



# REPORTER'S TOOLKIT

## Investigating Sexual Assault Cases on Your Campus

A PROJECT BY



THE CENTER FOR  
PUBLIC INTEGRITY



**T**he Center for Public Integrity is launching a series of pieces on how sexual assault complaints are handled on college campuses. After nine months of reporting, the Center has reached some troubling conclusions about how certain institutions collect and report sexual assault statistics, and how sexual assault cases are adjudicated in campus judicial systems. As a student journalist, you are in a unique position to report on how your school deals with sexual assault allegations. Here's a guide to how you might proceed.

## KNOWING THE LAW

### • **The Family Education Rights and Privacy Act (FERPA)**

- Passed in November, 1974, FERPA is a federal law that protects the privacy of student education records. It applies to all schools receiving federal funds.
- The law grants three basic rights to parents of minor-aged students and students aged 18 and older:
  - i. the right to access educational records;
  - i. to challenge the records' contents;
  - i. to have control over disclosure of "personally identifiable information" in the records.
- Since Congress never defined what constitutes an education record, some schools have applied FERPA's provisions to cover pretty much any document that names a student.
- Some college administrators argue that FERPA requires closed disciplinary proceedings in a variety of matters, including allegations of sexual assault. In promulgating regulations, the Education Department has stated that "FERPA does not [per se] prevent an institution from opening disciplinary proceedings to the public," but confusion remains over how institutions of higher learning should apply FERPA's provisions.
- More info: [www.ed.gov/policy/gen/guid/fpco/ferpa/index.html](http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html)

### • **The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)**

- The Clery Act, passed in November 1990, requires that higher education institutions whose students receive federal financial aid collect and report crime data to the U.S.

Department of Education.

- A 1992 amendment to the Clery Act established the Campus Sexual Assault Victims' Bill of Rights, requiring schools to provide certain basic rights to survivors of sexual assaults on campus, including:
  - i. Giving the alleged victim and the alleged assailant equal opportunity to have others present in disciplinary proceedings and equal notification of the outcome of such proceedings;
  - i. Notifying alleged victims of the availability of counseling services, and of their right to pursue remedies through local police;
  - i. Notifying alleged victims that they have the option of changing classes and dormitory assignments in order to avoid their alleged assailants.
- See "The Handbook for Campus Crime Reporting": [www.ed.gov/admins/lead/safety/handbook.pdf](http://www.ed.gov/admins/lead/safety/handbook.pdf)
- **Title IX of the Education Amendments of 1972 (Title IX)**
  - Title IX is a civil rights law that prohibits sex-based discrimination in educational programs or activities at institutions that receive federal funding.
  - Under Title IX, discrimination on the basis of sex can also encompass sexual harassment, sexual assault, and rape.
  - If a college or university is aware of but ignores sexual harassment or assault in its programs or activities, it may be held liable under the law. A school can be held responsible in court whether the harassment is committed by faculty or staff, or by another student.
  - The Education Department's 2001 guidance mandates that schools take "prompt and effective action to end [serious] harassment and prevent its occurrence."

- More info: [www.ed.gov/about/offices/list/oct/docs/interath.html](http://www.ed.gov/about/offices/list/oct/docs/interath.html)
- Visit the Center’s website for more detailed descriptions of these three laws: [www.publicintegrity.org](http://www.publicintegrity.org)

## CLERY ACT BASICS

### TO COMPLY WITH THE CLERY ACT, SCHOOLS ARE REQUIRED TO:

- Publish and distribute a security report annually by October 1st that includes crime statistics for the past three years and summaries of campus security policies,
- Provide timely warnings to the campus community on crimes that pose a serious or continuing threat,
- Keep a public daily crime log, if the institution maintains a campus police or security department.

### CAMPUS SECURITY AUTHORITY:

- The Clery Act defines a Campus Security Authority (CSA) as including any person or body with significant responsibility for student and campus activities, as well as campus police and security staff.
- CSAs are required to report allegations of crime to campus or local police even if the victim chooses not to file a report with law enforcement or press charges.
- The Clery Act exempts pastoral and professional counselors from acting as a CSA.

### EXAMPLES OF CLERY ACT VIOLATIONS:

- Misclassifying crimes. For example, not properly differentiating between forcible rape and non-forcible rape as defined by the Clery Act;
- Changing crime statistics reported from one annual campus security report to a subsequent campus security report, in regard to the same year;
- Failure to collect crime reports from a Campus Security Authority such as a dean, athletic coach, or residence hall adviser.

## GETTING STARTED

### A FEW FIRST STEPS AS YOU BEGIN YOUR REPORTING:

- Look for the school’s annual campus security report on the university website or request a print copy from the university.
- The U.S. Department of Education also maintains a database of Clery Act statistics provided by schools: <http://ope.ed.gov/security/>
  - Compare sexual assault numbers provided to the U.S. Department of Education against the numbers published in the school’s annual security report. Sometimes the numbers are different and those differences are red flags for Clery Act violations.

- **Collect numbers for sexual assaults from on-campus and off-campus rape crisis centers and/or student counseling centers for the last three years.**
  - Compare those numbers to Clery Act statistics submitted to the Education Department, as well as those published in the annual campus security report.
- **Find out how Clery Act crime data is collected around campus.**
  - Compare the school’s collection process against what it is required under the Clery Act.
- **File a Freedom of Information Act request with the U.S. Department of Education to see if the school has ever been the subject of a Clery Act complaint.**
  - If there is a complaint, who originated the complaint and why?
  - What was the Department’s response to the Clery Act complaint? Findings? Conclusions?

### FILING A FREEDOM OF INFORMATION ACT REQUEST (FOIA):

- FOIA allows requests for public records, which may not otherwise be readily available. Some institutions are hesitant to offer easy access to records that are, in theory, public.
- A FOIA request to the U.S. Department of Education might be needed to obtain records of Clery Act complaints filed against a school.
- A FOIA request would also come in handy to gain access to records of Clery Act investigations conducted by the U.S. Department of Education.
- Check out the open-records letter generator on the Student Press Law Center website for help on filing a FOIA request: [www.splc.org/foiletter.asp](http://www.splc.org/foiletter.asp)

### WHOM TO TALK TO:

- The campus police department and the local police department, and the campus official in charge of putting together the annual campus security report.
- Campus Security Authorities such as a dean, athletic coach, or student activities coordinator.
- Advocates for sexual assault victims at on-campus health clinics and student counseling centers, nearby rape crisis centers, or an on-campus women’s center.

### IDENTIFYING SEXUAL ASSAULT VICTIMS TO TALK TO:

- Victim advocates might be willing to introduce you to alleged sexual assault victims.
- You could also consider sending an e-mail query on a widely-read campus listserv explaining that you are looking to talk with students who’ve gone through sexual assault proceedings on campus.

### FERPA — A POTENTIAL ROADBLOCK:

- Schools often incorrectly cite FERPA as a way to block access to judicial records on sexual assault cases involving a “responsible” finding.
- A campus official might refuse to turn over records on a sexual assault case by arguing that a student’s identity must

be protected. However, as long as the records do not identify a student the school should not use FERPA as a valid reason for turning down your records request.

## LOOKING INTO COMPLAINTS AND LAWSUITS AGAINST YOUR SCHOOL

- Under Title IX, sex-based discrimination can include sexual harassment, rape, and sexual assault.
- The U.S. Department of Education's Office of Civil Rights (OCR) monitors Title IX compliance: [www.ed.gov/about/offices/list/ocr/index.html](http://www.ed.gov/about/offices/list/ocr/index.html)

### FIND OUT IF A TITLE IX COMPLAINT HAS BEEN FILED AGAINST ANY SCHOOL IN YOUR STATE:

- For a fee, you could search court records online via PACER, the federal court system's website: [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)
- You might also try searching for case information through your state court system's website. This is usually free.
  - Key search terms: "Title IX," "sexual assault," "sexual harassment," "rape," and the name of your school.
- File a FOIA request with OCR asking for any and all Title IX complaints involving schools in your state over a certain period of time.
- One way to approach victims who have filed a Title IX complaint with OCR or a Title IX lawsuit is to contact the attorneys who have represented them in their cases. Victim advocates are also a good source to identify students who have filed Title IX complaints with OCR.

## RESOURCE DIRECTORY

- The Center for Public Integrity's series on Campus Assault: [www.publicintegrity.org/investigations/campus\\_assault/](http://www.publicintegrity.org/investigations/campus_assault/)
- Investigative Reporters and Editors (IRE): [www.ire.org](http://www.ire.org)
  - Search the site for tip sheets and previous stories on campus sexual assault for ideas on how to do your own reporting. Also, a good resource on FOIA.
- Student Press Law Center: [www.splc.org/](http://www.splc.org/)
  - SPLC has recently published a new edition of "Covering Campus Crime: A Handbook for Journalists."
  - SPLC's "Student Media Guide to the Clery Act" <http://www.splc.org/legalresearch.asp?id=19>
  - For help with filing FOIA requests, SPLC provides an open-records letter generator on its site: [www.splc.org/foiletter.asp](http://www.splc.org/foiletter.asp)
    - Security on Campus: [www.securityoncampus.org](http://www.securityoncampus.org)
- Good source for understanding how the Clery Act works and how schools can violate the law; also a valuable source for Title IX complaints and lawsuits filed against schools.
  - Victim Rights Law Center often files Title IX complaints on behalf of students and represents them in proceedings: <http://www.victimrights.org/>

- Dart Center for Journalism and Trauma: [www.dartcenter.org/](http://www.dartcenter.org/)
  - i. Provides tips for interviewing sexual assault victims.
- Office of Postsecondary Education in the U. S. Department of Education
  - Runs a database with Clery Act crime data reported by schools: <http://ope.ed.gov/security/>
- The Office of Violence against Women Campus Grants Program: [www.ovw.usdoj.gov/](http://www.ovw.usdoj.gov/)
- Office for Civil Rights at the U.S. Department of Education; monitors Title IX compliance: <http://www.ed.gov/about/offices/list/ocr/index.html>
- Handbook for Campus Crime Reporting Policy Regarding Sexual Assault Statistics: [www.ed.gov/admins/lead/safety/campus.html#handbook](http://www.ed.gov/admins/lead/safety/campus.html#handbook)
- International Association of Campus Law Enforcement Administrators: [www.iaclea.org/](http://www.iaclea.org/)
  - Good source for how campus security personnel are trained in regard to the Clery Act.
- SAFER, Students Active for Ending Rape: <http://www.safercampus.org/>
  - Maintains "The College Sexual Assault Policies Database," which provides info on the sexual assault policies of hundreds of schools and comments on their effectiveness.
- Sexual assault activist groups on and off campus
  - "Take Back the Night": [www.takebackthenight.org](http://www.takebackthenight.org)
  - RAINN (Rape, Abuse & Incest National Network): [www.rainn.org](http://www.rainn.org)
  - Men Can Stop Rape: [www.mencanstoprape.org](http://www.mencanstoprape.org)

## QUESTIONS?

- Contact: Kristen Lombardi, [klombardi@publicintegrity.org](mailto:klombardi@publicintegrity.org) or Gordon Witkin, [gwtikin@publicintegrity.org](mailto:gwtikin@publicintegrity.org)