Psychology, Public Policy, and Law
2015, Vol. 21, No. 3, 227–238

1076-8971/15/$12.00 http://dx.doi.org/10.1037/law0000055

Sexual Assault on College Campuses: A 50-State Survey of Criminal Sexual Assault Statutes and Their Relevance to Campus Sexual Assault

David DeMatteo, Meghann Galloway, Shelby Arnold, and Unnati Patel
Drexel University

A recent series of highly publicized campus sexual assaults and the questionable responses by the academic institutions where they occurred has led some policymakers and academic administrators to call for legislative and institutional change. For such changes to be effective, academic administrators and legislators need solutions that effectively protect victims, punish perpetrators, and encourage institutional compliance with relevant legislation. Furthermore, there has been significant debate about how much the criminal justice system can and should be involved when sexual assaults occur on college campuses. To address these questions, there needs to be a more thorough understanding of existing state sexual assault laws and their capacity to handle sexual assaults that occur on college campuses. This project identified and systematically examined all U.S. state statutes relating to sexual assault to evaluate to what extent these laws are appropriate and accessible for victims of campus sexual assault. Results revealed that all 50 states have at least 1 criminal statute addressing sexual assault, with a total of 432 statutory subsections being identified for inclusion. Across statutes, key concepts relating to consent and incapacity were often ill defined or undefined, and many of the statutes appear to be poorly suited to handling campus sexual assaults. These findings have implications for the adjudication of campus sexual assaults, and such results can potentially be used to amend existing legislation and inform future legislation.

Keywords: sexual assault, college, statutory survey, Clery Act, Title IX

A recent series of highly publicized sexual assaults on college campuses involving questionable responses by academic institutions has resulted in calls for change from several groups. Several college students who have been sexually victimized, and the parents of these students, have expressed outrage at the response of some academic institutions to the occurrence of sexual assaults on campus, which has prompted some university administrators to initiate policy change and seek guidance from lawmakers on how to reduce incidences of sexual assault and better handle the incidents that occur (McCaskill, 2014). In turn, legislators at the state and federal levels have begun to pay closer attention to sexual assault on college campuses, with some efforts directed at understanding the scope of the problem and other efforts directed at reducing incidents of campus sexual assault by strengthening existing legislation and enacting stronger laws. For example, California's recent measure "yes means yes," which was passed unanimously by the California Senate in 2014, requires individuals engaging in sexual activity to affirmatively consent (Chappell, 2014). President Obama's It's on Us campaign aims to raise awareness of the prevalence of sexual assault on college campuses (Somanader, 2014).

Although all efforts to address campus sexual assault should be applauded, it is important that administrative and legislative responses be based on reliable data and appropriately tailored to the problem being addressed. For example, for academic institutional policies and state or federal legislation to be effective in reducing campus sexual assault, academic administrators and legislators need solutions that effectively promote and facilitate the reporting of campus sexual assaults, protect victims of campus sexual assault from unintended collateral consequences, protect alleged perpetrators from unjust dispositions, swiftly and appropriately punish perpetrators of campus sexual assault, and encourage institutional compliance with self-imposed policies and relevant state and federal legislation. Although this charge appears to be relatively straightforward, recent data from a large national survey of academic institutions indicate that many academic institutions are failing to comply with best practices and relevant laws in terms of how they adjudicate and report incidents of campus sexual assault (McCaskill, 2014).

There are also several unanswered questions relating to campus sexual assault. For example, prevalence rates of campus sexual assaults vary widely based on the methodology used to gather the data, how the data are compiled, and the way the data are reported (Yung, 2015). There has also been significant debate regarding how much the criminal justice system can and should be involved when sexual assaults occur on college campuses. A key question is whether such incidents should be handled administratively by the university, or whether all incidents of sexual assault should be processed through the criminal justice system. Finally, the scope of existing state legislation that has relevance to campus sexual assaults has not been examined, so it is unclear whether existing state statutes relating to sexual assault provide sufficient protection for victims and perpetrators when such assaults occur on college campuses.

David DeMatteo and Meghann Galloway, Department of Psychology and Thomas R. Kline School of Law, Drexel University; Shelby Arnold and Unnati Patel, Department of Psychology, Drexel University.

Correspondence concerning this article should be addressed to David DeMatteo, Department of Psychology, Drexel University, 3141 Chestnut Street, Stratton Suite 119, Philadelphia, PA 19104. E-mail: david.dematteo@drexel.edu

This paper begins by discussing the prevalence rates of campus sexual assault to provide some scope of the issue, along with several potential explanations for why obtaining accurate data is challenging. Next, we discuss federal legislation that applies to sexual assault on college campuses, including the Clery Act and Title IX. Then we present findings from a 50-state statutory survey designed to examine the scope of state criminal sexual assault legislation to assess the extent to which such legislation is relevant and accessible to victims of sexual assaults committed on college campuses. A key question is whether there is something different about sexual assaults committed on college campuses, or whether there are some aspects of the sexual assault statutes, that limit the applicability and utility of the sexual assault statutes in cases of sexual assault committed on college campuses. Another key question is whether campus sex assaults should be handled by academic institutions or the criminal justice system. As will be discussed, the findings from the present survey yield important implications that can be used to guide academic policies and legislation aimed at reducing incidents of campus sexual assault.

Prevalence of Sexual Assault on College Campuses

Reported prevalence statistics of sexual assaults on college campuses vary widely (see Yung, 2015). For example, a report commissioned by the United States Department of Justice through the National College Women Sexual Victimization study and based on 4,446 women attending a 2- or 4-year institution during Fall 1996 found that 3% of college women become victims of sexual assault in any given academic year (Karjane, Fisher, & Cullen, 2005). The more recent Campus Sexual Assault Study, sponsored by the National Institute of Justice and based on a sample of 5,446 undergraduate females, concluded that 19% of undergraduate women have experienced attempted or completed sexual assault since entering college (Krebs, Lindquist, Warner, Fisher, & Martin, 2009). In the Campus Sexual Assault Study, 52.7% of sexually assaulted students had experienced less than 2 years of college at the time of the study, and when limiting the sample to college seniors, 26.3% of women reported experiencing attempted or completed sexual assault since entering college (Krebs et al., 2009). Of note, there are little reliable data regarding the prevalence of sexual assaults against undergraduate males, although it is commonly believed males are sexually victimized much less frequently than females (White House Task Force to Protect Students From Sexual Assault, 2014; see Krebs et al., 2009).

Even more striking than the published statistics on the prevalence of college sexual assaults is the likelihood that these reported statistics significantly underestimate the actual prevalence of campus sexual assaults due to remarkably low levels of incident reporting. For example, the most recent National Crime Victimization Survey, which compiled 2005–2013 data, noted that 20% of rape and sexual assaults of college students were reported to authorities, compared to 32% reported among nonstudent victims between the ages of 18 and 24 (Langton & Sinozich, 2014). Even lower percentages of student victims reported that they pursued any legal or disciplinary action against the perpetrator, including seeking a restraining order, bringing civil suits or criminal charges, or initiating disciplinary action with the academic institution (Karjane et al., 2005). Another study found that only 14% of victims of forcible rape and 2% of victims who were assaulted while under the influence of drugs or alcohol reported the incident to academic or law enforcement authorities (Sampson, 2002). Rates of unofficial reporting of campus sexual assaults are much higher, with 70% of campus sexual assault victims disclosing details of the sexual assault to a family member, friend, roommate, or someone else close to them (Krebs et al., 2009). Although the rates reported in the literature vary widely, even the most conservative data suggest that only a small percentage of victims of campus sexual assaults report the incidents or pursue action (administrative or legal) against the perpetrator. Differential data collection methods may account for the discrepancies in the prevalence rates of campus sexual assaults because a number of studies rely upon self-report from women (Karjane et al., 2005; Krebs et al., 2009) while others gather data from academic institutions (McCaskill, 2014).

There are several potential explanations for the low levels of reporting of campus sexual assaults. In the vast majority of campus sexual assaults—reported somewhere between 75% and 90%—the victims of the sexual assaults were acquainted with the perpetrator, which reduces the likelihood that the victim will report the incident (Karjane et al., 2005; Krebs et al., 2009). Knowing the perpetrator is even more likely to discourage reporting at academic institutions that do not provide a confidential reporting mechanism (McCaskill, 2014). Other common reasons for not reporting campus sexual assault include avoidance of public disclosure, uncertainty that sufficient evidence exists to prove the sexual assault occurred, avoiding further traumatization and shame, and fear that the perpetrator will not be sufficiently punished by the academic institution or criminal justice system (Karjane et al., 2005).

There are several other reasons for the low levels of reporting of campus sexual assaults. Some victims are reluctant to report incidents of campus sexual assault because they are unsure whether the incident constituted a crime. For example, Koss (1998) reported that only 27% of women who reported experiencing a sexual assault believed that the assault met the legal criteria for rape. A later survey showed that student victims (12%) were more likely than nonstudent victims (5%) to state that the incident was not important enough to report (Langton & Sinozich, 2014). Additionally, a conservative estimate is that at least 50% of sexual assaults against college women involve the use of alcohol or drugs by the perpetrator, victim, or both (Abbey, 2002; Testa & Parks, 1996), with some studies reporting that nearly 75% of victims of campus sexual assault were assaulted while intoxicated (Mohler-Kuo, Dowdall, Koss, & Wechsler, 2004; see Kilpatrick, Resnick, Ruggerio, Conoscenti, & McCauley, 2007).

The failure to report incidents of campus sexual assault may also be partially explained by nonexistent, incomplete, or ineffective institutional policies and practices. For example, approximately 75% of academic institutions have policies outlining procedures in the event of a sexual assault, but only half of those institutions provide a phone number for reporting such incidents and less than half provide a phone number that can be used outside of business hours (Karjane et al., 2005). Moreover, information about how to file campus reports and criminal charges is included in less than half of academic institutions' policies (Karjane et al., 2005).

There are also several factors that increase the likelihood that a victim of campus sexual assault will report the incident. General victim services, written law enforcement protocols, communica-

tion between the campus and community, publicity about past incidents of sexual assault, permitting reports to be made using a hotline or website, designating an official who will receive all reports, and permitting confidential reporting encourage reporting of campus sexual assaults (Karjane et al., 2005; McCaskill, 2014). Unfortunately, a recent study of 440 4-year colleges and universities conducted at the request of Senator Claire McCaskill (2014) found that only 50% of the academic institutions provided a hotline for victims, only 44% permitted sexual incidents to be reported via a website, and only 8% permitted confidential reporting. Offering sexual assault prevention programs, providing sexual assault response training to faculty and staff, and training peer educators and responders also encourages victims of sexual assault to report the incidents (White House Task Force to Protect Students From Sexual Assault, 2014). The McCaskill (2014) survey found that more than 20% of the academic institutions provided no sexual assault response training to faculty and staff, and more than 30% do not provide sexual assault training for students. Training peers in how to respond to sexual assault is a promising practice given the high percentage of victims who disclose sexual assaults to family members or friends (Krebs et al., 2009), yet it is an underutilized strategy at most academic institutions.

Adjudication of Campus Sexual Assaults

Given the prevalence of campus sexual assaults, it is important to examine how such incidents are handled by academic institutions and the criminal justice system. As will be described, the handling of campus sexual assault cases is quite different in administrative and criminal justice contexts, which confers both benefits and detriments on the victim, perpetrator, and academic institution.

Administrative Contexts Versus Criminal Justice Contexts

The forum in which allegations of campus sexual assaults should be handled has received increasing attention, and there has been a debate regarding whether campus sexual assaults should be processed through the criminal justice system or handled administratively by the academic institution. The implications of handling campus sexual assaults in one forum versus the other are far-reaching for the victim, perpetrator, and academic institution. The primary differences in the administrative context versus the criminal justice context relate to the nature of the adjudicatory procedures and the range of possible penalties. The following discussion will highlight that these differences convey several benefits and detriments to the victims, perpetrators, and academic institutions depending on the context—administrative or criminal justice—in which the campus sexual assault is adjudicated.

In terms of adjudicatory procedures, the burdens of proof differ considerably in administrative and criminal justice contexts. In a criminal trial for sexual assault, the prosecution must prove every element of the offense beyond a reasonable doubt, which is the highest burden of proof in the U.S. justice system. By contrast, the required showing of proof is much lower when sexual assaults are handled in administrative contexts. Recently, the federal government has gone so far as to require all institutions to use a preponderance of the evidence standard in disciplinary proceedings for campus sexual assault (U.S. Department of Education, 2014a).

There are several benefits to victims of sexual assault in having their cases handled administratively rather than through the criminal justice system. A primary benefit is that a lower burden of proof in an administrative context makes it easier for a victim to prove that a sexual assault occurred. Another benefit is that an administrative resolution may permit the victim to receive appropriate accommodations and services from the academic institution, including counseling and academic support. Such an approach has the added benefit of potentially encouraging more victims of campus sexual assault to come forward and report the incidents. Finally, an administrative resolution does not result in incarceration of the perpetrator, which may be a desirable outcome for victims who know the perpetrator (Karjane et al., 2005).

Unfortunately, many academic institutions use adjudication processes that are not consistent with best practices. For example, more than 30% of schools do not provide training regarding rape myths to the persons who adjudicate sexual assault claims, more than 40% allow students to assist in the adjudication of campus sexual assault cases, and more than 20% give the athletic department oversight of campus sexual assault cases involving student athletes (McCaskill, 2014). Of the cases reported to any authority—campus administration or law enforcement—less than 1% of perpetrators receive any disciplinary action from the school and only 6% were arrested, prosecuted, or convicted in the criminal justice system (Krebs et al., 2009). These low rates of punishment lead to dissatisfaction among the victims. Krebs et al. (2009) reported that less than one third of students who reported a sexual assault were satisfied with how the incident was handled by the academic institution or law enforcement.

For sexual assault cases handled by campus administration, procedures and policies vary widely. An information-gathering/investigative process after a report of sexual assault is received is used at only 25% of schools (Karjane et al., 2005). Of particular concern is that the McCaskill (2014) survey revealed that more than 20% of private academic institutions conducted fewer investigations than the number of reported incidents, with some schools conducting investigations in only one out of every seven reported incidents of sexual assault. Furthermore, less than 40% of academic institutions provide procedural due process protections for the accused during the investigation and adjudication of sexual assaults (Karjane et al., 2005).

Although victims of campus sexual assaults receive some benefits when such incidents are handled by the academic institution, the alleged perpetrators of campus sexual assaults often receive less procedural due process protection when sexual assault allegations are handled in administrative contexts. While § 304 of the Violence Against Women Reauthorization Act of 2013 provides for the protection of the rights of the accused, these protections pale in comparison to those required in criminal proceedings. Given that conviction in criminal justice contexts can lead to loss of liberty, criminal defendants are constitutionally afforded a range of due process rights, including the right to an attorney, the right to confront their accuser at trial, and use of the most exacting standard of proof (beyond a reasonable doubt). Such due process rights are not required outside of criminal justice contexts and may not be provided to alleged perpetrators when sexual assault cases are handled administratively by an academic institution. Although federal legislation requires procedural safeguards for the accused,

such as the right to representation, the right to participate in proceedings, and the right to have an objective determination (Violence Against Women Reauthorization Act, 2013), alleged perpetrators of campus sexual assault can be subject to disciplinary actions, including academic suspension or expulsion, without the same degree of procedural protections afforded to criminal defendants.

Furthermore, the range of penalties associated with administrative adjudication of campus sexual assault cases is more restricted and less severe than the penalties that can result from adjudication of sexual assault cases in criminal justice contexts. When sexual assault cases are handled administratively, the perpetrator of a sexual assault may be subject to suspension or possibly expulsion from the academic institution. Although expulsion is a severe sanction, schools may be reluctant to expel perpetrators of sexual assault. For example, several news outlets reported on a recent interview with Dean Nicole Eramo from the University of Virginia, who admitted that no student had been expelled for a campus sexual assault during her tenure as dean—even when the students have admitted "guilt" to such incidents—and that the harshest administrative punishment doled out in a campus sexual assault case was a 2-year academic suspension (e.g., Ganim & Ford, 2014). The penalties associated with criminal adjudication of campus sexual assaults are much more severe and can include lengthy periods of incarceration. Further, individuals convicted of sexual assault may be subject to collateral consequences of the criminal conviction, such as sex offender registration and notification requirements.

There are also benefits and detriments to academic institutions depending on the context in which campus sexual assault cases are adjudicated. The school typically receives less "bad press" when cases are handled administratively. In many academic institutions, administrative adjudication is accompanied by a requirement that the victim and perpetrator not discuss details of the case or adjudication. Such policies are ostensibly intended to prevent embarrassment of the victim or retaliation against the victim or perpetrator, but these policies have the added benefit of avoiding negative attention to the academic institution. Although federal legislation such as the Clery Act requires academic institutions to disclose certain data regarding campus crimes, including sexual assaults, only 37% of academic institutions report statistics in a manner that is fully consistent with the requirements of the Clery Act (Karjane et al., 2005).

Of course, nothing prevents the dual adjudication of campus sexual assaults, and a victim can pursue an administrative remedy through the academic institution while also pursuing a legal remedy through the criminal justice system. Coordination between campus and law enforcement agencies is a recommended practice (White House Task Force to Protect Students From Sexual Assault, 2014), but more than 70% of schools in the McCaskill (2014) survey do not have protocols regarding how law enforcement and the academic institution should work together in response to a campus sexual assault. Simultaneously pursuing remedies through the academic institution and criminal justice system would provide victims with a range of options in seeking redress for the offense. Unfortunately, we could not find reliable data on how often such dual adjudication of campus sexual assaults occurs. Of note, however, a criminal investigation of a campus sexual assault does not relieve an academic institution of its independent obligation to pursue an investigation when it knows or reasonably should have known that a student has been sexually assaulted (see White House Task Force to Protect Students From Sexual Assault, 2014).

Campus Sexual Assault Versus General Sexual Assault

It is also important to examine how campus sexual assaults differ from sexual assaults committed outside of a college campus. The primary difference is that victims of campus sexual assault have access to two adjudicatory systems—the academic institution and criminal justice system—while victims of general sexual assault can only seek redress through the legal system via a criminal complaint and/or civil action. As such, one could argue that having access to two adjudicatory systems confers a benefit onto victims of campus sexual assault. However, both the administrative and criminal justice adjudicatory systems have limitations when applied to campus sexual assault. As noted, the adjudicatory procedures used by academic institutions vary widely. Moreover, as will be discussed, sexual assault laws are often ill suited to consider the circumstances that more frequently accompany sexual assaults on college campuses compared to general sexual assaults, so state sexual assault laws may not provide adequate recourse for victims of campus sexual assault compared to victims of general sexual assault.

Federal Legislation

There are several federal laws relevant to the discussion of campus sexual assault. Although an in-depth discussion of each law is beyond the scope of this paper, basic knowledge of the federal laws pertaining to the issue of campus sexual assault is important to understanding the role of state sexual assault laws vis-à-vis campus sexual assaults.

The Clery Act and Related Legislation

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1990)—commonly known as the Clery Act—was signed into law by President George H. W. Bush in 1990. The Clery Act requires that institutes of higher education annually disclose information about crimes committed on campus, and it was amended in 1992 with the Campus Sexual Assault Victims' Bill of Rights, which requires that academic institutions develop prevention policies and provide certain assurances to victims of sexual assault.

In addition to the Clery Act, other legislation has been used to increase the reporting of gender-based violence on college campuses. In March 2013, President Obama signed into law the Violence Against Women Act, which included a portion of the Campus Sexual Violence Elimination Act. This expanded the grant program targeting violent crime on college campuses, and it expanded requirements for the disclosure of campus security policies and crime statistics to improve awareness about violent sex crimes, require academic institutions to disclose disciplinary proceedings following rape allegations, and establish procedures for the protection of the rights of the accused and accusers (Violence Against Women Reauthorization Act, 2013).

Despite a federal law requiring academic institutions to disclose data regarding campus crime, accurate figures regarding campus

sexual assault are not available. Although 80% of academic institutions submit the annual report required by the Clery Act and more than 66% include crime statistics, only 37% report statistics in a manner that is fully consistent with Clery Act requirements (e.g., differentiating between forcible and nonforcible types of sexual assault; Karjane et al., 2005). Moreover, a recent study found that university reports of sexual assault increase by 44% during a Clery Act audit period, but subsequently drop to levels that are statistically indistinguishable from the preaudit time period (Yung, 2015). Of note, Yung (2015) also found that Clery Act audits have no noticeable long-term effects on the reported levels of sexual assault on campuses. It is also important to note that the Clery Act requires incident reporting for sexual assault on campus, but does not require reporting of arrests or disciplinary action taken against sexual assault. Therefore, outcome data are not available.

Title IX

Title IX of the 1972 Education Amendments prohibits sex discrimination in education, stating in relevant part that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . ." (Title IX, 2006, 20 U.S.C. § 1681). Violations of Title IX can be punished by the termination or denial of federal funding. A Title IX complaint against an academic institution may be initiated by any funding government agency or by a private lawsuit (Campus Sexual Assault Roundtable, 2014). After the United States Supreme Court's decision in *Franklin v. Gwinnet County Public Schools* (1992), individual plaintiffs can recover monetary damages from academic institutions under Title IX.

Although Title IX is often associated with sex discrimination in sports, it applies to all sex discrimination in education (Walker, 2010), including sexual assault on campuses (e.g., Cantalupo, 2011). The application of Title IX to sexual violence is based on the premise that sexual assault interferes with female students' access to equal education by creating a hostile environment. Not only does a hostile environment impact educational attainment, but survivors of sexual assault frequently experience significant disruption in their own education. For example, many survivors experience symptoms of anxiety and/or depression following sexual assault, which may negatively impact attention and concentration and therefore impact academic performance (Choudhary, Smith, & Bossarte, 2012). Further, survivors of sexual assault may avoid classes or areas of campus if they might encounter the perpetrator of sexual violence. If a hostile environment exists as a result of sexual assault, and the academic institution "knows or reasonably should know" about this environment, "prompt, thorough, and impartial" action must be taken to determine what occurred (U.S. Department of Education, 2011).

After an incident of sexual violence has occurred, there is 180-day window in which to file a Title IX complaint (Campus Sexual Assault Roundtable, 2014). Recently, this timeline has come under question because a large proportion of campus sexual assaults occur within the first several weeks of students' first year on campus (Krebs et al., 2009). During this time period, students are particularly vulnerable due to their newfound independence and exposure to intoxicating substances, and they are less likely to be familiar with who to contact to make a report of sexual violence, what conduct would merit an official report, and what possible consequences they would face if they were drinking alcohol in violation of school policy.

There are two requirements for an incident of campus sexual assault to be a Title IX violation that is eligible for injunctive relief: (a) the alleged conduct must be sufficiently serious to limit or deny a student's ability to either participate in or benefit from an educational program; and (b) after being notified of the incident, the academic institution must fail to take prompt and effective steps to end sexual violence, eliminate the hostile environment, prevent its recurrence, and adequately remedy its effects when warranted (Bean, 1997). To meet the standard for monetary recovery under Title IX, the victim must show that the academic institution had actual knowledge of the event and showed deliberate indifference to it (Lentz, 2013; see *Davis v. Monroe County Board of Education,* 1999). This is a difficult standard to meet because students rarely have access to the information needed to establish actual knowledge on the part of the academic institution, and any action taken by the academic institution—no matter how meager—can be enough to refute the deliberate indifference prong (Lentz, 2013).

For further guidance, the Department of Education's Office of Civil Rights issued a "dear colleague" letter in April 2011 to provide guidance on academic institutions' Title IX responsibilities (U.S. Department of Education, 2011). In this letter, the Department of Education (2011) defines "sexual violence" as "physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol" (p. 1). Further, academic institutions must use a preponderance of the evidence standard, both parties must be permitted to present witnesses and evidence, and both parties must have the same procedural notification and access to appeals (U.S. Department of Education, 2014a). This definition of sexual assault and the lower burden of proof are relevant to this paper because they depart significantly from the criminal sexual assault definition and proof structure. Despite these guidelines, in May 2014, the U.S. Department of Education's Office for Civil Rights identified 55 academic institutions that were under investigation for Title IX violations based on their handling of campus sexual assault (U.S. Department of Education, 2014b). The list included small and large academic institutions across various regions of the U.S., including several high-profile schools (e.g., Harvard College, Harvard Law School, Princeton University).

Current Project

Although reported statistics vary, even conservative estimates suggest that campus sexual assault is taking place with disturbing frequency despite the existence of university policies, state laws, and federal laws targeting campus sexual assaults. The legislative landscape relating to campus sexual assault is not well understood, and there are likely many differences in relevant legislation across the states. To examine these issues, we need a more thorough understanding of existing state sexual assault laws. Rather than testing any specific hypotheses, the purpose of this project was to systematically analyze U.S. state statutes regarding sexual assault

to evaluate the extent to which these laws are relevant, appropriate, and accessible in cases of campus sexual assault. Such an analysis can yield important practical, legal, and policy implications that can guide existing and future policies and legislation targeted at reducing campus sexual assault.

Method

Identifying Statutes

The criminal statutes of all 50 states were reviewed using a comprehensive electronic legal database (WestlawNext). Each state criminal code was searched for the terms "'sexual assault' or sodomy or rape % prison" by an advanced graduate student with training in law and psychology. Once the appropriate criminal code sections were identified, the chapters containing those sections were reviewed to ensure all relevant statutory subparts were identified. For example, in Virginia, sexual assault statutes are found within Section 7 (Criminal Sexual Assault) of Chapter 4 (Crimes Against the Person) of Title 18.2 (Crimes and Offenses Generally). All relevant statutory provisions were then reviewed to determine whether these statutes could apply to a college student reporting a sexual offense on campus. Sections referring exclusively to minors under the age of 16 or to prisoners were not included within this review.

Coding Statutes

After all of the sexual assault statutes in all 50 states were identified, we developed a coding form to capture a variety of data points relating to sexual assault statutes. Two advanced graduate students who received training in reading statutes used the coding form to identify the presence or absence of eight aspects of the statutes: definitional clarity, inclusion of all groups within the definition of who may qualify as a victim, inclusion of all groups in the definition of who may qualify as a perpetrator, the requirement of use of force in the commission of the crime, reference to the intoxication or incapacitation of the victim, reference to the intoxication of the perpetrator, degrees of sexual assault, and the level of knowledge required for the perpetrator to infer consent to the sexual act. During data entry, another advanced graduate student reviewed all information for errors. When ambiguities arose, coders convened and discussed appropriate resolutions. Twenty-six statutes were double coded to assess interrater agreement, and the interrater reliability for the two raters was found to be near perfect ($\kappa = .997$; $p < .001$).

Results

All 50 states have at least one criminal statute addressing sexual assault in some form. In total, 432 subsections of these statutes were reviewed to extract information pertinent to this project. (The list of statutes is available from the first author upon request.) The number of relevant statutory provisions in each state ranged widely from 1 (in both Massachusetts and Wisconsin) to 26 (New York). The range of information contained in these statutes varied by state, and the amount of information that was relevant to campus sexual assaults did not appear to be related to the number of statutory provisions in a state (see Table 1).

Despite the importance of consent to determining the criminality of sexual conduct, only 7 states (14%) explicitly defined "consent" and only 14 states (28%) outlined the requirements of acting without consent of the victim. Twelve states (24%) described the requirements of mental capacity to provide consent. Mental incapacity to consent to a sexual act often includes someone who is cognitively impaired, such as individuals who are intellectually disabled or those who have not yet reached the age of majority. The mental state that is more frequently relevant to college students—that is, temporary incapacity to consent to sexual acts due to alcohol or drugs—is statutorily defined in 24 states (48%), but only 11 states (22%) include intoxication in this definition of incapacity and even fewer states (7; 14%) include voluntary intoxication within that definition. Twenty-three states (46%) explicitly require the defendant to have known about the victim's incapacity, but only two of these states (4%) explicitly presume the defendant was aware of this incapacity until the defendant can demonstrate otherwise (see Table 2).

In terms of the requirements of each offense, 18 states (36%) define "sexual assault," 17 states (34%) define "rape," and 11 states (24%) define "sodomy." Of the 50 states, 28 (56%) describe what constitutes "sexual conduct" and 14 (28%) explain the required actions of the illegal "sex act." In 15 states (30%), the type of sexual assault charges that can result depends on the nature of the sexual act. For example, certain types of sexual contact (e.g., anal intercourse vs. vaginal intercourse) result in different criminal charges. This has obvious implications for the possible penalties. Where multiple types of sexual offenses are articulated, 17 of the states (34%) vary their penalties depending on the type offense. This is separate from degrees of rape or sexual assault, which are present in 14 (28%) and 28 (56%) states, respectively.

Although marital rape is not legal in any state, 19 states (38%) apply a different legal standard to married couples when it comes to sexual assault. In some instances, this results in lower penalties upon conviction or requires a showing of physical force even when physical force is not otherwise a requirement in the definition of sexual assault or rape in that jurisdiction. Where rape occurs outside of a marital relationship, 21 states (42%) require the use of force; of those 21 states, 17 statutorily define what constitutes "force" in the context of rape (see Table 2).

Although most states had gender-neutral language for the perpetrator and victim of sexual violence (see Table 3), three states require the victim to be female. Statues may explicitly state the sex of the perpetrator or victim, or implicitly define a perpetrator or victim by specifying sex organs in the definition of the offense. For example, Georgia's statute states that "[a] person commits the offense of rape when *he* has carnal knowledge of . . . a *female* forcibly against *her* will," and that "[c]arnal knowledge in rape occurs when there is penetration of the *female sex organ* by the *male sex organ*" (emphasis added; Georgia Code Annotated § 16–6–1[a], 2011). As another example, Maryland defines rape as "vaginal intercourse with another by force, or threat of force, without consent of the other," which means only females can be victims of rape (Maryland Code Annotated Criminal Law § 3–303[a], 2009). Similarly, two states statutorily require the perpetrator of sexual violence to be male.

Discussion

The purpose of this project was to systematically examine U.S. state statutes relating to sexual assault to evaluate the extent to

Table 1
Statutory Elements in All 50 States

State	Statutes reviewed	Defines consent	Defines without consent	Defines mental capacity	Defines incapacity	Defines sexual act	Defines force
Alabama	8	Yes	Yes	No	Yes	Yes	No
Alaska	7	No	Yes	Yes	Yes	Yes	No
Arizona	5	No	Yes	No	Yes	Yes	No
Arkansas	7	No	No	Yes	Yes	Yes	Yes
California	15	Yes	No	No	No	No	Yes
Colorado	4	Yes	No	No	Yes	No	No
Connecticut	10	No	No	Yes	No	No	Yes
Delaware	10	No	Yes	No	No	No	No
Florida	2	Yes	No	Yes	Yes	No	No
Georgia	6	No	No	No	No	No	No
Hawaii	4	No	No	No	No	No	No
Idaho	7	No	No	No	No	No	No
Illinois	6	No	No	No	No	Yes	Yes
Indiana	2	No	Yes	No	No	No	No
Iowa	10	No	No	No	Yes	No	No
Kansas	7	No	No	No	No	Yes	No
Kentucky	18	No	Yes	Yes	Yes	No	Yes
Louisiana	7	No	No	No	No	No	No
Maine	6	No	No	No	Yes	Yes	Yes
Maryland	17	No	No	Yes	No	Yes	No
Massachusetts	1	No	No	No	No	No	No
Michigan	8	No	No	No	Yes	No	No
Minnesota	10	No	No	No	Yes	No	Yes
Mississippi	9	No	No	No	Yes	No	No
Missouri	10	No	No	No	Yes	No	Yes
Montana	4	No	Yes	No	No	No	Yes
Nebraska	5	No	Yes	No	No	No	Yes
Nevada	5	No	No	No	No	Yes	No
New Hampshire	4	No	No	No	No	No	No
New Jersey	6	No	No	Yes	No	No	No
New Mexico	7	No	No	No	Yes	No	No
New York	26	No	No	Yes	No	No	Yes
North Carolina	9	No	No	No	Yes	Yes	No
North Dakota	8	No	No	No	No	Yes	No
Ohio	5	No	Yes	No	No	No	No
Oklahoma	8	No	No	No	No	No	No
Oregon	21	No	No	No	Yes	No	Yes
Pennsylvania	14	No	No	No	No	No	Yes
Rhode Island	16	No	No	No	Yes	No	Yes
South Carolina	16	No	No	Yes	No	No	Yes
South Dakota	8	No	No	No	Yes	No	No
Tennessee	11	No	No	Yes	Yes	No	No
Texas	3	No	No	No	No	No	No
Utah	9	No	Yes	No	No	No	No
Vermont	4	Yes	Yes	Yes	Yes	Yes	No
Virginia	14	No	No	No	Yes	No	No
Washington	11	Yes	No	Yes	Yes	No	Yes
West Virginia	9	No	No	No	Yes	Yes	Yes
Wisconsin	1	Yes	No	No	No	Yes	No
Wyoming	12	No	No	No	Yes	No	No

which these laws are relevant, appropriate, and accessible for victims of sexual assault on college campuses. Results revealed that, not surprisingly, all 50 states have at least one criminal statute that addresses sexual assault, with most states having multiple statutory provisions relevant to sexual assault offenses. In total, 432 statutory subsections were identified as being relevant to sexual assault.

It is notable that sexual assault statutes varied considerably among the 50 states. There is little research on antecedents to state differences in laws and statutes related to sexual assault. It is possible that some states simply update their statutes more frequently than others to encapsulate a fuller definition of sexual assault and remove outdated language or requirements. Laws relating to sexual assault were significantly reformed in the 1970s, and it is likely that since that time, some states have continued to update their statutes while others have not.

The key question for present purposes, however, is whether and to what extent these criminal statutes have relevance and applicability to sexual assaults committed on college campuses. As a starting point, it is important to note that the sexual assault statutes identified in this survey are applicable to sexual offenses committed both on and off college campuses; the jurisdiction of these

Table 2
Additional Statutory Elements in All 50 States

State	"Incapacity" includes intoxication	Voluntary intoxication included	Intoxication considered for actor perpetrator	Actor's knowledge of victim incapacity	Sex offense differs depending on sex act	Differs based on marital status
Alabama	N/A	N/A	N/A	N/A	Yes	No
Alaska	Yes	No	No	Required	No	Yes
Arizona	Yes	Yes	No	Required	No	No
Arkansas	Yes	Yes	No	Presumed	No	Yes
California	No	N/A	No	Required	Yes	Yes
Colorado	N/A	N/A	No	Required	No	No
Connecticut	Yes	No	No	N/A	No	Yes
Delaware	N/A	N/A	N/A	N/A	No	No
Florida	Yes	No	No	Required	No	No
Georgia	N/A	N/A	N/A	N/A	Yes	No
Hawaii	No	Yes	N/A	N/A	No	Yes
Idaho	N/A	N/A	N/A	N/A	Yes	Yes
Illinois	N/A	N/A	N/A	Required	No	No
Indiana	N/A	N/A	N/A	N/A	No	No
Iowa	Yes	No	N/A	N/A	No	Yes
Kansas	Yes	Yes	No	Required	Yes	Ambiguous/Unclear
Kentucky	No	No	No	Required	Yes	Yes
Louisiana	Yes	Yes	Yes: Mitigating	Presumed	Yes	Yes
Maine	Yes	No	No	Required	No	Yes
Maryland	Yes	Yes	No	Required	Yes	Yes
Massachusetts	N/A	N/A	N/A	N/A	No	No
Michigan	No	N/A	N/A	N/A	No	Ambiguous/Unclear
Minnesota	Yes	No	No	Required	Ambiguous/Unclear	Yes
Mississippi	Yes	No	No	Ambiguous/Unclear	No	Yes
Missouri	Yes	No	No	N/A	Yes	Yes
Montana	N/A	No	N/A	N/A	No	Yes
Nebraska	N/A	N/A	Yes: Other	N/A	No	No
Nevada	N/A	N/A	N/A	N/A	No	No
New Hampshire	N/A	N/A	N/A	N/A	No	Yes
New Jersey	Yes	No	No	Required	No	No
New Mexico	No	No	N/A	N/A	No	No
New York	Yes	No	No	Required	Yes	No
North Carolina	No	N/A	N/A	N/A	No	No
North Dakota	Yes	No	No	Required	No	No
Ohio	N/A	No	No	Required	No	Yes
Oklahoma	Yes	No	No	Required	Yes	Yes
Oregon	No	No	N/A	N/A	Yes	No
Pennsylvania	Yes	No	No	Required	Yes	No
Rhode Island	No	N/A	N/A	N/A	No	Yes
South Carolina	Yes	No	No	Required	No	Yes
South Dakota	Yes	No	N/A	N/A	No	No
Tennessee	Yes	No	No	Required	No	No
Texas	N/A	N/A	N/A	N/A	No	No
Utah	N/A	N/A	N/A	N/A	Yes	No
Vermont	Yes	No	N/A	N/A	No	No
Virginia	No	N/A	N/A	N/A	Yes	No
Washington	Yes	No	N/A	N/A	No	No
West Virginia	Yes	No	No	Required	No	No
Wisconsin	Yes	Yes	No	Required	No	No
Wyoming	No	N/A	N/A	N/A	No	No

Note. N/A = not applicable.

statutes does not end at the borders of college campuses. As such, these sexual assault statutes provide a legal mechanism through which campus sexual assaults can be prosecuted through the criminal justice system, although as previously noted most incidents of campus sexual assault are not reported to or processed through the criminal justice system.

The next questions are whether there is something different about sexual assaults committed on college campuses, or whether there are some aspects of the sexual assault statutes, that limit the applicability and utility of the sexual assault statutes in cases of campus sexual assault. In this regard, an analysis of the sexual assault statutes in all 50 states reveals that many state statutes are ill suited to handling campus sexual assaults. In particular, the statutory handling of the important and intertwined issues of incapacitation and consent deserve comment.

Table 3
Statutory Language and Use of Force in All 50 States

State	Gender of victim	Gender of perpetrator	Requires force
Alabama	Neutral	Neutral	Yes
Alaska	Neutral	Neutral	No
Arizona	Neutral	Neutral	No
Arkansas	Neutral	Neutral	No
California	Neutral	Neutral	No
Colorado	Neutral	Neutral	No
Connecticut	Neutral	Neutral	No
Delaware	Neutral	Neutral	No
Florida	Neutral	Neutral	No
Georgia	Female	Male	Yes
Hawaii	Neutral	Neutral	No
Idaho	Female	Male	No
Illinois	Neutral	Neutral	Yes
Indiana	Neutral	Neutral	No
Iowa	Neutral	Neutral	No
Kansas	Neutral	Neutral	Yes
Kentucky	Neutral	Neutral	No
Louisiana	Neutral	Neutral	Yes
Maine	Neutral	Neutral	Yes
Maryland	Female	Neutral	Yes
Massachusetts	Neutral	Neutral	Yes
Michigan	Neutral	Neutral	No
Minnesota	Neutral	Neutral	Yes
Mississippi	Neutral	Neutral	No
Missouri	Neutral	Neutral	Yes
Montana	Neutral	Neutral	No
Nebraska	Neutral	Neutral	No
Nevada	Neutral	Neutral	Ambiguous/Unclear
New Hampshire	Neutral	Neutral	Yes
New Jersey	Neutral	Neutral	Yes
New Mexico	Neutral	Neutral	Ambiguous/Unclear
New York	Neutral	Neutral	Yes
North Carolina	Neutral	Neutral	Yes
North Dakota	Neutral	Neutral	No
Ohio	Neutral	Neutral	No
Oklahoma	Neutral	Neutral	Yes
Oregon	Neutral	Neutral	Ambiguous/Unclear
Pennsylvania	Neutral	Neutral	Yes
Rhode Island	Neutral	Neutral	No
South Carolina	Neutral	Neutral	Yes
South Dakota	Neutral	Neutral	No
Tennessee	Neutral	Neutral	Yes
Texas	Neutral	Neutral	No
Utah	Neutral	Neutral	No
Vermont	Neutral	Neutral	Yes
Virginia	Neutral	Neutral	No
Washington	Neutral	Neutral	Ambiguous/Unclear
West Virginia	Neutral	Neutral	Yes
Wisconsin	Neutral	Neutral	Yes
Wyoming	Neutral	Neutral	Ambiguous/Unclear

Temporary incapacity to consent to sexual acts is defined in less than half of the states ($n = 24$), with only nine states including intoxication in the definition of temporary incapacity and only six states including voluntary intoxication within the definition of temporary incapacity. Given that intoxication due to drugs or alcohol is a frequent factor in college sexual assaults (Abbey, 2002; Kilpatrick et al., 2007; Mohler-Kuo et al., 2004; Testa & Parks, 1996), it is problematic that intoxication is not well accounted for in the majority of state sexual assault statutes. This is a notable gap in the legal landscape that can limit the usefulness of these statutes in campus sexual assault cases in which alcohol or drugs were involved. In situations in which the victim of a sexual assault was intoxicated, the majority of states provide no mechanism by which the victim can argue that she or he was temporarily incapacitated at the time of the assault, which may hinder the ability of the victim to successfully pursue a legal remedy.

Even in the states that statutorily address temporary incapacity, the laws may have limited utility in campus sexual assault cases. For example, results revealed that 23 states explicitly require the perpetrator of a sexual assault to have known about the victim's incapacity at the time of the offense, and only two states presume that the perpetrator was aware of the victim's incapacity. Requiring the perpetrator to have knowledge of the victim's incapacitation as a prerequisite to successful criminal prosecution can often become a factual question at trial, but it may be difficult for a victim of sexual assault to prove—in a court of law and beyond a reasonable doubt—that the perpetrator had knowledge of the victim's incapacitation. Without such a showing, a required element of the criminal offense has not been proven, which has obvious implications for the successful prosecution of the perpetrator of sexual violence.

The results of this statutory survey also revealed that issues relating to consent are not well defined, or defined at all, in most of states. We found, for example, that only seven states explicitly defined "consent" and only 11 states outlined the requirements of acting without consent of the victim. These are puzzling findings given the central role consent plays in the prosecution of sexual assaults, and the lack of statutory guidance regarding consent could limit the utility of these statutes in sexual assault cases committed both on and off college campuses. On college campuses, rates of casual sex (i.e., outside of a committed relationship) are typically higher than in noncollege settings (e.g., Fielder, Carey, & Carey, 2013; Roberson, Olmstead, & Fincham, 2015), and it may be more difficult to prove the existence of consent, or lack thereof, in casual sex contexts, particularly when alcohol or drugs are involved.

A final noteworthy result of this statutory survey pertains to the use and nonuse of gender-neutral language. The majority of states used gender-neutral language for victims and perpetrators, but three states explicitly or implicitly require the victim of sexual assault to be female and two states require the perpetrator of sexual violence to be male. Given the high rates of campus sexual assaults involving females (Karjane et al., 2005; Krebs et al., 2009) and the lack of reliable data regarding rates of sexual assaults against males, it is reasonable to assume that most victims of campus sexual assaults are female. But some victims of campus sexual assaults are male, and those victims are denied legal recourse in the three states that require the victim to be female. Although male victims may have legal recourse under other statutes, such as those that prohibit sodomy, the penalties associated with violating sodomy statutes are much different and less severe than the penalties associated with violating sexual assault statutes. The apparent denial of legal recourse under the sexual assault statutes raises concerns related to equal protection because similarly situated people (i.e., sexual assault victims) are being treated differently by the law on the basis of a protected characteristic (i.e., gender). Additionally, from a policy perspective, the use of nongender neutral language in sexual assault statutes communicates that only females can be victims of rape and only men may commit it. This may further chill reporting from male victims and individuals

victimized by women, and it may exacerbate emotional turmoil by insinuating that what happened to them was not a crime.

Changing the Administrative/Legal Landscape: Practice and Policy Implications

The recent attention given to campus sexual assaults has been accompanied by policy changes at some academic institutions and the enactment of new laws in some jurisdictions. Some of these policies and laws encourage reporting of campus sexual assaults, enhance the transparency of the investigative procedures, and impose harsher penalties on students who commit campus sexual assaults. Other changes relate to the implementation of mandatory sexual awareness and sexual assault programs for incoming freshmen, such as the programs recently implemented at Dartmouth College, Johns Hopkins University, and the University of California at Berkeley. Efforts to provide victims of sexual assault with sufficient recourse through the academic institution or criminal justice system are important because leaving survivors without recourse can lead to self blame, guilt, and depression (e.g., Campbell, Dworkin, & Cabral, 2009). Although all efforts to reduce campus sexual assaults and improve the adjudication of such incidents should be lauded, it is important that policies and laws be properly conceptualized, based on reliable data, sufficiently detailed, and consistent with best practices.

Unfortunately, some recent policy changes are well intentioned but of questionable utility in terms of effectively addressing campus sexual assaults. For example, in the wake of the negative publicity the University of Virginia received regarding its handling of campus sexual assaults, the University's governing board unanimously adopted a zero-tolerance policy against campus sexual assaults (Ganim & Ford, 2014). Adopting such a policy is a positive step, but the policy was only adopted in principle and the policy details and a timeline for its implementation are not yet developed (Ganim & Ford, 2014). As such, it is not possible to evaluate whether the policy will provide increased protection for students against sexual assault, encourage reporting of such incidents, provide a fair and balanced administrative mechanism for adjudicating incidents of campus sexual assault, and encourage cooperation and coordination with local law enforcement authorities. A possible concern of a "zero tolerance" policy is that individuals who were victimized by a friend or significant other might be further deterred from making a report because of the severe consequences associated with violating the policy. Further, it is unclear why the University did not already have a zero-tolerance policy in place.

A law recently enacted in California provides another example of a response to campus sexual assaults. The California law provides a detailed definition of consent in the context of campus sexual encounters, which could facilitate the effective resolution of campus sexual assault cases (California Senate Bill 967, 2014). The "yes means yes" law was enacted on September 28, 2014, and applies to all postsecondary schools that receive state money for student financial aid, which includes all California community colleges and the California State University and University of California systems. The law clarifies that affirmative consent from both parties must be ongoing throughout sexual activity, and that silence and lack of protest or resistance are not sufficient to establish consent; in essence, the absence of "no" is not interpreted as a "yes." The law also states that consent to sexual activity should not be inferred based on the existence of a dating relationship or a history of a sexual relationship between the parties. The law further clarifies that an individual cannot provide consent if she or he is asleep, unconscious, incapacitated due to drugs or alcohol, or unable to communicate due to a mental or physical condition. The law also addresses issues relating to privacy and confidentiality, trauma-informed training for faculty who review complaints of sexual assault, and collaborating with law enforcement. Finally, the law requires that covered academic institutions provide comprehensive prevention and outreach programs for all students that begin at orientation.

Efforts like the California law are a positive step in clarifying the murky waters that often accompany campus sexual assaults, but being *appropriately* critical of such legislation can be useful in assisting other states that are considering adopting a similar law. The primary concerns of the California law relate to (a) the practicality of requiring ongoing affirmative consent to sexual activity and (b) the ability of the accused to prove that legally sufficient consent was obtained. With respect to the first concern, it is not clear if ongoing consent requires some form of *continuous* consent throughout sexual activity (and it is not clear what continuous consent would look like), or whether the provision of consent at various intervals throughout sexual activity is legally sufficient. This criticism may seem nitpicky, but factual questions related to whether and when consent to sexual activity was provided are often central in the adjudication of campus sexual assaults. Although some may correctly point out that similar issues arise for victims to demonstrate that consent was absent, there is nonetheless a concern whenever laws presume the intention of individuals. It is problematic to assume that women consent to sex unless stated otherwise; there are also issues with the presumption that women do *not* want to have sex. Rather than shifting an ambiguous burden of proof back and forth, clarification about how to effectively communicate and interpret consent for all parties would be beneficial.

With respect to the second concern, it is unclear how an accused can prove consent was obtained if the victim asserts that no consent was provided. Under the California law, the burden of proving that consent was obtained rests with the accused. If the accused is not able to prove consent was obtained, the accused is presumed to have committed the sexual assault. As such, the accused is presumed guilty unless proven innocent; although such a presumption is permissible in administrative, noncriminal justice contexts, it runs counter to a basic tenet of the U.S. justice system. Further, it is difficult to envision the type of evidence that would satisfy this high burden. Because sexual encounters are typically conducted in private settings, the only evidence might be the statements of the accused and victim. In "he said, she said" cases, it will be difficult for the accused to satisfy the burden of proving consent established by the California law. Furthermore, it is possible that accused individuals may attempt to introduce information such as what the alleged victim was wearing or public flirtation as circumstantial evidence of consent, which would serve to reinforce common rape myths.

Future Directions and Limitations

There are several steps that can be taken by academic institutions to address campus sexual assault. First, obtaining accurate data on rates of campus sexual assaults would provide a clearer picture of the scope of the problem, so enforcement of federal reporting legislation is imperative. Second, prevention efforts at academic institutions should be enhanced. In this regard, the White House Task Force to Protect Students From Sexual Assault (2014) suggests engaging men as allies in prevention efforts by empowering them to be vigilant to acts of sexual violence. It is also important to increase overall awareness about sexual assault, including education for sexual assault responses for peers, as victims of sexual assault are most likely to report the incident to a peer (Krebs et al., 2009). Third, academic institutions should develop sexual assault policies that address, at a minimum, issues of reporting incidents of sexual assault, consent, privacy, confidentiality, and punishment. Academic institutions should also provide trauma-informed training to school officials who receive and adjudicate reports of sexual assault. Fourth, academic institutions should establish partnerships with the community; linkages with local law enforcement, emergency services, crisis centers, medical centers, mental health centers, advocacy services, and legal assistance would provide victims of sexual assault with a range of services to address their acute and chronic medical, mental health, and legal needs.

There are also several areas for future researchers interested in this area. For example, as a useful follow-up to this statutory review, researchers could examine how people (e.g., students, administrators, law enforcement, general public) perceive the policies and laws that govern sexual assault. Assessing the perception of these policies and laws, for example, could reveal widespread dissatisfaction with the protection ostensibly being provided by the laws and policies. In addition, it will be important to examine whether the policies in place at academic institutions affect victim reporting rates, and whether these policies deter perpetrators. These sorts of outcome data would be extremely valuable in assessing the utility of these policies.

The results of this national statutory survey should be considered in light of several limitations. First, it is possible that the sexual assault legislation identified in this survey was amended in the interim between the initial legislative search and this article's publication. As such, checking the most recent status of the relevant legislation is recommended. Second, we limited our research to sexual assault statutes and did not examine how the statutes have been interpreted by courts in each jurisdiction. Although this poses a practical limitation for the utility of a statutory survey, the choice to only examine statutes reflects an important philosophical decision. Although courts are properly entrusted to interpret statutes, it is imperative—indeed, a constitutional requirement—that statutes not be unreasonably vague. In other words, statutes should be sufficiently clear when read in isolation and without referring to interpreting case law.

Conclusion

Campus sexual assaults are a significant public health concern, and it is important that the administrative and criminal justice responses to such incidents be informed by relevant social science data. The results of this statutory survey suggest that state sexual assault statutes are often not well-suited when it comes to incidents of campus sexual assault. To be most useful, statutes should be clear in scope, provide definitional clarity, and address all relevant aspects of the issue. Given some of the unique aspects of sexual assaults that occur on college campuses (e.g., high rates of alcohol and/or drug use, dual jurisdiction of campus and law enforcement authorities), existing legislation may need to be amended to make it more applicable—relevant, appropriate, and accessible—for victims of sexual assault. We hope that this project will contribute to the national dialogue on campus sexual assault, stimulate additional research efforts in this area, and influence relevant academic policies and state/federal legislation.

References

Abbey, A. (2002). Alcohol-related sexual assault: A common problem among college students. *Journal of Studies on Alcohol and Drugs, 14,* 118–128. http://dx.doi.org/10.15288/jsas.2002.s14.118

Bean, B. (1997). Right of action under Title IX of Education Amendments Act of 1972 (20 U.S. C. A. §§ 1681 et seq.) against school or school district for sexual harassment of student by student's peer. *American Law Reports, 141,* 407.

California Senate Bill 967 (2014).

Campbell, R., Dworkin, E., & Cabral, G. (2009). An ecological model of the impact of sexual assault on women's mental health. *Trauma, Violence, & Abuse, 10,* 225–246. http://dx.doi.org/10.1177/1524838009334456

Campus Sexual Assault Roundtable. (2014). Hearings on S. 2692 before the Committee on National Security and Public Affairs, 113th Cong., 2d Sess. (testimony of Lindy Aldrich).

Cantalupo, N. C. (2011). Burying our heads in the sand: Lack of knowledge, knowledge avoidance, and the persistent problem of campus peer sexual violence. *Loyola University of Chicago Law Journal, 43,* 205–220.

Chappell, B. (2014, September 29). California enacts "yes means yes" law, defining sexual consent [blog post]. Retrieved from http://www.npr.org/blogs/thetwo-way/2014/09/29/352482932/california-enacts-yes-means-yes-law-defining-sexual-consent

Choudhary, E., Smith, M., & Bossarte, R. M. (2012). Depression, anxiety, and symptom profiles among female and male victims of sexual violence. *American Journal of Men's Health, 6,* 28–36. http://dx.doi.org/10.1177/1557988311414045

Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).

Fielder, R. L., Carey, K. B., & Carey, M. P. (2013). Are hookups replacing romantic relationships? A longitudinal study of first-year female college students. *Journal of Adolescent Health, 52,* 657–659. http://dx.doi.org/10.1016/j.jadohealth.2012.09.001

Franklin v. Gwinnet County Public School, 503 U.S. 60 (1992).

Ganim, S., & Ford, D. (2014, November 27). *University of Virginia pledges zero-tolerance policy in rape cases*. Retrieved from http://www.cnn.com/2014/11/26/us/uva-response-rape-allegations/index.html?hpt=hp_c2

Georgia Code Annotated § 16–6-1(a) (2011).

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S. C. § 1092(f) (1990).

Karjane, H. M., Fisher, B. S., & Cullen, F. T. (2005). *Sexual assault on campus: What colleges and universities are doing about it*. Washington, DC: U. S. Department of Justice.

Kilpatrick, D. G., Resnick, H. S., Ruggerio, K. J., Conoscenti, L. M., & McCauley, J. (2007). *Drug facilitated, incapacitated, and forcible rape: A national study*. Charleston, SC: Medical University of South Carolina, National Crime Victims Research and Treatment Center.

Koss, M. P. (1998). Hidden rape: Sexual aggression and victimization in a

national sample of students in higher education. In M. E. Odom & J. Clay-Warner (Eds.), *Confronting rape and sexual assault* (pp. 51–69). Lanham, MD: Rowman & Littlefield.

Krebs, C. P., Lindquist, C. H., Warner, T. D., Fisher, B. S., & Martin, S. L. (2009). College women's experiences with physically forced, alcohol- or other drug-enabled, and drug-facilitated sexual assault before and since entering college. *Journal of American College Health, 57,* 639–649. http://dx.doi.org/10.3200/JACH.57.6.639-649

Langton, L., & Sinozich, S. (2014). *Rape and sexual assault among college-aged females, 1995–2013* (Report No. NCJ 248471). Retrieved from http://www.bjs.gov/content/pub/pdf/rsavcaf9513.pdf

Lentz, M. A. (2013). Title IX and § 1983: Actual knowledge and deliberate indifference. *Lentz School Security, 4,* 11.

Maryland Code Annotated Criminal Law § 3–303(a) (2009).

McCaskill, C. (2014, July 9). *Sexual violence on campus: How too many institutions of higher education are failing to protect students*. Retrieved from http://www.mccaskill.senate.gov/SurveyReportwithAppendix.pdf/

Mohler-Kuo, M., Dowdall, G. W., Koss, M. P., & Wechsler, H. (2004). Correlates of rape while intoxicated in a national sample of college women. *Journal of Studies on Alcohol and Drugs, 65,* 37–45. http://dx.doi.org/10.15288/jsa.2004.65.37

Roberson, P. N. E., Olmstead, S. B., & Fincham, F. D. (2015). Hooking up during the college years: Is there a pattern? *Culture, Health & Sexuality, 17,* 576–591. http://dx.doi.org/10.1080/13691058.2014.972458

Sampson, R. (2002). *Acquaintance rape of college students*. Washington, DC: Office of Community Oriented Policing Services, U. S. Department of Justice.

Somanader, T. (2014, September 19). President Obama launches the "it's on us" campaign to end sexual assault on campus [blog post]. Retrieved from http://www.whitehouse.gov/blog/2014/09/19/president-obama-launches-its-us-campaign-end-sexual-assault-campus

Testa, M., & Parks, K. A. (1996). The role of women's alcohol consumption in sexual victimization. *Aggression and Violent Behavior, 1,* 217–234. http://dx.doi.org/10.1016/1359-1789(95)00017-8

Title IX, 20 U.S.C. §§ 1681–1688 (2006).

U.S. Department of Education. (2011, April 4). "Dear colleague" Letter 1. Retrieved from http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf

U.S. Department of Education. (2014a, April 29). Questions and answer on Title IX and sexual violence. Retrieved from http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf

U.S. Department of Education. (2014b, May 1). U.S. Department of Education releases list of higher education institutions with open Title IX sexual violence investigations. Retrieved from http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-i

Violence Against Women Reauthorization Act of 2013, 42 U.S. C. A. § 13701 (West 2013).

Walker, G. S. (2010). The evolution and limits of Title IX doctrine on peer sexual assault. *Harvard Civil Rights-Civil Liberties Law Review, 45,* 95–99.

White House Task Force to Protect Students From Sexual Assault. (2014, April). *Not alone: The first report of the White House Task Force to Protect Students From Sexual Assault*. Washington, DC: Author.

Yung, C. R. (2015). Concealing campus sexual assault: An empirical examination. *Psychology, Public Policy, and Law, 21,* 1–9. http://dx.doi.org/10.1037/law0000037

Received December 15, 2014
Revision received June 16, 2015
Accepted June 18, 2015 ■