

## **Universities Protect Rapists**

**by**

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“You don’t know me, but you’ve been inside me, and that’s why we’re here today,” (“Court Statement of Stanford Rape Victim.”).

The opening lines of the victim impact statement written by ‘Emily Doe,’ now known to be Chanel Miller, spread across the United States like wildfire in the wake of the 2016 Stanford rape case. This case shocked many and brought attention to a deeper problem that lies within the administrations of higher education institutions. Universities protect rapists. The story of Chanel Miller is not like the stories of many survivors of campus sexual assault survivors. Her story was such an egregious violation of consent that forced everyone outside university life to stop and look at what was really happening on college campuses across the United States. What actually happens looks much more similar to a satirical article posted on The Onion entitled, “College Rape Victim Pretty Thrilled She Gets To Recount Assault To Faculty Committee.” This article emphasizes the horrific retraumatization which student survivors are subjected to in reporting a sexual assault, a process that rarely works in the complainant’s favor. The current system of handling sexual assault allegations is flawed from every perspective. Universities are more concerned with protecting their own reputations than protecting their own victimized students, and the potential damage a sexual assault allegation or Title IX non-compliance suit would cause leads their actions to be those which harm the community of their campus and protect rapists from punishment.

The truth of campus sexual assault is shocking. At least 20% to 25% of women will experience assault at some point during their college career. That means at least one in five collegiate women, but likely closer to one in four, will be assaulted by someone. More than half of these women tell no one of their assault, and even fewer report their assault, only about 10%, (Hattersley-Gray, Robin). The first statistic is often cited in campus sexual assault prevention seminars — but what is less often shared is the lack of reporting by students. Student survivors often do not report on their assaults for two reasons: they are not properly informed of the beneficial processes and resources offered by their school’s Title IX offices, such as class and living adjustments or mutual no-contact orders; or they are informed of the retraumatizing, cyclical, and potentially humiliating processes of their school’s Title IX office. The function of Title IX is to prevent sex-based discrimination in education. This has led to Title IX offices that handle sexual misconduct proceedings in universities that, since 2011, have been governed by procedures outlined by a ‘Dear Colleague Letter’ (DCL) issued by the Department of Education, (Triplett, Matthew R). These procedures have led to the amendment of policies that are now compliant to the DCL but do a disservice to all students as these offices have become more concerned with compliance than their primary function of investigating sexual assault. As institutions of higher education amend their policies and procedures to comply with guidelines to protect

themselves from Title IX lawsuits, they neglect the assault survivors on their campuses by creating further trauma through the procedures they have set.

The problem with investigating sexual assaults on college campuses is even further complicated in the Trump era. Secretary of Education, Betsy DeVos, revealed new Title IX regulations in November of 2018, that greatly reduced the protections granted to the complainant in a sexual misconduct investigation, (Gersen, Jeannie Suk). One of the ways in which the new regulations have done this is by allowing the hearing to include cross-examination of the complainant and the accused. It similarly reduced the responsibilities of institutions of higher education. Her proposed regulations require only on-campus instances of sexual misconduct to be investigated, rather than instances of sexual misconduct which are school-affiliated, such as those which occur at fraternity housing or other student-organization owned property. These regulations that have been proposed by DeVos also limit what marks a school in violation of Title IX to being that which is blatant indifference, rather than the mishandling of an investigation by an institution's administration. Currently, DeVos's rules are in the process of becoming binding law rather than a set of guidelines like the 2011 DCL written under the Obama administration, (Gersen, Jeannie Suk). As it has already been evident that there is a large negative impact of universities attempting to adhere to guidelines with no legal repercussions, it is incredibly likely that the advent of DeVos' regulations on college campuses will be overwhelmingly negative for students and administrations alike, with the worst impact being on the student survivors, as their protections have been stripped. The turnaround of the political party in power is creating a culture within university administrations less centered on the wellbeing of the students but is rather focused on adherence to certain guidelines to prevent loss of federal funding or negative press. The repetitive nature of the restructuring of sexual misconduct guidelines in the past few years prevents universities from having effective policies and procedures to guard the wellbeing of their students. This fact leaves many perpetrators unpunished and missed by the ever-changing system that has a greater focus on making the school look good in the eyes of the public and the Department of Education.

There are two primary methods by which universities handle sexual assault: the disciplinary hearing model and the investigative model. The process of a disciplinary hearing concerning sexual assault is in appearance much more like a traditional legal trial, (Smith, Nicole E.). The complainant and the accused recount the event in question in front of the university hearing board, a panel devised of faculty members and administration, and a hearing officer. This board is then tasked with making a determination of guilt and, if applicable, the punishment of the accused. This method unfairly requires the survivor to face the accused and creates further retraumatization. The process of an investigative model differs in that it involves an investigator or team of investigators who meet with the complainant and then are solely responsible to determine if fact-finding should continue, (Smith, Nicole E.). From this point, should it progress to this, the investigators meet with each party individually to interview or collect written statements from the individuals. In this model, the investigators themselves determine guilt. One of the largest failings of this model is the cyclical nature, forcing the survivors to be retraumatized over and over again. There is a third model, a hybridization of the disciplinary hearing and investigative models.

This process consists of an outside investigator who conducts the fact-finding and generates a report that is then given to a university panel who then hears the testimonies of the accused and complainant and determines responsibility, (Smith, Nicole E.). This model manages to take the two worst pieces of the other models, forcing the survivor to face the accused and the cyclical retraumatization of the survivor, to create a model which is excessively long and tedious. Though each of the models above differs, they share two primary similarities: the retraumatization of the survivor and avoidance of accountability.

As stated in the Onion article, students are often forced to, “go into a room filled with a committee of middle-aged men whose primary concern is upholding the college’s reputation and recount in explicit detail the circumstances of [their] rape at the hands of another student.” The retraumatization of student victims is a well-known occurrence but what is lesser talked about is the humiliation and not retraumatization but first-hand traumatization which comes from a female student sitting in front of a panel of University faculty and administration, a demographic which is dominated by men. The sharing of intimate details of the violation of one’s bodily autonomy to a group of individuals with no vested interest in your well being but with an extensive vested interest in the reputation of the university is single-handedly a traumatic experience in itself. It could be argued that these individuals on the panel are selected specifically to prioritize the student and not the university’s reputation, but the lack of sexual assault reports at large universities shows otherwise. The University of Oklahoma has an enrollment of 28,527 according to the U.S. Department of Education Campus Safety and Security database, and according to OU a percentage of 51.3% female students. This results in around 14,635 women enrolled at OU, (“University Of Oklahoma Campus Safety and Security”). There were 37 reports of sexual assault of varying degrees in 2017. Some quick math says that if at least 20% of collegiate women are assaulted during their 4 years, which would be about 2,972 women, and 10% of those women will report their assault to the university, that should be at least 290 assaults reported in the past four years, (Hattersley-Gray, Robin). Even if you go back to 2015, the University still only reported a total of 44 incidents, (“University Of Oklahoma Campus Safety and Security.”). To give a complete picture, the prorated number for four years based on the previous three years reports would be roughly 59 incidents reported. Alongside the statistical probability that 290 sexual assaults would be reported, this is shocking. Either the University of Oklahoma has outstanding students who always understand consent or the University isn’t accurately handling and reporting the incidents that are being brought to its attention.

This phenomenon is not unique to the University of Oklahoma, however. An analysis of institutions that received federal aid conducted by the AAUW in 2018 shows that many institutions do not disclose any reported instances of sexual assault or sexual harassment, (Miller, Kevin). It is possible that this low number could be due to a lack of students reporting their assaults, but it is significantly more likely that this fact is due to a problem in the way universities are recording their reports of sexual assault or that universities are unwilling to be associated with these problems and do not disclose their reports because of this. Of the 11,000 colleges and universities investigated by the AAUW, 89% of them reported zero instances of sexual harassment or sexual assault in 2016, (Miller, Kevin). The Clery Act, signed in 1990, “requires colleges and universities that receive federal funding to

disseminate a public annual security report (ASR) which must include statistics of campus crime for the preceding three calendar years, plus details about efforts taken to improve campus safety," ("Clery Center.") This includes sexual assault and sexual harassment incidents, among others. Yet, all too often colleges and universities are noncompliant to this law for fear of the damage potentially caused by the public knowledge of incidents on their campus. Universities such as the University of Oklahoma are vocal about their 'dedication' to preventing campus sexual assault by having bystander intervention training such as the "Step In Speak Out" program or the OU Advocate 24/7 crisis helpline. However, they are significantly quieter about their mandatory reporting resources like the Title IX office, which offers interim measures for students, like Mutual No Contact Orders. In order to obtain these interim measures, an official report must be made — a report with a legal obligation to be made public, which is why universities are less likely to make these resources as well known.

Universities have always gone to great lengths to protect their reputation from sexual misconduct incidents. Baylor University tour guides were instructed to remove student newspapers with the headline reading "Fifth Alleged Rape Reported," in early 2019 on the campus' 'Know Where You're Going Day," (Stuart, Cameron). This was incredibly misleading to the university's prospective students by hiding one of the largest problems facing their campus at the time. This event is one of the many examples of a University attempting to hide the prevalence of sexual assault on their campus, similar to the lack of reporting of incidents by higher education institutions, which effectively condones it. Florida A&M University demanded of the courts in a Title IX Noncompliance suit that the complainant reveal her name publicly or have the case thrown out, (Hartocollis, Anemona). Dartmouth University did the same in a suit filed against the University by nine women. Administrations are increasingly going to further lengths to protect their reputations, even using intimidation tactics against sexual assault survivors to get these cases dropped. Publicly naming these women subjects them to further retraumatization and harassment both online and face to face. These institutions are capitalizing on the retraumatization of the women involved in these cases, by threatening their anonymity to attempt to get the cases dropped, to prevent their reputations from being further damaged. This is what occurs on smaller levels throughout the cyclical process of reporting an assault, as the universities are retraumatizing women, which discourages the report of assaults on campus. As these administrations continue to hold their own reputations in higher regard than the safety of their campuses and their students, they are condoning and protecting the rapists which terrorize collegiate women. This leads to an incredibly hostile environment for women on college campuses as they are subjected to unfair treatment from the perpetrator of the assault as well as the administration.

The educational trajectory of female student survivors on college campuses is unsurprisingly a negative one. These traumatic experiences leave indelible marks on the women who have them and it is evident even in their transcripts. A distinct pattern in student survivors is that they tend to reinvent themselves post-assault — many women choose fields that are female-dominated or offer space to discuss sexuality such as women, gender and sexuality studies; nursing; public health; and English literature. These women become distrusting of the university as a whole and become disenfranchised from

university life, (Raymond, Claire, and Sarah Corse). Whereas, as noted in the satirical take of The Onion article, these women are plagued by the prominent reality, “of continually seeing her rapist go about his regular life on campus for her remaining years in college.” This common occurrence leads to the feeling of disenfranchisement often shared by student survivors as they watch the person who assaulted them go about their daily lives, mostly unaffected by events that have forever changed the lives of their victims. It is important to note that the majority of sexual assaults occur during the victim’s first two semesters of college, so this trauma impacts the rest of their college careers and the subsequent career path taken by the student. Meaning that the sexual misconduct policies held by universities have implications on society well beyond just the college campus, as it affects the path of women well past their college years.

In an interview-based study conducted in 2018 which followed student survivors throughout their college career, of the 20 participants in the study, only two remained in a male-dominated field of study, such as engineering, (Raymond, Claire, and Sarah Corse). In short, this study shows that women who are sexually assaulted tend to move out of traditionally male-dominated fields to ones more traditionally dominated by women. It does not take any large stretch of the imagination to come to the conclusion that a large piece of the gender gap in STEM fields is related to the large proportion of collegiate women who are sexually assaulted. As these women are distrustful of universities and university men and 66% of full-time professors are male, these women are already at a disadvantage, (NCES). This in combination with the fact that women who are sexually assaulted turn from male-dominated fields leads to significantly lower percentages of women in these fields. Whereas, men who perpetrate sexual assault are unlikely to receive punishment, meaning that they are likely to remain in their current field of study with no repercussions or feelings of disenfranchisement from the university in which they study. This lends itself to perpetuating the current gender gap in these studies, resulting in the cycle of women turning from these fields as they remain male-dominated. Collegiate women remain feeling disenfranchised from the university community because the university continues to protect the men who have violated them. In essence, the policies held by universities perpetuate gender inequality in career fields.

The world of academia has yet to acknowledge that though many advancements may have been made throughout the years, the college campus is still very much so a boy's club. The lack of adequate policies addressing sexual misconduct proves this. Despite every claim to the contrary, universities perpetuate inequality by not addressing instances of sexual misconduct properly. Universities have time and time again proven their allegiance to their federal funding and reputation over the wellbeing and safety of their female students. These institutions also prescribe to retraumatizing methods of investigating sexual misconduct that still rarely work in favor of the women they claim to be protecting. The regulations and guidelines put in place by various administrations have led to institutions focusing more closely on adherence for fear of losing federal funding and negative publicity than protecting their students, leaving perpetrators of sexual misconduct unpunished. The Onion article satirizes the process of reporting under Title IX, making a distinct commentary as to how unfair it is to women and the ways in which the universities attempt to dismiss their claims. As shown in The Onion article, universities capitalize on the

retraumatization of students to prevent their reports and try to hide them in order to preserve the reputation of their institution and maintain their funding both privately and federally.

In my own experience, the Title IX process was an excruciatingly lengthy and traumatic experience. I have been in the Title IX office seven times in the span of a little over a month. I have been asked to recount the details of my assault no less than three times. I wrote a statement 3500 words long. All that has come out of that is a Mutual No Contact Order, feeling as if the Title IX office has pressed pause on my life, and the knowledge that the person who assaulted me has no consequences and is living his life as if nothing has changed. But that isn't the worst part. The worst part is that I was assaulted twice by the same person, occurring three weeks apart. However, I didn't know that a Mutual No Contact Order existed. None of my friends did either. I wanted to get away from the person who assaulted me but I didn't know how to make him stay away. It wasn't until after the second assault and I had called OU advocates and had a meeting with them that I ever even heard the words 'Mutual No Contact Order.' If I had known, I would've gotten one, I got the one I have now in less than a week. If the University had made its resources offered through the Title IX office known, the second assault never would have happened. The second assault which led to me being diagnosed with PTSD. Let me reiterate that, *if the University had made its resources offered through the Title IX office known, the second assault never would have happened.* But the University didn't make those resources well known, because I had to go through Title IX to get a Mutual No Contact Order. And because I went through Title IX, a mandatory reporting office, they became legally obligated to report my assault to the Department of Education under the Clery Act. The University did not make their resources well known so that they would be less utilized so that fewer assaults would be reported at OU, which led to me being assaulted twice by the same person because I couldn't get him to leave me alone without university intervention. This is unacceptable.

Universities protect rapists to protect their own reputations. Universities actively participate in the perpetuation of inequality and disenfranchisement of women in academia. Universities retraumatize their own students, hide the truth from their prospective students, and misreport what is happening on their own campuses for the university's gain. Universities protect rapists. And that must change.

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