, we obtained three lists of 4-year, not-for-profit colleges and universities: small (enrollment of 1,000–2,999; n = 683), medium (enrollment of 3,000–9,999; n = 480), and large (enrollment of least 10,000; n = 285).4 Using a Web-based random number generator, we drew a random sample of 50 schools from each list, for a total N of 150. Within this sample, 52% (n = 78) of institutions were public, and 48% (n = 72) were private.

Data Collection and Analysis

We visited each school’s homepage and searched for its sexual assault policy. The precise policy titles varied across institutions, but all policies explicitly addressed sexual as-

---

3 A Title IX Coordinator directs university efforts to comply with Title IX, e.g., establishing policies, educating campus community members about their rights, and overseeing complaints.

4 Enrollment numbers include all students. Each list included all residential classifications: highly residential, primarily residential, and primarily nonresidential. We excluded the U.S. Air Force Academy, Naval Academy, and Military Academy in West Point, because they are exempt from Title IX and The Clery Act.
sault. Next, we read the entire policy for information about compelled disclosure. If there was a definition and information, all applicable text was saved. If there was no definition or information, we combed the school’s website, using a variety of search terms (e.g., “responsible employee,” “mandated reporter,” “required to report”). This research was classified as “not regulated” by the institutional review board. Using this procedure, we located compelled disclosure policies for 146 schools. In other words, in this stratified random sample of 150 institutions of higher education, 97% had an accessible policy mandating that certain employees report any possible sexual assault disclosed to them by a student.

Next, we analyzed these policies using content analysis, a technique for classifying written text into meaningful categories (Stemler, 2001; Weber, 1990). In a deductive (or a priori) content analysis, researchers approach data analysis with specific questions and categories in mind; our focus in this case was the scope of compelled disclosure mandates. We identified four categories of scope: all employees, most employees, few employees, and ambiguous. Definitions and examples are displayed in Table 1. The first author and a trained research assistant coded the policies using these four categories; interrater reliability was excellent (Cohen’s $\kappa = 0.93$; Cohen, 1960), and discrepancies were resolved through discussion between coders.

Results

Over two thirds (69%, $n = 101$) of the 146 policies identified all employees—that is, all faculty and staff employed by the school—as mandatory reporters of sexual assault. An illustrative example of these policies is:

All employees who have any knowledge of on- or off-campus sexual assault . . . are required to report the incident to [University] Police, Dean of Students, Housing & Resident Life Director, or Title IX Coordinator. (Medium, Public)

Approximately one in five (19%, $n = 27$) schools designated most employees as mandatory reporters. Unlike the all-employee policies, these policies did not simply state that all employees were mandatory reporters, but the list of reporters included nearly all of their employees. Under these policies, only a small number of staff positions are considered exempt:

Responsibility Employees include, but are not limited to: Administrators; Academic advisors; Coaches and other athletic staff who interact directly with students; Faculty members, including professors, adjuncts, lecturers, instructors, and teaching assistants; Student services personnel; Graduate research assistants; Residence life or community advisors; Student organization advisors; All supervisory personnel; Human Resources personnel; and The [University] Police Department. (Medium, Public)

Only 4% ($n = 6$) of the schools named few employees as mandatory reporters, limiting this role to faculty and staff who are in top leadership positions and/or have significant responsibility for student safety and wellbeing. See Table 1 for an example.

Finally, 8% ($n = 12$) of the schools provided an ambiguous definition. They did not designate all employees as mandatory reporters, but also did not clearly identify those who were; for instance, “Most employees of the college are required by law to report any incidence of sexual misconduct of which they are aware” (Small, Private). It was impossible to determine the full scope of these policies (e.g., would all faculty members fall under “most” employees?).

Follow-up analyses revealed no differences in the scope of compelled disclosure mandates between public and private institutions, $\chi^2(3, N = 146) = 1.77, p = .62$ or small, medium, and large schools $\chi^2(6, N = 146) = 3.60, p = .73$. In sum, these findings suggest that the great majority of U.S. colleges and universities—regardless of size or public versus private nature—have developed policies designating most if not all employees (including faculty, staff, and student employees) as mandatory reporters of sexual assault. Does empirical evidence support the widespread implementation of compelled disclosure policies?

---

5 In many cases, the list of reportable offenses was broader than sexual assault, also including sexual harassment, IPV, and stalking, which often fall under the term “sexual misconduct.”
Table 1
Categories Classifying the Scope of Compelled Disclosure Policies

<table>
<thead>
<tr>
<th>Category</th>
<th>n (%)</th>
<th>Definition and example</th>
</tr>
</thead>
</table>
| All employees  | 101 (69%) | The policy states, generally, that all employees and/or staff members are mandatory reporters.  
  e.g., All faculty, staff, volunteers, vendors and agents are required to report any incidents of sexual misconduct . . . to the Title IX Coordinator or a Title IX Deputy Coordinator. (Small, Private) |
| Most employees | 27 (19%) | The policy does not simply state that all employees are mandatory reporters, but the list of reporters includes nearly all employees.  
  e.g., Responsible Employees shall include all administrators, faculty, staff, student workers, except: any employee with confidentiality obligations and . . . cafeteria staff, custodial staff, groundskeeper staff, maintenance staff, and ranch/agricultural staff not assigned administrative duties. (Small, Public) |
| Few employees  | 6 (4%) | The policy provides a specific and selective list of employees who are mandatory reporters, and excludes most employees.  
  e.g., Responsible Reporting Officials include employees, acting in their official University capacities, in the Office of the Title IX Coordinator, Office of Student Conduct, [University] Police, the Designated Harassment Resource Persons, Resident Advisors and Community Directors . . . Director of Equal Opportunity Programs/University Compliance Officer and Human Resources, non-student University employees in a senior management role . . . such as Deans, Vice Presidents, Department Chairs, and Directors . . . Faculty members, graduate teaching or research assistants, and undergraduate student employees are not generally considered Responsible Reporting Officials. (Large, Public) |
| Ambiguous      | 12 (8%) | The policy does not simply state that all employees are mandatory reporters, but also does not clearly identify those who are reporters.  
  e.g., Some employees are required to report all the details of an incident (including the identities of both the victim and alleged perpetrator) to the Title IX Coordinator. (Large, Public) |

Analysis of Rationales for Compelled Disclosure Policy

Given federal regulations requiring compelled disclosure roles in higher education, and evidence of the proliferation of very expansive compelled disclosure policies, it is crucial to examine underlying rationales regarding the benefits of compelled disclosure. For instance, assumptions are made that these policies will (a) bring more sexual violence to light, enabling universities to investigate and adjudicate more cases, (b) benefit sexual assault survivors, (c) benefit university employees, and (d) benefit and protect the institution by ensuring compliance with Title IX and reducing legal liability. Is there empirical evidence to support these claims? The following review of the literature analyzes each of these assumptions in turn.

Assumption #1: Compelled Disclosure Policies Surface More Sexual Violence

Supporting evidence. A strong assumption in compelled disclosure policy-making is that it will bring more cases of sexual assault to the attention of university officials, enabling them to adjudicate more cases and distribute more accurate crime statistics. It is also assumed that increased reporting could facilitate the identification and removal of repeat perpetrators (for research on the extent of repeat college offenders, see Lisak & Miller, 2002 and Swartout et al., 2015). In a recent study, Mancini, Pickett, Call, and Roche (2016) asked a general sample of undergraduates (not limited to survivors) their perceptions of law requiring universities to report sexual assaults to police: 56% imagined they would be more likely to disclose sexual violence to their university under such a law. Turning to research on IPV, Smith and Winokur (2004) found that women with an extensive history of IPV (e.g., multiple abusive relationships) indicated they would be more likely to seek health care if there were laws requiring medical professionals to report IPV to the police. In addition, an analysis of 631 IPV cases reported to the Cabinet for Families and Children under Kentucky’s mandatory reporting law suggested that the law helped to identify instances of IPV that may have gone undetected—approximately three quarters of the cases were at least somewhat substantiated (Bledsoe et al., 2004).

Conflicting evidence. Other studies suggest that sexual assault survivors may be less likely to come forward under compelled disclosure mandates. A survey conducted by the National Alliance to End Sexual Violence (NAESV) and Know Your IX found that 88% of survivors agreed that a policy requiring employees to report sexual assault would lead to fewer disclosures (NAESV, 2016). In a recent study of college students, only 5.8% indicated they would be “extremely likely” to tell a university employee about an unwanted sexual experience if there was a policy requiring employees to report sexual assault; in contrast, 21% were “extremely likely” to disclose if there was a policy requiring employees to respect students’ decisions about reporting (Barnes & Freyd, 2017). Other research indicates that, because of concerns about confidentiality, college sexual assault survivors do not disclose to housing staff (Holland & Cortina, 2017) or campus authorities (e.g., Nasta et al., 2005; Walsh, Banyard, Moynihan, Ward, & Cohn, 2010). Studies of IPV similarly find that victims lie to health care providers or avoid accessing...
medical care when providers are mandated to report to the police (e.g., Davidov, Jack, Frost, & Coben, 2012; Gielen et al., 2000; Sullivan & Hagen, 2005). In addition, there is some evidence that survivors forced into criminal justice proceedings without their consent are less likely to engage with those processes (Campbell, Greeson, Fehler-Cabral, & Kennedy, 2015; Patterson, & Campbell, 2010). This is deeply problematic, because investigation and adjudication hinge heavily on information provided by the survivor; these processes do not go far without that individual’s participation (Spohn & Tellis, 2014).

Summary and future directions. Some studies suggest that mandatory reporting (to police) can potentially bring more cases of victimization to light. However, other research complicates and contradicts this conclusion; some evidence even suggests that these reporting mandates can deter survivors from disclosing. Moreover, it remains entirely unclear whether reports made through compelled disclosure, without survivor consent, lead to more (or less) successful investigation and adjudication of sexual assault. Many questions remain unanswered and deserve the attention of psychological science: Do expanded compelled disclosure mandates cause a rise or fall in survivors’ disclosures? Do compelled disclosure policies assist or hinder the meaningful investigation and adjudication (or criminal prosecution) of sexual assault?

Assumption #2: Compelled Disclosure Policies Benefit Survivors

Supporting evidence. A second major assumption in favor of compelled disclosure is that these policies benefit survivors, for example by connecting them with information, services, and support. In Mancini and colleagues’ (2016) study of college students, many imagined positive results of compelled disclosure, such as increased accountability for both universities and perpetrators and increased assistance to survivors. Studies of women who had experienced IPV found that a majority agreed that medical personnel should be required to report IPV to the police, and believed there would be benefits (e.g., it would be easier to get help; Gielen et al., 2006; Malecha et al., 2000). Rodriguez and colleagues (2002) found that IPV survivors supported mandatory reporting laws if the law allows survivors to have a voice in the decision to report. Another study reported that support for medical compelled disclosure laws increased with the severity of abuse: women in multiple abusive relationships saw more potential benefits in the law (Smith & Winokur, 2004).

Conflicting evidence. While the findings reviewed earlier suggest that compelled disclosure policies could benefit survivors, there is conflicting evidence. For instance, Mancini and colleagues (2016) also found that the majority of students worried about negative consequences of compelled disclosure, including reduction in survivors’ autonomy and retraumatization of survivors. Similarly, many IPV survivors see problems in mandatory reporting laws (e.g., failing to stop abuse, increasing risk of abuse, reducing their likelihood of disclosing to medical providers; Gielen et al., 2006; Malecha et al., 2000). Moreover, research consistently finds that perceptions of compelled disclosure laws differ between IPV victims and nonvictims, with the former being significantly less supportive (e.g., Gielen et al., 2006; Rodriguez, McLoughlin, Nah, & Campbell, 2001; Sachs, Koziol-McLain, Glass, Webster, & Campbell, 2002).

Major medical associations and victim advocacy organizations oppose mandatory reporting for adult victims, including the American Medical Association (Sachs, 2007), the World Health Organization (WHO, 2013), and NAESV (2015). Rules that deny independent, competent adults the decision to report or not report abuse can stigmatize and humiliate victims and perpetuate harmful stereotypes (e.g., survivors are helpless; Kratochvil, 2010). Survivors of sexual assault endure an extreme loss of control during their victimization, and “one of the only aspects that remains in their control is if, how, when, and to whom to share their story” (DeAmicis, 2013, para. 29). Following a report, even if a survivor explicitly asks the school not to investigate, authorities can deem that the incident threatens campus safety (e.g., a weapon was used, a predator is “loose” in the community and may rape again), ignore the request, and take action (Lhamon, 2014).

When support providers take control away, survivors report increased posttraumatic stress, depression, and anxiety (Orchowski, Untied, & Gidycz, 2013; Peter-Hagene & Ullman, 2014). Survivors must regain their sense of control to recover and heal after sexual trauma (e.g., Frazier, 2003; Walsh & Bruce, 2011; Zweig & Burt, 2007). Some sexual assault and IPV victims forego treatment and support, rather than sacrifice their privacy and control under compelled disclosure (Davidov, Jack, et al., 2012; Moylan, 2016; Sullivan & Hagen, 2005). Although OCR guidance explicitly states that colleges are not required to investigate information shared at public events like Take Back the Night rallies or Survivor Speak-Outs (Lhamon, 2014), at some institutions, survivors cannot disclose at such events without fear that a report will be made should a mandated reporter be present (Moylan, 2016).

The idea that survivors will benefit from compelled disclosure also assumes that interacting with the university reporting process and/or criminal justice system will be a positive experience. However, survivors often encounter negative treatment from law enforcement and other formal supports (e.g., medical providers)—leaving them feeling blamed, traumatized, and reluctant to seek further help (Campbell, 2008). Many endure institutional betrayal, which refers to wrongdoings perpetrated by an institution against those who are dependent on it (Smith & Freyd,
2013, 2014); this includes acts of commission (e.g., blaming the victim) and omission (e.g., doing too little to prevent the assault). Student survivors who experience institutional betrayal report more posttraumatic symptoms (Smith & Freyd, 2013). Fear of such secondary victimization is among the top reasons college students do not report their sexual assaults to police (e.g., Fisher, Daigle, Cullen, & Turner, 2003; Thompson, Sitterle, Clay, & Kingree, 2007).

Summary and future directions. In sum, evidence is weak that compelled disclosure policies clearly benefit survivors. Some studies have demonstrated positive attitudes toward compelled disclosure mandates. Much of this work, however, included either nonvictims (e.g., Mancini et al., 2016) or victims who were already accessing services (e.g., criminal justice system, health care centers, IPV shelters). For instance, IPV victims who had contacted the police for assistance were more likely to support mandatory reporting laws (Smith & Winokur, 2004). It remains unknown whether these findings would generalize to survivors more broadly, especially those who are unable or unwilling to seek help. Other research has documented fears and experiences of negative consequences (e.g., institutions stripping survivors of control, first responders blaming victims). One limitation that applies to much of this research (both supporting and opposing mandatory reporting laws) is the factor of age, being over 10 to 15 years old; this raises questions about the applicability of these findings in today’s social climate.

These issues deserve renewed research attention, addressing a range of questions. For example, do today’s college student survivors—including those who have not accessed any supports—see and experience benefits from compelled disclosure policies? Do these policies differentially affect survivors belonging to marginalized groups? For instance, ethnic and sexual minority students are more likely to encounter discrimination and institutional betrayal (Gómez, 2015; Smith, Cunningham, & Freyd, 2016); do they feel protected and relieved or surveilled and distressed by compelled disclosure policies that require reporting of their assaults?

Assumption #3: Compelled Disclosure Policies Benefit Employees

Supporting evidence. Another argument about the benefit of making all faculty and staff Responsible Employees is that it simplifies policies and reduces confusion (see, for example, Association of Title IX Administrators, 2015). According to OCR Title IX guidance, universities must inform all employees and students about which members of the campus community are Responsible Employees, so that employees are equipped to handle disclosures and survivors are able to make informed disclosure decisions (Lhamon, 2014). In theory, an all-employee reporting policy should remove ambiguity about reporting responsibilities and simplify employee roles. However, these claims have not yet received empirical evaluation, in part because these policies are new to the context of university employment. A forthcoming study of resident assistants (RAs)—who are frequently designated as required reporters—assessed RA opinions of their mandatory reporting requirements (Holland & Cortina, in press). On average, RAs believed mandatory reporting was a necessary and (somewhat) helpful part of their jobs, but also complicated their other job roles (e.g., making it more challenging to gain residents’ trust; see Holland & Cortina, in press for more detail). In a study of physicians conducted in the 1990s, approximately two-thirds of the sample believed that compelled disclosure laws could improve physician responses to IPV (Rodriguez, McLoughlin, Bauer, Paredes, & Gumbach, 1999).

Conflicting evidence. Studies of IPV reporting suggest that compelled disclosure mandates do not simplify the responsibilities of reporters, who are often unprepared for this role. Studies find that health care providers often lack knowledge about IPV-related reporting laws (Davidov & Jack, 2014; Gerbert, Caspers, Bronstone, Moe, & Abercrombie, 1999), and they are less likely to report suspected IPV when they are unaware of their legal mandate or do not know how to report (Davidov, Nadorff, et al., 2012; Rodriguez, McLoughlin, et al., 1999; Smith, Rainey, Smith, Alameres, & McLoughlin, 2008).

Reporters’ mistrust of compelled disclosure policies may also create challenges. For instance, compared with other RAs, those who hold negative perceptions of compelled disclosure responsibilities were significantly less likely to report sexual assault disclosures to university authorities (Holland & Cortina, in press). Other studies have found that health care providers believe IPV compelled disclosure laws hinder their ability to help patients and could inflict harm (Davidov, Jack, et al., 2012; Gerbert et al., 1999), and providers are less likely to report suspected IPV when they fear it may damage relationships with their patient or put the victim at greater risk for abuse (Davidov, Nadorff, et al., 2012; Smith et al., 2008). Another study found approximately 60% of physicians stated that they would not report IPV if a patient did not want them to (Rodriguez, McLoughlin, et al., 1999). Nurse practitioners with a personal history of IPV are also less likely to agree that they would report IPV to the police (Bryant & Spencer, 2002).

The field of psychology has long recognized the ethical dilemmas that compelled disclosure laws create for psychologists (e.g., Fisher & the Center for Ethical Practice, Inc, 2008; Pope & Bajt, 1988). Two central responsibilities for psychological practice include building trusting relationships with clients and protecting their confidentiality. Critical questions arise about how to perform these essential job functions while also breaking confidentiality as required by law—potentially jeopardizing clients’ dignity, autonomy,
and safety (Fisher & the Center for Ethical Practice, Inc, 2008). The OCR exempts licensed psychologists and counselors, health care providers, and pastoral counselors from reporting responsibilities, and encourages universities to exempt sexual assault center employees and advocates as well (Lhamon, 2014). Accordingly, these employees would not be obligated to report identifying information without survivor consent (unless compelled by other law, e.g., the victim is a minor). Although teachers and advisors are not bound by the same level of confidentiality, many strive to build trusting relationships with students and safeguard their privacy. In short, compelled disclosure may require faculty to deviate from the principles of good, ethical educational practice.

According to anecdotal evidence, many faculty members express disbelief and anger after learning that their university sexual assault policy requires them to betray their students’ trust (DeAmicis, 2013; Flaherty, 2015). Moreover, faculty fear that expansive compelled disclosure will deter survivors from participating in research and hinder rigorous investigation of sexual assault and other forms of violence (see Potter & Edwards, 2015). The American Association of University Professors (AAUP, 2016) opposes sweeping compelled disclosure policies. In Moylan’s (2016) study of university victim advocates, being designated as a Responsible Employee hampered advocates’ ability to perform their jobs (i.e., assisting survivors).

Summary and future directions. Compared with few-employee policies, all-employee compelled disclosure policies appear simpler on their face. However, scant evidence supports the assumption that the latter are easier or better for university employees. Faculty have voiced concerns about the practical, ethical, and instructional challenges created by compelled disclosure, and these claims warrant careful study (e.g., Are students less likely to trust faculty who are Responsible Employees? Do these policies hinder faculty ability to teach about sex, gender, or violence? Do they impede research on sexual violence?). It is also important that schools evaluate the enactment of compelled disclosure mandates: How well are Responsible Employees responding to student disclosures, and how could those responses be improved?

Assumption #4: Compelled Disclosure Policies Benefit the Institution

Supporting evidence. A final argument in favor of compelled disclosure policies is that they ensure compliance with Title IX and protect the institution against legal liability. The OCR established that a college has “official notice” of a sexual assault when any Responsible Employee “knows or reasonably should know” about the incident (Lhamon, 2014, p. 15). Once the school has official notice, administrators must take immediate action to investigate, determine whether the conduct has created a hostile environment (violating Title IX), and if so, remedy the situation quickly and equitably (Lhamon, 2014). Some schools may designate all faculty and staff as “Responsible Employees” in an attempt to insulate themselves from liability under the “known or should have known” standard (Moylan, 2016; Savino, 2015). If all employees must report any sexual assault they see or hear about, the university can strive to take appropriate action in response to every incident. Schools that fail to respond rapidly and equitably to sexual assault run the risk of losing federal funding (U.S. Department of Education, 2014). However, there is no concrete evidence that compelled disclosure policies insulate against legal liability.

Conflicting evidence. Some scholarly work suggests that broad compelled disclosure policies could potentially violate other aspects of Title IX guidance. These policies prioritize the OCR directive to investigate all reports, while overlooking OCR guidance to provide victim-centered support and respect survivors’ autonomy and privacy (Moylan, 2016). According to qualitative accounts by Title IX investigators (i.e., student affairs professionals gathering facts for sexual assault complaints), their primary focus—respecting and supporting complainants and respondents throughout the fact-finding process—is sometimes at odds with university attorney concerns about legal liabilities (Peters, 2016). The 2011 Dear Colleague Letter states that if a survivor requests confidentiality, the school should “take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation” (Ali, 2011, p. 5). However, even when university officials do everything possible to respect requests for confidentiality, Responsible Employee reports made against a survivor’s wishes already disregarded that individual’s desire for confidentiality and autonomy.

Responsible Employees have significant responsibilities—revealing deeply personal, distressing information about student-survivors and putting them in contact with university officials, resources, and possibly law enforcement (which could then pull survivors into criminal justice proceedings). These employees must be properly trained to respond to sexual assault disclosures with appropriate information, compassion, and discretion. The OCR outlines detailed expectations for Responsible Employee training: schools should train Responsible Employees to understand thoroughly (a) their responsibility to inform survivors about their role as a mandatory reporter, ideally before the disclosure takes place; (b) their reporting obligations, for example, what and to whom they must report; (c) their duty to explain all of survivors’ reporting options, for example, making a Title IX complaint, reporting to the police; (d)

6 Although, in other roles (e.g., instructor), “these employees may have responsibilities that would otherwise make them responsible employees for Title IX purposes” (Lhamon, 2014, p. 22).
survivors’ right to request confidentiality or confidential resources; and (e) ways to respond appropriately to survivors, for example, using nonjudgmental language (Lhamon, 2014). Responsible Employees who are inadequately or improperly trained could exacerbate survivor distress and trauma, for example by asking questions that communicate doubt or blame (Campbell, 2008; Orchowski et al., 2013).

The importance of training raises a critical question: Can institutions with broad compelled disclosure policies appropriately train every employee (or even most) on their campus to the extent expected by OCR? Research has found that many institutions do not meet the recommended education standards under Title IX and Clery (Griffin, Pelletier, Griffin, & Sloan, 2016; Richards, 2016). For instance, at Senator Claire McCaskill’s request, the U.S. Senate Subcommittee on Financial & Contracting Oversight (2014) conducted a national survey to assess university sexual assault policies, procedures, and resources. They found that 21% of schools did not train faculty and staff members on how to respond to sexual assault disclosures; of the schools that did provide training, 54% said that this training was voluntary.

Summary and future directions. Compelled disclosure may seem justifiable if it protects the institution and embodies the victim-centered goals of Title IX and related guidance: investigating and adjudicating more assaults, assisting survivors, holding perpetrators accountable, preventing future assaults, and enhancing campus safety. Many would agree that these are laudable objectives. It remains unclear, however, whether expansive compelled disclosure policies achieve their intended goals. Do they insulate institutions against legal liability? Make it easier for survivors to receive assistance and justice? Result in prompt and equitable investigation and adjudication of sexual assault? These questions remain unanswered and merit careful study. Moreover, research is needed to evaluate the effectiveness of training for Responsible Employees. Which training approaches are most (and least) effective, using which formats and materials (e.g., lectures, role plays, case studies, videos), and for whom?

Survivor-Centered Reforms

The preceding sections illustrate that broad compelled disclosure policies have become ubiquitous in American higher education, despite a dearth of evidence regarding their effectiveness (and some data suggesting possible harm). This is especially problematic from the perspective of psychology: according to the APA Ethics Code, the principle of beneficence and nonmaleficence dictates that psychologists must carefully assess risks and benefits, ensure benefits outweigh costs, and avoid or minimize harm before an intervention is implemented (and certainly before it becomes widespread). Our analyses suggest that expansive compelled disclosure policies may not live up to these ideals. Thus, there is an urgent need for alternative, innovative policies and practices. The overarching goal should still be rapid and appropriate institutional response to sexual violence, but there should also be minimization of harm to students and respect for their right to self-determination. Ideally, these alternative approaches should be developed with input from survivors as well as experts in sexual violence and mental health, and they should then be carefully evaluated for their efficacy. When one thinks beyond compelled disclosure, what policies and practices seem most promising?

Alternative #1: Ascertain and Respect Survivors’ Wishes

First, universities could require employees who receive a student disclosure of sexual assault to ascertain what the survivor wants to have happen with her or his private information, and then respect that student’s choice (an idea proposed by Freyd, 2016). In a study of nurses and their patients, both indicated that the ideal response to an IPV disclosure is to allow the victim to have control over whether a report is made (Davidov, Jack, et al., 2012). If the survivor wants the information relayed to university officials or law enforcement, the employee must relay it. If instead the student desires privacy, the staff or faculty member should respect that choice. The policy should also acknowledge that survivors’ wishes might change with time. For an example of this policy approach, see the “student-directed employees” policy recently enacted at the University of Oregon (US16/17-07, 2016).

Alternative #2: Create a Restricted Reporting Option

A second approach could be to implement a restricted reporting option, where students can make an initial report, provide evidence, and receive services, but choose not to launch an (immediate) official investigation. The U.S. military offers a similar reporting option for sexual assault: Service members can make an unrestricted report (initiating an official investigation) or a restricted report (remaining confidential while accessing services); a survivor can later switch a restricted report to an unrestricted report (Department of Defense [DoD] Directive 6495.01, 2012). The DoD documented a 40% increase in sexual assault reports in the year following the implementation of the Sexual Assault Prevention and Response program and restricted and unrestricted reporting options (DoD, 2016). Although survivors are more likely to make unrestricted reports, Service women report more positive experiences with restricted reports (e.g., protected privacy; Mengeling, Booth, Torner, & Sadler, 2014). Restricted reporting options protect survi-
vors’ autonomy—giving them time to receive services, weigh their options, and recover mentally, physically, and emotionally before deciding to make their report “official.”

Alternative #3: Make Use of a Third-Party Reporting System

A third approach could be to use third party reporting technologies, such as Callisto (https://www.projectcallisto.org). Callisto is a nonprofit, online platform that can perform a number of important functions: (a) compile information about sexual assault policies, reporting options, and resources in a given college community; (b) allow survivors to create and save a time-stamped electronic record of the assault—including photographic evidence; (c) provide survivors the option to submit their report to the university at any time; (d) provide a “matching” option, which automatically submits the report if another student reports the same perpetrator; and (e) send anonymous, aggregate statistics to administrators to better track the prevalence of sexual violence over time and understand the campus climate. Systems like these are a new approach to sexual assault reporting, and it will be important for future research to evaluate their efficiency.

Alternative #4: Reform Compelled Disclosure Procedures

While expanding voluntary reporting options is the most survivor-centered alternative, institutions may be hesitant to abandon compelled disclosure policies entirely, given OCR directives. Some may also see compelled disclosure as a tool for detecting sexual predators and protecting the community. If nothing else, a blended approach is possible: Alongside compelled disclosure, there could be expanded voluntary reporting options that provide survivors with additional outlets for disclosure. The aims could be to decrease involuntary disclosures (i.e., fewer reports without survivor consent) while increasing voluntary ones (more survivor-initiated or consented reports).

Modifications to compelled disclosure procedures could also help mitigate harm. For instance, universities could require Responsible Employees to report sexual assault disclosures to well-trained and confidential advocates, rather than Title IX officials or law enforcement. With enhanced social, emotional, medical, and legal support, more survivors may choose to participate in reporting and investigation processes later. This was a key finding in Campbell’s (2006) study: Rape survivors who worked with victim advocates were more likely to file an official police report and permit an investigation. A similar approach has been taken under Kentucky IPV law, which requires mandatory reporters to report to the department for social services rather than law enforcement. Researchers found that this law facilitated social workers’ ability to assist IPV victims (e.g., with safety planning, finding legal help; Bledsoe et al., 2004), and IPV survivors preferred such approaches (Antle, Barbee, Yankeelov, & Bledsoe, 2010).

Conclusion

A content analysis of 150 university policies provides evidence that schools are widely implementing policies that require most, if not all, employees to report student disclosures of sexual assault (even without student consent). A review of the literature reveals limited research to support assumptions regarding the benefits of compelled disclosure. In fact, some evidence suggests that these mandates may carry negative consequences: silencing and disempowering survivors, complicating employees’ jobs, and prioritizing legal liability over student welfare. Policymakers and administrators must consider empirical evidence when making decisions about compelled disclosure policies. The alternatives outlined above purposefully move away from mandatory reporting as a primary response mechanism, and instead expand voluntary reporting options. Establishing more confidential supports, providing multiple voluntary reporting options, and improving investigation and adjudication processes could help survivors come forward on their own. With a combination of increased voluntary reporting and improved institutional response, universities could potentially remedy more cases of sexual assault, without sacrificing survivors’ autonomy. There is a pressing need for additional research to further understand the efficacy and effects of compelled disclosure policies and survivor-centered alternatives.

References


Received October 3, 2016
Revision received June 8, 2017
Accepted June 9, 2017
To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit an article my PhD advisor, Dr. Kathryn Holland, authored along with topic experts Dr. Nicole Bedera and Dr. Aliya Webermann that was published in the highly reputable journal *Analyses of Social Issues and Public Policy*. The article is titled *The Selective Shield of Due Process: Analysis of the U.S. Department of Education’s 2020 Title IX Regulations on Live Cross Examination*. This piece will be very informative for the Department of Education in reviewing the issues within the 2020 regulations that should be eliminated.

I have attached the article here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral candidate
Social Psychology
Department of Psychology
University of Nebraska-Lincoln
The Selective Shield of Due Process: Analysis of the U.S. Department of Education’s 2020 Title IX Regulations on Live Cross-Examination

Kathryn J. Holland*
University of Nebraska

Nicole Bedera
University of Michigan

Aliya R. Webermann
University of Maryland Baltimore County

The U.S. Department of Education (DoE) released new Title IX regulations in May 2020, including the requirement that postsecondary institutions conduct live hearings with direct cross-examination for sexual misconduct reports. The 2,033-page document included a summary of public comments and the DoE’s discussion of those comments. We analyzed this publicly available document to answer two questions: (1) What are the primary concerns of the cross-examination requirement for victims within the Department’s summary of public comments? (2) How did the Department respond to these victim concerns? We conducted a content analysis, with a specific focus on the DoE’s summary of survivor-focused comments regarding cross-examination and the DoE’s discussion of and changes made in response to those comments. We identified four overarching survivor-focused concerns and four categories of DoE responses. Our findings suggest that...
the DoE did not meaningfully address survivor-focused concerns, but instead, selectively wielded “due process” as a shield to deflect critiques and legitimize the myth that sexual misconduct allegations inherently lack “credibility.” The lack of protections for victims is a significant departure from legal norms in other settings. Our findings identify the importance of legislators working with survivor-activists, practitioners, and researchers to ensure complainants receive adequate procedural protections.

Sexual misconduct is a widespread problem within institutions of higher education, with victimization surveys indicating women and lesbian, gay, bisexual, transgender, and queer (LGBTQ) students are at greatest risk (Cantor et al., 2017; Coulter et al., 2017; Desmarais, Reeves, Nichollls, Telford, & Fiebert, 2012; Fedina, Holmes, & Backes, 2016; Fisher, Cullen, & Turner, 2000). The term sexual misconduct, used here, captures all forms of sex and gender-based discrimination that schools must address under federal and state law, including rape, sexual assault, sexual and gender-based harassment, stalking, and intimate partner violence. Students who experience sexual misconduct are likely to experience adverse educational outcomes (e.g., lower GPA, higher likelihood of dropout) and mental health consequences (e.g., anxiety, depression, posttraumatic stress, suicidal ideation; Baker et al., 2016; Campbell, Dworkin, & Cabral, 2009; Dworkin, Menon, Bystrynski, & Allen, 2017; Jordan, Combs, & Smith, 2014; Santaularia, Hart, Haskett, Welsh, & Faseru, 2014). A university’s failure to provide adequate services to victims can produce feelings of institutional betrayal—“when an institution causes harm to an individual who trusts or depends upon that institution”—which is linked to traumatic symptoms similar in nature and severity to the original act of sexual misconduct (Smith & Freyd, 2014, p. 578). It is for these reasons that student activists, academics, and government officials have increasingly called for universities to improve policies and procedures for reporting sexual misconduct.

Title IX is federal legislation originally passed as part of the U.S. Education Amendments Act of 1972, which bars sex discrimination within educational institutions that receive federal funds (U.S. Department of Justice, 2015). In 1997 and 2001, the U.S. Department of Education (DoE or “the Department”) Office for Civil Rights first released guidance on how schools must respond to students’ reports of sexual misconduct as a prohibited form of sex discrimination under Title IX (U.S. Department of Education, 1997, 2001). In 2011, under President Obama’s administration, the DoE increased pressure on universities to improve their response to sexual misconduct by providing more specific recommendations for establishing effective and equitable grievance procedures under Title IX in a Dear Colleague Letter (U.S. Department of Education, 2011, 2014). Although sexual violence was considered a prohibited form of sex discrimination (i.e.,
included within the definition of “sexual harassment”) under prior OCR guidance and case law, the 2011 Dear Colleague Letter centered sexual violence in its guidance on Title IX in order to increase institutions’ attention to this specific issue.

However, recent years have seen a shift in the DoE’s focus on sexual misconduct. Citing concerns about rights for those accused of sexual misconduct, the DoE under the Trump administration proposed new Title IX regulations with more prescriptive requirements for the adjudication of sexual misconduct, most notably that postsecondary institutions must conduct live hearings with direct cross-examination (U.S. Department of Education, 2018). In May 2020, the DoE released a 2,033-page document that included an extensive summary of public comments on the proposed regulations made during the Notice and Comment period, and the Department’s discussion of those comments and justification of the final regulations (U.S. Department of Education, 2020). In the current study, we analyze this document to assess whether or not the regulations were responsive to sexual misconduct victims’ rights and concerns. Specifically, we perform a qualitative analysis of the section addressing the mandate for live hearings with cross-examination, including the Department’s summary and discussion of public comments focused on implications for complainants (i.e., survivor-focused concerns) and the changes and justifications the Department made in response to those comments.

Terminology

When describing those who have experienced sexual misconduct, there is a longstanding debate regarding the terminology of victim versus survivor, as both terms are used by those who have experienced misconduct (Hockett & Saucier, 2015; Spry, 1995). In the current study, we use victim and survivor interchangeably to describe those who have experienced sexual misconduct. We also use the term complainant when referring to victims/survivors who have reported sexual misconduct (and the term respondent refers to those accused of sexual misconduct). We use the terms college and university interchangeably to represent institutions of higher education, and the DoE also refers to colleges and universities as postsecondary institutions and recipients.

Background on Title IX and Evolving Guidance from the DoE

The application of Title IX to cases of sexual misconduct was first established through case law. In the landmark case Alexander v. Yale University, Yale students successfully argued that sexual harassment was a form of sex discrimination prohibited under Title IX (Alexander v. Yale University, 1980). The Supreme Court has repeatedly ruled that students who report experiencing sexual misconduct
perpetrated by an employee or student can sue for monetary damages under Title IX if the school does not adequately respond to their report, including in *Franklin v. Gwinnett County Public Schools* (1992), *Gebser v. Lago Vista Independent School District* (1998), and *Davis v. Monroe County Board of Education* (1999). The DoE Office for Civil Rights, which is responsible for enforcing Title IX, published federal guidance on sexual misconduct in 1997, providing schools with information about how to identify and prevent sexual misconduct (U.S. Department of Education, 1997). The DoE updated this guidance in 2001, in a 48-page document, reaffirming the compliance standards of schools under Title IX as a condition of receiving continued federal funding (U.S. Department of Education, 2001). It was 10 years before the DoE took additional steps to ensure that institutions were adequately addressing campus sexual misconduct.

In 2011, under the administration of President Obama, the DoE published a *Dear Colleague Letter* reminding schools of their mandate to take immediate and effective action to protect students who report sexual misconduct to their schools (U.S. Department of Education, 2011). Three years later, the DoE released a Q&A document further clarifying and explaining Title IX guidance, which included more detailed information about specific requirements for sexual misconduct grievance procedures (U.S. Department of Education, 2014). These documents stated that schools must establish investigation and adjudication procedures that provide equitable rights to complainants and respondents (e.g., equal opportunity to present evidence as well as to review statements) but did not require live hearings and discouraged cross-examination. Instead, the DoE recommended indirect questioning, in which parties submit questions to a trained hearing panel, who would determine the relevance of and ask these questions (U.S. Department of Education, 2014). The DoE also permitted single-investigator models, in which complainants and respondents would forego a hearing altogether and complete these exchanges in writing (U.S. Department of Education, 2014). The goal of this guidance was to establish a more equitable adjudication process and also ensure that survivors of sexual misconduct are able to report without enduring additional trauma within a hearing.

However, in the following years, there was social and political backlash to the OCR’s renewed focus on addressing sexual misconduct in higher education. Men’s rights activist groups, such as the National Coalition for Men Carolinas (NCFMC), Families Advocating for Campus Equality (FACE), and Stop Abusive and Violence Environments (SAVE), publicly opposed the 2011 *Dear Colleague Letter* and called for increased “due process rights” for respondents (for an overview, see Barthélemy, 2020). These sentiments were shared by some groups who were less overtly politically motivated, including some university faculty who wrote open letters (e.g., Bartholet, Gertner, Halley, & Gensen, 2017) and published books (e.g., Kipnis, 2017) on the topic. Under the Trump administration, the DoE issued a *Dear Colleague Letter* in 2017 that
Title IX Regulations

withdrew the 2011 and 2014 sexual misconduct guidance (U.S. Department of Education, 2017). In this letter, the DoE cited concerns about due process rights for the accused and stated the intention to develop new Title IX rules with an opportunity for public comment. The DoE then proposed new regulations in November of 2018, which included more prescriptive requirements for the adjudication of sexual misconduct, such as the requirement of live hearings with cross-examination of complainants, respondents, and witnesses (U.S. Department of Education, 2018). A 60-day Notice and Comment period followed, during which the DoE received more than 124,000 public comments on the regulations (U.S. Department of Education, 2020). In May 2020, the DoE published their final Title IX regulations within a 2,033-page document, which summarizes the public comments and the Department’s response to those comments, including the explanation of and justification for the final regulations (U.S. Department of Education, 2020). These regulations require institutions to implement live hearings with cross-examination (§106.45 (b)(6)(i)), which has been particularly controversial.

Cross-Examination in Sexual Misconduct Disciplinary Hearings

Advocates for students accused of sexual misconduct have argued that cross-examination is necessary to ensure due process for respondents during university sexual misconduct proceedings, likening it to the due process protections that defendants receive in criminal and civil courts, including rights to discovery and live hearings with direct cross-examination (e.g., Kruth, 2018; Yoffe, 2017). Recently, the Sixth Circuit court has ruled in favor of cross-examination as a means of due process for the accused in university sexual misconduct adjudication proceedings, including in Doe v. University of Cincinnati (2017) and Doe v. Baum (2018). Doe v. University of Cincinnati (2017) emphasized the need for a hearing panel to evaluate an alleged victim’s “credibility” by allowing the respondent to submit questions to the panel (Doe v. Cincinnati, 2017), while Doe v. Baum (2018) asserted that when an accused student faces a serious sanction (e.g., expulsion, suspension) and the allegation presents an issue of “credibility,” the university must hold a hearing with cross-examination (Doe v. Baum, 2018). A California Court of Appeals decision that occurred after the Notice and Comment period made a ruling similar to Doe v. Baum (Doe v. Allee, 2019). These rulings aligned with a broader “disciplined student narrative” in public discourse (Behre, 2019), which focuses on protecting the due process rights of respondents through the use of live cross-examination, among other mechanisms (e.g., Bartholet et al., 2017; Kipnis, 2017). Advocates for the accused argue that cross-examination is required to test the “credibility” of parties in cases of sexual misconduct, particularly complainants’ credibility.
In opposition to these arguments, many courts have ruled against the need for live and direct cross-examination in the adjudication of sexual misconduct in institutions of higher education. Two Supreme Court cases, specifically, *Goss v. Lopez* (1975) and *Mathews v. Eldridge* (1976), have provided parameters on what due process protections must be afforded to students in a disciplinary hearing. *Goss v. Lopez* (1975) ruled that students who may be temporarily suspended from a public school are entitled to due process protections, including notice of the allegation and an opportunity to present their side of the story pertaining to the allegation. *Mathews v. Eldridge* (1976) established a “balancing test” that lower courts can use to determine whether or not a person received adequate due process during an administrative disciplinary process. Legal scholars have argued that indirect questioning through an investigator or hearing panel sufficiently achieves the appropriate balance between the rights of a complainant and respondent (O’Toole, 2017). The First, Second, Fourth, Fifth, Sixth, Tenth, and Eleventh Circuit Courts, and district courts in the Seventh and Eighth Circuits, have all ruled that live and direct cross-examination is not required to provide due process for an accused student in a disciplinary proceeding (Migler, 2017). Most recently, the First Circuit decision in *Haidak v. University of Massachusetts-Amherst* (2019) explicitly contradicts *Doe v. Baum* (2018) and *Doe v. Allee* (2019), asserting that direct cross-examination is not required for due process in sexual misconduct proceedings. Instead, the court ruled that due process of law was satisfied if the university conducted “reasonably adequate questioning” (p. 26), such as indirect cross-examination through a hearing panel (Haidak v. University of Massachusetts-Amherst, 2019). Nonetheless, the DoE final regulations retained the requirement of live cross-examination.

**Current Study**

While there has been increasing attention on the rights and preferences of respondents in the adjudication of sexual misconduct in higher education, the current study returns to the intended focus of Title IX: the students who are impacted by gender and sex-based discrimination. Survivors and their advocates have expressed concern about the implications of cross-examination in university sexual misconduct proceedings, arguing that live cross-examination requires colleges to act as a court of law and favors the rights of the accused over those who have experienced sexual misconduct (e.g., Green, 2018; Kreighbaum, 2018). Moreover, the process of cross-examination is often traumatizing for survivors (Campbell, 2008; Konradi, 2007; Parsons & Bergin, 2010), which may be of particular concern when questioning will occur outside of a controlled courtroom setting wherein complainants have greater procedural protections. It is essential that all due process concerns are balanced against the equally strong legal mandate for the protection of civil rights on campus (Triplett, 2012).
In this study, we sought to examine how sexual misconduct victims' rights and concerns were addressed in the revision of the 2020 U.S. Department of Education's regulation on Title IX. To achieve this aim, we pursued two research questions. (1) What are the primary concerns of the cross-examination requirement for victims within the Department's summary of public comments? (2) How did the Department respond to these victim concerns? We analyzed the section on Hearings (pp. 1044–1229), including the DoE's summary of survivor-focused comments, which focused on the implications of cross-examination for complainants, and the Department's discussion of those comments and any changes made in response to those comments. This study provides an in-depth analysis of the Department's summary of public concerns about cross-examination for complainants, and the Department's reaction to these concerns and justification for requiring live hearings with direct cross-examination.

Method

Data

The data for this study consists of the DoE’s final rule, entitled “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Financial Assistance” (U.S. Department of Education, 2020). This publicly available document is 2,033 pages in length, and contains many subsections, including: (a) information regarding implementation (e.g., effective date); (b) an executive summary; (c) an analysis of the types of public comments received; (d) sections summarizing public comments on each major component of the regulations and the department’s discussion in response to the comments; (e) a regulatory impact analysis; (f) additional information about related regulations (e.g., Executive Orders, Regulatory Flexibility Act); and (g) the final regulations (see U.S. Department of Education, 2020 for a link to the document). In the current study, we analyzed the section on Hearings. This section of the document focused on § 106.45 (b)(6)(i) of the final regulations, requiring live hearings with cross-examination, and spanned pages 1044 to 1229 (N = 186 pages). This section opened with a preamble that summarized the comments in support of cross-examination as a means of ensuring due process for students accused of sexual misconduct (pp. 1044–1051) and the Department’s reaction to these comments (i.e., thanking the commenters for their agreement and asserting that no changes were made to the final regulations as a result of those comments; pp. 1051–1056). The remaining 173 pages in this section consisted of summaries of survivor-focused comments, including frequent concerns raised by commenters, and the Department’s discussion of those comments and any changes made in response to those comments. Our analysis focused specifically on these 173 pages. Given our aim to understand the implications of requiring live hearings with cross-examination for
students who experience sexual misconduct, we did not analyze public comments that were focused on the accused (i.e., respondents).

**Analysis Approach**

We used content analysis to analyze these data, a technique for organizing qualitative data into meaningful pieces of information or categories (Weber, 1990). To answer our first research question (What are the primary concerns of the cross-examination requirement for victims within the Department’s summary of public comments?), the first author and the third author read the entire section on Hearings with a specific focus on the Department’s summary of survivor-focused comments. We operationalized “survivor-focused” to include any comment that referenced the rights or well-being of victims/survivors or complainants, including comments that spoke about the implications for students in general. The first and third author independently developed a set of notes regarding the types (or categories) of concerns they identified in these data. Using these notes as a guide, all three authors identified and reached consensus upon four overarching codes that captured categories of survivor-focused concerns: (1) cross-examination is traumatizing for survivors; (2) there are inadequate procedural protections for complainants; (3) cross-examination undermines the spirit of Title IX; and (4) cross-examination is not required to achieve truth and due process. Comments that focused on accused students or respondents were not included in these codes unless the comment also contained information about victims/survivors or complainants.

Using the same approach to answer our second research question (How did the Department respond to these victim concerns?), the first and second author read the entire section on Hearings with a specific focus on the Department’s responses to the survivor-focused concerns. We operationalized “department response” to include any discussion of comments related to the rights or well-being of victims/survivors or complainants and changes made in response to those comments. The first and second author independently developed detailed notes regarding the categories of responses they identified in these data. Using these notes as a guide, all three authors identified and reached consensus on the overarching codes that captured four categories of Department responses: (1) due process protections focus on the “credibility” of sexual misconduct complaints; (2) not addressing concerns of survivors and their allies; (3) minimizing concerns of survivors and their allies; and (4) making small changes and/or clarifications. The Department’s discussion of comments related to respondents was not included in these codes unless the discussion also contained information relevant to complainants.

After all authors reached consensus about the eight overarching categories, we applied these categories to data using Dedoose version 8.2. The coding scheme is in the Appendix. The text was split into thirds, with the first author applying the
categories to pp. 1051–1116, the second author applying them to pp. 1116–1173, and the third author applying them to pp. 1174–1229. To establish reliability, 10% of excerpts (i.e., text coded in these data) were independently coded by two different authors and interrater reliability was excellent (Cohen’s kappa = .85; Cohen, 1960). Any discrepancies in coding were resolved through conversation until consensus was reached.

Results

Survivor-Focused Concerns

First, we identified survivor-focused concerns regarding the requirement that institutions implement live hearings with cross-examination to adjudicate sexual misconduct reports. To reiterate, we identified four overarching categories: (1) cross-examination is traumatizing for survivors; (2) there are inadequate procedural protections for complainants; (3) cross-examination undermines the spirit of Title IX; and (4) cross-examination is not required to achieve truth and due process. The DoE did not identify any survivor-focused comments supportive of cross-examination in this context. Each of the four categories is discussed in detail below.

Cross-Examination Is Traumatizing for Survivors

The Department summarized many comments that argued survivors will face trauma during a live hearing with cross-examination, in addition to the trauma experienced by the initial victimization and other parts of the reporting and adjudication process. Commenters purported that the purpose of an adversarial cross-examination process is to delegitimize complainants, which invokes aggressive questioning tactics (e.g., attacking a complainant’s character) and sexual assault myths (e.g., suggesting that women lie about sexual violence). Such a process retraumatizes survivors and may result in serious psychological harms.

Commenters identified how “cross-examination is designed to point out inconsistencies in a person’s testimony” (p. 1086). As such, this process frequently results in “complainants [being] questioned via verbal attacks on the complainant’s character rather than sensitively in a respectful manner designed to aid the fact-finding process” (p. 1067). In fact, commenters described how, after reporting a sexual assault, “victims’ number one fear is often cross-examination... while they do not fear the truth, they fear defense lawyers’ attempts to confuse them and blame them for not remembering every single part of the story” (p. 1068). During cross-examination, survivors face harmful and aggressive questioning tactics, including “interrupting, asking for only yes-no answers,
asking illogical questions, grilling on minute details of the incident, and asking irrelevant personal questions” (p. 1071).

The Department described how commenters cited research (e.g., Zydervelt, Zajac, Kaladelfos, & Westera, 2017) to illustrate how cross-examination frequently relies on myths about sexual assault, such as:

...the belief that victims invite sexual assault by the way that they dress, their consumption of alcohol, their sexual history or their association with males with whom they are not in a relationship; the belief that many women make false allegations of rape; the belief that genuine assault would be reported to authorities immediately; and the belief that victims would fight back—and therefore sustain injury or damage to clothing—during an assault (p. 1093).

Commenters stated that requiring a cross-examination process that frequently relies on myths and aims to undermine survivors’ credibility is not only traumatizing, but also perpetuates harmful notions about sexual violence. For instance, commenters argued that, in comparison to other campus misconduct or disciplinary issues, “singling out sexual misconduct complainants for a procedure designed to intimidate and undermine the complainant's credibility heightens the misperception that the credibility of sexual assault complainants is uniquely suspect” (p. 1056).

Commenters argued that because cross-examination questions are intended to attack survivors’ character and build the case that either the survivor is to blame or is otherwise mistaken in their accusation, this process is inherently traumatizing. Requiring students to participate in an adversarial cross-examination “will revictimize, retraumatize, and scar survivors of sexual harassment...will exacerbate survivors’ PTSD (posttraumatic stress disorder), RTS (rape trauma syndrome), anxiety, depression” (pp. 1056–1057). Commenters included stories of their own traumatic experiences with cross-examination. For instance, after undergoing cross-examination—“with the perpetrator telling each question to a judge, who then asked the question over Skype if the judge approved the question”—one commenter stated that they were “diagnosed a week later with PTSD” (pp. 1202–1203). Other commenters argued that the harm of cross-examination extends beyond the trauma experienced during the hearing, explaining that they would “feel permanently traumatized, would drop out of school, or would even contemplate suicide” (pp. 1058–1059). In sum, commenters urged the Department to reconsider the use of live cross-examination due to the problematic and traumatic nature of this process.

Inadequate Procedural Protections for Complainants

A second category we identified within commenters’ concerns was that the Title IX regulations offer inadequate procedural protections for survivors within a live hearing with cross-examination, particularly given the strong potential for
retraumatization. For instance, commenters asserted that cross-examination in a university disciplinary process (and as outlined in the regulations) will not offer procedural protections for the victim that are guaranteed within a criminal or civil trial, such as "the right to representation by counsel, rules of evidence, and a judge ruling on objections" (p. 1070). Moreover, institutions do not have the power of a court of law (e.g., "institutions have no power to hold an attorney in contempt, and attorneys are trained to be very aggressive" p. 1070), which means that institutions may struggle to curtail aggressive and hostile attorneys who serve as advisors. Moreover, commenters raised procedural concerns regarding the Department's requirement that decision-makers disregard statements made by survivors (including the initial formal complaint) and witnesses who do not submit to cross-examination. Commenters noted that, in a court of law, "Federal Rules of Evidence allow out-of-court statements to be admitted in certain circumstances and for limited purposes" (p. 1165). Moreover, commenters stated that the regulations offer inadequate procedural protections because institutions "do not have subpoena powers to compel parties and witnesses to attend hearings" (p. 1165). As a result of these problems, commenters argued that using cross-examination outside of a controlled courtroom setting would not protect survivors according to previous legal precedent.

Additionally, commenters asserted that the few procedural protections proposed by the Department will be ineffective. For instance, the regulations require that an advisor, rather than the accused, conduct the cross-examination. However, commenters noted that this does not actually protect survivors, as each party is allowed any advisor of their choosing, and cross-examination could be conducted by "a respondent's angry parent, fraternity brother, roommate, or other person untrained in conducting cross-examination" (p. 1069). In another example, the Department asserted that survivors will be protected from abusive questioning because decision-makers are required to exclude irrelevant questions. However, commenters said that "school administrators are ill-equipped to make nuanced legal determinations about the relevant scope of questions and answers" (p. 1070). Commenters noted that "extensive training will be necessary for [decision-makers] and advisors conducting cross-examination, and recipients will not have the resources, time, and money to make cross-examination workable" (pp. 1121-1122). Thus, commenters identified the problems that can occur when cross-examination takes place outside a courtroom, and also that the regulations offer inadequate procedural protections for victims.

Cross-Examination Undermines the Spirit of Title IX

Commenters offered critiques that cross-examination in this context will undermine the spirit of Title IX and create a legally prohibited hostile environment for survivors. For instance, commenters were concerned that these hearings would
actively discourage survivors from coming forward, as “fear of undergoing such
data retraumatizing experience will chill reporting of sexual harassment and cause
more victims to stay in the shadows” (p. 1057). If survivors are unable or un-
willig to come forward, this will exacerbate a harmful, hostile campus environ-
ment. Moreover, commenters identified how these inequities will be exacerbated
when students hold other marginalized identities. For instance, commenters ar-
gued that “Black female students are disadvantaged by cross-examination due to
negative, unsupported stereotypes that Black females are aggressive and sexu-
ally promiscuous” (p. 1080). Commenters also noted how inequities will uniquely
affect undocumented students and LGBTQ students, “because cross-examination
will make Title IX proceedings more legalistic and undocumented students, and
LGBTQ students, are already wary of the criminal justice system” (p. 1117). The
fact that some students will be able to afford to pay an attorney to serve as an
advisor, while others will not, also means that not all students will have an eq-
uitable reporting experience. Commenters noted that “the financial disparity will
fall hardest on students of color including children of immigrants, international
students, and first-generation students, as they are more likely to come from an
economically disadvantaged background and cannot afford expensive lawyers”
(p. 1119). Together, commenters identified how this process will result in a num-
ber of inequities that clearly undermines the spirit of Title IX—which is ensuring
equal access to education.

Cross-Examination Is Not Required to Achieve Truth and Due Process

The fourth and final category was the assertion that live hearings with cross-
examination are not required to offer adequate due process protections for those
accused of sexual misconduct. As commenters noted, “neither the Constitution,
or other Federal law, requires cross-examination in school conduct proceedings”
(p. 1096). Moreover, commenters noted that federal case law is split in terms
of how courts view cross-examination in this context, “with the weight of Fed-
eral case law favoring significant limits on cross-examination by requiring, at
most, questioning through a panel or submission of written questions rather than
traditional, adversarial cross-examination” (p. 1097). The commenters asserted
that there are other ways to assess credibility of claims that are not only bet-
ter for survivors, but also more developmentally sensitive and trauma-informed.
For instance, commenters advocated for the use of indirect questioning methods,
such as submitting questions to a hearing panel or a neutral college administra-
tor. Commenters asserted that, through such a process, “fairness, including test-
ing credibility, can be fully achieved without live, adversarial cross-examination”
(p. 1099). Commenters noted that this is the model that many institutions use
and that “such practices have been upheld by nearly all Federal court decisions
considering them” (p. 1100). Commenters noted that the Department does allow
for indirect methods of questioning within elementary and secondary schools, and there is no reason to believe that this process would be less effective in institutions of higher education.

Finally, commenters noted how scientific evidence raises concerns about the efficacy of cross-examination in cases of sexual misconduct. For instance, commenters raised concerns with the Department's assertion that an essential component of live cross-examination is that it allows decision-makers to assess "demeanor" while questions are answered, as "credibility is typically based on a number of factors...[and] the most unreliable factor is demeanor" (p. 1078). Evidence suggests that "how people interpret another person’s demeanor is easily misconstrued" and "what people often mistake for signs of deception are often actually indicators of stress-coping mechanisms" (p. 1078). Based on empirical research, commenters argued that "trauma shapes memory patterns making details of sexual violence difficult to remember, such that traditional cross-examination may lead to a mistaken conclusion that a trauma victim is lying" (p. 1086). Commenters noted that survivors of sexual misconduct often respond in ways that may seem counterintuitive, and this can lead observers to unfairly judge their credibility based on assumptions about how a survivor "should" act. Thus, commenters advocated for alternatives to live cross-examination (e.g., indirect cross-examination) that are currently used, have been upheld in federal courts, and avoid problems that arise in trying to determine survivors' credibility based on their behavior during live cross-examination.

Department of Education Responses

In the second part of our analysis, we identified four overarching categories within the Department's reply to the survivor-focused concerns, including: (1) due process protections focus on the "credibility" of sexual misconduct complaints; (2) not addressing concerns of survivors and their allies; (3) minimizing concerns of survivors and their allies; and (4) making small changes and/or clarifications. We did not identify any Department responses that entirely addressed a survivor-focused concern. Each of the four categories is discussed in detail below.

Due process protections focus on the "credibility" of sexual misconduct complaints. Throughout the Department's discussion, the primary explanation for requiring live cross-examination was due process, with a myopic focus on the due process they believe will be offered by an adversarial process intended to question complainants' credibility. The Department repeatedly asserted that cross-examination is the only means of achieving "truth" in the face of the "credibility" concerns that they believe are inherent in and unique to sexual misconduct allegations. For instance, the Department stated that allegations of sexual harassment "often turns on plausible, competing factual narratives of an incident involving
sexual or sex-based interactions” (p. 1054). As a result, the Department expressed the belief that cases of sexual misconduct, in particular, raise concerns about the “credibility” of the complainant, stating that:

The Department believes that without the credibility-testing function of cross-examination, whether the complainant’s claim is meritorious cannot be ascertained with sufficient assurance (p. 1176).

The new regulations stipulate that statements made by a complainant or witness during the investigation process—including the initial formal report—cannot be considered by the decision-maker if that complainant or witness does not submit to cross-examination. Their rationale for this mandate expresses the belief that sexual misconduct allegations are particularly suspect:

Because party and witness statements so often raise credibility questions in the context of sexual harassment allegations, the decision-maker must consider only those statements that have benefited from the truth-seeking function of cross-examination (p. 1179).

In defending this stance, the Department relied on anomalous case law that supports live cross-examination as an element of due process within university disciplinary proceedings for sexual misconduct (i.e., Doe v. Baum, 2018), while disregarding other rulings that contradict this stance. For instance, “the Department acknowledges...that Federal appellate courts have considered this particular issue in recent years have taken different approaches” and “the Department is aware that...the First Circuit decided a Title IX sexual misconduct case in which the First Circuit disagreed with the Sixth Circuit’s holding regarding cross-examination” (pp. 1101-1102 and p. 1108, respectively). Yet, the Department choose to focus on Doe v. Baum, quoting and agreeing with the Sixth Circuit’s reasoning regarding the need for cross-examination of complainants and witnesses in cases of sexual misconduct: “[w]ithout the back-and-forth of adversarial questioning, the accused cannot probe the witness’s story to test her memory, intelligence, or potential ulterior motives” (p. 1103).

The Department made selective, deliberate choices in what elements of “due process” should be required in this context—defending the decision to require cross-examination while disregarding other elements of due process (e.g., right to legal counsel) because “in the context of sexual harassment allegations in an education program or activity, the strictures of the Sixth Amendment do not apply” (p. 1074). The Department asserted that they “carefully selected those procedures in § 106.45 as procedures rooted in principles of due process” (p. 1116), and the procedure they deemed essential for due process is one that necessitates adversarial questioning of a complainant’s “credibility.” Thus, the Department’s call for due process protections in the context of a disciplinary hearing is specifically focused on the perceived issue of “credibility.”
Not addressing concerns of survivors and their allies. When responding to specific concerns raised, the second category we identified was the Department not addressing the concern. In some of these cases, the DoE replied by simply stating that they “disagree” with the concern. For example, when responding to the critique that cross-examination is traumatizing because it is an interrogation of the victim, the Department stated, “The Department disagrees that cross-examination places a victim (or any party or witness) ‘on trial’ or constitutes an interrogation” (p. 1060). Similar responses arose in the Department’s response to commenters’ concerns about inadequate procedural protections. For instance, in response to commenters’ concerns about disparities that may arise between a complainant’s advisor and a respondent’s advisor (e.g., if a respondent can hire a skilled lawyer but a complainant cannot), the DoE stated that they “disagree that cross-examination at a live hearing means that a complainant’s case will be contingent on the effectiveness of the complainant’s advisor” (p. 1120). When commenters asserted that one party advisor should not hold a position of power over the other party (e.g., a complainant’s and respondent’s department chair serves as the advisor for the respondent), the DoE responded, “The Department does not believe it is necessary to forbid assigned advisors from being persons who exercise any administrative or academic authority over the other party” (p. 1149).

The DoE also disregarded data presented by commenters that supported their critiques. For example, after commenters offered empirical evidence that cross-examination is a flawed procedure, the DoE responded, “While commenters contended that some studies cast doubt on the effectiveness of cross-examination in eliciting accurate information....that literature has not persuaded U.S. legal systems to abandon cross-examination” (p. 1082). Another way that the Department did not engage with commenters’ concerns was by arguing that cross-examination benefits survivors. For instance, “cross-examination levels the playing field by giving a complainant as much procedural control as a respondent, regardless of the fact that exertion of power and control is often a dynamic present in perpetration of sexual assault” (p. 1096). In asserting that cross-examination is beneficial to survivors, the Department did not address repeated comments detailing how this process is harmful. The Department also did not entertain suggestions for less traumatic procedures (e.g., indirect questioning); instead, the Department suggested that survivors can avoid cross-examination by not pursuing a formal complaint: “complainants can report sexual harassment and receive supportive measures without even filing a formal complaint” (p. 1063). These responses simply disregarded commenters’ concerns.

Minimizing concerns of survivors and their allies. The third category we identified in the Department’s response to commenters’ survivor-focused concerns was minimization of those concerns. In particular, when responding to the assertion that cross-examination is traumatizing for survivors, the
Department's response minimized its traumatic impact. For example, the Department used phrases like “inconvenience” and “potential trauma” when discussing the impact of cross-examination on survivors. The Department expressed that survivors’ trauma is simply a “perception” and does not necessarily reflect reality, for instance, “The Department is aware that the perception, and in some circumstances the reality, [that] cross-examination in sexual assault cases has felt to victims like an emotional beating” (pp. 1071-1072). Another similar example follows:

The Department appreciates commenters who described experiences being questioned by party advisors as feeling like the advisor asked questions in a disempowering, blaming, and condescending way; however, the Department notes that such questioning may feel that way to the person being questioned...and this does not necessarily mean that the questioning was irrelevant or abusive (p. 1075).

In each of these examples, the Department minimized the commenters’ concerns about trauma survivors’ experience during cross-examination by labeling trauma as a “perception” or a “feeling,” and suggesting survivors’ trauma is an irrational response to cross-examination.

Making small changes and/or clarifications. Lastly, when addressing concerns raised, the Department frequently responded with small changes to the regulations and clarifications in their discussion of the regulations. Within this category, there were a number of small changes made to § 106.45 (b)(6)(i) of the regulations, which did not address (or fully address) commenters’ critiques of cross-examination. For instance, in response to the concern that the process of cross-examination is traumatic for survivors, the Department stated that they revised the regulations so a party could request that questioning occur in separate rooms facilitated by technology:

The Department appreciates the opportunity to clarify that contrary to the fears of some Commenters... § 106.45(b)(6)(i) is revised to require recipients to hold the entire live hearing...with the parties in separate rooms (facilitated by technology) so that the parties need never be face-to-face, upon a party’s request (p. 1064).

However, commenters stated that cross-examination in separate rooms using technology is also traumatic, and raised additional concerns about cross-examination, so the aforementioned revision did not fully address the concerns. Furthermore, commenters argued and provided evidence that cross-examination frequently involves invasive, abusive questioning in an attempt to undermine survivors’ credibility (e.g., questions about past sexual behavior). The Department revised the final regulations to include rape shield protections, which specify that “questions and evidence about the complainant’s sexual predisposition is never relevant and [questions] about a complainant’s prior sexual behavior are not relevant with two exceptions” (p. 1183). While rape shield protections are important,
the two exceptions allowed by the DoE open the possibility that questions about complainants’ sexual behavior can be used in questioning. Moreover, the Department offered respondents a way to inquire about complainants’ other sexual relationships:

Where a respondent might wish to prove the complainant had a motive to fabricate or conceal a sexual interaction...respondents in that scenario could probe a complainant’s motive by, for example, inquiring whether a complainant had a dating or romantic relationship with a person other than the respondent (p. 1190).

Another small change in response to commenters’ critiques centered around decision-makers. For instance, the Department repeated the assertion that cross-examination will not include abusive questions because “the decision-maker must determine the relevance of each cross-examination question before a party or witness must answer” (p. 1194). The Department further supported the role of decision-makers by stating “decision-makers must be trained to serve impartially” (p. 1089) and “we...require decision-makers to be trained on issues of relevance, including application of the rape shield protections” (p. 1201). However, the regulations did not offer best practices for the content and delivery of a training that will ensure decision-makers are “impartial” or “trauma-informed,” nor require decision-makers to have legal training in determining relevance. The Department asserted that institutions “have discretion to include trauma-informed approaches in the training provided to...decision-makers” (p. 1087). Moreover, the Department stated that questions about a complainant’s character can be considered “relevant” in a hearing: “where a cross-examination question or piece of evidence is relevant, but concerns a party’s character or prior bad acts, under the final regulations the decision-maker cannot exclude or refuse to consider the relevant evidence” (p. 1137). Thus, the changes provided did not fully address commenters’ concerns regarding cross-examination.

In addition to minor changes to the regulations, the Department also addressed comments with small clarifications in their discussion of the regulations. For instance, when responding to commenters’ concerns that cross-examination designed to aggressively question a complainants’ “credibility” results in additional trauma, the Department reiterated that an advisor, rather than the respondent, conducts the cross examination: “The complainant’s advisor will conduct the cross-examination of the respondent and, thus, the complainant will not be retraumatized by having to personally question the respondent” (p. 1060). This clarification dismissed other commenters who expressed concerns about advisors and the inherently traumatizing experience of live cross-examination. Additionally, the Department asserted that institutions can set rules of decorum for hearings and allow complainants to take breaks. For example, they stated: “The final regulations do not prevent a recipient from adopting rules of decorum for a hearing to ensure respectful questioning” (p. 1075) and “the final regulations do not...
preclude a recipient from adopting rules (applied equally to complainants and respondents) that govern the taking of breaks” (p. 1206). Thus, institutions are encouraged but not required to adopt rules of decorum, and institutions may vary in the content and enforcement of such rules.

**Discussion**

The current study examined how sexual misconduct victims’ rights and concerns were addressed in the Department of Education’s 2020 regulations on Title IX. We analyzed the section on Hearings, including the DoE’s summary of survivor-focused comments regarding cross-examination and the discussions and changes made in response to those comments. In defending the requirement of live cross-examination, one of our primary findings was the selective way that the Department of Education attends to “due process.” The Department calls on the need for due process when requiring adversarial cross-examination—which is explicitly intended to interrogate the “credibility” of sexual misconduct allegations—and disregards commenters’ arguments that this process will offer inadequate due process protections for complainants. In our analysis of survivor-focused comments, commenters identified that essential protections for victims undergoing cross-examination in a court of law are not afforded under the DoE’s new regulations for hearings (e.g., representation by an attorney, rules of evidence, a legally trained judge ruling on relevance). In the criminal justice system, The Victim Rights Clarification Act of 1997 affords victims the right to attend and testify at a trial, but victims are not required to submit to cross-examination during a trial for a case to move forward. States also afford such protections for victims, such as Washington state’s restriction on Sixth Amendment rights to confront accusers in the interest of protecting sexual assault victims, which states that sexual assault victims in criminal trials using closed-circuit television to testify is constitutionally adequate under Sixth Amendment case law (Mohammadian, 2012).

Under the new regulations, complainants are required to submit to live cross-examination for their report and statements to be considered by the decision-maker. This requirement is unique to campus adjudication processes and places burdens on survivors that they would not face in the criminal justice system. Within campus adjudication, this requirement is unique to sexual misconduct and is not mandated for other types of disciplinary proceedings. Our analysis of survivor-focused comments illustrated a clear argument that direct cross-examination is not required to achieve truth and ensure due process in sexual misconduct hearings. For instance, commenters offered evidence that federal case law overwhelmingly allows indirect cross-examination (e.g., submissions of written questions) to probe party and witness statements.

In response, the Department repeatedly asserted that decision-makers cannot accurately determine the “truth” of sexual misconduct allegations—and, in
the process, offer due process—without rigorously testing credibility via live cross-examination. However, evidence indicates that cross-examination does not serve a significant “truth-seeking function.” Observing a victim’s demeanor during cross-examination to predict their truthfulness will be “about as accurat[e] as a coin flip” (Bennett, 2014, p. 2). Research consistently finds that adversarial cross-examination, especially in cases that involve traumatic events, does not illicit a more truthful, accurate account of the event (Chan, Manley, & Lang, 2017; Segovia, Strange, & Takarangi, 2017; Valentine & Maras, 2011). The style of questioning used during cross-examination can also affect the accuracy of witness answers; for instance, leading questions decrease the accuracy of memory recall (Valentine & Maras, 2011; Wheatcroft & Ellison, 2012; Zajac & Cannan, 2009). Leading and closed questions are frequently used to question complainants during cross-examination, with defense lawyers (or in this case, advisors) seeking to control evidence and convey a plausible alternative story rather than uncover a complete and accurate account of the incident of sexual misconduct (Ellison, 2000; Kebeb, Deprez, & Waggstaff, 2003; Smith & Skinner, 2012, 2017; Zajac & Cannan, 2009). In fact, legal scholars have argued that “cross-examination, by definition, represents an attempt to discredit the witness” (Zajac & Cannan, 2009 p. S48). In sexual misconduct cases, cross-examination of complainants exploits deeply held sociocultural beliefs and misunderstandings of sexual violence (Orenstein, 2007; Smith & Skinner, 2012, 2017). For instance, myths are used to portray the complainant’s behavior as “abnormal,” “irrational,” or inconsistent with expectations about how a victim “should” have acted before, during, and after an incident of sexual harassment or assault (Smith & Skinner, 2012, 2017). These myths play a strong role in influencing people’s perceptions of victim “credibility” in these cases. Law enforcement officials view victims as less credible when they were drinking, did not physically resist, delayed reporting, and/or did not exhibit the “right” emotions and, as a result, are less likely to pursue these cases (Campbell, Menaker, & King, 2015; O’Neal, 2019; Sleath & Bull, 2017).

Another major finding in our analysis was commenters’ assertion that elements of cross-examination (e.g., aggressive questioning, undermining the complainant’s character, relying on myths and misconceptions of sexual violence) are traumatizing for survivors. Evidence is clear that undergoing adversarial cross-examination is harmful for survivors’ mental health (Campbell, 2008; Konradi, 2007; Parsons & Bergin, 2010). Encountering reactions that express doubt and blame is associated with increased psychopathology among survivors of sexual violence (Dworkin, Brill, & Ullman, 2019). The trauma that survivors experience when interacting with the criminal justice system is experienced as secondary victimization (Campbell & Raja, 1999; Campbell, 2008; Parsons & Bergin, 2010). Our analysis found that that the DoE largely responded to these concerns by ignoring and minimizing them—for instance, through simply disagreeing that cross-examination is an interrogation of the victim and suggesting that trauma caused
by cross-examination is a misguided "feeling" and does not "necessarily mean that the questioning was irrelevant or abusive." The few changes that the DoE did introduce in response to complainant-focused comments did not fully or adequately address commenters' concerns. The regulations now allow a party to request that questioning occur in separate rooms facilitated by technology, but the Department described a commenter who said they were diagnosed with PTSD after being cross-examined in this manner. The regulations now include rape shield protections (e.g., prohibiting questions about a complainant's past sexual behavior), but the two exceptions still leave opportunity for questions about complainants' sexual behavior. The DoE reiterated that the regulations require that an advisor (not the respondent) cross-examines a complainant, but commenters explained that cross-examination by an advisor is still traumatic. The DoE asserted that their changes to the regulations adequately addressed commenters' concerns, for instance, by arguing that having respondents' chosen advisors conduct cross-examination of complainants rather than respondents themselves means that live cross-examination will no longer necessitate trauma. However, the changes and clarifications made offer no clear, consistent safeguards for survivors based upon the evidence commenters offered.

A final major finding is that these regulations introduce the high likelihood of inconsistency in policy and practice safeguards offered to complainants within postsecondary adjudication processes. For instance, many of the Department's changes and clarifications that claimed to offer protections for survivors can be implemented at an institution's "discretion" (e.g., the content and quality of training for decision-makers, the use of trauma-informed training and questioning, the rules of "decorum" established for cross-examination). The regulations did not offer, or mandate, best practices for the content and delivery of training that will ensure decision-makers are "impartial" or "trauma-informed," nor require decision-makers to have legal training in determining relevance of questions during cross-examination. Thus, these protections will vary across institutions and will rely heavily on the actions of individual decision-makers. Research consistently finds that policies and procedures for investigating and adjudicating sexual misconduct differ across campuses (Graham et al., 2017; Konradi, 2017; Richards, 2019; Sabina, Verdiglione, & Zadnik, 2017). Moreover, a recent study of schools in Maryland found that the majority of colleges and universities that used a trial-oriented hearing process did not provide specific written rules for questioning complainants (Konradi, 2017).

Title IX was enacted to ensure that no student faces sex discrimination in educational programs, and for decades, this has included sexual harassment and assault (e.g., Alexander v. Yale University, 1980; Kelly v. Yale University, 2003; U.S. Department of Education, 2001). Regulations that offer inconsistent protections for students who report sexual misconduct undermine the spirit of Title IX. If one campus establishes clear rules of evidence and decorum and
implements annual trauma-informed training for their decision-makers (who have legal expertise), and another campus has no written rules of evidence or decorum and offers one online training for their decision-makers (who have no legal expertise), students who report sexual misconduct on these campuses will face vastly different experiences during a hearing. It is essential that Title IX regulations enhance equal access to education, not exacerbate inequities.

Policy Implications

Organizational practices that create a hostile environment for women and gender-diverse students—especially in ways that could permit sexual harassment and assault—are still illegal under Title IX and a myriad of other laws. As commenters noted, the requirement of live hearings with cross-examination is also legally contentious. As written, the current regulation stands in opposition to many state laws and judicial precedent (e.g., Haidak v. University of Massachusetts-Amherst, 2019; Mathews v. Eldridge, 1976; Mohammadian, 2012; O’Toole, 2017; Triplet, 2012). Our analysis notes how the lack of protections for complainants during cross-examination is also a significant departure from legal norms in other settings (Orenstein, 2007), including the criminal justice system, which the DoE claims to emulate via the requirement of cross-examination. As with other ambiguous and contentious laws, what is deemed in compliance with Title IX—including the legality of the regulation itself—will be decided in the courts (Edelman, 1992, 2016; Edelman, Uggen, & Erlanger, 1999). The final regulations released by the Trump administration, and the mandate that schools comply with the final regulations by mid-August (a timeframe of approximately three months), has drawn criticism from many organizations, several of which have filed lawsuits attempting to block parts of the rule (e.g., Commonwealth of Pennsylvania v. DeVos, 2020). These organizations include the American Council on Education, the American Civil Liberties Union, Know Your IX, state attorneys general, legal scholars, and mental health practitioners, among others (ACLU, 2020; Cantalupo, 2019; Gersen, 2020). These tensions create a confusing legal environment for universities attempting to comply with the 2020 Title IX rule. New legislative action could provide clarity. Our analyses identify the importance of legislators working closely with survivor-activists, practitioners, and researchers to ensure complainants receive adequate procedural protections.

Still, we recognize that universities must respond to the new regulations, regardless of what may happen in the courts in the future. To minimize harm to survivors, our analyses suggest that universities must be mindful when implementing the live cross-examination mandate. For instance, decision-makers will not only be tasked with ruling on sexual misconduct cases, but also making key determinations such as the types of questions complainant must endure during cross-examination and whether the advisor conducting the cross-examination should be
removed from the hearing for inappropriate or abusive questioning. There are a number of discretionary steps that institutions could make to enhance decision-makers' efficacy: (1) designate a panel of decision-makers, as permitted in the new regulations, so that no one individual is the sole decision-maker; (2) require decision-makers to receive annual training on trauma-informed questioning and rape-shield protections by non-university experts on sexual violence (e.g., a state coalition against sexual assault); (3) institute term limits and a process to recall decision-makers who have demonstrated biases, such as perpetuating rape myths or racist stereotypes; and (4) prohibit decision-makers from holding a conflict of interest (e.g., knowing a complainant or respondent, working in the Office of General Counsel or the Dean of Students’ Office). These steps align with commenters’ suggestions summarized by the Department. These protections (although not mandated in the regulations) align with commenters’ concerns and other judicial precedents and state laws that aim to safeguard complainants’ rights.

Limitations and Future Directions

Some limitations of this study include the exclusion of respondent-focused comments and the sole focus on the requirement of live cross-examination within postsecondary institutions, which represents 185 pages of the 2,033-page policy document published by the DoE. We chose to center the Department’s discussion of survivor-focused comments in the study given the criticism of many organizations that the final regulations prioritize the rights of respondents over the rights and welfare of complainants (e.g., ACLU, 2020; Cantalupo, 2019; Gersen, 2020). Although the final regulations appear to be highly responsive to respondent concerns (e.g., see Anderson, 2020 and North, 2020), additional research will be needed to fully understand any respondent-focused concerns regarding cross-examination and how the Department responded to those comments. We also recommend additional research on survivors’ concerns about the new regulations, as our study relies on DoE summaries of survivor-focused comments that were included in the document rather than the original comments submitted by the commenters.

Additionally, the Department’s final regulations include many unprecedented changes, such as allowing schools to choose their own standards of evidence and the removal of interim measures (U.S. Department of Education, 2020). We chose to focus on the mandate of live cross-examination within campus adjudication processes because it was particularly controversial and will require substantial changes to many institutions’ adjudication processes. However, this work cannot speak to survivor-focused concerns about other components of the final regulations and the Department’s responses to those concerns. Thus, as schools implement new policies and procedures to align with the new regulations, research will be needed to document the choices that institutions are making where
flexibility is allowed (e.g., choosing preponderance of evidence or clear and convincing standard) and the effects of these changes on campus climate. Research will also need to be conducted to understand the effects of the implementation of the new hearing procedures on student reporting of sexual misconduct, how many reports proceed with an investigation and formal adjudication, and the outcomes of adjudication processes.

Conclusion

Our analysis of the Department of Education’s discussion of the new Title IX regulations revealed several important points. It is noteworthy that none of the survivor-focused comments discussed by the DoE expressed support for the use of adversarial, live cross-examination in sexual misconduct disciplinary proceedings. Additionally, there was no instance in which the Department’s response fully embraced survivor-focused concerns or implemented a suggested change in its entirety. Instead, our analysis suggests that the Department selectively wields “due process” as a shield to deflect concerns about the process of cross-examination for complainants and legitimize the myth that sexual misconduct allegations inherently lack “credibility.”

References

Bartholet, E., Gertner, N., Halley, J.E., & Gensen, J.S. (2017). Fairness for all students under Title IX. https://dash.harvard.edu/handle/1/33789434


Davis v. Monroe County Board of Education, No. 97-403 (11th Cir. 1999).


Doe v. Baum, 903 F.3d 575 (6th Cir. 2018).

Doe v. University of Cincinnati, 872 F.3d 393 (6th Cir. 2017).


Haidak v. University of Massachusetts-Amherst, No. 18-1248 (1st Cir. 2019).


Kelly v. Yale University, No. 3:01-CV-1591 (JCH) (D. Conn. 2003).


Appendix

Coding Scheme

*Cross-examination is traumatizing for survivors.* Definition: Comments asserting that victims/survivors will experience additional trauma during direct, adversarial cross-examination, because the purpose of cross-examination is to attack and delegitimize complainants and cross-examination frequently relies on rape myths (e.g., women frequently lie about rape) to undermine complainants “credibility.”

- E.g., “The commenter stated that even with technology separating the commenter from the perpetrator, the commenter was still diagnosed a week later with PTSD (posttraumatic stress disorder).”

*There are inadequate procedural protections for complainants.* Definition: Comments asserting that there are inadequate procedural protections to protect complainants under the new regulations, particularly protections that would mitigate the potential for traumatization during cross-examination. For example, arguments that protections offered in the new regulations will be ineffective and that protections offered in the criminal and civil justice systems are missing in the new regulations.

- E.g., “Without further guidance on how to apply the rape shield limitations, the exceptions contained in this provision may still subject complainants to unwarranted invasions of privacy, character attacks, and sex stereotyping, and suggested that the final regulations specify how recipients should enforce the rape shield protections.”

*Cross-examination undermines the spirit of Title IX.* Definition: Comments asserting that the new regulations, particularly direct, adversarial cross-examination, undermine the spirit of Title IX. For example, arguments that the new regulations on hearings will create a hostile environment, exacerbate inequalities on the basis of gender, race, class, and LGBTQ+ identity, and limit equal access to education.

- E.g., “Commenters argued that the financial disparity will fall hardest on students of color including children of immigrants, international students, and first-generation students, as they are more likely to come from an economically disadvantaged background and cannot afford expensive lawyers. Commenters expressed concern that LGBTQ students will be at greater financial disadvantage than other students.”
Cross-examination is not required to achieve truth and due process. Definition: Comments asserting that a live hearing with direct, adversarial cross examination is not actually required to achieve truth and due process during a sexual misconduct disciplinary proceeding. For example, arguments that there are other ways to assess credibility of sexual misconduct allegations/reports (e.g., submitting questions through a panel), and that these processes are not only better for survivors, but also more scientifically sound (e.g., there is little evidence that observing a complainant’s demeanor during a live hearing achieves truth).

• E.g., “Commenters argued that indirect cross-examination, or submitted questions, is sufficient to meet constitutional due process requirements under the Supreme Court’s *Mathews v. Eldridge* balancing test and avoids risks inherent to cross-examination in an educational rather than courtroom setting, namely, that outside a courtroom lawyers or other advisors could engage in hurtful, harmful techniques that may impede educational access for the parties. Commenters argued that a trained fact-finder listening to party advisors ask questions and introduce evidence is a reactionary approach and a proactive approach is preferable, whereby the trained decision-maker elicits appropriate, relevant information from the parties and witnesses.”

Due process protections focus on the “credibility” of sexual misconduct complaints. Definition: The Department’s discussion of “due process” offered by the new regulations (specifically, within hearings) asserts that direct, adversarial cross-examination is the only means of achieving truth in the face of the “credibility” concerns that are inherent in sexual misconduct allegations. Other due process concerns that were raised, especially ones raised in survivor-focused comments, are disregarded as inapplicable to a higher education disciplinary process.

• E.g., “The Department believes that in the context of sexual harassment allegations under Title IX, a rule of non-reliance on untested statements is more likely to lead to reliable outcomes than a rule of reliance on untested statements. If statements untested by cross-examination may still be considered and relied on, the benefits of cross-examination as a truth-seeking device will largely be lost in the Title IX grievance process.”

Not addressing concerns of survivors and their allies. Definition: The Department’s response to concerns raised in survivor-focused comments simply disagrees with the concern or expresses that The Department does not care about that concern.

• E.g., “The Department disagrees that the rape shield language is too broad.”
Minimizing concerns of survivors and their allies. Definition: The Department’s response to survivor-focused commenters’ concern that cross examination will be traumatizing for survivors minimizes this experience. For example, asserting that some complainants may “perceive” cross examination as traumatizing, but it is not.

- E.g., “The Department appreciates commenters who described experiences being questioned by party advisors as feeling like the advisor asked questions in a disempowering, blaming, and condescending way; however, the Department notes that such questioning may feel that way to the person being questioned by virtue of the fact that cross-examination is intended to promote the perspective of the opposing party, and this does not necessarily mean that the questioning was irrelevant or abusive.”

Making small changes and/or clarifications. Definition: The Department’s response to specific concerns raised within survivor-focused comments includes a small change and/or clarification about the regulations. For example, restating that advisors (rather than the accused) will conduct cross examination and stating that parties can request direct, adversarial cross-examination facilitated through video technology. These small changes and/or clarifications do not fully address the commenters’ concerns (e.g., commenters asserted that cross-examination by an advisor and via technology is traumatizing).

- E.g., “We have also revised this provision so that upon a party’s request the parties must be in separate rooms for the live hearing, and not only for cross-examination. We have also revised § 106.45(b)(6)(i) to add a requirement that recipients create an audio or audiovisual recording, or transcript, of any live hearing held and make the recording or transcript available to the parties for inspection and review.”

KATHRYN J. HOLLAND is an assistant professor of psychology and women’s & gender studies at the University of Nebraska-Lincoln.

NICOLE BEDERA is a doctoral candidate in the Department of Sociology at the University of Michigan.

ALIYA R. WEBERMANN is a clinical/community psychology doctoral student at the University of Maryland Baltimore County.
To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit an article I co-authored with my PhD advisor, Dr. Kathryn Holland along with several research assistants. The article was published in the highly reputable journal *Psychology of Violence*. The article is titled “Serious Enough”? A Mixed-Method Examination of the Minimization of Sexual Assault as a Service Barrier for College Sexual Assault Survivors. This piece will be very informative in understanding how impactful the minimization of sexual assault is to college survivors and the issues inherent in comparing sexual violence acts by assumed “severity.”

I have attached the article here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral candidate
Social Psychology
Department of Psychology
University of Nebraska-Lincoln
Psychology of Violence

“Serious Enough”? A Mixed-Method Examination of the Minimization of Sexual Assault as a Service Barrier for College Sexual Assault Survivors

Kathryn J. Holland, Allison E. Cipriano, T. Zachary Huit, Sage A. Volk, Cody L. Meyer, Emily Waitr, and Elissa R. Wiener

Online First Publication, April 1, 2021. http://dx.doi.org/10.1037/vio0000377

CITATION
"Serious Enough"? A Mixed-Method Examination of the Minimization of Sexual Assault as a Service Barrier for College Sexual Assault Survivors

Kathryn J. Holland¹, Allison E. Cipriano², T. Zachary Huit², Sage A. Volk², Cody L. Meyer², Emily Waitr², and Elissa R. Wiener²

¹ Department of Psychology and Women’s and Gender Studies Program, University of Nebraska
² Department of Psychology, University of Nebraska

Objective: Sexual assault is pervasive on college campuses, but survivors rarely use formal supports. A frequent reason that survivors do not use supports is the belief that the assault was not “serious enough.” Our convergent parallel mixed method study examined the causes and consequences of minimization as a service barrier. We used qualitative interviews to examine the manifestation and impact of minimization in survivors’ lives. We used quantitative surveys to examine whether minimization differed across four formal supports (Campus Police, Title IX Office, Counseling Center, Victim Advocate) and survivor characteristics (assault type, assault acknowledgment, race/ethnicity, sexuality), and the associations between minimization and mental health outcomes.

Method: We collected survey data from 93 survivors and 40 semi-structured interviews. Results: Our qualitative thematic analysis suggested that minimization does not occur in a vacuum (e.g., minimization of sexual assault by society, peer groups, and resources fosters survivors’ own minimization). There were few significant differences in minimization across survivor characteristics or type of formal support, but there was a trend that minimization was somewhat lower among survivors who experienced completed rape (vs. other forms) and labeled the assault (vs. unacknowledged survivors). Minimization occurred even when survivors experienced adverse mental health outcomes. Conclusions: Findings illustrated connections between social and institutional discourse around sexual assault (e.g., what is seen as "severe") and minimization. Survivors’ endorsement of minimization as a reason they did not use formal supports does not reflect the consequences of the assault on survivors’ wellbeing. Interventions to reduce service barriers should address minimization.

Keywords: sexual assault, college students, service barriers, minimization, help-seeking

Sexual assault—including any nonconsensual sexual activity, such as attempted or completed rape, sexual coercion, and unwanted sexual contact—is a prevalent issue in institutions of higher education across the United States (Fedina et al., 2018). Experiencing sexual assault can lead to an array of mental health consequences, including depression, posttraumatic stress disorder (PTSD), and suicidal ideation (Campbell et al., 2009; Dworkin et al., 2017). While college campuses have formal resources that can provide assistance and support for students who experience sexual assault, these resources are rarely used (Sabina & Ho, 2014). Supportive resources can help mitigate mental health consequences after an assault (Parcesepe et al., 2015; Russell & Davis, 2007). Thus, it is essential to understand the most persistent service barriers, such as minimization. The minimization of sexual assault is a frequent reason that survivors do not use formal resources (e.g., Fisher et al., 2016; Holland & Cortina, 2017; Walsh et al., 2010; Zinzow & Thompson, 2011). This service barrier occurs when survivors do not use resources because they believe that their assault is not “serious enough.” Despite the prevalence of this service barrier over time and across institutions, there is a lack of information regarding its causes and consequences. The purpose of this study was to provide an exploratory examination of survivors’ experiences of minimization as a service barrier. We used qualitative interviews to understand the manifestation and impact of minimization in survivors’ lives. We also used quantitative data to test whether minimization differed across survivor characteristics and types of formal supports, and the associations between minimization and mental health outcomes.

Survivor’s Use of Campus Supports and Experience of Service Barriers

College students have access to a variety of formal resources that can provide assistance following a sexual assault, including reporting mechanisms (e.g., Campus Police, Title IX Office) and
Minimization of Sexual Assault as a Service Barrier

The barrier known as minimization refers to the perception that the assault itself and/or the impact of the assault on survivors’ mental or physical wellbeing is not “serious enough” to warrant using a formal resource (Holland & Cortina, 2017). Nearly every study that collects data on why survivors did not use formal resources finds minimization as one of the most frequent service barriers. Yet, there is little information about how this barrier arises and its effects on survivors’ lives. A theoretical model of formal help-seeking for sexual assault survivors (Kennedy et al., 2012) posits that beliefs about help-seeking that affect survivors’ use of formal resources are influenced by individual and situational factors and available resources, which are embedded in larger community contexts. Beliefs and decisions around help-seeking also have a cumulative effect on survivors’ mental health (Kennedy et al., 2012). Based on this framework, there are several factors that may be important to consider in understanding minimization.

We considered individual and situational factors related to the assault. First, we considered the available resources. Much of the prior research examining service barriers for college sexual assault survivors has assessed one type of formal resource, most commonly the Police, or combined several resource types. One study found that roughly half of survivors indicated minimization for both confidential supports (i.e., “victims, crisis, or health care center”) and reporting options (i.e., “law enforcement”; Lindquist et al., 2016). A qualitative study, however, found that survivors’ belief that an assault was not “serious enough” may act as a stronger barrier for campus reporting options (Holland & Cortina, 2017). Thus, it is unclear whether minimization differs (or looks similar) across types of formal supports.

Second, we considered survivor characteristics. Assault type may affect the extent to which a survivor believes the incident was not “serious enough” to use formal resources. Minimization is less frequently endorsed by students who experienced forced penetration compared to those who experienced incapacitated sexual assault and unwanted sexual contact (Fisher et al., 2016; Krebs et al., 2007). Thus, minimization may serve as a stronger barrier for those who experience assaults that are stereotyped as “less severe.” Our culture has a very narrow conceptualization of a “severe” assault (e.g., forcible penetration, Edwards et al., 2011), and survivors of less stereotypical assaults are less likely to use formal resources after their assault (DeLovich & Cattaneo, 2017; Zinzow & Thompson, 2011). Assault acknowledgment may also influence minimization. Acknowledged survivors use the term “rape” or “sexual assault” to describe their experience while unacknowledged survivors use a more benign label, such as a “miscommunication” (Littleton et al., 2006). Unacknowledged sexual assault is common, particularly among college students (Wilson & Miller, 2016). Unacknowledged survivors are less likely to use formal resources after an assault (Littleton et al., 2006, 2017). Additionally, survivors’ experience of service barriers may be shaped by social identities, such as race/ethnicity and sexual identity. For instance, systemic discrimination and abuse may affect how queer survivors and survivors of color think about their assault in relation to formal resources (Brubaker et al., 2017).

Finally, to some, it may seem that if a survivor does not think the assault is “serious enough” to use resources, they may be experiencing fewer mental health consequences. However, little research has assessed whether minimization as a service barrier is related to survivors’ mental health and the studies that have found mixed results. Miller et al. (2011) found that survivors who minimized did not report more positive mental health outcomes than survivors who did not minimize. Carson et al. (2020) found that survivors who described minimization reported fewer PTSD symptoms than survivors who did not describe minimization, but there were no differences for depression symptoms. Both of these studies categorized survivors as having experienced minimization if they spontaneously mentioned this barrier in their written answer to an open-ended question. Extending this work, we measured minimization quantitatively among a sample of survivors and examined the associations between the extent to which a survivor indicated minimization as a service barrier and mental health outcomes.

Summary and Research Questions

Using a mixed-method approach, the current study examined the manifestations and consequences of minimization in survivors’ lives. We used in-depth qualitative interviews to examine participants’ experiences with the minimization of sexual assault as a reason they did not use formal campus resources. We also assessed minimization quantitatively in a larger survey dataset to test how minimization differs across individual and situational factors. We also used the quantitative dataset to examine the relationships between survivors’ minimization of sexual assault as a service barrier and mental health outcomes. All research questions were exploratory.

Research question 1 (qualitative): How do survivors describe the minimization of sexual assault as a service barrier for formal resources? (e.g., Its causes? Its consequences? Its relation to their identities?)

Research question 2 (quantitative): Does the extent to which survivors endorse minimization as a service barrier differ across four formal resources (i.e., Campus Police, Title IX Office, Counseling Center, Victim Advocate)?
MINIMIZATION OF SEXUAL ASSAULT

Research question 3 (quantitative): Does the extent to which survivors endorse minimization as a service barrier for formal resources differ by survivor characteristics (i.e., assault type, assault acknowledgement, race/ethnicity, sexual identity)?

Research question 4 (quantitative): Is minimization associated with mental health outcomes (i.e., symptoms of posttraumatic stress, depression, suicidal ideation)?

Method

Participants

Participants were undergraduate students from a large Midwestern university who had experienced sexual assault while attending the institution. One-third of the survey sample had a sexual minority identity (n = 30; 6 lesbian or gay, 17 bisexual, 4 asexual, 3 another sexual identity, 66.7% (n = 62) identified as heterosexual, and one did not provide their sexual identity. Over three-fourths of the sample were cisgender women (n = 73; 78.5%), 8.0% (n = 7) were cisgender men, 8.0% (n = 7) were transgender or gender diverse, and six did not provide their gender identity. Seven of the transgender or gender nonconforming participants identified as a sexual minority. Participants’ racial/ethnic identity included White (n = 59; 63.4%), African American/Black (n = 7; 7.5%), Latinx/Hispanic (n = 6; 6.5%), Asian/Asian American/Pacific Islander (n = 5; 5.4%), biraacial/multiracial (n = 15; 16.1%), and one (1.1%) another race/ethnicity. Participants’ average age was 19.80 (SD = 1.32; range 18-25). Of the 40 interview participants, half (52.5%, n = 21) identified as straight cisgender women, three (7.5%) identified as straight cisgender men, and 16 (40%) identified as lesbian, gay, bisexual, transgender, and queer (LGBTQ). Of the LGBTQ participants, there were nine cisgender women, three cisgender men, and four transgender or non-binary participants. The LGBTQ participants identified as gay (n = 2), bisexual (n = 9), pansexual (n = 1), queer (n = 1), and asexual (n = 3). The racial/ethnic makeup of the qualitative sample was 62.5% (n = 25) White, 17.5% (n = 7) multiracial, 7.5% (n = 3) African American/Black, 7.5% (n = 3) Latinx, and 5.0% (n = 2) Asian/Asian American. Their average age was 19.77 (SD = 1.39; range 19-25). There were no significant differences in the demographic composition of the survey and interview samples.

Procedures

Flyers recruiting students who had an unwanted sexual experience were posted in buildings on campus (e.g., residence halls) and off-campus locations patronized by students (e.g., coffee shops). We also announced information about the study in undergraduate courses, listservs for student groups, and social media pages. The goal of the larger project that the current study stems from was to examine service use experiences among queer (i.e., LGBTQ) and straight survivors, so we also made explicit efforts to recruit LGBTQ students (e.g., flyers that invited LGBTQ students to participate). One hundred sixty students contacted the research team. We conducted a brief eligibility screening phone call to verify that the student met the inclusion criteria: (a) age 17 or older, (b) current undergraduate at the university, (c) plan to enroll the following semester, and (d) had an unwanted sexual experience while attending the university. We screened 124 students for eligibility (of 160 who contacted the study, 20.6%, n = 33 did not respond to our screening request and 1.8%, n = 3 elected not to complete the screening). Seventeen (13.7%) did not meet eligibility criteria and 107 (86.3%) students were scheduled to complete an in-person survey (completed on a computer in a private room to ensure safety and confidentiality for the participants). One hundred students completed the survey (7%, n = 7 did not show up and did not reschedule). Survey participants received US$20. As recommended (Meade & Craig, 2012), we examined the survey data and removed seven participants who had excessive missing data and/or failed attention check items.

We recruited 40 of these participants to complete an interview. We used maximum variation sampling to select the interview sample, which helps to capture a wide range of experiences related to the phenomenon being studied (Merriam & Tisdell, 2016). Using the survey data, we stratified the sample into groups: (a) LGBTQ survivors who used at least one campus resource (n = 19), (b) straight ciswomen who used resource(s) (n = 34), (c) straight cismen who used resource(s) (n = 2), (d) LGBTQ survivors who used no resources (n = 7), (e) straight ciswomen who used no resources (n = 16), (f) straight cismen who used no resources (n = 1), and (g) ineligible for the interview (e.g., were interested; n = 21). For groups with small sample sizes, we invited all of the participants to interview. For the other groups, random samples of 10 participants were invited until we reached a sample size of 40. During the interview, the first or second author asked semi-structured questions about the participant’s use of campus resources and why they chose to use/not use these resources. Participants had no prior relationship with the interviewers. Both interviewers are queer ciswomen and previously studied sexual victimization and service use. Their understanding of the topic enhanced data collection, for instance, in the ability to probe for details on the meaning of minimization for survivors (e.g., participant: “I didn’t think it was serious enough to report”; interviewer: “What would ‘serious enough’ look like for you?”). Interviews were audio recorded and lasted approximately 1 hr (range: 17-88 min). Participants received US$30. All procedures were approved by the Institutional Review Board. Our convergent parallel design gathered different but complementary information about minimization, and the equally prioritized qualitative and quantitative strands were synthesized after the analysis of data in each strand (Creswell & Plano Clark, 2011). This mixed-method approach offers a more complete understanding of a relatively unknown topic (Creswell & Plano Clark, 2011), which was ideal for our aims. Currently, there are two publications using these data (Holland et al., 2020; in press).

Measures

Sexual Assault Type

The Sexual Experiences Survey Short-Form was used to determine assault type (SES-SF; Koss et al., 2007 reported consistent validity across studies via assessments of victimization). These 35 items assess a full range of assaultive behaviors, including unwanted sexual contact, attempted oral, anal, and vaginal assault, and completed oral, anal, and vaginal assault and several means through which each behavior was obtained “without consent” (e.g., verbal coercion, force). Participants indicated the number of times (0 = 0 times, 1 = 1 time, 2 = 2 times, 3 = 3+ times)
each behavior happened to them since they started attending the university. The SES-SF scoring can categorize participants into four non-redundant groups: (a) sexual contact, (b) sexual coercion, (c) attempted rape, and (d) completed rape. Given our sample size, assault type was coded completed rape = 1 and all other sexual assault = 0 for the comparative analyses.

Sexual Assault Acknowledgement

Participants completed a measure of assault acknowledgment (Littleton et al., 2006 reported validity via theoretical and empirical consistency across prior research), which asks what term best describes the behavior(s) they experienced, 1 = rape, 2 = attempted rape, 3 = sexual assault, 4 = some other type of crime, 5 = miscommunication, 6 = bad sex, 7 = hook up, 8 = seduction, 9 = not sure, 10 = other, please describe (text responses were examined for acknowledgment). Those who chose a label (rape, attempted rape, sexual assault) were coded as acknowledged survivors = 1 and those who did not were coded unacknowledged survivors = 0.

Minimization as a Service Barrier

Participants were presented a list of campus resources (including the Campus Police, Title IX Office, Counseling Center, and Victim Advocate) and asked if they had heard of any of the resources. Participants who indicated they had heard of a resource were asked if they had sought help from that resource after the assault. Those who had not used a resource were given a list of reasons that sexual assault survivors do not use campus resources, which was created for the project (see Holland et al., in press for measure development; validity established via use of and barriers experienced across four services). We analyzed the minimization subscale, which consists of four items (e.g., "I didn’t think the incident is serious enough") and response options were 0 = no, 1 = yes, slightly, 2 = yes, moderately, 3 = yes, definitely. Responses to the four items were summed for each support, giving a measure of minimization for the Campus Police (α = .76), Title IX Office (α = .79), Counseling Center (α = .73), and Victim Advocate (α = .78).

Posttraumatic Stress

Posttraumatic stress symptoms were measured with the PTSD Checklist for DSM-5 (PCL-5; Blevins et al., 2015; Weathers et al., 2013 established validity via associations with other PTSD measures). Participants rate how bothersome 20 items have been in the past month (e.g., “Feeling jumpy or easily startled”) on a scale ranging from 0 = not at all to 4 = extremely. Items were summed to provide a total symptom score ranging from 0 to 80 (α = .92).

Depression

The Patient Health Questionnaire was used to assess depression (PHQ-9; Kroenke et al., 2001 established validity via relations with functional status and symptom difficulty). This measure consists of nine items (e.g., “Little interest or pleasure in doing things”) and participants are asked to rate the severity to which they experience each of the symptoms from 0 = not at all to 3 = nearly every day. Items were summed to yield a composite score from 0 to 27 (α = .83).

Suicidal Ideation

Suicidal ideation was measured with the Suicidal Behaviors Questionnaire-Revised (SBQ-R; Osman et al., 2001 established validity via differences between suicidal and non-suicidal subgroups). The SBQ-R consists of four items (e.g., “Have you ever thought about or attempted to kill yourself?”) and each has a corresponding response scale with lower numbers indicating less endorsement (e.g., 1 = never) and higher numbers indicating greater endorsement (e.g., 4 = I have attempted to kill myself, and really hoped to die). Responses were summed to give a total score from 3 to 18 (α = .71), with high scores representing more suicidal ideation.

Qualitative Analysis Approach

Our sample size of 40 was driven by the breadth of our overarching research aims, our intention to recruit a more heterogeneous sample, our collection of rich interview data, and our available funding for participant compensation (Merriam & Tisdell, 2016). All interviews were transcribed verbatim. We analyzed these data using thematic analysis (Braun & Clarke, 2006). Thematic analysis begins with an in-depth reading of all interviews. During this process, the first three authors developed preliminary codes, which are words or short phrases that capture discrete pieces of information. We created a codebook containing a list of the codes, their definitions (including explanations of when a code is and is not applicable), and example quotes that represent the code. For instance, the code, “minimization of incident,” applies when a participant downplays the seriousness of the unwanted sexual experience (e.g., “I just don’t think it was like a serious enough incident”). Next, four trained research assistants each applied the codebook to a different interview by reading the interview, highlighting excerpts of the text that illustrated the codes, and identifying any complications with code application. The research team met and discussed any codes that did not clearly apply to portions of an interview text (i.e., requiring the clarification of a code definition) and any pieces of information in an interview text that was not in the codebook (i.e., requiring the development of a new code). Using this process, the codebook was refined over several iterations. Next, the research assistants coded all of the interviews using Dedoose version 8.2. Inter-rater reliability was excellent (Cohen’s kappa = 0.89; Cohen, 1960). Any discrepancies in coding were resolved through conversation with the first author until consensus was reached. We analyzed all codes that captured the minimization of sexual assault. We identified themes across these coded data by analyzing how the codes related to one another and best captured participants’ experiences with minimization. We checked themes against the dataset, which involved re-reading transcripts to ensure that the themes fit participants’ experiences and looking for evidence that did not fit our themes (there were no major discrepancies). We did not use saturation of themes to determine when to stop collecting data (i.e., the primary meaning and use of saturation in qualitative research; Merriam & Tisdell, 2016; Saunders et al., 2018), but the themes related to minimization arose so frequently that saturation of these themes would have occurred before all 40 interviews were complete (i.e., no new themes related to minimization emerged as interviews continued).
Quantitative Power Analysis

The lack of research on minimization beyond descriptive yes/no lists made it difficult to determine effect sizes expected in the population and the sample sizes required to detect effects, precluding an a priori power analysis. However, we used G*Power 3.1 to compute post-hoc power achieved, and the samples required to detect effects for future research, strengthening the utility of this exploratory study. For assault type, the average effect size was 0.36 (across all four resources) and power achieved was 0.48; a sample of 146 would be needed to achieve 0.9 power for that effect. The average effect size for assault acknowledgment was 0.51 and power achieved was 0.39; a sample of 180 would be needed to reach 0.9 power for that effect. For race/ethnicity, average effect size was 0.12 and power achieved was 0.07; a sample of 3,132 would be needed to achieve 0.9 power for that effect. The average effect size for sexuality was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power. For the paired samples t-tests, the average effect size was 0.19 and power was 0.24; a sample of 293 would reach 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.01 and power achieved was 0.06; a sample of 5,068 would be needed to attain 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power for that effect. The average effect size for assault acknowledgment was 0.51 and power achieved was 0.39; a sample of 180 would be needed to reach 0.9 power for that effect. For race/ethnicity, average effect size was 0.12 and power achieved was 0.07; a sample of 3,132 would be needed to achieve 0.9 power for that effect. The average effect size for sexuality was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power. For the paired samples t-tests, the average effect size was 0.19 and power was 0.24; a sample of 293 would reach 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.01 and power achieved was 0.06; a sample of 5,068 would be needed to attain 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power for that effect. The average effect size for assault acknowledgment was 0.51 and power achieved was 0.39; a sample of 180 would be needed to reach 0.9 power for that effect. For race/ethnicity, average effect size was 0.12 and power achieved was 0.07; a sample of 3,132 would be needed to achieve 0.9 power for that effect. The average effect size for sexuality was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power. For the paired samples t-tests, the average effect size was 0.19 and power was 0.24; a sample of 293 would reach 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.01 and power achieved was 0.06; a sample of 5,068 would be needed to attain 0.9 power for this effect. The average effect size for the correlations between minimization and mental health outcomes was 0.09 and achieved power was 0.06; a sample of 5,068 would be needed to achieve 0.9 power for that effect. The average effect size for assault acknowledgment was 0.51 and power achieved was 0.39; a sample of 180 would be needed to reach 0.9 power for that effect.

Results

Descriptive Findings

Using the SES-SF scoring (Koss et al., 2007), 6.5% (n = 6) of the sample experienced unwanted sexual contact, 19.4% (n = 18) sexual coercion, 7.5% (n = 7) attempted rape, and 66.7% (n = 62) completed rape. There were 58.8% (n = 55) who acknowledged (i.e., labeled) their experience as sexual assault or rape. There were no significant differences in sexual assault acknowledgment across the four sexual assault types, χ²(3, N = 92) = 4.75, p = .191. Most survivors (79%, n = 73) had heard of the Campus Police, and of those, 11% (n = 8) did seek help there. Approximately two-thirds (61%, n = 57) heard of the Title IX Office, but very few used this resource (16%, n = 9, sought help there). For the Counseling Center, 83% (n = 77) heard of this resource and 48% (n = 37) used it after the assault. Over half of the sample heard of the campus Victim Advocate (58%, n = 54), and of those, 28% (n = 15) sought help there.

Qualitative Findings (Research Question 1)

The discussion of minimization of sexual assault was very common in the open-ended interviews—32 out of the 40 interviewees (80%) discussed minimization in some way. We identified five overarching themes. Each theme is presented in detail below. Participant quotes are associated with pseudonyms and may be edited for clarity (e.g., removing “like” and “um”).

Theme 1: Minimization Happens in Social Contexts That Minimize Assault

The first theme we identified was a connection between participants’ minimization of their sexual assault as a reason not to use supports and the minimization of sexual assault in society, such as the belief that only “extreme” forms of sexual violence are serious. Many survivors compared their assault to other possible assaults—in each case, the survivor felt bad for making it a “big deal” when it could have been worse. Sally, for instance, stated “It didn’t seem like it was serious enough to go to the Counseling Center...I didn’t feel like my life was in danger, there were more serious situations that could have happened.” Similarly, Sammy explained that “I just kept comparing it to other people’s situations...I’d say ‘Oh well, he didn’t technically rape me, he just assaulted me.’” Minimization was frequently connected to the belief that what they experienced was not “real rape,” and explained that “[if] I was raped, yeah, I think I would go ask help from [the Title IX office]...but I don’t think it’s serious enough to report him.” The social acceptance of “less serious” forms of sexual violence (e.g., unwanted sexual contact, alcohol-involved assault) led survivors to compare what they experienced to what society deems “serious enough” to warrant reporting or using resources.

Theme 2: Minimization Happens in a Society That Vilifies Victims Who Report

In the second theme, survivors minimized their assault in connection to the knowledge that society vilifies victims who report. Several survivors described social concern for those accused of sexual assault in connection to minimization. For example, Jan stated:

If you’re gonna make the decision to report then...people say really mean stuff about “Oh that’s false, they’re just making it up, they want attention”...[I’m] questioning myself, like, “Well is it as serious as I’m saying it is?...Am I ruining this kid’s life?”

Similarly, Rose stated that “people on TV...talk about how on college campuses someone just has to say that you sexually assaulted them...and ‘boom’ your entire life is ruined. So, I felt really bad.” When society fosters the belief that accusing someone of sexual assault is bad (or worse) than committing sexual assault, survivors are not sure if the assault is “bad enough” to come forward. Many of these survivors believed the potential benefits of reporting would not be worth the social consequences, so they minimized the assault in their decision not to report, such as:

I don’t think my situation was serious enough to use [the Title IX Office], but I also was scared of who the people were... I feel like the consequences of saying anything would have been like way worse than dealing with it...they are some pretty big football players...it would have caused so much drama and controversy. (Easton)

When these survivors thought about the outcomes of reporting in a society that vilifies victims, their assault did not seem serious enough to warrant enduring the social backlash.

Theme 3: Minimization Happens in Peer Groups That Minimize Assault

Participants who minimized also described how sexual assault was minimized in their peer groups. In some cases, sexual assault was so frequent that they believed it was normal. When describing why she did not seek help from the Counseling Center, Susie...
explained that “at that time, I didn’t think it was a problem... this sounds bad, that honestly a lot of the peers that I was surrounded with had similar ones so I kind of thought it was normal.” Melissa, explained why she did not report: “At that time I was just like, ‘It wasn’t that bad, just get through it’... It was a party and I was tipsy... I mean, it happens a lot. So, my situation, I didn’t feel that it was [serious enough].” There were two participants whose peer groups made light of campus sexual assault and made the Title IX Office into a joke. Abby stated, “People kind of joke about Title IX... mostly like guys, just sort of flirting and stuff would be like, ‘Oh Title IX, don’t!’” As a result, Abby explained, “I don’t know what I experienced was enough of a thing for me to take it to [the Title IX Office].” The normalization of sexual violence in peer groups was also apparent in the ways that friends reacted after survivors disclosed their assaults. There were participants who described their friends’ reactions in relation to their interpretation of the assault as not “serious enough” to use resources. For instance, Sam described that some of her friends “just brush it off. They’ll just be like ‘Oh yeah, don’t worry about it, it’s not really anything,’” which communicated to her that the assault she experienced should not be “a big deal.” These survivors received the message from their peer groups that sexual assault is normal and/or too trivial to require the use of formal resources.

**Theme 4: Minimization Happens in Relation to Resources That Minimize Assault**

The fourth theme that we identified was participants’ minimization in relation to their belief that resources would not think what happened counted as sexual assault and/or merit their services. There were only a few participants who believed that confidential resources might minimize their assault. For instance, when describing why she did not use the Counseling Center, Sally was worried that it was “not serious enough to go talk to someone” and she “wouldn’t be taken as seriously.” However, most survivors within this theme were unsure if their assault was “serious enough” to report. For example, Jeff stated, “I’ve heard a lot of mixed things [about the Title IX Office] based on the situations. I don’t think, if I would have had reported what happened to me, anything would have happened because it wasn’t very serious.” Similarly, Emily was unsure if what she experienced could even be reported to the university, explaining:

> It wasn’t a big enough deal [to report to Title IX Office], so I was just like, there’s really no point... [The Title IX Office] should clarify what they do. You know, how serious the cases they’ve had before, maybe like examples, so you know what they deal with.

There were several survivors who thought that the Police cared about more “extreme” forms of sexual violence. Abby explained:

> “The experience I had wasn’t a rape... I know it could be assault or things like that, but are [the Police] even going to take this experience serious enough?” Another participant who minimized her assault stated that, “I didn’t think [the Police] would take it seriously enough, which I kind of understand, it wasn’t the most serious. It’s not like other people’s situations” (Easton). This theme illustrates that survivors’ conclusion that their assault may not be serious enough to use formal supports was influenced by their concern that those supports would not think the assault “counted” and/or would not take it seriously.

**Theme 5: Minimization Happens Even When There Are Consequences of the Assault**

For the final theme, we identified how survivors who minimized the assault as a reason they did not use resources still discussed negative consequences of the assault. For instance, Ivy did not use resources because she didn’t “think it’s a real rape,” but later she stated that the assault “really changed my personality... I used to be very outgoing... but after that, I just became more introverted.” Similarly, Sarah minimized in her decision to not report, stating “It’s not that deep for me... I care about it, but I’m not to the point where I want to have law enforcement involved,” but she did seek help from a counselor because “I’m so depressed, I’m so anxious, my PTSD is out of the roof.” There were several participants who experienced less stereotypically “severe” assaults, and minimized those experiences, but described very real harms that these assaults caused. Max, for example, stated that “Maybe it wasn’t like violent, and I didn’t have any bruises or break any body parts or anything, but it was still bad for my mental health.” Easton, who experienced unwanted sexual contact, said that she did not think the assault was “serious enough” to use resources; however, the assault was no less traumatic: “This guy literally like had his hands on my pants, like kissing me, and I was pushing him away from me... he just wouldn’t quit... I feel like no one ever noticed... you just feel powerless.” The survivors who embodied this theme experienced all possible types of sexual assault, and even though they minimized the assault as a reason they did not use resources, the experience still caused harm.

**Identity and Minimization**

We found no identity-related themes in the qualitative data (e.g., there were no women of color who expressed minimization connected to their gender and racial identities). The only notable finding was that theme two, minimization happens in a society that vilifies victims who report, was only expressed by cisgender women. All other themes were expressed among survivors of all gender, sexuality, and racial/ethnic identities.

**Quantitative Findings (Research Questions 2-4)**

Minimization was common across all resources. For the Police, only nine participants did not report any minimization (i.e., received a score of 0 on this measure). Small numbers of participants endorsed no minimization for the Title IX Office (n = 7), Counseling Center (n = 1), and Victim Advocate (n = 6). We ran paired-sample t-tests to examine differences in minimization across the four resources (Research Question 2). Means and standard deviations appear in Table 1. There were no differences in minimization between the Campus Police and Title IX Office (t(61) = 0.28, p = .782, 95% CI [-0.45, 0.59], d = .12), Counseling Center (t(35) = -1.79, p = .082, 95% CI [-1.90, 0.12], d = .31), or Victim Advocate (t(34) = -0.06, p = .952, 95% CI [-0.99, 0.94], d = .23). There were no differences between the Title IX Office and Counseling Center (t(26) = 1.76, p = .090, 95% CI [-0.18, 2.33], d = .25) or Victim Advocate (t(20) = 0.58, p = .565, 95% CI [-0.84, 1.50], d = .20). There were no differences between the Counseling Center and Victim Advocate (t(23) = 1.18, p = .252, 95% CI [-0.44, 1.61], d = .05).
To test whether minimization differed by survivor characteristics (Research Question 3), we ran independent samples t-tests with assault type (completed rape = 1, other sexual assault = 0), assault acknowledgment (acknowledged = 1, unacknowledged = 0), racial/ethnic identity (racial/ethnic minority = 1, white = 0), or sexual identity (sexual minority = 1, straight = 0) as the independent variable and minimization for each resource as the dependent variable. See Table 2 for means, standard deviations, and t-test results. There were no statistically significant differences in minimization between survivors of completed rape and survivors of other forms of sexual assault, but there was a trend that survivors who experienced completed rape reported lower minimization. Unacknowledged survivors reported significantly more minimization as a reason they did not use the Title IX Office compared to

Table 2
Means, Standard Deviations, and T-Tests for Minimization Across Survivor Characteristics

<table>
<thead>
<tr>
<th>Assault type</th>
<th>Assault acknowledgment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Other sexual assault</td>
<td>Completed rape</td>
</tr>
</tbody>
</table>

| Campus Police | |
|----------------|---------------------|-----------------|---------------|
| n               | 20                  | 42              | 29             | 32             |
| Mean(SD)       | 5.5(3.8)            | 4.3(3.3)        | 5.4(3.3)       | 3.8(3.4)       |
| t-test         | t(60) = 1.30, p = .200, 95% CI [-0.66, 3.09], d = .33 | t(59) = 1.80, p = .078, 95% CI [-0.18, 3.25], d = .47 |

| Title IX Office | |
|----------------|---------------------|-----------------|---------------|
| n               | 11                  | 33              | 20            | 23             |
| Mean(SD)       | 6.7(4.1)            | 4.2(3.4)        | 6.0(3.7)      | 3.7(3.4)       |
| t-test         | t(42) = 2.00, p = .052, 95% CI [-0.03, 5.00], d = .62 | t(41) = 2.10, p = .042, 95% CI [0.09, 4.42], d = .64 |

| Counseling Center | |
|------------------|---------------------|-----------------|---------------|
| n                | 10                  | 30              | 18            | 21             |
| Mean(SD)        | 7.0(3.7)            | 5.1(3.0)        | 6.3(2.9)      | 4.7(3.3)       |
| t-test          | t(38) = 1.63, p = .112, 95% CI [-0.46, 4.26], d = .53 |

| Victim Advocate | |
|----------------|---------------------|-----------------|---------------|
| n               | 14                  | 23              | 14            | 22             |
| Mean(SD)       | 7.0(3.7)            | 4.5(3.7)        | 6.4(3.9)      | 4.9(3.8)       |
| t-test         | t(35) = 1.99, p = .055, 95% CI [-0.05, 5.01], d = .67 |

| Race/ethnicity | Sexual minority |
|----------------|-----------------|-----------------|
| White          | Racial/ethnic minority | Straight | Sexual minority |
| n              | 40               | 22              | 43             | 18             |
| Mean(SD)      | 4.8(3.5)         | 4.4(3.5)        | 4.7(3.6)      | 4.4(3.2)       |
| t-test        | t(60) = 0.45, p = .655, 95% CI [-1.44, 2.27], d = .12 | t(59) = 0.26, p = .797, 95% CI [-1.71, 2.22], d = .07 |

| Title IX Office | |
|----------------|---------------------|-----------------|---------------|
| n               | 31                  | 13              | 31            | 13             |
| Mean(SD)       | 4.8(3.7)            | 4.9(3.8)        | 4.6(4.0)      | 5.5(2.8)       |
| t-test         | t(42) = -0.07, p = .946, 95% CI [-2.58, 2.41], d = .02 |

| Counseling Center | |
|-------------------|---------------------|-----------------|---------------|
| n                 | 25                  | 15              | 31            | 9              |
| Mean(SD)         | 5.1(3.2)            | 6.3(3.4)        | 5.5(3.3)      | 5.9(3.2)       |
| t-test           | t(38) = -1.14, p = .260, 95% CI [-3.36, 94], d = .37 |

| Victim Advocate | |
|----------------|---------------------|-----------------|---------------|
| n               | 29                  | 8               | 29            | 8              |
| Mean(SD)       | 5.0(3.8)            | 7.3(3.4)        | 5.4(4.1)      | 5.6(2.7)       |
| t-test         | t(35) = -1.52, p = .137, 95% CI [-5.33, 76], d = .51 | t(35) = -0.14, p = .892, 95% CI [-3.36, 2.93], d = .05 |

Note. SD = standard deviation; 95% CI = 95% confidence interval.
acknowledged survivors, and there was a trend in this direction for the other three resources. There were no significant differences in minimization between straight and sexual minority survivors for any of the four resources. Similarly, there were no differences between white survivors and survivors of color.

We ran bivariate correlations to examine the associations between minimization as a service barrier for the Campus Police, Title IX Office, Counseling Center, and Victim Advocate and survivors’ mental health outcomes (Research Question 4). We found that survivors who reported more minimization as a reason for not using the Campus Police, Title IX Office, Counseling Center, or Victim Advocate did not report greater or fewer symptom of PTSD, depression, or suicidal ideation (i.e., correlations were not significant; see Table 1).

**Discussion**

Using formal resources may not be the first (or even the best) choice for all survivors, but supportive resources can aid recovery for those who are able to use them (Purcacepe et al., 2015; Russell & Davis, 2007). Our interpretative synthesis of qualitative and quantitative data offers valuable information about the minimization of sexual assault as a service barrier for college sexual assault survivors. The results from Research Questions 1–4 are synthesized below, following a convergent parallel design (Creswell & Plano Clark, 2011). Similar to prior research, many survivors believed the assault was not “serious enough” to use formal resources. In our interviews, 80% of participants mentioned minimization as a service barrier and, on our quantitative measure, fewer than 10 participants indicated no minimization for all four resources. Our data suggest that minimization acts as a service barrier for multiple campus supports. Survivors minimized for reporting options and confidential resources in the interviews and we found no quantitative differences in the extent of minimization across the four resources.

Our results also illustrate that minimization does not occur in a vacuum. Our qualitative analysis suggests a strong connection between survivors’ minimization and the minimization of sexual assault within social contexts, peer groups, and resources. For instance, sexual assault was so frequent in some peer groups that survivors believed sexual assault was normal (therefore, not “serious”). Friends’ social reactions to disclosures also led survivors to question whether their assault was serious enough to use resources. When survivors disclose to friends, minimizing responses are common (Fleming & Muscari, 2019). These responses are not only emotionally upsetting, but also foster barriers to seeking services. Our interviews suggest that the social acceptance of “less serious” forms of sexual assault (e.g., only forcible penetration is “serious”) and social concern for the accused (e.g., reporting will ruin the accused’s life) led survivors to avoid using formal supports because they were unsure if what they experienced deserved those resources or if reporting would be worth the risk of social backlash. In our quantitative analysis, unacknowledged survivors reported greater minimization as a reason they did not use the Title IX Office compared to acknowledged survivors (with a trend in this direction for the other resources), which further suggests that social perceptions of sexual assault foster minimization.

In addition, survivors’ belief that their assault was not “serious enough” to use a resource was associated with their concern that the resource may not take their situation seriously or deny services. Our quantitative findings revealed no significant differences in survivors’ endorsement of minimization as a barrier across formal supports; however, our qualitative findings suggest that survivors who minimized were primarily concerned about minimization from the Police and Title IX Office. Participants were unsure whether the Police or Title IX Office would care about what happened to them and have procedures to address their experience. Survivors believed that the Police and Title IX Office would only respond to “extreme” forms of sexual violence, such as forcible rape. Survivors’ perception of minimization by these officials played a role in their own belief that the assault was not “serious enough” to report. While survivors may benefit from education about what can be reported, these concerns may still be valid. Police are less willing to pursue cases that do not fit stereotypical sexual assault (e.g., Shaw et al., 2017; Venema, 2016). There is anecdotal evidence that Title IX Office staff may minimize sexual assault and retraumatize survivors (e.g., Ziering & Dick, 2015) and survivors express concern that Title IX Offices do not adequately address sexual assault reports (e.g., Holland & Cortina, 2017).

Another key finding is that survivors’ endorsement of minimization as a reason they did not use formal supports did not seem to reflect the actual impact of the assault on survivors’ lives. In our qualitative interviews, multiple survivors who expressed that their assault was not “serious enough” to use formal supports also described serious psychological consequences (e.g., feeling powerless, experiencing PTSD). Our quantitative analyses also revealed no significant associations between the extent of minimization for all four formal resources and symptoms of PTSD, depression, and suicidal ideation. These findings corroborate some prior research, which suggests that survivors who minimize do not necessarily experience better mental health outcomes (Carson et al., 2020; Miller et al., 2011). Minimization is one of the most prevalent service barriers for assault survivors, but survivors who minimize still experience harmful mental health consequences. Thus, reducing minimization will be essential in breaking down a central barrier standing between formal supports and the survivors who may benefit from them.

**Limitations**

There are limitations to this study that must be considered. One was the quantitative sample size. Small samples can only detect large effects, so the lack of statistically significant differences in minimization across groups could be the result of insufficient power to detect the small to medium effects that were present (Cohen, 1992). Another limitation is that the sample was comprised of students from one large, Midwestern university, limiting generalizability of findings. There may be differences in resources across institutions that affect survivors’ minimization. Research across a range of college campuses would help to validate and extend our findings. Relatively, another limitation was the partial representation of diverse identities. Although we actively recruited straight, cisgender, and LGBTQ survivors—and obtained survivors from all of these groups—our sample was mostly straight cisgender women. The smaller sample of cisgender men may stem from the fact that research finds consistently lower rates of sexual assault among cisgender college men compared to women (Cantor et al., 2020),
but our findings may not fully speak to the experiences of cisgender men and gender diverse individuals.

**Research Implications**

Given our sample size, it is possible that larger samples may find significant differences in minimization across survivor characteristics. Researchers find that survivors of less stereotypical assaults and unacknowledged survivors are less likely to use formal supports (e.g., DeLoevre & Cattaneo, 2017; Littleton et al., 2006; Zinzow & Thompson, 2011). Future research is needed to understand the prevalence of minimization in larger, more representative samples of survivors. The power analysis offers researchers a guide for determining potential sample sizes. Our qualitative findings illustrate the minimization of all forms of sexual assault in a college context, so future research should not simply look for differences by assault type. Survivors’ conceptualizations of the “severity” of their assault will be shaped by social factors, and even when survivors do minimize their assault, there can be serious negative consequences. Thus, researchers must take care in operationalizing and measuring the “severity” of an assault.

Our study provides preliminary evidence to explicate the causes and consequences of minimization, but more work will be needed to fully understand minimization among cisgender men and gender diverse survivors. Men who are survivors may face unique minimization challenges (e.g., myths that men cannot be raped; Turchik & Edwards, 2012). Additionally, gender diverse survivors do not fit the stereotypical sexual assault (i.e., a cisgender woman victim). These factors will be important to understand in relation to minimization as a service barrier, including survivors’ intersecting social identities (e.g., race/ethnicity, class, ability).

**Prevention and Policy Implications**

Although college survivors frequently have access to more resources than survivors in the community (i.e., non-college populations), they are less likely to report and seek help from formal resources (Spohn et al., 2017). This highlights the need for interventions intended to reduce service barriers for survivors, including minimization. Our findings suggest that institutions must identify ways to combat myths about what a “severe” sexual assault looks like, as these discourses become a metric that survivors use to validate the legitimacy of their experiences and make help-seeking decisions. Institutions can train service providers (e.g., police, Title IX officers, counselors, advocates) to address all forms of sexual assault and inform students of these efforts. Institutional policies and practices that take all sexual assaults seriously can be an important step toward helping survivors feel that they can use formal resources.

**Conclusion**

The current study furthers our understanding of minimization as a service barrier for college sexual assault survivors. Our findings illustrate the connections between social and institutional discourse around sexual assault (e.g., what is socially accepted as “severe”) and survivors’ minimization of their own sexual assault in the decision to avoid formal supports. All survivors—regardless of the circumstances surrounding the assault—could possibly feel their assault is not “serious enough” to use formal supports. Survivors’ endorsement of minimization as a reason they did not use formal supports does not seem to reflect the effect of the assault on survivors’ wellbeing. These findings identify the need for interventions to reduce the social minimization of sexual assault.

**References**


Received June 12, 2020
Revision received December 2, 2020
Accepted December 9, 2020
To whom it may concern,

My name is Allison Cipriano and I am a PhD candidate in social psychology at the University of Nebraska-Lincoln. I have conducted research on Title IX policy and would like to submit an article I co-authored with my PhD advisor, Dr. Kathryn Holland. The article has been accepted for publication at the highly reputable journal Analyses of Social Issues and Public Policy. The article is titled Does a Report = Support? A Qualitative Analysis of College Sexual Assault Survivors’ Title IX Office Knowledge, Perceptions and Experiences. This piece will be very informative in understanding college student survivors’ knowledge of Title IX, barriers to reporting to Title IX, and experiences with reporting to Title IX. This article is one of the first to actually examine survivor experiences with the Title IX process.

I have attached the article here in pdf form, but I can submit it in email text if that is preferred.

Thank you!

Allison Cipriano, M.A.
Doctoral candidate
Social Psychology
Department of Psychology
University of Nebraska-Lincoln
Does a Report = Support? A Qualitative Analysis of College Sexual Assault Survivors’ Title IX Office Knowledge, Perceptions and Experiences

Kathryn J. Holland, Ph.D. and Allison E. Cipriano, M.A.

University of Nebraska-Lincoln

Department of Psychology
Abstract

Universities in the US are required to remedy sexual assault under Title IX. Thus, college sexual assault survivors have the option to report to their university’s Title IX Office as a mechanism for seeking justice and accommodations. The current study examined what survivors think about the Title IX Office and the possibility of seeking help there, and their experiences with Title IX Office reporting processes. We examined the intersection between survivors’ gender and sexual identity in their perceptions and interactions to understand how survivor identities shaped their experiences. We conducted qualitative interviews with 40 survivors with a range of gender and sexual identities and analyzed these data using content analysis and thematic analysis. The majority knew about the Title IX Office and its function, but most did not use it. The campus climate often fostered service barriers, including the minimization of sexual assault, fear of negative treatment, and social-emotional concerns. Survivors who reported rarely saw accountability for their perpetrators and frequently experienced negative treatment from investigators. There were substantial inconsistencies in reporting processes across survivors. There were few differences in knowledge and barriers across sexual and gender identities, but only cisgender women reported. Findings suggest the value in reducing barriers fostered by the campus climate and establishing mechanisms for Title IX Office oversight and accountability.

Keywords: sexual assault, college students, Title IX, service barriers, help-seeking
Does a Report = Support? A Qualitative Analysis of College Sexual Assault Survivors’ Title IX Office Knowledge, Perceptions and Experiences

Sexual assault is a pervasive issue within higher education. Research consistently finds that women and lesbian, gay, bisexual, transgender, and queer (LGBTQ) undergraduate students face the greatest risk of sexual victimization while attending college (Cantor et al., 2020; Coulter et al., 2017; Fedina et al., 2016). People who experience sexual assault often endure harms to their mental health (e.g., depression, post-traumatic stress; Dworkin, 2020; Dworkin et al., 2017) and education (e.g., lower GPA, higher likelihood of dropout; Baker et al., 2016; Jordan et al., 2014). Sexual violence committed by another student or school employee that interferes with a student’s education is considered a form of sex discrimination, known as sexual misconduct in higher education speak, is prohibited by Title IX of the Education Amendments of 1972 (e.g., Alexander v. Yale University, 1980; Davis v. Monroe County Board of Education, 1999).

Thus, college sexual assault survivors have the option to report an assault to their university’s office that handles reports (which we term the “Title IX Office”) as a mechanism for seeking justice (e.g., sanctions for the perpetrator) and accommodations to help restore their access to education (e.g., changing class schedules when in classes with the perpetrator; Department of Education 2001; 2011; 20414; 2020. Despite the centrality of Title IX Offices in university’s formal institutional responses to sexual assault, little research has investigated students’ meaningful experiences with university Title IX Offices after sexual assault. The current study offers an in-depth qualitative analysis of student survivors’ knowledge and use/non-use of and interactions with their Title IX Office. The purpose of the study was to understand what student survivors think about this formal support and the possibility of seeking help there, and their experiences with the Title IX Office reporting processes. In order to more fully understand the
experiences of students from high-risk identity groups (i.e., women and LGBTQ+ people), the study included survivors with a range of gender and sexual identities and examined how the intersection between survivors' identities played a role in their perceptions of and interactions with this office. Given that women and LGBTQ+ students are most likely to experience sexual violence in college, it is important to understand what these student survivors think about Title IX and how they are treated by Title IX staff. **Background on Title IX**

The function of a university’s Title IX Office is best understood when contextualized within the historical background of Title IX. Title IX of the Educational Amendments of 1972 is a civil rights statute prohibiting sex-based discrimination within educational institutions that receive federal funding. The application of Title IX to cases of sexual assault has been established through both case law (e.g., Alexander v. Yale University, 1980; Gebser v. Lago Vista Independent School District in 1998) and federal guidance from the Department of Education Office for Civil Rights. In short, sexual assault is considered a form of sex discrimination under Title IX and institutions must establish policies and procedures for reporting, investigating, and adjudicating reports (U.S. Department of Education, 2001, 2011, and 2020). For instance, the OCR issued a Dear Colleague Letter (DCL) in 2011 reminding schools of their responsibility to take immediate and effective action in response to reports of sexual assault and providing new recommendations for Title IX processes (e.g., training all persons involved in implementing grievance procedures in handling complaints of sexual assault, aiming to resolve complaints within 60 days; U.S. Department of Education, 2011). Schools must also appoint a Title IX Coordinator who will oversee such efforts (U.S. Department of Education, 2001). While much of the Title IX guidance was repealed in 2020 (i.e., Department of Education, 2001; 2011, 2014) with the arrival of new Title IX regulations (Department of
Education, 2020), previous guidance resulted in colleges and universities having an office that will address reports relevant to Title IX (e.g., sexual assault, sexual harassment) and, often, other anti-discrimination laws (e.g., Title VII, Americans with Disabilities Act). These offices remain in effect following the new 2020 regulations, and these have different names across campuses, such as “Office of Institutional Equity and Compliance” or “Office of Institutional Equity,” but we refer to these offices generally as Title IX Offices. Title IX Offices are responsible for responding to, investigating, and adjudicating cases of sexual misconduct reported to the university.

Survivors’ Interactions with Title IX Offices

Despite the ubiquity of Title IX Offices in university sexual assault response efforts, little empirical research has established a formative understanding of survivors’ knowledge and perceptions of and interactions with this formal support. Regarding knowledge, some existing work suggests that student survivors lack awareness of their school’s Title IX Office. Fleming et al. (2018) found that 35% of students in their sample were aware of their university’s Title IX services, which was lower than their awareness of other campus resources. There is more emerging research on survivors’ rates of reporting to university officials/Title IX Offices, which ranges from about 2% to 10% across samples (e.g., Fisher et al., 2016; Fleming et al., 2018; Holland et al., 2017; Khan et al., 2018; Lindquist et al., 2013). Some research has also examined reasons for not reporting the Title IX Office. For example, survivors do not use the Title IX Office due to logistical issues, negative emotions, fears about consequences, minimization of assaults, concerns about inaction and negative treatment from staff members, among other reasons (e.g., Holland & Cortina, 2017; Khan et al., 2018). There is less empirical evidence on survivors’ substantive interactions with Title IX Offices. In a survey study by Flemming et al.
survivors rated the Title IX Coordinator and university administrators among the least helpful of all campus resources. Four survivors who discussed their experiences with the Title IX Office in an ethnographic study by Khan et al. (2018) felt confused and letdown by the process. Title IX Offices being perceived as unhelpful and disappointing for survivors is unsurprising as emerging research finds that most reports do not result in formal investigations and those who are investigated and result in findings of “responsibility” rarely result in sanctions such as suspension or expulsion (Richards, 2019; Richards et al., 2021). Recently, the activist group Know Your Title IX published findings from their study surveying over 100 survivors who formally reported to Title IX (2021); Their findings indicate that a substantial portion (39%) of survivors who reported experienced significant disruptions in their educations in the form of having to take a leave of absence, transferring schools, and dropping out of school as a result of negative treatment from Title IX staff. The negative treatment survivors reported was characterized by blaming, name-calling, stalling their cases, and being told the school could do nothing to help them (Know Your Title IX, 2021).

The theory of institutional betrayal (Smith & Freyd, 2014) illustrates the theoretical and empirical importance of survivors’ interactions with Title IX Offices. Institutional betrayal conceptualizes wrongdoings perpetrated by an institution when people are dependent upon the institution and can expect that it will protect its members from harm and will respond appropriately if harm is endured (Smith & Freyd, 2014). Under Title IX, students can expect that their institutions of education will protect them from discrimination in the form of sexual assault and take steps to restore their access to education if an assault occurs (e.g., via sexual assault reporting policies and procedures). A host of negative outcomes can occur when one feels that an institution failed to appropriately address sexual assault, including the erosion of a sense of trust.
and belonging in the institution (Smith & Freyd, 2014). Sexual assault survivors who experience institutional betrayal report increased psychological harms, including anxiety, depression, dissociation and posttraumatic stress (Hannan et al., 2020; Smith & Freyd, 2013; Smith et al., 2016). Moreover, institutional betrayal theory highlights the unique ways that institutions harm marginalized groups, as institutionalized sexism, cissexism, heterosexism, racism, ableism and more shape people’s experiences with formal resources as they move through the world with different bodies and identities (Brubaker et al., 2017; Burton & Guidry, 2020; Gomez, 2016; Smith et al., 2016). For example, lesbian, gay, bisexual, transgender, and queer (LGBTQ) college sexual assault survivors experience high rates of institutional betrayal, which is associated with significantly worse psychological outcomes (i.e., PTSD, depression; Smith et al., 2016). Survivors with marginalized identities are particularly vulnerable to institutional betrayal as they are more likely to experience sexual violence and depend on their institution to respond to their experiences in ways that protect them from further harm. In the current study, we were particularly interested in investigating the intersections between survivors’ gender and sexual identity in shaping their substantive knowledge and use (or non-use) of and interactions with the Title IX Office.

**Current Study Summary**

The current study used in-depth qualitative interviews with a sample of university students who had experienced sexual assault while attending their institution to explore survivors’ perceptions of and interactions with their university Title IX Office. We conducted interviews with survivors who had and had not reported their assault to the Title IX Office to answer the following research questions:

1) What do survivors know about the Title IX Office and its function?
2) What are the barriers that survivors hinder survivors’ use of the Title IX Office?

3) What are survivors’ experiences with Title IX Office reporting processes?

4) How does the intersection between gender and sexual identity play a role in survivors’ knowledge, use/non-use, and experience of the Title IX Office?

Method

Participants

Participants were 40 undergraduate students from a large Midwestern university who had experienced sexual violence while attending the institution. Approximately half (52.5%, n = 21) identified as straight cisgender women, three (7.5%) identified as straight cisgender men, and 16 (40%) identified as LGBTQ. Of the LGBTQ participants, nine were cisgender women, three were cisgender men, and four were transgender or gender diverse (TGD; including 1 transman, 1 non-binary, and 2 genderqueer). The LGBTQ participants identified as gay (n = 2), bisexual (n = 9), pansexual (n = 1), queer (n = 1), and asexual (n = 3). The racial/ethnic makeup of the sample was 62.5% (n = 25) White, 17.5% (n = 7) Multiracial, 7.5% (n = 3) African American/Black, 7.5% (n = 3) Latinx, and 5% (n = 2) Asian/Asian American. Participants’ age ranged from 19-25 (M = 19.77, SD = 1.39).

Procedures

The sample for the current study was a subsample of students recruited from a larger mixed methods project examining straight and LGBTQ sexual assault survivors’ support seeking (for more details on the project and recruitment procedures see blinded for review, in press). Inclusion criteria included: a) age 17 or older, b) current undergraduate at the university, c) plan to enroll the following semester, and d) had an unwanted sexual experience while attending the university. Of 160 students who contacted the research team, 107 were determined to have met...
the eligibility criteria and were first scheduled to complete the first quantitative survey of the larger study. Of those scheduled, one hundred students completed the survey portion of the study. Participants completed a second survey six months after the first and we recruited 40 of those participants to complete an in-depth interview. The sample size of 40 was derived using common strategies for qualitative research, including the breadth of the overarching research aims for the larger project, the purposeful recruitment of a more heterogenous sample (i.e., in terms of gender, sexuality, resource use), our in-depth interview procedures, and the available funding to pay participants (Merriam & Tisdell, 2016).

We used maximum variation sampling to select the interview sample, which helps to capture a wide range of experiences related to the phenomenon being studied (Merriam & Tisdell, 2016). Using the survey data, we stratified the sample into groups: 1) LGBTQ survivors who used at least one campus resource ($n = 19$); 2) straight cisgender women who used resource(s) ($n = 34$); 3) straight cisgender men who used resource(s) ($n = 2$); 4) LGBTQ survivors who used no resources ($n = 7$); 5) straight cisgender women who used no resources ($n = 16$); 6) straight cisgender men who used no resources ($n = 1$); and 7) ineligible for the interview (e.g., were uninterested; $n = 21$). For groups with small sample sizes, we invited all of the participants to interview. For the other groups, random samples of 10 participants were invited until we reached a sample size of 40.

All interviews were completed by either the first or second author. During the interview, participants were asked semi-structured questions about their knowledge, use, and perceptions of campus resources. In the current study, we specifically examined participants’ answers to questions about the Title IX Office (see Appendix for these questions). Participants had no prior relationship with the interviewers. Both interviewers identify as queer cisgender women and
have previously studied sexual victimization and Title IX processes. All interviews were audio recorded and, on average, lasted approximately one hour (range: 17-88 minutes). Participants received US$30. All procedures were approved by the Institutional Review Board. Currently, there are three publications using these data (blinded for review, in press; blinded for review, in press; blinded for review, in press), and this paper contributes novel information about survivors’ interactions with the Title IX Office.

**Analysis Approach**

All interviews were transcribed verbatim. Our analysis began with both authors reading and re-reading all 40 interviews. After familiarizing ourselves with these data, we focused our analysis on their answers to the questions that specifically asked about their knowledge and use of the Title IX Office (see Appendix for the questions). We used content analysis to answer our first research question (What do survivors know about the Title IX Office and its function?). Content analysis is a technique that can be used to classify text into meaningful categories or pieces of information (Stemler, 2001; Weber, 1990). A common approach to qualitative content analysis is to create a coding frame, which involves selecting the material to be analyzed (i.e., the sampling unit), generating and defining categories that are related to the research question (i.e., codes; words or phrases that capture and categorize information in textual data), applying the codes to the text, and revising the codes if necessary (Schreier, 2013). The categorization of qualitative data allows researchers to reduce and describe participants’ words in a meaningful way (i.e., to answer a research question; Schreier, 2013). Using this approach, we analyzed and described what participants said they knew about the Title IX Office. There were 11 participants who had never heard about the Title IX Office before this study and 29 who had. Both authors read all of the participants’ answers to the knowledge-related questions (the sampling unit) and
developed an initial set of codes. Both authors then compared and compiled the codes into single list. We identified two categories of knowledge for the participants who had never heard of the Office, 1) *general lack of awareness* and 2) *awareness of the law but not the Office*, and four categories of knowledge related to the Title IX Office and its function among the participants who had heard of this resource, 1) *addressing sexual misconduct* 2) *investigating sexual misconduct* 3) *punishing perpetrators of sexual misconduct* and 4) *relating to the legal system*. We entered the text to be categorized (i.e., excerpts) into excel and both authors independently applied the categories to these data. There were no discrepancies in code application (kappa = 1.00; Cohen, 1960).

We also used content analysis to answer our second research question (What are the reasons that survivors are not using the Title IX Office?). This analysis was focused on categorizing participants’ explanation(s) for why they chose to not report their assault to the Title IX Office. Of the 29 participants who had heard of the Title IX Office, 22 chose not to report their unwanted sexual experience. Additionally, for the participants who had not heard of the Title IX Office (*n* = 11), the interviewer read a brief description of it and asked if they would have reported to this Office, had they known about it (see Appendix A for the script and questions); nine said they would not have reported. In total, 31 survivors indicated they did not or would not have reported their assault to the Title IX Office. Both authors read these participants’ explanations for their non-use of this resource (the sampling unit) and developed a set of initial codes. We then compared and compiled the codes into single list. We identified five overarching categories of barriers that hindered survivors’ use of the Title IX Office, including 1) *accessibility barriers*, 2) *assault characteristic barriers*, 3) *social-emotional barriers*, 4) *minimization barriers*, and 5) *Title IX response barriers*. All excerpts (i.e., interview text from
which codes were derived) were entered into excel and both authors independently applied the categories to these data. Interrater reliability was excellent (kappa = 0.92; Cohen, 1960) and we resolved discrepancies in code application through conversation.

We conducted a thematic analysis to answer the third research question (What are survivors’ experiences with Title IX Office reporting, investigation, and adjudication processes?). While our analysis for the first two research questions focused on understanding the explicit meaning in participants’ data (i.e., the knowledge they had, the barriers they described), our analysis for the third research question included an analysis of both semantic content (i.e., what participants explicitly said about their experiences) and latent content (i.e., underlying constructs and ideologies that are not explicitly stated but are apparent in their experiences) related to survivors’ interactions with the Title IX Office. Thematic analysis is a flexible approach to analyzing both semantic and latent content in qualitative data (Braun & Clarke, 2006). Of the 29 participants who had heard of Title IX, seven disclosed their experience to Title IX Office. Participants who reported to the Title IX Office were asked how they made the decision to disclose to the Title IX Office, their experience interacting with this Office, and thoughts about what would improve this Office (see Appendix). These data comprised our sampling unit. Next, we developed a list of codes that captured discrete pieces of information in these data. For instance, the code “appeal process” would be applied to any text that discussed an appeal process and the code “empathy” would be applied to any text that discussed empathy (or lack of empathy) in interactions with Title IX staff. We refined the codebook by applying the codes to a subset of these data and editing the codes as needed (e.g., adding, clarifying, or combining codes). The initial coding process was conducted in Word (i.e., via comments). Next, we entered all excerpts (data to be coded) into Excel and both authors independently coded the
data. Inter-rater reliability was excellent (kappa = 0.98; Cohen, 1960). We discussed any differences in coding until consensus was reached. Finally, we identified themes across these coded data by examining the relationships between the codes and the similarities and differences across participants’ experiences. We identified three overarching themes that exemplified participants’ interactions with the Title IX Office, 1) lack of accountability for perpetrators connected to social minimization of sexual assault, 2) procedural issues in the Title IX reporting process, and 3) mistreatment in interactions with Title IX staff. Additionally, we conducted a discrepant cases analysis, which involved an analysis of the characteristics of any experiences that did not align with the primary themes (e.g., What are the common elements in these survivors’ cases?). The three themes and the discrepant cases are discussed in detail below.

Our fourth question focused on understanding how the intersection between gender and sexual identity played a role in survivors’ knowledge, use, and experience of the Title IX Office. To answer this research question, we examined the patterns that existed in the categories/themes we identified for the first three research questions across participants’ sexual and gender identities. For example, we looked at the gender and sexual identity of those participants who did and did not have awareness of the Title IX Office before the study and for all of the categories related to the content of participants’ knowledge.

Results

Knowledge of the Title IX Office

There were 29 (73%) participants who had heard of the Title IX Office before the study and 11 (27%) who had not. Among the participants who had no prior knowledge of the Title IX Office (n = 11), we identified two categories. The first category was a general lack of awareness. These participants simply stated that they had no awareness of Title IX, such as Ivy, who said
"I've never heard of it before." The second category was an awareness of the law but not the Office. These participants stated that they had heard of Title IX, the law, but not the Title IX Office on campus. Ryan, for example, explained, "I just know what Title IX is, not the office though. I didn’t know there was a specific office for it."

For the survivors who had heard of the Title IX Office ($n = 29$), we identified four categories of knowledge regarding the office and its functions: 1) addressing sexual misconduct 2) investigating sexual misconduct 3) punishing perpetrators of sexual misconduct, and 4) relating to the legal system. First, participants knew that the Title IX Office was a mechanism for addressing sexual misconduct. For example, Mika stated “I don’t really know necessarily what they do, I just know that it’s another place where you can go and report.” Similarly, Emily described what she learned during the first-year student orientation: “If you have any cases where you feel like you’ve been through something that would go under Title IX you can go and talk to them about it.” Second, some participants knew that Title IX Office investigates sexual misconduct reports. Rose, for example, stated “I only knew the basics, that they were the on-campus resource for investigating sexual and gender-based, or discrimination-based violence.” Similarly, Charlie explained, “I knew generally they were the investigative people.” While these participants understood the Title IX Offices’ investigative role, they knew little about Title IX’s actual investigation procedures.

Third, several participants knew that the Title IX Office can punish perpetrators of sexual misconduct. For example, Manuel explained, “I see them as someone who passes along consequences.” While these participants did not identify specific punishments, they were aware that Title IX investigations could result in sanctions for people who commit sexual misconduct. Finally, some participants described the Title IX Office in relation to the legal system. For
instance, some survivors stated that the Title IX Office would take legal actions on behalf of survivors, such as “they would take legal measures” (Kirby) and “I always thought it was more legal...when you want to press charges” (Melissa). Others described the Title IX Office as a reporting system distinct from the criminal justice system. Rose stated that “I just knew that they were the people to go to if I wanted to, for a lack of better terms, press charges but without having to go through a long, arduous, difficult police thing.”

**Intersections Between Gender and Sexual Identity and Knowledge**

Of our participants who had no awareness of the Title IX Office before the study, just over half were straight cisgender women \( n = 6 \) and the rest identified as sexual and/or gender minorities \( n = 5 \). None of the straight cisgender men in the sample lacked awareness of Title IX. Turning to the participants who knew about the Title IX Office, about half \( n = 15 \) were straight cisgender women, three were straight cisgender men, and the remainder \( n = 11 \) identified as a sexual and/or gender minority. As for what these survivors knew about the Title IX Office, straight cisgender women mainly described this office as a place to report sexual misconduct, that investigates sexual misconduct, and that punishes perpetrators of sexual misconduct. Straight cisgender men only identified Title IX as a reporting and investigative mechanism for sexual misconduct. Sexual and gender minority participants most often described the Title IX Office as a place to report sexual misconduct and/or in relation to the legal system. While our analysis focused on gender and sexuality, a notable pattern emerged for race/ethnicity: The Title IX Office was only described as an office that punishes perpetrators of sexual misconduct by racial and ethnic minority participants (i.e., Biracial \( n = 2 \) and Latinx \( n = 2 \)).

**Barriers to Using the Title IX Office**
Out of our 40 participants, 31 survivors indicated they did not (n = 22) or would not (n = 9) report their assault to the Title IX Office. We identified five overarching categories of barriers for this resource. Each barrier is described in detail below.

**Accessibility Barriers**

Three participants experienced logistical issues that impeded their access to the Title IX Office. For these participants, a lack of knowledge of the Title IX Office prevented them from reporting. For instance, Mika explained, “I didn’t even know where the Title IX Office was. I don’t know where I would go to fill out a report.” Another participant, Emily, stated that she was unsure what kinds of incidents can be reported, wanting to know “the cases they’ve had before, like examples so you know what they deal with specifically.” Abby said she would not have reported because “I don’t really know enough about what they do to know for sure, but I guess things would be taken out of my control.” The primary barrier for these students was a lack of substantive understanding about Title IX Office and the reporting process (e.g., where and how to make a report, what behaviors can be reported, what would happen after the report).

**Assault Characteristic Barriers**

There were eleven participants who described characteristics of the assault itself as a reason they did not report to the Title IX Office. A few of these survivors described their perpetrator as separate from the university. For example, Penelope stated, “other person wasn’t a student here, we weren’t on campus, so I just really felt like it wasn’t a Title IX issue.” Several other participants described that they did not report because the assault took place off campus. Sarah, for instance, stated, “it wasn’t on campus, it wasn’t at a college event or anything.” There were also several participants who explained that they did not report because the assault did not result in tangible evidence. Jan described how she did not report because “I didn’t think there
was enough evidence...people could say, ‘no that’s not what happened’, or ‘no, no one saw it,’ or ‘oh, well there's no video of it.’” Similarly, Brooklyn stated that “I didn’t have any evidence other than my words.” Thus, this theme illustrated how what happened during and after the assault itself stopped some survivors from reporting the assault to the university.

**Minimization Barriers**

Minimization was another common theme, with nine participants describing this as a barrier for the Title IX Office. These survivors described the belief that their assault was not “serious enough” to report. For example, Ivy explained that, “I don’t think it’s serious enough to report him...we were at the party, and we kind of got drunk, and so I don’t think it’s a real rape.” Similarly, several participants compared their experience to other possible assaults, believing that what happened to them was not as “bad” as it could have been. Melissa described how she was drinking when the assault happened and was able to “get away” from the perpetrator before penetration occurred, so “I minimized it, it wasn’t a serious as it could have been.” Abby and Sarah also discussed how their peers mock reporting to Title IX, which contributed to their minimization of the assault as a reason not to report. For instance, Abby stated “people also kind of joke about Title IX...and I think that minimizes peoples’ experiences because then they’re like ‘oh, it’s not a big deal.’” Tom also minimized the outcomes of the assault, explaining that that “it’d have to be something that would affect me either physically, mentally, emotionally, but for a longer duration” for him to report. Thus, survivors minimized both the assault and its outcome.

**Negative Treatment Barriers**

There were eight participants who did not report to the Title IX Office due to the negative interactions they imagined having with this Office. Many of these survivors believed that the
Title IX Office would do nothing in response to their report. Jeff, for example, stated that “I don’t think, if I would have reported what happened to me, anything would have happened.” Emily believed that they would have chosen not to take her case. Similarly, Melissa believed that they would never resolve her report, stating

I just don’t trust them...I feel what would happen is they take the case, probably waiting months to hear back...eventually the Office would say ‘hey, just give up’...It would feel terrible. I’d be so mad. I’d feel hopeless, powerless.

Both Brooklyn and Brooke also expressed concern about how they would feel if the Title IX Office disregarded their report or decided that the assault did not happen. When imagining what would come of her report, Brooklyn stated, “Honestly, probably nothing would have happened...To come forward with this, with the possibly of having this follow me forever and make it public, and then to have it go nowhere...it would have been pretty devastating.” Brooke explained that “the thought of if, in their opinion, it didn’t happen...having to live with that and trying to finish getting a degree here” would have been unbearable. For these survivors, there would have been a heavy cost for reporting and having that report ignored or deemed unactionable (e.g., the perpetrator found “not responsible”) by the Title IX Office.

Some of these survivors also feared that they would be treated negatively by Title IX Office staff during an investigation, expressing concern about being shamed, judged, and/or doubted by Title IX staff. Miles, for instance, imagined them asking him, “Are you sure it wasn’t consensual?” explaining that “I don’t think they’d believe me because like, I’m not a small, frail person. I can hold my own and things.” Sarah explained that she did not “trust how people are going to react” to her report, stating “I don’t want to put myself in the situation for someone to judge me or to shame me.” Within this theme, survivors’ concerns about inaction and judgmental
or doubtful reactions from the Title IX Office were often the result of things they had witnessed or heard from other students. Melissa explained that “several people said that their cases, well, their cases were covered up” and Diamond stated that, “based on personal experience from one of my friends, they went to go report, and [the Title IX Office] didn’t really doing anything, and that said a lot to me.” For these students, the fear of negative treatment acted as a strong barrier.

**Social-Emotional Barriers**

Social-emotional barriers were the most frequent in this sample. Within this theme, 19 survivors described emotions and concerns that were related to how reporting might affect their lives. For example, survivors’ feelings of shame, embarrassment, and self-blame made them avoid reporting. When asked how she would feel about reporting to Title IX, Kirby stated “very definitely fear and embarrassment.” Paul noted how reporting to Title IX would cause a lot of emotional stress. In addition to emotional wellbeing, participants expressed concerns about the effect of reporting on their academic wellbeing. Mika stated that she was “worried about if it would affect my academics” and Manuel, who was drinking underage at the time of the assault, was afraid he may be penalized, explaining “we were all drinking and so that was the biggest concern...I was concerned about my scholarship.” Such concerns deterred these survivors from seeking help from the Title IX Office.

Many survivors were also afraid of what reporting would mean for their social lives, particularly how others would react if they found out. Abby believed that reporting would lead to “social ramifications.” Multiple participants discussed examples of such ramifications. For instance, Susie said reporting could “change your social status, or rumors could be spread. It would just be a mess.” Others expressed concern about retaliation from the perpetrator and their friends. Jan believed that “word would get around, and [the perpetrator] would tell their buddies
and they could have a whole group of guys who don’t like you” and Tom was concerned about “backlash from the person and people associated with the person.” Shelby was assaulted at a fraternity party and described the social “battle” that would unfold, explaining that “they have a lawyer for this specific fraternity, so if anything happens while you’re in their house, their lawyer is now a part of it...it just seems like a lot of extra drama.” The public nature of an investigation and adjudication process stopped these survivors from reporting.

Some survivors were also concerned about social-emotional ramifications of the perpetrator being punished. Susie, for example, explained “honestly, I'm mad at them that this happened, but like I'm a big girl and I can deal with it. I don’t want to ruin their life.” Similarly, Max stated that the assault “was something that affected me...I would like to talk about it, but I don’t necessarily need them to be punished.” Max preferred seeking emotional support (e.g., talk therapy) over a report. Manuel also grappled with what it would mean to report his perpetrator, stating, “I guess I see the incident as something that was done negatively towards me. Was I willing to sort of do something back that was negative to that person?” These survivors were harmed by the perpetrator but expressed concern about doing harm to the perpetrator in return. The rhetoric of men being victimized by sexual assault reports is clear in their concerns (e.g., harm of being reported is equivalent to harm of being assaulted; reporting will “ruin” his life). In sum, the public nature of a formal reporting process fostered many social-emotional barriers.

**Intersections Between Gender and Sexual Identity and Barriers**

When considering participants’ gender and sexual identities, there were few differences in their experiences of barriers for the Title IX Office. Specific accessibility barriers (e.g., not knowing how to report) were only described by cisgender women (two straight and one bisexual). Similarly, it was straight and bisexual cisgender women who mostly discussed assault
characteristic barriers (5 bisexual women, 5 straight women, and 1 gay cisgender man). The other three barriers were discussed by survivors across gender and sexual identity spectrums. Minimization barriers were mentioned by four straight cisgender women, two bisexual cisgender women, two cisgender men (one straight and one queer), and one trans man. A similar pattern was evident for negative treatment barriers, with this barrier described by three straight and three bisexual cisgender women, one straight cisgender man, and one trans man. Social-emotional barriers were the most prevalent barriers described in our sample, with six queer survivors (two gender queer or non-binary, two cisgender men, two cisgender women), two straight cisgender men survivors, and eleven straight cisgender women survivors discussing such barriers. Thus, while straight cisgender women expressed all five themes (especially social-emotional barriers), the straight cisgender men and sexual and gender minority survivors were particularly hindered by the minimization of sexual assault, fear of negative treatment, and social-emotional concerns.

Experiences Interacting with the Title IX Office

Of the 29 participants who had heard of Title IX, seven ultimately disclosed their assault to Title IX Office personnel. We identified three overarching themes related to their experiences with the Title IX Office. Additionally, we analyzed cases that did not completely align with these themes. Findings for the themes and discrepant case analysis are described in detail below.

Lack of Accountability for Perpetrators Connected to Social Minimization of Sexual Assault

Most of the perpetrators were not held accountable for their actions after the survivor disclosed to the Title IX Office, and this lack of accountability was often connected to the social minimization of sexual assault. Two survivors—Jane and Abigail—requested that the Title IX Office not pursue a formal investigation. Jane agreed to speak with a Title IX investigator after her counselor in the Women’s Center told her that she could inform the Title IX Office about the
assault and Abigail spoke to the Title IX Office to request academic accommodations. However, neither of these women disclosed details about the assault due to their fear about harming the perpetrator and enduring social backlash. Jane wondered “how will it affect their life later?” and Abigail explained that she did not want to “press charges” because “I feel like they would have been really upset...[the perpetrator] is in a fraternity, I feel like that would have been another big thing.” Perpetrators being harmed when a victim reports is apparent in social discourse that minimizes sexual violence, and the fear of causing the perpetrator harm (and subsequent social consequences) stopped these survivors from pursuing a formal investigation.

Three survivors reported but there was no finding of responsibility. Lucy reported because she was “trying to make sure this person was fired or banned from campus” and Rose reported because “I didn’t want this to happen to somebody else...I really wanted for him to be like, ‘Oh my gosh, I just got investigated by Title IX...I see the error of my ways.’” Alexandra, who was being sexually harassed by a coworker, reported because she wanted to make sure her manager and the university “were aware of the behavior. I wanted it to stop.” However, in all three cases, the Title IX staff expressed disbelief about the seriousness of their assaults. Alexandra and Lucy never learned about the outcome of their report. Alexandra explained that “They never got back to me about a decision. They said they might not if they didn’t feel like anything was worth [pursuing].” When Lucy spoke to an investigator, “I couldn’t remember the exact dates of stuff and I was getting stuff out of order timewise. He got really mad and really condescending...he was implying that I was a liar...He probably didn’t do anything [with the report].” Rose did learn the outcome, but the perpetrator was found “not responsible” because the Title IX investigator doubted her “credibility”:
“I tried to be as honest and open and clear and detailed as I possibly could have been... I had a written police report that I did literally a day after it happened... he didn’t give any detail in his denial... So, when they told me that nothing happened, I was shocked... I went to my investigator asking, ‘Could you please explain this to me?’ And she said, ‘Well you weren’t a credible witness... the written police report said that he kissed you four times, yet whenever you did your interview with us, you said that he had only kissed you three times.’ Literally, these were actually the things that they were using to say that I was not a credible witness.”

In these cases, the Title IX investigator expressed a belief that the assault was not serious or real enough to be pursued or for the perpetrator to be found responsible.

The two reports in which the Title IX Office conducted an investigation and found the perpetrator responsible involved multiple victims filing reports. Zoe’s perpetrator had been reported by other students in the past and Sammy’s perpetrator assaulted three women in one weekend. Yet, in each of these cases, the perpetrators appealed the findings and received lesser sanctions. The social minimization of sexual assault was clearly tied to the outcome in Zoe’s case. Zoe wrote and read a victim impact statement during the appeal hearing, “to tell them how I was affected, how I felt when I saw him outside my dorm room, and how I was afraid of him.” However, she explained that she was “crushed” when they explained the final sanctions:

“He was suspended for two semesters, and he was allowed to finish his current semester on campus... The justification was that he stopped when asked enough. He was able to stop the assault and leave. They didn’t think it was that severe... it was a less severe sexual assault then if say, I had been forcefully held down or something... I don’t agree with their punishment, that they think that it wasn’t a form of sexual assault to be treated as severe.”
Although Zoe’s report resulted in a finding of “responsibility,” the social minimization of sexual assault resulted in lesser sanctions for her perpetrator. Sammy’s perpetrator also received a reduced sanction, she explained “the decision was to be expelled but then his lawyer fought back and now he’s suspended for four years.” Thus, few of the reports resulted in perpetrators being held accountable and none of the perpetrators were permanently removed from the university. In most of these cases, the lack of accountability was connected to sociocultural minimization of sexual violence.

Procedural Issues in the Title IX Reporting Process

When interacting with the Title IX Office, survivors experienced procedural issues, especially inconsistency and lack of transparency. There were several examples in which the Title IX Office were inconsistent in their actions during the investigation and adjudication process. For instance, Zoe’s investigation included several witness statements, including the first person she told (one of her best friends), her RA, Residence Director, and roommate; however, Rose had similar witnesses, whose statements were excluded from the investigative report:

“they asked if I had any witnesses and I said...I have my roommate and a friend who I had face-timed half an hour after it happened.... She interviewed both of them and she was like, ‘neither of your witnesses really provided anything new to the investigation, so they’re not useful. We’re not going to include those two people in our statement.’”

Additionally, three survivors were involved in an appeal process, and each process was conducted differently. Rose appealed the “not responsible” outcome, and asked the investigator what that process would entail, and “she said, ‘there’s a hearing board and you will represent yourself and you’ll present all the information to them...they’ll decide what’s going to happen.’” However, while Rose was home for winter break (and preparing for her hearing), she received an
email from a Senior Administrator in Student Affairs saying, “I’ve reviewed all of the files from the Title IX proceedings and have determined they have acted correctly. You cannot appeal this decision.’...It was just a slap in the face.” Zoe’s perpetrator appealed the “responsible” finding, and she participated in a hearing that “took 10 hours. My parents were there, his parents were there, I saw him, I was with a lawyer.” The hearing board upheld the finding but recommended a reduced sanction. Sammy’s perpetrator was found “responsible” and “the decision was to be expelled but then his lawyer fought back and now he’s suspended for four years.” Sammy never participated in the appeal process that resulted in a reduced sanction.

Lack of transparency was another procedural issue that our participants experienced. For example, two survivors (Alexandra and Lucy) never learned about the outcome of their report. Alexandra described the harm this caused her, stating “It felt open ended. Like I was always nervous on whether something would come up and I don’t know, it, I never really got that resolution...I wasn’t comfortable at work.” In another example, Rose found out that a second investigator had played a role in her case when reading the investigative report: “I was reading through the description of [the perpetrator’s] interview and it said, (Investigator 1) and (Investigator 2) met with him. I was like, ‘Who’s (Investigator 2)?’...They never told me there was a second investigator...I don’t understand how you could make an informed decision without ever having spoken to me.” The inconsistency in how the Title IX Office responded to reports was a consistent theme, plus a lack of transparency in the actions that were taken.

**Mistreatment in Interactions with Title IX Staff**

Another theme we identified in these survivors’ experiences with the Title IX Office was mistreatment during their interactions with the staff members. Several participants discussed that they faced a lack of empathy from the investigator. Jane, for instance, stated that the “Title IX
rep was attempting to be empathetic, but...I felt like there was this checking off of things that
she was asking me. Kind of scripted...It made me not want to continue talking with
them.” Alexandra expressed a similar belief, “It felt like I was getting interrogated...I get that
they have to do their job...but it did feel like they didn’t really care that much.” Rose and Zoe
each mentioned how the investigator told them multiple times that they were not there to be
supportive. Rose stated, “that was like their bible, that ‘I’m a fact-finding organization.’ They
said it a lot.” Similarly, Zoe shared that she was “intimidated by the investigators...they told me,
‘we are not here to advocate for you, we’re here to get the facts.’...I understand why they have to
be fair to all students, accused and accusing, but they also could use some awareness on how to
speak to people who are at very fragile moments in their life.”

In addition to a lack of empathy, the investigators also expressed doubt and made victim
blaming statements. When describing her experience with Title IX, Lucy stated “They were
garbage...It was just overall a bad experience... [the investigator] was implying that I was a
liar... Some of the other girls wanted to bring up a report against him.” Rose also described how
“Throughout the entire process, I felt cheated. I felt lied to. I felt disrespected. I felt hurt. I felt
like I wasn’t taken seriously.” When Rose was discussing why the investigator believed she was
not “credible,” the investigator pointed out minor discrepancies (e.g., “in the police report I had
put that I couldn’t move. And then in the Title IX interview I said that I shifted my weight
slightly”) and called them “huge” and “major” discrepancies. When Rose got upset, the Title IX
investigator “said that ‘you’re never going to change my mind.’...I didn’t understand how it was
possible that someone could be so callous.” Zoe and Rose were also asked blaming questions.
Zoe stated that, “They asked things that, as survivors, we are told are wrong to ask, like, ‘What
outfit were you wearing? Were you drinking?’” Rose was also asked about her clothing, stating
that “In the investigation...they were like, ‘What were you wearing? Did the shirt cover you entirely? Okay, about how long was the skirt? Can you stand up and put your arms down and show me how long the skirt was?’” The doubt and blame that survivors experienced from the Title IX Office investigators was harmful for their mental wellbeing.

Some survivors also described losing control during the reporting process. For example, Alexandra initially told her manager about her coworker’s behavior, “and she said that she had to report it to Title IX, but I decided to talk to them about it...I didn’t really like that experience. I just wanted my manager to be aware of the situation...it was uncomfortable.” Sammy was also not interested in reporting but was pulled into the process, explaining “It all happened really quickly...the first girl said, ‘Well I’m going to Title IX today to report it.’ She asked if we would go report it as well and I said no but if they need me to answer any questions I can. Then I was contacted by Title IX.” The Title IX Office initially recommended expulsion, and Sammy experienced psychological distress at this outcome of a report she did not initiate or control, “I felt like ‘Oh my gosh what did I do?...I shouldn’t have done that.’ All of these emotions were going through me and I felt like a bad person.” Zoe also lost some control during the investigative process when the investigator told her to contact the perpetrator to get a confession: “They had me send him a message...Something along the lines of, ‘Hey, I just want to meet up and talk, it wasn’t that big of a deal, I’m sorry.’ I was uncomfortable with sending that message. I did not want to have any contact with him, so that didn’t help my anxiety at the time...I didn’t feel like I had too much of a choice.”

The mistreatment that survivors experienced while interacting with the Title IX Office, including lack of empathy, doubt, victim blame, and loss of control caused them additional distress.

Discrepant Cases
We then analyzed the instances in which survivors’ experiences did not entirely align with the three overarching themes. In examining these data, we found that reports involved more perpetrator accountability, fewer procedural issues, and less overt mistreatment when (a) the survivor asserted that they did not want to initiate a formal investigation, (b) other university employees were involved in the process, and/or (c) the assault was more stereotypically “severe” (i.e., a serial perpetrator).

For example, Abigail reported to the Title IX Office to receive a class accommodation and deliberately did not name her assailant to avoid an investigation, “I was just more worried about having my test pushed back...I had to get it approved and they requested [the professor] push the test date back,” which she stated, “was a pretty good process.” Jane also clearly asserted that she did not to initiate a formal investigation (“I went out of my way to make myself very clear about not wanting to”) and her counselor at the Women’s Center was present during the interview. Jane stated that her interaction with the Title IX investigator “wasn’t awful...it was a very professional experience where she was trying to get the questions answered that needed to be answered.” However, Jane also felt that the interaction lacked empathy, stating that it felt “kind of scripted...and it made me not want to continue talking with them.”

Zoe’s perpetrator was one of the two who were found responsible. Like Jane, Zoe’s report involved other university employees—both her resident assistant and her resident director were witnesses on her behalf—and other victims had reported her assailant to the Title IX Office in the past. Zoe described the process as more transparent, stating that “I got email updates from one of the investigators saying something like, ‘We only have two more interviews to do, we’ll let you know,’ or, ‘We’ve completed all of our interviews and we’re compiling information and presenting a decision.’” However, Zoe did experience lack of empathy and victim blame, and she
believed the sanctions did not hold him appropriately accountable for his actions. Sammy was pulled into the investigation by two other victims. Sammy described positive treatment during the investigation, which was in stark contrast to some of the other participants: “it was very long and tedious, but they made me feel very comfortable and we took breaks…it felt like they were on my side and there was no question as to whether they believed me or not.” When the Title IX Office initially recommended expulsion, Sammy expressed shock because one of her friends had been raped and reported to the Title IX Office and nothing had happened. When asked what she thought was different between the two cases, she said “I think the difference was the fact that he had sexually assaulted three girls in one weekend…I think Title IX took that as something more dangerous than just one incident.” In examining the experiences that did not completely align with the three main themes, common elements connected to more positive (or less overtly negative) interactions with the Title IX Office were when the Title IX Office knew they would not have to conduct a formal investigation, other university employees were advocating for the survivor, and the assault was more stereotypically “severe.”

*Intersections Between Gender and Sexual Identity and Title IX Experiences*

The participants who interacted with Title IX Office personnel were all ciswomen \((n = 7)\). Of those, four identified as straight and three as queer (pansexual, bisexual, and asexual). The two women who chose not to file a formal complaint after meeting with a Title IX Investigator were both women of color, Jane (identifies as pansexual) and Abigail (identifies as straight). Two of the three women whose complaint did not result in a finding of “responsibility” were women of color, Lucy (identifies as bisexual) and Rose (identifies as straight), while Alexandra is white (identifies as asexual). Therefore, these reporting experiences were described by both straight and queer (cis)women. However, it was mainly women of color whose interactions with
Title IX did not result in the perpetrator being held accountable, whether because they chose not to file a complaint, or the Title IX Office did not find the perpetrator to be “responsible.” The two women whose reports and investigations resulted in a finding of “responsibility” were both straight and white (Zoe and Sammy).

Discussion

Our findings offer several insights into college sexual assault survivors’ knowledge, use, and experience of the Title IX Office. First, few survivors in our sample wanted to report their assault to university officials. Looking across our findings, the decision to avoid the Title IX Office was not due to a lack of awareness of this office and its purpose. A majority of the survivors in the study had heard of the Title IX Office and could explain its primary function (e.g., investigating sexual misconduct). However, only seven survivors went on to report. When a survivor had not heard of the Title IX Office (eleven had not), the interviewer read a brief description of the resource and asked whether they might have reported to the office had they known about it at the time of their assault. Only two of the eleven said “yes.” These findings suggest that simply increasing educational efforts about the Title IX Office will not be sufficient to make students feel more able or comfortable to use this formal support after an assault.

The barriers that survivors described—the reasons that they avoided this office or would avoid this office—were mainly connected to problems embedded within the campus climate and the Title IX Office itself. Many participants believed their assault was not “bad enough” to report to the Title IX Office, comparing what they experienced to what they believed a “real” or “serious” assault would look like (i.e., minimization barriers). Additionally, most survivors described concerns about stigmatizing emotions associated with reporting and feared social ramifications and retaliation that would result from reporting (i.e., social-emotional barriers).
Some survivors were also concerned that they would be “ruining” the perpetrators life if they were to come forward. The social minimization of sexual assault and the stigmatization and vilification of survivors who report sexual assault fosters a campus climate that hinders survivors’ use of the Title IX Office. Other researchers have identified similar manifestations of this climate on college campuses and beyond; for example, belief in rape myths remains prevalent in university students (Hayes-Smith & Levett, 2010), survivors’ friends often minimize the assault after a disclosure (Fleming & Muscari, 2019), and police officers are more willing to pursue cases that fit stereotypical assaults (e.g., involved a weapon, resulted in injury; Shaw et al., 2017; Venema, 2016). Survivors also experienced barriers stemming from problems within the Title IX Office. For example, several survivors feared negative treatment from Title IX Office staff (e.g., not taking them seriously, doubting their account, blaming them for the assault) and believed they would not take any action if the assault was not accompanied with ample evidence (e.g., videos, witnesses, injuries). Brooklyn stated that the only evidence she had was “her words” and knew that her words would not count for much. Previous research finds that university security officers often believe that there are no barriers to using services and that any barriers are “self-imposed” (Sabina et al., 2016). Thus, our findings illustrating how barriers to reporting manifest in the campus climate and Title IX Office response can be useful in countering such beliefs and taking steps to reduce service barriers.

A second overarching conclusion from our findings was that survivors’ concerns about inaction and negative treatment from the Title IX Office were, in fact, experienced by many of the survivors who did report. In other words, survivors’ fears about how they would be treated often came to fruition. When survivors did report to the Title IX Office, we found that most perpetrators were not held accountable. Only two perpetrators were found “responsible” (both
cases had multiple victims), and neither were expelled. Zoe described how her perpetrator was not permanently removed from campus because her assault was perceived as “less severe” than other sexual assaults, despite the extreme distress the assault caused her. Most of the survivors in our study who interacted with Title IX investigators described their lack of empathy, expression of doubt about the severity or reality of the assault, and victim blaming questions. For instance, investigators asked survivors to describe how short their skirts and shirts were and expressed open skepticism about their assault. Our findings echo the concerns and negative experiences that survivors and activists have been describing for years in the media (e.g., Perez-Pena, 2013; Kingkade, 2014). Recently, the survivor activist organization Know Your Title IX released a report summarizing the experiences of 100 student survivors who interacted with Title IX Offices, which also found that survivors’ interactions with Title IX officials were largely negative (Know Your Title IX, 2021). Our findings also align with recent research demonstrating that reports to Title IX Offices rarely result in perpetrators being suspended or expelled (Richards, 2019; Richards et al. 2021). Further, our data suggested that the instances when a survivors’ reporting experience involved greater perpetrator accountability and fewer overtly negative interactions had some common characteristics: the survivor did not ask the Title IX Office to initiate a formal investigation, had other university employees on their side during the process, and/or were one of multiple victims coming forward. In instances where the report involved other university employees and/or more victims, there may be greater incentive for Title IX personnel to respond with care. Research with Title IX administrators finds that they feel pressure to avoid negative press and lawsuits, and sometimes this pressure comes from institutional leaders and lawyers (Cruz, 2020). Lawsuits from alleged perpetrators have increased exponentially in recent years (Harris & Johnson, 2019). Additionally, the risk of backlash (from
perpetrators and/or survivors) declines if a survivor does not ask the Title IX Office to conduct an official investigation, which may illicit more favorable responses from an investigator.

A third conclusion about survivors’ interactions with the Title IX Office centered around their identities. When examining the intersections between survivors’ gender and sexual identity, we found no stark differences in participants’ descriptions of their knowledge of the Title IX Office or reasons why they did not use this office. While the themes pertaining to knowledge were present in participants across gender and sexuality spectrums, it was the case that all of the survivors who lacked awareness of the Title IX Office were straight ciswomen or LGBTQ (i.e., straight cismen were the only group not lacking in knowledge). In examining barriers, it was almost entirely cisgender women who described barriers related to accessibility and assault characteristics, but the most prevalent barrier themes in this sample—minimization, fear of negative treatment, and social-emotional—were expressed by participants across all gender and sexual identities. These findings suggest that some barriers may be more commonly experienced by cisgender women, but also that most barriers are experienced by participants of all gender and sexual identities. Prior research has found similarly low rates of reporting to the police and help-seeking from campus resources among straight and sexual minority college sexual assault survivors (e.g., Eisenberg et al., 2017). It appears that student survivors across gender and sexual identity spectrums do not perceive the Title IX Office as a resource they can use after an assault.

That said, survivors’ experiences reporting to the Title IX Office evidenced the most notable difference by gender and sexual identity. None of the survivors explicitly discussed how their identities affected their interactions with Title IX staff (e.g., describing investigators making negative comments about their sexuality), but there were patterns in the ways that survivors’ identities played a role in reporting. All seven survivors who reported were cisgender
women (four identified as straight and three as queer). Moreover, the only two survivors whose report ended in a finding of “responsibility” were straight white ciswomen. While both of these survivors’ assaults had other characteristics that were related to a finding of “responsibility” (e.g., in both cases there were multiple victims), it is notable that none of the queer and racial/ethnic minority women’s reports resulted in findings of “responsibility” for the assailant. Additionally, none of the cisgender men or gender minority survivors felt able or comfortable to report their assaults to the Title IX Office. Title IX Office staff are tasked with ensuring the university remains in compliance with the federal civil rights law Title IX, which aims to ensure equal access to educational experiences and activities for all students (i.e., including sexual, gender, and racial minorities). In our sample, it was only cisgender women who occasionally felt able to initiate contact with the Title IX Office, whether looking for accommodations or seeking institutional remedies for the assault they experienced, and only straight white cisgender women’s perpetrators were found “responsible.” Thus, the Title IX Office is meeting only a fraction of its responsibilities under Title IX.

**Practice and Policy Implications**

Understanding survivors’ interactions with the Title IX Office offers valuable information for improving institutional responses to sexual assault. Our findings suggest the value in establishing new mechanisms for oversight and accountability for Title IX Office investigations. While making an appeal within the university system and/or reporting one’s university to OCR are the primary accountability mechanisms currently in place, it is clear that these mechanisms are not entirely effective in holding Title IX staff accountable. The OCR has received hundreds of survivor complaints of university Title IX violations, but these investigations are time consuming and the vast majority of complaints have yet to be resolved.
(i.e., 197 cases resolved with 305 still open; The Chronicle of Higher Education, 2021). Student survivors who file OCR complaints cannot expect a timely resolution. We found that survivors anticipated and experienced negative treatment from Title IX staff. Additionally, our analysis of survivors’ reporting experiences demonstrated substantial inconsistencies in the reporting process, including investigation, adjudication, and appeal processes. For instance, one survivor’s witness statements were excluded from their investitive report while others’ witness statements were included. The survivors who pursued appeals all described different processes. For example, when Zoe’s perpetrator appealed the finding there was a 10-hour hearing, but when Rose appealed the finding an administrator in student affairs reviewed the case and singlehandedly denied her appeal. This lack of consistency in the appeals processes for survivors at the same university demonstrates a need for clear procedures to be set for appeals processes and oversight to ensure the appeals process is uniform and fair. There was also wide variability in the level of transparency in each of the cases, with some survivors receiving little to no information (e.g., two survivors never learned what became of their report) and others receiving consistent updates and reassurances. The Clery Act at least requires institutions to compile and disseminate yearly reports detailing the prevalence of crimes reported to campus security authorities (i.e., Annual Security Report; although there is evidence that these crimes are underreported, see for instance Yung, 2015). However, there is no federal requirement for tracking and publicizing the outcomes of reports that are made to the Title IX Office. Some states have passed laws that require institutions of higher education to collect and report such information. For example, New York State Education Law Article 129-B (“Enough Is Enough”) requires universities to submit annual, aggregate data on incidents of sexual misconduct reported to the Title IX Office to the State Education Department, including the number of incidents
reported, the number of those that involved a formal investigation and adjudication process, the outcomes of those processes (i.e., numbers of respondents found “responsible” and “not responsible” and sanctions for those found responsible), and the number of cases that were closed before a final determination (and why). In addition to these data, it would be useful for institutions to track contextual information surrounding the reports (e.g., the types of behaviors that are reported, and are more likely to result in a formal investigation), the reasons that formal investigations were not opened, and the number of appeal processes initiated and their outcomes. In order to provide confidentiality to student survivors, such information should be reported in aggregate to avoid the possibility of identifying any survivors. In addition, institutions of higher education should establish accountability mechanisms. For instance, an Oversight Board or Committee comprised of student, faculty, and staff representatives could handle a number of concerns, such as reviewing case materials to identify any inconsistencies in the application of reporting procedures and handling complaints about mistreatment from investigators. Such Oversight Boards or Committees would need to establish procedures and timelines to ensure all cases are reviewed in a fair and timely manner.

In addition to establishing oversight and accountability for procedural decisions and outcomes, our findings also suggest it would be beneficial to establish similar oversight regarding the treatment of student survivors throughout the reporting, investigation, and adjudication processes. The participants in this study who reported to Title IX described the negative treatment they faced from Title IX staff after coming forward (e.g., doubting, blaming, ignoring, hostility). Reporting to Title IX Offices is one of very few reporting options student survivors have when they experience sexual violence and would like the perpetrator to be held accountable and, as such, it is of the utmost importance that students who report to Title IX
Offices are being treated in a fair and respectful manner. Recent research has established the importance of how survivors are treated by sexual assault response personnel, finding that 65% of the variance in satisfaction with personnel is accounted for by receiving treatment that is respectful, demonstrates a belief in their accounts, shows cultural sensitivity, and explains procedures clearly (Henninger et al., 2019). These characteristics are also basic tenets of trauma-informed, survivor-centered responses (Substance Abuse and Mental Health Services Administration [SAMHSA], 2014). In order to incorporate these behaviors into Title IX Coordinators’ treatment of survivors, universities should require trauma-informed training for all Title IX personnel. Beyond requiring training, institutions should establish oversight for the interpersonal conduct of their Title IX Office staff, which could be accomplished through tracking survivor perceptions of their treatment and creating an Oversight Board or Committee to routinely review this data and make recommendations when necessary.

Limitations and Future Directions

While the current study makes an important contribution to our understanding of student survivors’ knowledge of Title IX Offices, barriers to reporting to Title IX, and experiences with the Title IX investigation and adjudication process, it is not without limitations. First, all of the participants in the sample were attending the same university in the Midwest. Therefore, the generalizability of our findings to other institutional and geographical contexts is limited. It would be useful for future research to build upon our findings by examining student knowledge of Title IX, barriers to reporting to Title IX, and student survivor experiences with the Title IX process across a variety of colleges and universities across the U.S. Such work would contribute to a more comprehensive understanding of what students know about their institution’s Title IX Office, the barriers student survivors experience in reporting to Title IX, and what the
investigation and adjudication process is like for student survivors. Of note, such work would be benefited from including an intersectional analysis across student survivor identities (gender, sexuality, race/ethnicity, etc.) to determine whether the identity patterns found in the current work are present in other institutions. Further, despite actively recruiting LGBTQ and straight survivors of all gender identities, about half of our sample was comprised of straight, cisgender women. Our findings may not fully address the experiences of gender diverse or cisgender men survivors. It would be useful for future research to specifically investigate the barriers to reporting and reporting experiences of cisgender men as well as barriers and experiences unique to gender diverse survivors.

Conclusions

As institutions of higher education are implementing and evaluating efforts to address sexual misconduct on their campuses, it is essential to understand what student survivors know and think about the Title IX Office, including the reasons why many survivors avoid reporting and the experiences of the survivors who do report. Our findings suggest that survivors, in general, know about the existence and basic function of the Title IX Office. Few survivors make use of this formal support due to factors within the campus climate (e.g., the social minimization of sexual assault, the retaliation survivors face when they report) and the Office response (e.g., reports will not be taken seriously). Our data from the few survivors who did report highlight ways that reporting procedures can be strengthened (e.g., increasing transparency, ensuring consistency across reports, requiring trauma-informed training for investigators). Using formal supports that are trauma-informed and survivor-centered can promote psychological wellbeing for survivors (Grych et al., 2015; Hassija & Turchik, 2016; Ullman, 2010). Listening to survivors is essential for moving toward empirically based, survivor informed policy.
References

Alexander v. Yale University, 631 F.2d 1781980 (1980).


http://doi.org/10.1177/1043659620941583


https://doi.org/10.1007/s11121-017-0762-8.9iy7


Hayes-Smith, R. M., & Levett, L. M. (2010). Student perceptions of sexual assault resources and prevalence of rape myth attitudes. *Feminist Criminology, 5*(4), 335-


Table 1

Participant demographics, Title IX knowledge, and Title IX use

<table>
<thead>
<tr>
<th>Interview number</th>
<th>Participant Pseudonym</th>
<th>Sexual Identity</th>
<th>Gender Identity</th>
<th>Race/Ethnicity</th>
<th>Title IX knowledge</th>
<th>Title IX use</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Ryan</td>
<td>Gay</td>
<td>Man</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>11</td>
<td>Sally</td>
<td>Straight</td>
<td>Woman</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>12</td>
<td>Max</td>
<td>Asexual</td>
<td>Genderqueer</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>19</td>
<td>Demini</td>
<td>Bisexual</td>
<td>Woman</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>22</td>
<td>Quinn</td>
<td>Asexual</td>
<td>Man</td>
<td>Black</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>27</td>
<td>Cecilia</td>
<td>Straight</td>
<td>Woman</td>
<td>Black</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>30</td>
<td>Sara</td>
<td>Straight</td>
<td>Woman</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>32</td>
<td>Ivy</td>
<td>Straight</td>
<td>Woman</td>
<td>Asian</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>35</td>
<td>Easton</td>
<td>Straight</td>
<td>Woman</td>
<td>White</td>
<td>No</td>
<td>Would not use</td>
</tr>
<tr>
<td>28</td>
<td>Maria</td>
<td>Bisexual</td>
<td>Genderqueer</td>
<td>White</td>
<td>No</td>
<td>Would use</td>
</tr>
<tr>
<td>31</td>
<td>Tiffany</td>
<td>Straight</td>
<td>Woman</td>
<td>White</td>
<td>No</td>
<td>Would use</td>
</tr>
<tr>
<td>1</td>
<td>Kirby</td>
<td>Queer</td>
<td>Non-binary</td>
<td>White</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>6</td>
<td>Charlotte</td>
<td>Straight</td>
<td>Woman</td>
<td>Biracial</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>7</td>
<td>Jeff</td>
<td>Gay</td>
<td>Trans man</td>
<td>White</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>8</td>
<td>Mika</td>
<td>Straight</td>
<td>Woman</td>
<td>White</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
</tbody>
</table>
### Title IX Office Knowledge, Perception, Experience

<table>
<thead>
<tr>
<th></th>
<th>Name</th>
<th>Gender</th>
<th>Ethnicity</th>
<th>Sexual Orientation</th>
<th>Knowledge</th>
<th>Experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td>Penelope</td>
<td>Woman</td>
<td>Biracial</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>10</td>
<td>Emily</td>
<td>Woman</td>
<td>Biracial</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>13</td>
<td>Abby</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>14</td>
<td>Tom</td>
<td>Man</td>
<td>Latinx</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>15</td>
<td>Paul</td>
<td>Man</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>16</td>
<td>Manuel</td>
<td>Man</td>
<td>Latinx</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>17</td>
<td>Shelby</td>
<td>Woman</td>
<td>White</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>18</td>
<td>Jan</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>20</td>
<td>Melissa</td>
<td>Woman</td>
<td>White</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>21</td>
<td>Miles</td>
<td>Man</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>25</td>
<td>Ashley</td>
<td>Woman</td>
<td>Biracial</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>27</td>
<td>Diamond</td>
<td>Woman</td>
<td>Asian</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>33</td>
<td>Charlie</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>34</td>
<td>Brooke</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>36</td>
<td>Brooklyn</td>
<td>Woman</td>
<td>Biracial</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>37</td>
<td>Emma</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>38</td>
<td>Susie</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>40</td>
<td>Sarah</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Did not use</td>
</tr>
<tr>
<td>3</td>
<td>Rose</td>
<td>Woman</td>
<td>Biracial</td>
<td>Straight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>4</td>
<td>Jane</td>
<td>Woman</td>
<td>Biracial</td>
<td>Pansexual</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>5</td>
<td>Lucy</td>
<td>Woman</td>
<td>Biracial</td>
<td>Bisexual</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>23</td>
<td>Abigail</td>
<td>Woman</td>
<td>Latinx</td>
<td>Straight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>24</td>
<td>Alexandra</td>
<td>Woman</td>
<td>White</td>
<td>Asexual</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>29</td>
<td>Zoe</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>39</td>
<td>Sammy</td>
<td>Woman</td>
<td>White</td>
<td>Straight</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>

**Appendix**

**Interview Script**

Have you ever heard the [official Office title], also known as the Title IX Office?

If “no,” provide a brief description: The Title IX Office is a resource where students can report an unwanted sexual experience to the university. This resource has established policies and procedures for investigating a complaint and, depending on what they find, possibly sanctioning the person who committed the behavior. This Office may also be able to provide accommodations, like a no-contact order or changing a student’s housing. Then ask: Does this sound like a resource that you might have used? Please explain why or why not.

If “yes,” ask:

Please tell me how you first learned about the Title IX Office.

What did you learn about it?

Did you seek help from the Title IX Office after having an unwanted sexual experience?
If “yes”

a. Tell me about how you made the decision to use the Title IX Office.
   Additional prompts if needed:
   i. What played a role in your decision?
   ii. What were the reasons you wanted to use this resource?

b. Please walk me through what it was like to contact the Title IX Office for the first time.
   Additional prompts if needed:
   i. What did it feel like?
   ii. What helped you in making that first contact?

c. Tell me about your experience with the Title IX Office.

d. Can you think of anything that would improve the Title IX Office?

If “no”

a. Tell me about how you made the decision to not use the Title IX Office. What were the reasons this was not a resource you wanted to use?

b. What do you think might have happened if you did use the Title IX Office?
   Additional prompts if needed:
   i. Imagine you had decided to use it, what good things may have happened?
   ii. Imagine you had decided to use it, what bad things may have happened?

c. Can you think of anything that would improve the Title IX Office?