



## League of Women Voters of New Jersey

### Campus Sexual Assault Study and Consensus

#### SCOPE OF THE STUDY

At the 61<sup>st</sup> Biennial LWVNJ State Convention on May 2, 2015, delegates adopted a resolution to conduct a study of Sexual Assault on Students in College Communities due to the sense of epidemic proportions and visibility of the problem on the nation's and New Jersey's campus communities. The League of Women Voters of New Jersey voted to conduct this study because we note with alarm the increase, or at least the increase in reporting, of campus sexual assaults and want to determine how best to respond to this crisis in college communities.

The wording was carefully chosen by delegates (with several proposed amendments) to include (claimed) cases as well as proven ones, and to extend to areas in the campus community beyond the confines of the actual campus (such as nearby apartments or eateries). The emphasis is assaults on **students** since there are ongoing concerns about colleges failing to fully disclose alleged assaults on them for public relations purposes. The delegates explicitly rejected a restriction to assaults **by** students.

The scope of the study as adopted at the LWVNJ 2015 State Convention is as follows.

- First of all, to determine the types of inappropriate sexual behavior that we would want to broadly define as "sexual misconduct", "sexual assault" or "rape" for purposes of reporting requirements, victim support, policy development, legislative advocacy and enumerating preventive actions. The reason for our definition is not to compete with NJ legal terminology, but to determine **for our purposes** what we mean when we use the words "sexual misconduct", "sexual assault" or "rape".
- Secondly, we want to assess consent and determine what we think the proper formulation and requirements for acceptable consent should be.
- Following these important preliminaries, we will assess the appropriate role of local law enforcement and campus administration/campus security, federal intervention and student services in dealing with alleged sexual assault.
- We will consider and determine the most viable means of prevention (including the role of men in eliminating gender-based / sexual violence) that all campuses must implement to stop the spread of sexual assaults in New Jersey colleges.

The League of Women Voters of New Jersey will use the results of the study to establish a position through which we will advocate on behalf of victims of sexual assault and for the elimination of sexual assaults in the New Jersey college community; as well as advocate for legislation, public awareness and education programs. Actions by League members on the local, state and national level will make a difference in our society at large and in our college communities.

The LWVNJ study materials are presented as:

- Implications of Campus Sexual Assault

- The Problem
- Cultural Aspects of Rape
- Myths about Rape/ Sexual Assault
- Some Definitions
- Federal Legislation
- Current Role Of College Administration/Campus Security
- Current Role of Local Law Enforcement
- Prevention
- Current New Jersey Legislative Action

## Implications of Campus Sexual Assault - Why We Should Care

Campuses and the surrounding college communities are meant to be safe environments for our young people to develop into our future leaders and, instead to some students, they have become hostile environments where students are preyed upon by least-expected predators, often their own friends and acquaintances. Most attacks take place in familiar surroundings such as dormitories, fraternity and sorority houses and other residences.

There are often significant physical consequences for victims of rape or sexual assault such as: physical injury, pregnancy, STD's, and HIV. There is also emotion damage: depression, suicide, withdrawal from social scenes, a desire to avoid her or his perpetrator, eating disorders, self-harm, substance abuse, Post Traumatic Stress Syndrome (PTSD), and personality disorder. Academic interference can also be seen as victims' achievement levels drop, classes are missed, a normal class load can't be maintained, classes are dropped and as a result some victims may transfer or drop out of college altogether.

Higher education institutions must also deal with the negative consequences from sexual assault in the College Community. Their educational missions are harmed from the undermining of their often stated safe and hospitable learning environments. Doubt is cast on the commitment of campus leaders to end campus sexual violence as scandal is brought to the institution and its leaders through public and social media. Distrust may develop toward campus administrations among parents and alumni; permanently eroding fund raising as well as legislative and philanthropic support. Institutions found in violation of utilizing preventive measures may now be fined.

Controversy arises as policymakers in communities, on campuses, and within government debate the most effective procedures and legislation to combat forms of interpersonal sexual violation. This study will attempt to provide relevant information regarding the topic of Campus Community Sexual Assault with its attendant elements of Sexual Misconduct and through education, empower League members to form knowledgeable conclusions for use in consensus. This report will cover the scope of the problem, some societal contributors to sexual assault, definitions and laws surrounding the subject.

## The Problem

- 1 in 4 or 5 of college women and 6% of college men will be sexually assaulted during their college career
- NJ campuses reported 181 sexual offenses in 2013 (Given that it is estimated only 5% of incidents are reported that number could be closer to 3000.)
- 80% of these campus assaults/rapes are committed by acquaintances

- 48.8% of college women who were victims of attacks that met the definition of rape did not consider what happened to them to be rape
- 70% of campus rape victims knew their attackers, compared to about half of other violent crime victims
- 33.7% of rapes occurred on campus, while 66.3% occurred off-campus but within the campus community (fraternity houses, student residences, student hang outs)
- More than 50% of college students' sexual assaults were associated with alcohol &/or drugs
  - 74% of perpetrators were using alcohol or drugs
  - 55% of assault victims were using alcohol or drugs
- Less than 5% of attempted or completed rapes are reported to authorities
  - 50% of victims tell no one due to shame (#1 reason). Those who do tell, tell a friend (not family or authorities)
  - Beliefs- In our society, only rape by strangers or that is sufficiently violent will be taken seriously
- In a high school survey, 56% of girls and 76% of boys believed forced sex was acceptable under some circumstances
- For every 1000 college women, there are 35 incidents of rape per year
- 12.5% of completed rapes, 35% of attempted rapes and 22.9% of threatened rapes happen during a date
- Women who have been victimized before college are more likely to be victimized upon entering college.
- Freshmen and Sophomores are at greater risk than Juniors and Seniors
- In 10% of attacks a weapon was used
- Between 2% and 8% of reported assaults are false accusations, consistent with false reports for other crimes
- Rape has the highest recidivism rate of all crimes, in the 74% range, therefore serial offenders are likely
- Only 1 in 1000 date rapists is ever convicted.
- Men can be raped, and not just by other men. When they are asked about "forced penetration" instead of "rape", men report rates of assault almost as high as women. This can happen when a man is drunk or on drugs, with a larger women, under perceived threat (she might claim assault if he refused) or various other circumstances.

**The most frequent perpetrators of campus sexual assault:**

- Nearly 27% of college-aged men reported (in surveys) obtaining some type of sexual contact through coercion
  - 1% used physical force for oral or anal penetration
  - 3% used physical force for sexual intercourse
  - 23% used alcohol or drugs to obtain sexual intercourse
- Fraternity men were more likely to perpetrate sexual assault than non-fraternity men
- College men who participated in aggressive sports in high school (football, basketball, wrestling, soccer) used more sexual coercion (along with physical and psychological aggression) than men who had not participated in aggressive sports
- Sexual assault perpetrators have been identified as having higher levels of hostility toward women; lower levels of empathy; and being more likely to hold traditional gender role stereotypes,

endorse statements used to justify rape, and hold adversarial beliefs about relationships between men and women

- Perpetrators were more likely to have experienced abuse or violence as a child, have engaged in adolescent delinquency, have peers who view forced sex as acceptable, and have had early and frequent dating and sexual experiences
- **A substantial subset of perpetrators will be serial offenders**

## Cultural Aspects of Sexual Assault or Rape - Why It Happens

Society, in general, carries impressions about the act of Sexual Assault, making it difficult, in some cases, to properly engage the public or authorities in giving this heinous situation the attention it deserves.

It is suggested that we may be fighting elements of a phenomenon that sociologists and some feminists call a "rape culture". This is described as a setting where rape or sexual assault is accepted as a part of everyday occurrence by a significant part of the population, and by some groups that it is a male prerogative. We are bombarded daily with stories in the news about rapes which may harden our feelings about the subject.

Behaviors commonly associated with rape culture include: victim blaming, sexual objectification, trivializing rape, denial of widespread rape, refusing to acknowledge the harm caused by some forms of sexual violence. These attributes are often found to co-exist with racism, sexism, homophobia, ageism, classism, religious intolerance and other forms of discrimination.

Rape culture is based on societal attitudes about gender and sexuality wherein non-consensual sex, sexism and gender inequality, are passed from generation to generation leading to widespread social and institutional acceptance of rape or sexual assault.

Certain groups have been found to foster ideals of competition and camaraderie by viewing sex as a tool for gaining acceptance and bonding with other men as they engage in contests over sex with women. Their actions include acts of sexism such as sexist jokes meant to foster disrespect for women and an accompanying disregard for women's wellbeing; and at the extreme with rape or sexual assault as a "brotherhood" rite of passage.

Exacerbating actions such as police apathy or harsh treatment of the victim in handling rape or sexual assault cases, victim blaming, reluctance by authorities to go against local cultural norms plus fear of stigmatization suffered by rape victims and their families, may contribute to low reporting and conviction rates for rape or sexual assault. (In the US, 1 in 1000 date sexual assaults result in a conviction).

### Elements of a Rape Culture

Rape culture is about **domination and objectification of women** where women are conditioned to assume responsibility for male sexuality, and gender roles are enforced on women through fear. The general unwillingness of police and district attorneys to prosecute rapes when visible force or violence was not involved, or when the victim had some sort of relationship with the aggressor is cited as encouraging date rape or campus rape. A victim of assault may be asked questions by the police,

in an emergency room, or in a court room, that suggest the victim was doing something, acting a certain way, or wearing clothes that provoked the perpetrator, making the assault against the victim her or his own fault.

**Victim blaming** is defined as prejudicial, stereotypical or false beliefs about rape, rape victims, and rapists. This can range from **trivializing rape, denying widespread rape, labeling an accuser as a liar, stating that most rape accusations are false, refusing to acknowledge the harm caused by some forms of sexual violence and accepting that the victim "deserved it" because she was "a slut"**. This victim blaming may occur even among a victim's peers, and college students have reported being ostracized if they report an assault especially if the alleged perpetrator is a popular figure or noted athlete.

**Victim-hood** is associated with stigma. Definitions of what counts as "rape" or "sexual assault" and who is treated as a "genuine victim" reflect the social, political, and cultural conditions of a society. Rape victims may be discounted if it appears they did not struggle enough or put up a fight while they were possibly fearing for their lives or in petrified disbelief that they were being assaulted. Victims may also be discounted if they are known to have had multiple sexual partners in the past. Victims' emotional responses are observed and reported by officials during investigations to aid in deciding if the victims are lying or not..

Another component of rape culture is considered to be **pornography** which is seen as an expression of a culture that objectifies women, reducing the female body to a commodity.

Countries that are described as having "rape cultures" include, but are not limited to Pakistan, India, US, UK, Canada, Australia, and South Africa.

### **What are the Impacts of a Rape Culture on Society?**

Rape culture is detrimental to both women and men and is linked to gender roles that **limit male and female self-expression and cause psychological harm to men**. Victims live in fear of random acts of oppressive sexual violence that are intended to damage or humiliate the victim. In rape culture, men undergo "**toxic masculinity**", which is a gender stereotype, depicting men as **sexually driven, violent beings** with the consequence that male rape victims would not come forward out of feelings of shame. The male stereotype suggests that men should be tough enough to avoid rape if raped by a man, or sexually driven enough to enjoy it, if raped by a woman.

Others link rape culture to modernization and industrialization, arguing that as women emerge from their homebound roles and become visible in the campus, workplace and other areas traditionally dominated by men which increases male insecurities that result in their using sexual misbehavior, sexual assault or rape to suppress women. A US concern is that rape culture influences juror decision-making in sexual assault trials. .

Various contemporary **media sources** as depicted in "Miss-Representation" (a 2011 documentary that explores how main stream media contribute to the under-representation of women in positions of power and influence), movies, popular songs, music videos and internet outlets have long focused on the sexual objectification of women. They depict womanizing as positive and acceptable behavior. In addition, pornography that glamorizes the brutalization of women, comedians who make jokes about

multiple forms of sexual assault, and a plethora of men's magazines, books, TV shows portraying media coverage and advertising that **suggest violence towards women is not only normal, but it's cool, for men and boys to control and humiliate women.**

### **How can this Phenomenon be Countered?**

To dismantle rape culture requires the undoing of more than just the normalization and tolerance of sexual assault and rape. It requires the **relief of gender stereotypes**; where **men are expected to be dominant, strong, violent, sexual and controlling** and; where **women are expected to be submissive, weak, passive, decorative, and controllable.** This can occur through long-term commitments to behavioral changes.

American culture teaches boys that in order to be men, they must conform to a "**box of masculinity**": **be tough, don't be emotional, don't allow disrespect, be sexually aggressive, be angry or take a hit.** If a boy steps out of this box, especially in the tender years of puberty, he is **shamed by peers as soft or weak teaching him that feminine is wrong.** American culture may **teach boys and men to de-humanize and disrespect women.**

We interviewed five campus administrators who deal with Campus Assault responsibilities daily. (See reference section for specifics) All of these administrators stated that attempts to train some of the potential perpetrators who are now college level about the issues of healthy relationships and consent, unacceptable behaviors and sexual assault, was just too late in their development of attitudes about women. They all maintained that **IF** such at-risk men had not already developed attitudes of respect for women, healthy relationships and the relevance of consent, the likelihood that the college would be able to impact their attitudes was slim. All agreed that attitudinal and behavioral training to stop campus assault needed to take place way before people reached college level.

Therefore, other prevention activities are needed such as, bystander training where other men and women become trained to catch dangerous behavior in process and intervene to head off sexual assault incidents. But since much of campus assault takes place on dates where the couple is alone, this technique can only be partially helpful. One campus has a website where students are encouraged to record incidents of their intervention to provide awareness to more students.

Long -term programs like Men Can Stop Rape ([mencanstoprape.org](http://mencanstoprape.org)) concentrate on raising the visibility of healthy masculinity and building a new generation of male leaders who model non-violent, emotionally healthy masculinity, serving as positive change makers in society. In contrast to traditional efforts that address men as the problem; this program embraces men as vital allies with the will and character to make healthy choices and foster safe, equitable relationships. This training program presents participants with a framework to positively construct masculinity and to motivate men's engagement in challenging the attitudes and behaviors that support violence against girls and women. Many institutions of higher education are developing curriculum in men's studies to likewise round out men's emotional development.

## Myths Regarding Sexual Assault

- It's the victim's fault- she/he dressed or acted a certain way to put themselves in unsafe situations, thus inviting it.
- Rape is merely "rough sex". Get over it
- Most allegations of Rape/ Sexual Assault are false, motivated by revenge against a particular man or men in general
- The presence of drugs or alcohol makes it difficult to investigate allegations or even establish whether an incident actually took place
- Acquaintance rape is not rape, especially if it is between persons who have been intimate before. (This may discourage or delay reporting which may occur days, weeks, or even years after the event.)
- It is rape or sexual assault only if a stranger jumps out of a bush in a dark parking lot, street or other non-familiar place with a gun, knife or other weapon; threatens or beats and hurts a victim while committing the sexual assault.
- If a woman drinks less, wears more clothing, takes a self-defense course she can eliminate the likelihood of Sexual Assault

### **Barriers for Victims to report Rape or Sexual Assault:**

- Don't believe they have proof that the incident occurred (42%)
- Fear of retaliation by the perpetrator or others including friends of the perpetrator
- Fear of hostile treatment by the authorities where they may feel re-victimized
- Uncertainty that the authorities would consider the incident serious enough (30%)
- Not knowing how to report the incident or their legal rights
- Desire to prevent family and others from learning about it (38.9%)
- Fear of victim shaming and alienation
- Concern that the culture is disturbingly accepting of this crime with victims believing what happened to them is their fault and, therefore, not due justice
- Fear that they cannot get justice in the system, so they are going to keep it to themselves
- Concerns of schools poorly handling cases and protecting their schools' images or segments of the student body instead of supporting the victim

## Definitions of What Constitutes Sexual Offences

### Unwanted Sexual Contact-

- Forced touching of a sexual nature (forced kissing, touching of private parts, grabbing, fondling, rubbing up against a person in a sexual way, even if it is over clothes)

- Oral sex (someone's mouth or tongue making contact with someone's genitals or mouth or tongue making contact with someone else's genitals)
- Sexual intercourse ( someone's penis being put in a person's vagina)
- Anal sex (someone's penis being put in a person's anus)
- Sexual penetration with a finger or object (someone putting their finger or an object like a bottle or a candle in a person's vagina or anus)

Law enforcement works with legal definitions of sexual misconduct and assault developed through state or local legislation.

#### NJ Legal Definitions of Sexual Offences-

Criminal Sexual Contact is defined as "intentional, non-consensual touching by the victim or actor/perpetrator, either directly or through clothing of a victim's or actor's sexual organs, genital area, anal area, inner thigh, groin, buttock or breast, for the purpose of degrading or humiliating the victim or sexually arousing or sexually gratifying the actor" and is considered a third or fourth degree crime in NJ. In New Jersey, sexual assault (a second degree crime) is the legal term for rape, wherein penetration occurs. By New Jersey standards, this is further defined as "the penetration, no matter how slight, in which physical force or coercion is used or in which the victim is physically or mentally incapacitated".

Aggravated sexual assault (a first degree crime) is where sexual penetration occurs and at least one of the following conditions is met:

- 1) The perpetrator is armed with a weapon or any object fashioned in such a manner as to lead the victim to reasonably believe it to be a weapon and threatens by word or gesture to use the weapon or object;
- 2) The perpetrator is aided or abetted by one or more other persons and the actor uses physical force or coercion;
- 3) The perpetrator uses physical force or coercion and severe personal injury is sustained by the victim,
- 4) The victim is one whom the perpetrator knew or should have known was physically helpless, mentally incapacitated, or had a mental disease or defect which rendered the victim temporarily or permanently incapable of understanding the nature of his conduct, including, but not limited to, being incapable of providing consent.
- 5) The victim was at least 13 years old but less than 16.

Colleges and Universities deal with a wide spectrum of language to discuss sexual misconduct from hostile environment to include sexual assault or rape in policy, as well as utilize state or local Legislation in developing their positions.

The broad category called **sexual misconduct** is what institutions such as colleges, universities and law enforcement often use in their policies and working documents. Sexual misconduct is inclusive of sexual assault and all behaviors of sexual misconduct are considered illegal. These behaviors can often lead to a hostile environment for students, female and male.

Each element of sexual misconduct on its own may be seen as a slippery slope toward more violent sexual crimes. A hostile environment, a bi-product of such misconduct, makes the primary goal of the student to gain an education more difficult if not impossible.

This illegal sexual misconduct includes things like sexual discrimination (both gender and lifestyle), harassment, intimidation, lewdness defined as indecent or obscene language or song,' leading to lust or lechery,, catcalling (comments of a sexual nature), exposure of genitals, stalking, unwelcome/unwanted sexting, use of social media to advance or demonstrate any sexual misconduct, persistent sexual advances, sexual contact or touching, sexual assault and rape. The laws regulating such misconduct are not limited to gender nor place whether on campus, workplace or other locations

Many colleges and universities use these elements of sexual misconduct as indicators in their student climate / environment survey's to determine what their students are experiencing in their student life on campus.

### Definitions of Consent & Affirmative Consent

Investigation into what legally constitutes consent is ambiguous in that the New Jersey legal definition only defines who cannot give consent. An individual who is mentally impaired, generally, cannot give consent to sexual activity. Mental impairment includes cognitive impairment; being unconscious or sleeping; or being voluntarily or involuntarily under the influence of alcohol or other substance(s). Physical impairment such as blindness or paralysis is not normally a barrier to consent.

In light of the public outcry against the epidemic of sexual assault on campuses across the nation, the topic of consent has been brought up in legal circles as well as in campus administration/student arenas. In recent news, Connecticut lawmakers renewed their efforts to set a new standard for consent in campus sexual assault cases.

**“Affirmative consent”** shifts the **burden of proof in disciplinary cases from victim to perpetrator**. Instead of requiring a victim to prove that she or he said "NO" to sexual contact, the policy requires a school's disciplinary board to determine whether there was an unambiguous and voluntary agreement to engage in sexual activity. Agreement can be indicated in words or actions. The form is less important than the clarity of the intent. Similar laws have been passed in New York and California where affirmative consent applies to colleges and universities throughout the states. The significant distinction for affirmative consent is **that with intoxication or drug stupor, consent cannot be given or exist**.

Affirmative consent basically **changes “no means no” to “yes means yes”**. There has to be **an active, willing, conscious and voluntary agreement to engage in sexual activity at every step of the way and can be withdrawn at any time by either party**. Rather than a rigid contract between two parties, it's about making sure the person with whom you are about to have sex is excited about having sex with you; requiring both to consider their partner's wants and needs, how to bring them pleasure and ultimately approach sex like a partnership instead of a means to only one person's end. Both partners are required to pay more attention to whether they're feeling enthusiastic about the sexual experience they're having.

The **current societal script assumes passivity and silence; a lack of "no" means it's OK to proceed**. Add to this the generalization that male sexuality has been socially defined as aggressive, something that can result in men feeling entitled to sex, while women have been taught that sex is something that simply happens to them rather than something in which they're an active participant. It's not hard to imagine how couples end up in ambiguous situations where one partner is not exactly comfortable with going forward, but also not exactly comfortable saying no. Recent studies have found that most college students feel uncomfortable voicing their desires during sexual encounters.

However, **affirmative consent encourages better communication between the participants**. Rather than being a mood killer, if one wants to have sex, one has to be continually in a state of enthusiastic

consent with their partner. That does not include girls who are passed out drunk, but it probably does include most couples in long term relationships, who are used to communicating their needs to each other.

The National Center for Higher Education Risk Management (NCHERM), which advises higher education institutions about how to craft effective "sexual assault" policies, has been recommending this type of consent standard for more than a decade. At least 800 colleges have some form of an affirmative consent policy in place, according to the NCHERM. It is practically endorsed by the U.S. Department of Justice. Two bills on affirmative consent are currently pending in New Jersey.

## Federal Legislation

Title IX (1972) prohibits discrimination based on sex in education programs and activities that receive federal financial assistance; and requires schools to address sexual harassment and sexual violence:

- Schools have a responsibility to respond promptly and effectively to claims of assault, usually within 60 days. If a school knows or reasonably should know about sexual harassment or sexual violence that creates a hostile environment, the school must take immediate action to eliminate the sexual harassment or sexual violence, prevent its reoccurrence, and address its effects.
- Responsible employees of the campus must promptly report sexual harassment and violence they are aware of or hear about.
- The US Department of Education through Dear Colleague Letters provides guideline to institutions of higher learning to implement Title IX. It has established an evidentiary standard for resolution of sexual assault claims called "preponderance of evidence, which uses the 51% model of likelihood in determining a resolution. Law enforcement must work with the higher standard of "evidence beyond a reasonable doubt" in determining moving forward with prosecution of a respondent. This may contribute to the fact that 1 in 1000 complaints that law enforcement receives result in a conviction.
- Even if a student or his or her parent does not want to file a complaint or does not request that the school take any action on the student's behalf; if a school knows or reasonably should know about possible sexual harassment or sexual violence, it must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation.
- A criminal investigation by law enforcement into allegations of campus sexual harassment or sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.
- Every school must have and distribute a policy against sex discrimination. Schools must also have a Title IX coordinator and known procedures for students to file complaints of sex discrimination including sexual assault. Colleges should use clear and consistent definitions to describe sexual misconduct to include harassment, sexual violence, and consent and provide examples of each type of misconduct from racist jokes to rape. Sexual harassment is described as "unwelcome conduct of a sexual nature" including unwelcome sexual advances, requests for sexual favors, and other verbal and non-verbal, or physical conduct of a sexual nature - sexual assault or acts of sexual violence.
- Schools have been encouraged by the US Department of Education to adopt consent conditions for sexual contact wherein only an affirmative YES consent is required rather than an absence of NO. Some state legislatures have passed legislation to that effect as well. Schools have adopted media campaigns like "Consent Is So Sexy" or "Consent Is So Frat".

- Schools are also encouraged to conduct annual "climate" surveys that measure student's experiences with sexual misconduct, their knowledge about how to report it and suggestions on how to prevent it. This allows the colleges to more adequately understand the full scope of the problem
- Colleges must offer extensive and continuing annual training to both students and employees such as faculty members, coaches, and resident advisors re-enforcing what unacceptable conduct consists of and is NOT.

### **Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistic Act:**

A consumer protection law passed in 1990 in memory of a student, Jeanne Clery, who was raped and murdered in her campus residence at Lehigh University in 1986. The intent of the Act is to have a data depository where the public and prospective community members of Colleges or Universities can find information about the safety of the campus.

The Clery Act requires all colleges and universities that participate in federal [financial aid](#) programs to keep and disclose information about crime **on and near** their respective campuses. Compliance is monitored by the [United States Department of Education](#), which can impose [civil penalties](#), up to \$35,000 per violation, against institutions for each infraction and can suspend institutions from participating in federal [student financial aid](#) programs. Basic provisions are:

- Campus Crime Data- Requires all colleges and universities who receive federal funding to share information about crime on campus and their efforts to improve campus safety as well as inform the public of crime in or around campus.
- Support for Victims- Under the Act, institutions must provide survivors of sexual assault, domestic violence, dating violence, and stalking with options such as changes to academic, transportation, or living, or working situations, and assistance in notifying local law enforcement , if the student chooses to do so.
- Policies & Procedures - Colleges and universities must outline specific policies and procedures within their annual security reports including those related to disseminating timely warnings and emergency notifications, options for survivors of sexual assault, domestic violence, dating violence, and stalking, and campus crime reporting processes.
- For the first time this year, because of new reporting requirements passed in the 2013 Violence Against Women Reauthorization Act (VAWA), campuses are now providing data on dating violence, domestic violence, and stalking in addition to rape statistics.

### IT IS ON US

**In 2014, A new Government initiative IT IS ON US was announced by the Obama Administration to help eliminate sexual assault on campus.** This effort:

- Establishes a website (NotAlone.org) to help young women and others to navigate issues such as resources available, reporting procedures, etc.
- Helps schools respond effectively when a student is assaulted.
- Enlists men to help eliminate sexual assault.
- Enlists "bystanders" to intervene on behalf of victims.

- Introduces a significant element of campus climate surveys to be conducted by the schools. These surveys help to test the level of hostility found by students on campus. In anonymous surveys students are asked about campus safety, protection, quality of help resources, fairness, understanding of support resources available, understanding of policies on sexual misconduct, whether the student has experienced unwanted sexual advances and under what circumstances.
- Early intervention in K-12 is recognized as necessary to combat assault with the initiative's Task Force starting a "listening" campaign to kick off this component. (Needs a lot more research)
- Enlists private and public partners to provide Campus Assault messaging ; media and social media, the Center for American Progress/ Generation Progress; campus leaders, athletes, student organizations, celebrities; gaming company Electronic Arts, NCAA, PVBLIC (an organization known to harness media assets for social impacts), Mekanism (an advertising agency who targets Millennials), AAUW ,Viacom, Participant Media (providing on-air and on-line support).

### The Role of Campus Authorities vs Law Enforcement in Assault Cases

To date there have been no standardized or legislated positions or policies on who must handle campus assault cases. Some schools bring in local law enforcement when there has been such violence in the act that medical attention has been needed; even if the student has been reluctant to report the incident to the police. But it is then left up to the student with law enforcement whether legal charges will be made against a perpetrator.

Where there has been a reported incident to the campus authorities, and there are no mitigating factors where the campus would bring in local law enforcement, or the victim has asked that law enforcement NOT be advised, then the campus authorities are solely responsible for the investigation and resulting actions.

If a student reports an incident directly to law enforcement, then their normal processes of investigation and evidence gathering should take place. Law enforcement remedies include actions such as incarceration, charges, trial, conviction, prison sentencing and registered sex offender status.

Title IX still requires, whether claims of sexual misconduct are reported only to the campus authorities or even if the student chooses to make a report with law enforcement, that the school carry out its own prompt investigation and execute appropriate measures which may be more expedient than law enforcement's remedies. However, rape is an incredibly serious crime that college administrators may not be or have not been well equipped to handle.

Where the campus authorities deem it necessary, such as where a perpetrator (or his friends) continues to threaten the safety of or harass (catcall) the victim, they can implement sanctions to include: interim orders of no contact, moves of residence for the respondent away from the claimant, even suspension to expulsion. The concern that law enforcement may not be able or willing to act promptly, leaving the victim in an unsafe or tenuous position on campus makes a prompt campus authority response necessary.

Campuses have been severally criticized when discovered, that they have perpetrators who have been accused more than once or several times and they have not acted promptly or at all. Some of these

incidents may have been perpetrated by popular figures or noted athletes on campus or by children of big donors or political figures.

### Current Role of Campus Administration/Campus Security

Campus Administrations are currently responsible under Title IX for the development and dissemination of clear policies regarding Campus Sexual Assault. These include:

- information about what is unacceptable sexual behavior;
- continuing programs for disseminating information about the subject;
- continuing prevention programs and techniques;
- training for both students on the campus policies and campus staff about their roles and responsibilities;
- procedures for reporting incidents by students and staff handling of these reports
- personnel to support their efforts ( Title IX coordinator and administrators, campus security, counselors);
- services to support victims such as medical help and counseling,
- processes for investigating incidents by administrators and campus security;
- remedies for offences such as class and residence changes, restraining orders, suspension and expulsion.

Currently many schools are working at implementing climate surveys to help them determine the campus atmosphere as students experience it.

Recent internet queries into this topic, since it has attained national publicity, suggests that many colleges and universities, which have been seen as lacking in their ability to handle this problem, are rapidly changing their methodologies on how they handle reports of sexual misconduct and sexual assaults in their campus communities. For example, according to MSNBC, students at **Amherst College** will now rely on independent, trained professionals from outside the academic community to oversee any sexual assault charges. Under investigation for violation of the Clery Act, **Dartmouth** has changed its policies to include an independent investigator to look into charges of sexual assaults as well as mandatory student expulsion. The **University of Delaware** has created a website featuring information about school policies and prevention efforts and a flowchart of different options for reporting assaults. **Princeton University** outlines its policies and has a list of recent changes on its website. Recent changes include creating a bystander intervention training program, a new training program on Title IX, and working to expand the resources for survivors of assault and harassment. Many other colleges and universities across the nation are revising their policies and procedures.

According to other reports, some measures are absent from these policy changes such as climate surveys which are designed to elicit honest responses from students about the consistent transparency of how their schools are actually handling these reports of sexual misconducts and assaults. How assault cases are initially handled is also important if the school's policies do not address training procedures and the role of campus security. For Universities wringing their hands as to what course to follow, the National Center for Higher Education Risk Management (NCHERM) maintains a free website for institutions of higher learning that provides guidance in ALL aspects of writing, implementing, training, etc. policies and procedures for the purpose of aiding these educational institutions in their quests to properly handle the reports of sexual misconduct and assault. (This is by no means a study committee recommendation as only a limited preliminary reading of its material took place.)

## Current Role of Local Law Enforcement

Law enforcement has long been responsible for sexual assault and domestic abuse incidents in the community, however, they have also been criticized in their methods and the timeliness of their actions. With the onset of the publicity surrounding the numerous reports of sexual assaults on campus and in the surrounding communities and how they have been mishandled by the police and justice system, there are many varied attempts to rectify this situation.

In the past, local law enforcement was rarely notified because most victims felt that they did not want to be victimized again. The current police procedures are long and arduous for the victim and her or his family members. Interviews are long and repetitive. Friends and acquaintances are asked personal questions of the victim. Time passes, nothing seems to happen and the victim and the alleged perpetrator are free to go about their business until formal charges are made by a prosecutor if he or she decides there is enough evidence to warrant a charge and an arrest. Thus, the actor can be out on bail and back on campus if he or she has the means. College life resumes for some. For some victims, this is nearly impossible seeing their tormentor every day, everywhere.

There is a comprehensive list of state sexual assault coalitions that can be found on the Department of Justice website promoting partnerships between local rape crisis centers, local police departments and college administration offices to handle these cases ([www.justice.gov/ovu/local-resources](http://www.justice.gov/ovu/local-resources)). Working together, these organizations can build a framework of services that can be offered to victims depending on their needs. In New York State, there is an actual pocket guide for police response to sexual assault which provides officers with step by step procedures to follow, thus, allowing the victim to gain composure and greater comfort with the investigating officer. Needless to say, none of these procedures are mandated nationally.

## Student Support Services on Campus and Available Thru the Public Community

Presently, campuses around the country are routinely providing support services for sexual assault such as medical attention, if necessary, for victims. But few offer rape kits to student victims and depend on local hospitals for both rape kits and more advanced medical needs.

The problem with rape kits is that the processing of rape kits is not always automatic or timely. Immediate medical assistance, including administering a rape kit by trained personnel in a well-equipped medical facility, and rape counseling should be offered on college campuses to insure the well-being and comfort of their students. There are many ramifications of administering rape kits at the campus medical facility. All legal implications should be explained to the alleged assault victim by legal counsel. Some campuses establish relationships with local hospitals and local rape crisis centers to help support students if the campus facilities are inadequate.

Campuses also provide counseling services for victims and, in some cases their families. A few campuses have also reached out to perpetrators for counseling opportunities

There are many resources available to college administrators to aid them in providing the best practices to improve services to support students subjected to sexual assaults. Policies and provisions for

implementation are really just a click away. The success of these programs is documented in many cases and on many campuses.

## Prevention

Since encouraging a culture of consent and respect for women, as well as, cracking down on assailants who violate those boundaries are often not immediate enough to protect women and targeted men, much of the advice suggests actions for women to take to mitigate their risk of being attacked. There is a fine line between victim blaming and mitigating risk of assault as stated below.

### **From Recent Campus Sexual Assault Studies - Recommendations for Prevention**

- Prevention Programs, like bystander training and visual portrayals of acceptable and unacceptable behaviors, have been found to be effective when provided in multiple ways. They should be designed to be continual, accessible and in a variety of educational scenarios and venues, not in one shot doses.
- Prevention strategies and messages for all students need to be presented as soon as possible after enrollment.
- Accurate information must be provided on definitions of sexual assault, the extent and nature of sexual assault among college women and men, and risk factors (e.g. risky sexual behavior, multiple sex partners, the role of substance abuse).
- Combine sexual assault prevention education with alcohol and drug education programming ***beginning in high school*** (e.g. Education about the impact of alcohol and drug use, especially heavy episodic drinking, on cognitive functions. Alcohol and drug use also reduces one's ability to detect dangerous cues and threats, and one's ability to effectively resist unwanted advances that can arise in common college social situations).
- Stress that even though many sexual assaults involve substance use by the victim, this does not imply that women or men are to blame for their sexual assault. Victimization is committed by the perpetrator, and, therefore, the sole responsibility for the assault lies with the perpetrator.
- Educate women and men about different types of sexual misconduct and assault, especially since there appears to be continuity in the type of sexual assault experienced over time (physically forced or incapacitated sexual assault- in neither case is there consent).
- Teach effective sexual assault resistance strategies to reduce harm, particularly with respect to strategies for protection from men that women know and trust.
- Educate women about how to increase their assertiveness and self-sufficiency.
- Convey knowledge about how to report to police or school officials and the availability of different types of services on and off campus.
- Stress the importance of reporting incidents of attempted and completed sexual assault to mental and / or physical health service providers and security / law enforcement personnel, and the importance of seeking services, especially given the well-documented negative impacts sexual assault can have on psychological and physical functioning.
- Provide all students with accurate information on:
  - legal definitions of sexual assault,
  - campus policy ramifications for sexual assault ( forced class changes, forced residence changes, restrictions on movement, suspension, expulsion) and where law enforcement becomes involved legal penalties for sexual assault (incarceration, trial, prison terms, a lifetime record, sex offender registration requirement).

- Inform male students that they are ultimately responsible for determining (1) whether or not a woman/man has consented to sexual contact, and (2) whether or not a woman/man is capable of providing consent.
- Educate all students that an intoxicated person cannot legally consent to sexual contact and that having any sexual contact with an intoxicated or incapacitated person is unacceptable and ultimately illegal.

Alan Berkowitz has written extensively on Campus Assault and is a leading expert and advocate for the Violence Against Women movement. He writes about four areas of Prevention Programs:

- Fostering empathy for victims
  - Rutgers Scream Theater Presentations for colleges, secondary schools, and other communities, presents students role-playing acceptable, as well as, unacceptable behavior scenarios
  - Men Can Stop Rape trains men about Respect and Consent
  - United Educators (an insurance company for educational institutions ) has developed and provides on-line programs for students on what constitutes healthy relationships
- Individual change- anger management, healthy relationship training
  - Rutgers Scream Theater Presentations
  - Men Can Stop Rape
  - United Educators On Line Programs
- Bystander Intervention Programs
  - Green Dot certifies trainers in bystander intervention techniques
  - Scream Theater
  - Drew's Up-stander program
- Social Media Campaigns (Consent is So Frat, Mutual Consent is So Sexy)

## Current New Jersey Legislative Action

The Task Force on Campus Sexual Assault legislation (S-2812) was passed by the New Jersey State Assembly and Senate last fall and was signed by the Governor in early December 2015. The Task Force is to study and evaluate current policies and practices concerning campus sexual assault, to identify problems and areas for improvement, and to make recommendations concerning prevention, response, and awareness. Current AAUW member and past AAUW President Virginia Lyttle will be a member of the New Jersey Task Force. The State of New Jersey Task Force on Campus Sexual Assault is scheduled to issue a final report to the Governor and Legislature within a year with its findings and recommendations concerning campus sexual assault.

Two bills regarding active/affirmative consent have been proposed. S2478 requires institutions of higher education to adopt affirmative consent standards and other policies regarding sexual assault, domestic violence, dating violence and stalking. A3947 requires institutions of higher education to adopt

affirmative consent standards and other policies regarding sexual assault, domestic violence, dating violence and stalking.

Other bills that have been proposed are:

**A2118/S2137** authorizes the Attorney General to impose a fine against institutions of higher education that fail to appropriately respond to a student's allegation of Sexual Assault by another student.

**A3567/S2317** requires school districts, or public schools and institutions of higher learning to report allegations of Sexual Assault to law enforcement.

**A3652/S2382** requires institutions of higher education to adopt anti-Sexual Assault theater programs, report allegations of Sexual Assault to the County Prosecutor, and provide students with information on Sexual Assault.

**A376568/S2357** requires institutions of higher education to provide advocates for victims of Sexual Assault.

**A4053/S2664** requires institutions of higher education to provide victim-centered training to employees who assist student victims of Sexual Assault.

**A4077** requires public institutions of higher education to offer two-hour seminar on prevention of Sexual Assault to students.

**A4156** establishes a task force to study issues related to Sexual Assault on college campuses.

**S2137/A2118** authorizes the Secretary of Higher Education to impose a fine against an institution of higher education that fails to appropriately respond to a student's allegation of Sexual Assault against another student

## Conclusion

Sexual misconduct and sexual violence are far too prevalent in institutions of higher learning. Many people are familiar with the statistic that one in five women is sexually assaulted during college; and 6% of college men; less well known is that more than one in five college women experiences physical abuse, sexual abuse, or threats of physical violence at the hands of an intimate partner. Sexual assault disproportionately affects college women and impedes their ability to participate fully in campus life. Educational equity for women and girls requires fair, responsive, fully developed campus assault policies, knowledgeable administrators, an effective, efficient and compassionate justice system and, ultimately, an end to sexual campus assault.

To this end, the League of Women Voters of New Jersey will establish a position through study and consensus whereby League members will be able to advocate for legislative action to enforce transparent reporting procedures from Universities and Colleges, to implement universal climate surveys, to educate and train administrators, students, teachers, and staff on relevant policies and procedures designed to handle sexual misconduct and sexual assault cases, and to train and sensitize local law enforcement and finally to raise public awareness through local programs of this serious national crisis and relevant preventive measures.

## References

During 2015, interviews were conducted with College Administrators responsible for Campus Assault / Title IX efforts at Fairleigh Dickinson, Drew and Rutgers ; a high school Vice Principal who also comes across this problem; and a County Prosecutor, responsible for campus assault cases.

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- Audra Toner, Assistant Director of Outreach & Education, Drew University
- Rachel Pereira, Campus Life and Title IX Coordinator/AA/EEO, Drew University
- Rose D'Ambrosio, Assistant Vice President for Human Services, Fairleigh Dickinson
- Brady Root, Prevention Education Coordinator, Office for Violence Prevention and Victim Assistance, Rutgers University
- Michael Bruchac, Vice Principal, Morristown High School
- Meg Rodriguez, Esq., Supervising Assistant Prosecutor, Morris County Prosecutor's Office

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