

ROYSTER, LEIGH-ANNE A., Ph.D. Sexual Violence Prevention and Response at Institutions of Higher Education in a Changing Federal Landscape: A Feminist Policy Analysis. (2017)

Directed by Dr. Paige Hall Smith. 127 pp.

Gender based violence is experienced at higher rates on college campuses than in other communities. Recent federal guidance is meant to increase campus capacity to respond to this gender-based violence at colleges and universities, but it is unclear if the approach released by the recent Campus SaVE Act will meet this goal. New federal legislation has sparked strong guidance from the Office of Civil Rights and the Department of Education. Part of this guidance has loosely clarified the expectation of mandatory reporters (also known as Responsible Employees) on college campuses. Guidance from ATIXA (Association of Title IX Administrators) suggests that all university employees be mandatory reporters. However, this designation is still left to the discretion of each institution. In other words, there is currently no standard definition of what constitutes a “mandatory reporter”.

The consistent prevalence of the public health epidemic of gender-based violence on college campuses as well as consistently low rates of reporting these incidents indicate the need for responsive prevention and response policies and practices at institutions of higher education. Currently, the variance in interpretation and policy development resulting from the federal guidance and impact on existing prevention and response efforts is unknown. Through a case study feminist policy analysis approach, this study addresses this concern.

SEXUAL VIOLENCE PREVENTION AND RESPONSE AT INSTITUTIONS OF HIGHER
EDUCATION IN A CHANGING FEDERAL LANDSCAPE: A FEMINIST POLICY
ANALYSIS

by

Leigh-Anne A. Royster

A Dissertation Submitted to
the Faculty of The Graduate School at
The University of North Carolina at Greensboro
in Partial Fulfillment
of the Requirements for the Degree
Doctor of Philosophy

Greensboro
2017

Approved by

Paige Hall Smith, PhD
Committee Chair

APPROVAL PAGE

This dissertation written by Leigh-Anne A. Royster has been approved by the following committee of the Faculty of The Graduate School at The University of North Carolina at Greensboro.

Committee Chair _____

Committee Members _____

Date of Acceptance by Committee

Date of Final Oral Examination

TABLE OF CONTENTS

	Page
LIST OF TABLES	vi
CHAPTER	
I. INTRODUCTION.....	1
Statement of the Problem	1
Purpose of the Study	4
Research Questions	6
II. BACKGROUND INFORMATION AND REVIEW OF RELEVANT LITERATURE.....	7
Scope and Cost of the Problem	7
Prevalence	7
College Campus Prevalence	7
Acquaintance and Coercive Assault.....	9
Cost of Sexual Violence	11
Survivor Agency and Reporting.....	12
The Reporting Disparity.....	13
Legislation.....	14
Mandatory Reporting.....	17
Implications.....	20
Feminist Post-structuralist Inquiry	23
III. METHODOLOGY.....	26
Research Goals	26
Research Questions	27
Qualitative Methodology	27
Theoretical Framework	29
Case Study	32
Positionality	34
Pilot Work	37
Research Sites.....	38
Data Collection	39
Data Analysis.....	42
Validity	45
Limitations.....	47

Ethical Considerations	49
IV. ILLUMINATING PATHWAYS TO FEDERAL COMPLIANCE	51
Abstract.....	51
Background	51
Sexual Violence on College Campuses	51
Federal Guidance	53
The Campus Conundrum.....	55
Methods	57
Theoretical Framework.....	57
Study Design	60
Data Collection.....	61
Analysis	62
Limitations.....	63
Results	64
Decision-Making Pathways	64
Development.....	64
Case #1: Survivor-Centered Collaborative Pathway	67
Case #2: Institutional Control Pathway.....	71
Case #3: Expansive Power Pathway	74
Conclusion.....	78
V. SURVIVOR AGENCY VS. INSTITUTIONAL RESPONSIBILITY: IRRECONCILABLE DIFFERENCES?	82
Abstract.....	82
Background	82
Acquaintance Rape on College Campuses	82
Survivor Reporting.....	83
Campus Efforts.....	84
The Campus SaVE Act.....	85
Campus Implications	86
Methods	87
Data Collection.....	88
Analysis	89
Results	89
Concerns About Impact on Survivor Agency.....	90
Administrators Experiences in Addressing Tension.....	90
Desire to Attend to Survivor Agency	92
Discussion	93
Conclusion.....	94

VI. EPILOGUE.....	97
Summary of Study Goals and Findings	97
Contribution to the Field.....	99
Personal Reflection.....	99
REFERENCES.....	102
APPENDIX A. NEW VAWA REQUIREMENTS.....	111
APPENDIX B. QUESTION DEVELOPMENT TABLE	115
APPENDIX C. SITUATING TITLE IX AND THE CLERY ACT	120
APPENDIX D. TIMELINE: TITLE IX AND CLERY	122
APPENDIX E. REPORTING RESPONSIBILITIES FOR TITLE IX AND CLERY	123
APPENDIX F. INTERVIEW SCHEDULE.....	126

LIST OF TABLES

	Page
Table 1. Domains of Feminist Policy Analysis	59
Table 2. Domains and Institutional Decision Making	67

CHAPTER I

INTRODUCTION

Statement of the Problem

The World Health Organization identifies sexual violence as a “serious public health and human rights problem with both short and long term consequences on women’s physical, mental, and sexual and reproductive health” and The American College Health Association also recognizes campus sexual assault as a public health epidemic citing environments of rape culture that contribute to health problems, persistent mental health issues, low graduation rates and disrupted academic success. (WHO report on violence and health, 2002; ACHA – toolkit)

One in five college women will experience acquaintance rape during their academic career (Fisher, Cullen, & Turner, 2000). Colleges and universities are critically situated to address this serious public health problem as women on college campuses are more at risk for rape and sexual assault than women of the same age who are not in college (Fisher et al., 2000).

Less than 5% of college women who experience sexual assault report the violation (Fisher et al., 2000). Perhaps more concerning is the fact that few survivors of sexual violence seek mental health services, medical assistance or legal resources. In fact, most survivors who do report do not do so until years after the victimization (Koss & Burkhardt, 1989; Paterson, Greeson, & Campbell, 2009). In

general, crimes of sexual violence are rarely reported, seldom prosecuted and the least likely crime to result in a conviction (Herman, 2005).

Campus sexual violence is a uniquely situated public health epidemic for two reasons: 1) they are sites of disproportionate rates of this crime; and 2) they are well equipped with resources to prevent and respond to the issue as well. Unfortunately, campuses have not been able to prevent sexual violence from occurring on their campuses and rates of sexual violence have historically remained stable in university communities (Banyard et al., 2005).

Colleges have been under increased scrutiny since 2011 when the Office of Civil Rights in the U.S. Department of Education released the “Dear Colleague Letter” linking failure of colleges to protect women from sexual assault to a violation of Title IX of the Educational Amendments (1972). (Kelderman, 2014) Former Vice President Joe Biden created and led a White House Task Force to Protect Students From Sexual Assault. This task force aimed to “strengthen federal enforcement efforts and provide schools with additional tools to help combat sexual assault” (White House Task Force Report, 2014). The section of this report entitled Improving Our Enforcement Efforts prompted the clarification of both Title IX and the Clery Act, a bill passed by Congress in 1990 that required campuses to inform the campus community of any criminal activity, including sexual violence, that occurred. The clarification led to the development of the Campus Sexual Violence Elimination Act (Campus SaVE Act) (Lombardi, 2013). Campus SaVE outlines a number of recommendations for colleges and universities to better comply with

federal guidelines. The recommendations are included in Appendix A and include adjustments to the adjudication process, more training and education for faculty, staff and students, and a broader inclusion of who should report sexual violence to the institution. This study will focus primarily on this final aspect of Campus SaVE: reporting.

Currently, more than 50 colleges are under investigation by the Office of Civil Rights for violating those guidelines and other campuses are taking sharp notice. (Lipka, 2014) Institutions may feel compelled to take a strict compliance approach to interpreting the guidelines to avoid lawsuit themselves. That is, campuses may pass blanket policies in which all members of their campus communities would be required to initiate investigations around incidents of sexual assault. The threat of impending legal action or the loss of federal funding appears to motivate institutions of higher education into compliance (McCallion & Feder, 2014). A recent article in the Georgetown Journal of Gender and the Law states “unlike ever before there is national pressure on colleges and universities to address campus sexual violence” (Dunn, 2014). Interpretation and implementation of federal recommendations can have lasting effects on students’ lives. While blanket policies may offer legal protection for universities, it is not clear if they serve the needs of survivors of sexual violence or the extent to which they contribute to sound prevention and response efforts on college campuses.

Purpose of the Study

This study will examine a) Campus SaVE legislation and the accompanying guidance from the Department of Education and b) campus interpretation of that legislation, subsequent policy development and implementation. The consistent prevalence of the public health epidemic of gender-based violence on college campuses as well as consistently low rates of reporting these incidents indicate the need for comprehensive survivor-centered prevention and response policies and practices at institutions of higher education. Recent federal legislation is meant to increase campus capacity and outline campus mandates to respond to this gender-based violence in their communities. It also aims to situate survivor needs at the core of such efforts. The Task Force Report clearly states: “in all too many instances, survivors of sexual violence are not at the heart of an institution’s response” (White House Task Force Report, 2014). But, it is unclear if the approach released by Campus SaVE will meet its goals. This new federal legislation has sparked strong guidance from the Office of Civil Rights and the Department of Education with compliance dates set in this academic year.

Part of the guidance from this act has loosely clarified the expectation of mandatory reporters on college campuses. Guidance from ATIXA (Association of Title IX Administrators) suggests that all university employees be mandatory reporters (employees responsible for sharing identifying information about an incident of sexual violence to the campus Title IX officer) (Grimmett, et. al, 2015). However, this designation is still left to the discretion of each institution. In other

words, there is currently no standard definition of what constitutes a “mandatory reporter”. Expecting many university employees to be mandatory reporters is a shift for many institutions and will position many faculty and staff who have felt a certain level of confidentiality privilege with students to a different role. Having a better understanding of how institutions are developing and implementing new policies related to the federal guidance about mandatory reporters is foundational in understanding how these decisions may impact campus prevention and response efforts. Currently, the variance in interpretation and policy development resulting from the federal guidance and impact on existing prevention and response efforts is unknown.

The long-term goal of this line of research is to advance the public health effort to prevent gender-based violence on college campuses. By increasing our understanding of how colleges and universities interpret and implement the guidance around Campus SaVE, we will be in a better position to evaluate the impact of those implementation decisions on the prevention and response efforts around sexual violence. The proposed research will provide such an understanding by examining interpretation and implementation at four universities in North Carolina. Once we understand the contexts within which the federal guidance is interpreted and implemented, we can make recommendations for best practices related to policy development.

Research Questions

This study proposed a multi-site case study at three public and private universities in North Carolina that is guided through a poststructuralist feminist frame and uses a phenomenological approach to interview instruments and analysis. Through this design, the study addressed the following questions: 1) How have campus administrators at one private and two public universities in North Carolina interpreted the Campus SaVE legislation and guidance regarding mandatory reporting; 2) What new practices and procedures have two private and two public universities in North Carolina developed as a result of their interpretation of Campus SaVE legislation and guidance regarding mandatory reporting? and 3) What are the experiences and perceptions of administrators at three universities regarding the changes that are being enacted regarding Campus SaVE at their institution.

CHAPTER II

BACKGROUND INFORMATION AND REVIEW OF RELEVANT LITERATURE

Scope and Cost of the Problem

Prevalence

The World Health Organization characterizes intimate and sexual violence against women as a major public health problem and a violation of women's health rights. Worldwide, it is estimated that 1 in 3 women have experienced physical and/or sexual intimate partner or non-partner sexual violence in their lifetimes (WHO, 2016). According to the U.S. Department of Justice's National Crime Victimization Survey, there is an average of 293,066 victims of sexual assault and rape each year (U.S. Department of Justice, 2009-2013). One in six women will experience completed or attempted rape in their lifetime (NIJ, CDC, 1998, Prevalence, Incidence and Consequences of VAW survey).

College Campus Prevalence

College aged women (18-24) are at an increased risk for sexual violence. They are three times more likely than women that age not enrolled in college to experience completed or attempted rape. College aged men enrolled in school are also 78% more likely to experience sexual assault or rape than their non-student counterparts (Bureau of Justice, 1995-2013, 2014, Rape and Sexual Victimization Among College-Aged Females). Between approximately three and ten percent of

college women experience rape during an academic year. Fourteen to 26% of these women also experience rape perpetrated by someone they know making it less likely that they will name their experience in terms of a crime and less likely that they will report the incident (Lam & Roman, 2009). Traditionally aged college women are at the highest risk category for becoming victims of acquaintance rape (Banyard et al., 2005; Fisher et al, 2000).

The Sexual Victimization of College Women, a Department of Justice study, sought to address the disparity between reported sexual assault and actual prevalence. Based on this study's sample of 4,446 college women, it was estimated that a college population with 10,000 women students would experience approximately 350 rapes per year (Fisher et al., 2002). This study has been widely cited as an accurate representation of the prevalence of rates of sexual violence victimization for college women. The study used a randomized sample, and measured self-report victimization with detailed methodology to identify ten types of unwanted sexual violence prevalent on college campuses. Those included: completed rape, attempted rape, completed sexual contact with force or threat, attempted sexual contact with force or threat, completed sexual contact without force or threat, attempted sexual contact without force or threat, completed sexual coercion, attempted sexual coercion, threat of contact with force or threat, threat of penetration without force and threat of contact without force.

More recent surveys have assessed more types of sexual violence and risk factors among college women (Frankin, 2010) and found that other types of sexual

violence victimization include: verbal coercion resulting in unwanted sex, alcohol-induced sexual assault, and completed rapes because of threats or force. The findings of these studies allow us to better understand the prevalence of sexual violence against college women.

Acquaintance and Coercive Assault

It is important to understand the full range of sexually violent experiences faced by college students and the consequences, but it is also critical to understand that a large majority of sexual violence perpetrated on college campuses is acquaintance rape – more than 90% (Sampson, 2002). This is relevant to this study because sexual violence perpetrated at the hands of a known assailant produces a specific set of complications with respect to reporting and healing. In general, most sexual violence is committed by a known offender. But, again, college aged women are at the highest risk of experiencing this type of sexual violence (Lam & Roman, 2009, Banyard et al., 2005, Fisher et al, 2000).

Survivors of acquaintance rape are held responsible for the incident by formal reporting structures (law enforcement, district attorneys) and support networks (friends, family) more stringently than survivors of stranger attacks (Grub & Harrower, 2009). They are often questioned about their decisions in the incident, their own sexual history and their clothing at the time of the assault (Denmark, Rabinowitz, & Sechzer, 2000). This is the case overwhelmingly for all survivors of sexual violence, but particularly those who are victims of acquaintance rape. These factors can deter reporting as suggested by the Department of Justice study on the

Sexual Victimization of College Women and can alter the types of helpful resources a survivor might engage in the aftermath of an assault (Fisher et al., 2000).

Coercive sexual behaviors are also prevalent on college campuses.

Perpetrators use coercion through reinforcing damaging heteronormative cultural stereotypes that suggest male sexuality is aggressive and female sexuality is passive (Weiss, 2009). Female college students report engaging in unwanted sex because they considered it to be the normal interaction between men and women (Gavey, 2005). They describe these experiences as undesired, unsatisfying and unpleasurable. The coercive aggression experienced by these survivors ranges from pressure to engage in sexual activity to situations where women feel forced to comply in order to avoid forcible rape (Gavey, 2005). These instances of sexual violence are not included in many estimations of the scope of the issue. A study attempting to understand the prevalence of these types of violence termed these survivors "hidden rape victims" (Koss, 1985). This study found that 43% of the respondents who did not acknowledge their experience as rape qualified as "highly sexually victimized" based on the study scale and 100% of those respondents knew the perpetrator (Koss, 1985). These "hidden rape victims" are even less likely to report their experience, more likely to engage in high-risk behaviors such as dangerous alcohol use, and at a greater risk of revictimization (Littleton et al., 2009).

Cost of Sexual Violence

Sexual violence has a significant public health cost. According to the National Crime Victimization Survey, between 2005 – 2010, 58% of all female victims of sexual assault sustained an injury (Planty, 2013). Women who suffer sexual violence at the hands of an intimate partner and those who are raped or stalked by any perpetrator are more likely to have asthma, irritable bowel syndrome, diabetes, frequent headaches, suffer from chronic pain, and have difficulty sleeping (NISVS 2010). Specific to North Carolina, a recent study shows that victims of sexual violence are more likely than non-victims to smoke, have high cholesterol and hypertension and to be obese (Cloutier, 2002). Victims of sexual violence are more likely than non-victims to contract sexually transmitted infections, have subsequent unprotected sex, abuse alcohol, or use injection drugs (Wingood, 2009; Bauer, 2002; CDC, 2008; Lang, 2011). Victims of sexual violence are also more likely than non-victims to suffer from a wide range of mental health problems, such as depression, anxiety or post-traumatic stress disorder (NCD, NIMH).

Concern for compounded risk is critical in college populations as well. College aged African American women who experience sexual violence are five times more likely than white women to test positive for a high-risk HPV infection and a study of undergraduate women found that survivors of sexual violence are seven times more likely than non-survivors to suffer from disordered eating (Wingood, 2009; Bauer, 2002; CDC, 2008; Lang, 2011; Fischer, 2010; Gidycz, 2008).

Survivor Agency and Reporting

Research examining the reporting behavior of survivors of sexual violence indicates that survivors value confidentiality. They are most likely to report, if at all, to people personally close to them and not necessarily to a person clearly designated as a campus security authority or mandatory reporter (Buelow, n.d., p. 10; Westat, Ward, & Mann, 2011, p. 72). The tendency to discuss incidents of sexual violence with only those a survivor is close with and avoiding formal reporting procedures occurs out of a desire to keep personal details about a traumatic event from being widely dispersed as well as a common need to rebuild trust in people after an act of sexual violence (Key Components of Sexual Assault Crisis Intervention/Victim Service Resources). Reporting only to people the survivor trusts allows survivors to regain a sense of control over their lives (Key Components of Sexual Assault Crisis Intervention/Victim Service Resources). Due to this valuable role of confidentiality for survivors and the significant way a need for confidentiality shapes a survivor's actions in discussing an incident of sexual violence, how and to whom survivors report is one critical component for college to consider in their response efforts. Research suggests that survivors of sexual violence recover through a process that depends on safety, autonomy, identity, intimacy and trust (Herman, 1992). Healing depends explicitly on empowerment in the ownership of what recovery looks like. Survivors indicate that it is critical to provide direction in the reparation process (Koss & Achilles, 2008).

The Reporting Disparity

Perhaps due to the prevalence of acquaintance and coercive assault, there is a significant disparity between the estimated prevalence of campus sexual violence and the formally reported numbers. It is estimated that 14.7 in 1000 and 58.2 in 1000 female students experience completed and attempted sexual coercion and sexual contact respectively (Fisher, Blevins, Santana, & Cullen, 2004). Yet, campus reports typically indicate 1 or 2 reports through their Clery statistics each year. Less than 5% of survivors of sexual violence report their victimization (Fisher et al, 2000). Additionally, few survivors seek any formal support resources immediately following an incident of sexual violence (Koss & Burkhard, 1989; Patterson, Greeson & Campbell, 2009). Survivors of sexual violence are likely deterred from reporting or seeking resources given the culture of disbelief and blame directed toward victims. As stated in a previous section, this problem is only exacerbated when the sexual violence is acquaintance rape or coercive sexual aggression. Sexual assault crimes are one of the most underreported and infrequently prosecuted crimes in U.S. culture; therefore survivors are also likely aware of the emotional risk/limited benefit of entering into a criminal justice process (Herman, 2005, Alderdan & Ullman, 2012). This feeling of the broader culture can also be translated to college campus adjudication process. It is understandable that students would feel little possibility of justice through a student conduct process. In fact, some argue colleges and universities should not be adjudicating these processes at all (Rubinfeld, 2014).

Low report rates of rape on college campuses reflect difficulties in defining, understanding and acknowledging the systemic underpinnings of violence against women in our culture. They also prevent many from understanding the true scope of the problem of sexual violence on college campuses. Federal legislation attempted to address this issue in the 1990s by requiring institutions to make crimes of sexual violence statistics public through the Clery Act. This Act mandated that campuses publish data from law enforcement, victimization surveys and mental health/physical health agencies (Wagner, 2008). Since those agencies do not often receive reports of incidents of sexual violence in their communities the published data often grossly underrepresents the actual scope (Ullman, 2010). Seeking even further resolution to this issue is an issue that has been tackled recently by federal legislation and guidance. But, it is important to build on positive advancements in legislation and not to establish guidelines that will further deter reporting by survivors.

Legislation

Because of what is known about the victimization of college women, many universities have considered gender-based violence prevention a priority for decades. A recent federal task force sought to bring national attention to this issue and force all institutions to address the problem head-on. The result of this work was guidance around the Campus SaVE Act. The act itself is a small revised section of the Violence Against Women Act Reauthorization – section 304C (Violence Against Women Reauthorization Act of 2013).

The Act consists of recent Violence Against Women Act Amendments to the Clery Act and is meant to expand the scope of that legislation related to reporting, response and education around rape, domestic violence, dating violence, sexual assault and stalking on college campuses. (Violence Against Women Reauthorization Act of 2013).

But, with the act came significant guidance and other task force reports that clarified and expanded the requirement that institutions have primary prevention and awareness programs as well as ongoing prevention and awareness campaigns, and indicated that members of institutions are currently un- or under-informed about how to respond to incidents reported by survivors (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX n.d.; VAWA, 2013). Universities were also heavily criticized for actively discouraging survivors to report their experiences, and/or lacking in their resources around confidential and/or anonymous reporting. (see the report of the U.S. Senate Subcommittee on Financial and Contracting Oversight [2014] requested by Senator Claire McCaskill).

Prior to this legislation, the 2011 “Dear Colleague” letter from the Office of Civil Rights (OCR), the agency within the U.S. Department of Education responsible for the enforcement of Title IX legislation, included the following articulation of responsibilities:

A school should notify a complainant of the right to file a criminal complaint and should not dissuade a victim from doing so either during or after the school’s internal Title IX investigation. For instance, if an complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file

the report.... The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties might be deterred from reporting incidents if alcohol, drugs or other violations of school or campus rules were involved. As a result, schools should consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence (Ali, 2011).

The guidance issued by OCR on Title IX and sexual assault focuses, in part, on the problem of underreporting of sexual assault on college campuses. In doing so, they highlight the concern that universities officials discourage reporting at times. This concern is important, but the remedy of increasing reporting does not necessarily consider what is in the best interest of survivors. In 2012, the penalty for failing to report incidents of sexual assault as required by the Clery Act was increased to \$35,000; however, this increase was only part of a general increase of financial penalties imposed by the Department of Education on the basis of inflation (Department of Education, 2012). Later a bill was proposed that would raise the penalty to \$150,000, but did not pass (Bahr, 2014).

The fact that underreporting of sexual violence has previously served (and in some cases, may continue to serve) certain institutional interests to the detriment of the well-being of survivors does not mean that encouraging reporting necessarily prioritizes survivors' best interests. Yet, we see these multiple compliance-related mechanisms being explored/enacted that attempt to increase reporting and we see

strongly worded guidance to underscore that important to institutions. After the introduction of the Campus SaVE Act in 2013 there have been several supporting guidelines and literature that attempt to help institutions understand their new and refined responsibilities to fulfill these requirements. A table with the history of that guidance can be found in Appendix D. While guidance includes recommendations related to education/training and campus adjudication, much of the recent guidance focuses on mandatory reporting.

Mandatory Reporting

With the increased foci on Title IX requirements, many U.S. colleges and universities have honed in on the designation of “mandatory reporters,” as a way to address the concern about reporting sexual violence. This is a designation that requires any employee of the university who has become aware of an incident of sexual violence to report all details of that incident (including personally identifying details) to the Title IX officer of the institution. This person would be required to initiate an investigation. While colleges and universities are considering that the Title IX legislation itself indicates this obligation that is not accurate. A blanket policy about reporting is neither required by law nor recommended by OCR. Title IX does, in fact, require that “responsible employees” should be designated as mandated reporters. 2001 guidance from the Department of Education’s Office of Civil Rights defined “responsible employee” as “any employee who has the authority to take action to redress the harassment, who has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or

employees, or an individual who a student could reasonably believe has this authority or responsibility” (U.S. Department of Education 2001). One further complicating factor of the legislation with respect to reporting is that the Clery Act requires certain employees to be designated as “Campus Security Authorities”. Those who are designated CSAs have a responsibility to report crimes that occur on campus, including sexual assaults, but those responsibilities differ in important ways from the responsibilities associated with being a mandatory reporter for the purposes of Title IX. (For example, CSAs are not required to report any personally identifying information). Therefore, in light of recent legislation, colleges will most likely have some employees who are mandatory reporters for the purposes of Title IX; some who are CSAs for the purposes of the Clery Act; and some who are both.

The Office of Civil Rights also mandates that confidential support always be available to survivors, and certain employees – such as psychological counselors, or staff members whose primary responsibilities include providing response and assistance to survivors of sexual violence – should be exempt from the duty to report. But, this remains a very small pool of resources and it is likely that the survivor will not have a prior relationship with any of these members of their university community.

Another potential challenge of the legislation with regard to mandatory reporters is that the language is vague, even with the additional guidance provided by OCR. Certainly, the OCR guidance makes clear that universities are expected to determine exactly which faculty and staff are in which category. But, nowhere does

the guidance recommend or even suggest that it's a possibility to designate every employee as a mandatory reporter (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX n.d.; VAWA, 2013). Mandatory reporters, by their very definition are not able to ensure any type of confidentiality and are conversely, required to report any known information (including personally identifying information) to campus authorities such as the Title IX officer. While the guidance is vague and broad in its articulation about who should be a mandatory reporter, it is more narrow in its guidance about what is being reported. So, the resulting guidance creates the conditions in which many campus employees may be sharing very specific and personal information about survivors who approach them seeking confidential resources.

Many colleges and universities are understandably apprehensive about the responsibility of designating particular employees mandatory reporters. Due to the flexibility of the language in the guidance, institutions are concerned about making the wrong decisions and potentially leaving out employees who OCR would consider to be necessary or appropriate mandatory reporters. Designating all faculty and staff as mandatory reporters is one way to remedy this difficulty. This allows the institution to avoid the task of agreeing upon and articulating a rubric by which they would determine mandatory reporters on their campus and also may communicate a sense of seriousness in their approach to sexual violence prevention and response. Interpretations that have been published in the immediate aftermath of the Campus

SAVE act have included such recommendations for this very reason. The Association of Title IX Administrators recommends that all employees of an institution be designated mandatory reporters (Sokolow, 2013).

These sorts of recommendations and approaches have potential detrimental consequences for the community and specifically, survivors of sexual violence. Interpreting the definition of mandatory reporters broadly to include as many people as possible within an institution risks compromising the ability of survivors to (re)build trust and move forward in a way that enables them to be in control over their experiences. In addition, it may place many untrained employees in the concerning position of responding to a mental/physical health crisis in which they have no training. Additional training is certainly one concern outlined in the guidance (Department of Education, 2014). However it is unclear if the time allotted to comply with the necessary training components is sufficient. The discussion at many institutions has even included whether or not they ought to expand reporting obligations to include positions such as resident assistants (student employees charged with reporting alcohol and other conduct violations). Including students as mandatory reporters may be another level of concern to student survivors, particularly in a smaller campus community. A detailed delineation of reporting responsibilities in both Title IX and Clery can be found in Appendix E.

Implications

The purpose of the Title IX legislation, and the OCR guidance on how to comply with it, is meant to counteract institutional tendencies to cover up incidents

of sexual violence. Given what we know about the incidence and prevalence of sexual violence on college campuses, that is an important effort. However, in the case of blanket policies that render all college or university employees mandatory reporters, we have a potential to overcorrect in a way that has injurious implications for survivors of sexual violence, staff responsible for sexual violence prevention and response and campus community members in general. This is a critical and timely issue to explore.

It is imperative to understand how universities are interpreting federal legislation, and developing and implementing campus policy around who is considered a mandatory reporter because those decisions could counteract expanded reporting initiatives laid out by the Campus SaVE Act. This is because while the intention of the expanded reporting requirements set out in the Campus SaVE Act aims to classify more types of incidents as report-worthy, it is well documented that it is rare for survivors to report using formal procedures (Buelow, n.d.,; Key Components of Sexual Assault Crisis Intervention/Victim Service Resources; Westat, Ward, & Mann, 2011; U.S. Subcommittee on Financial & Contracting Oversight, 2014). As a result, increasing the number of institutional roles who must report could lead to even less formal reporting across different types of incidents in order for a survivor to preserve confidentiality and control over a situation, particularly if an institution is not clear on who is or is not campus security authority or has frequently changing campus security authorities. It could be that having fewer, clearly designated positions classified as campus security

authorities would better foster transparency and trust for survivors by enabling them to make informed decisions when they choose to tell someone of an incident they experienced.

Beyond the potential to compromise the actual desires of survivors of sexual violence, interpreting mandatory reporters broadly undermines the concerns documented by both the Campus SaVE Act and practitioners working with sexual violence survivors that institutions do not currently have adequate training initiatives for those who are required to report incidents. The report on sexual violence on campus led by Chairwoman Claire McCaskill supported this concern, finding that institutions have insufficient trainings for sexual assault response for students, staff and faculty, as well as inadequate resources for survivors. It was also found that not all law enforcement officials connected with institutions had training for sexual assault response and it is uncommon for institutions and local law enforcement to have collaborative protocols for responding to sexual violence (U.S. Subcommittee on Financial & Contracting Oversight, 2014).

Further, if it is document that there is currently insufficient training resources for those who are required to report incidents of sexual violence under the Clery Act of Title IX legislation, then expanding who ought to report means there would be an increased chance of inappropriate responses to survivors due to lack of training. Inappropriate responses to survivors can lead to more harm. It may be the case that fewer, more thoroughly trained respondents is the preferable route for

institutions (Key Components of Sexual Assault Crisis Intervention/Victim Service Resources).

Because this federal guidance is relatively new there is limited literature that has addressed best practices of implementation. We do know, however, that legislation intended to create better conditions for survivors of violence historically has had negative unintended consequences. Researchers often link the patriarchal underpinnings of policy making systems to negative unintended consequences for women. This has been cited frequently with respect to domestic violence law (Belknap, 2001; Muraskin, 2003; van Wormer, 2000) and specifically point to the failure of innovative policy to positively impact the experiences of both men and women (Hannah-Moffit, 1995; Lutze, 2003; Lutze and Murphy, 1999; Miller, 1999). This study will set the groundwork for a policy evaluation study that can determine any negative consequences regarding Campus SaVE and will allow for preliminary recommendations on how universities can develop survivor-centered/trauma-informed institutional policy. At the heart of developing policy that centers the needs of survivors is understanding the context of policy development from a feminist framework.

Feminist Post-structuralist Inquiry

Much has been written about how cultural norms and damaging gender roles/narratives give rise to violence against women. Feminist scholars have drawn on theories of patriarchy to outline issues of power and control involved in sexual violence for decades (Brownmiller, 1975). Problematic gender narratives place men

in positions of dominance over women and feminist scholarship elucidates patterns in language and practice that reinforce these narratives and create a culture of objectification of women (Benedict, 2005). Constructing research around an issue that impacts women from a feminist lens is one approach to developing equity in the study of gender-based violence. Because the study is focused on interpretation and implementation at an institutional level, understanding the “production of knowledge” from a written policy is a critical component. The distinction of a poststructuralist feminist approach guides us to center that understanding in the study and to examine that understanding in relation to power.

A feminist post structural approach provides a lens through which researchers can analyze what is accepted as “normal” or routine practice. When used in analyses of policy interpretation and implementation, feminist post-structural approaches foreground assumptions embedded in the naming of problems and examine the discourses around those that may produce unintended consequences of policy solutions (Allen, 2012). It is well documented that despite comprehensive response efforts at many institutions, survivors of sexual violence are already reluctant to report (Patterson, 2009). Incorporating a feminist poststructuralist lens in this work is key to lifting up this understanding as a critical component of any policy development and preventing negative unintended consequences. Institutions of higher education are implementing the guidance from the Campus SaVE Act in this academic year, making the proposed study quite timely. It fulfills a critical gap in research related to the impact of this new federal guidance

on campus efforts to prevent and respond to sexual violence. Since the federal effort is clearly meant to improve campus response to sexual violence, it is critical to know if that is, in fact, the emerging experience of colleges and universities.

CHAPTER III

METHODOLOGY

Research Goals

Section 304 of the VAWA reauthorization is a surprisingly small piece of written text. However, significant guidance, controversy and regulation have emerged from this section of legislation. It is not useful to simply analyze that written document. This study utilized a feminist poststructuralist policy analysis through multi-site case study at four public and private universities in North Carolina (Stake, 2006). The study design blended a multi-site case study approach guided through a poststructuralist feminist frame with a phenomenological approach to interview instruments and analysis. This knowledge can help to guide future policy implementation directions in order to best meet the needs of survivors of sexual violence on college campuses. Data collection included a document review and in-depth interviews with key informants at the different sites.

Stake suggests the use of the term “quintain” to denote “an object or phenomenon or condition to be studied – a target, but not a bull’s eye...” For a multi-case study, the quintain represents the collective target which may be a program or phenomenon. In this case study design, single sites or manifestations of the quintain were explored – but it was the quintain that the study sought to understand

(Stake, 2006). A qualitative multi-site case study design was used to develop an understanding of their relationship with the quintain. In this case, the quintain was not be the language in the Campus SaVE Act itself or recent federal guidance surrounding mandatory reporting from this Act. The quintain was the phenomenon of interpretation and implementation of the guidance around the Campus SaVE act. The purpose of the research was to study the cases for what they tell us about the quintain (the interpretation and implementation of legislation and guidance on four university campuses) (Stake, 2006).

Research Questions

This study aimed to answer the following research questions: 1) How have campus administrators at two private and two public universities in North Carolina interpreted the Campus SaVE legislation and guidance regarding mandatory reporting; 2) What new practices and procedures have two private and two public universities in North Carolina developed as a result of their interpretation of Campus SaVE legislation and guidance regarding mandatory reporting? and 3) What are the experiences and perceptions of administrators at four North Carolina universities regarding the changes that are being enacted regarding Campus SaVE at their institutions?

Qualitative Methodology

Qualitative methodology seeks to understand rather than to explain or predict. It is particularly appropriate with topics where little is known. Lincoln and Guba suggested that qualitative research is situational and reveals experiential

knowledge, which is a most appropriate compliment to the feminist post-structural lens as well (Lincoln & Guba, 1985). More specifically, qualitative methodology focuses on the following: a) the researcher as an instrument of data collection, b) the use of multiple data sources, c) an evolving research design, d) use of a theoretical lens, e) interpretive inquiry, f) inductive analyses and g) a holistic account of the phenomena being studied (among other characteristics) (Creswell, 2007). This study incorporated these elements. The study also relied heavily on a feminist post-structuralist framework to guide the development of the interview schedule, document review and theme development in the analysis. Because of these factors reflective practices of the researcher (outlined in more detail in the positionality section), qualitative design best fit the needs of the study.

Qualitative research “recognizes that invalidities and advocacies are ever present and turns away from the goal as well as the presumption of sanitization (Stake, 1995). The sense of advocacy is a central thread in feminist framework and in sexual violence prevention and response work – both intimately connected to this study. Researcher as advocate was also an important element in the design. Most present-day qualitative researchers believe that knowledge is constructed rather than discovered (Guba & Lincoln, 1982, Steffe & Kieren, 1994, Schwandt, 1994). Human construction of knowledge relies on clarifying descriptions and molding interpretations through “thick description”(Geertz, 1973). This qualitative understanding of construction is foundational in the support of a feminist post-structuralist framework.

Theoretical Framework

While this study did not seek to examine the language of a policy itself, it was helpful to look to a feminist post-structuralist policy analyses as a framework for the qualitative multi-case study. I utilized feminist perspectives as a theoretical lens that served to illuminate policy issues that have specific implications for women in a college setting (Allan, 2003). Feminist theories place gender relations at the center of the inquiry and typically have emancipatory and critical aims (Marshall and Rossman 2016). Feminist frames are particularly useful for uncovering institutional forces of oppression by naming the woman's subjective experience (Marshall, 1997). Policy analysis that uses a feminist (and poststructural) frame disrupts traditional policy analysis and creates research agendas that are capable of offering emancipating action (Lather, 1991). The focus on the "humanity of the participants" and the fundamentally interpretive nature of qualitative research is critical for this study to support the feminist post structural framework that guided the questions and analysis.

A feminist lens is defined by a commitment to eliminating subordination and oppression in social institutions and a belief in the liberation of those institutions toward equity for all members, specifically marked by a focus on gender relations and women's liberation (Ladson-Billings, 2000; Lather, 1991; Tierney, 1992; Tisdell, 1998). More recent feminist analyses include an intersectional lens, that speaks to the constellation of identities, experiences, etc... that make up the experience of being woman and existing as woman in a society that privileges man/masculinity.

An intersectional perspective states that women's experiences/identities are not homogenous. Rather, gender is influenced by other sociocultural identity factors such as race, class, sexualities and ability. (Collins, 2000; Ladson-Billings, 2000; Lather, 1991; Olesen, 2000; Wing, 2003). This research aimed to include multiple and intersecting identities in its design in keeping with this aspect of feminist scholarship.

Poststructuralism helps to interrogate what is inherent in policy and policy development – the control and production of knowledge and the ways that policy undergirds the power (or capacity to act) of individuals in various sociocultural contexts (Ball, 1994; Marshall, 1999). Because the study was particularly interested in both the interpretation/development of the policy and the implementation of the policy at various universities, adding the layer of a poststructuralist lens helped to illuminate how the production of knowledge was occurring and the power structures that exist within the development of that production.

I used a feminist post structural framework to examine policy within the context of postsecondary education. Several examples of that have been highlighted in Elizabeth Allan and Susan Iverson's work "Reconstructing Policy in Higher Education". This framework is a compliment to what Creswell defines as central research, which is to "provide a lens that shapes what is looked at and the questions asked" (Creswell, 2009).

Specifically, a guiding framework was developed from four domains highlighted in Beverly McPhail's work on Feminist Policy Analysis. In keeping with

the qualitative methodology, McPhail suggests that “fitting the analyst often means fitting with the ideology and values of the analyst based on their personal, professional, and political views and identities as well as academic disciplines and skills (McPhail, 2008). Using the feminist post-structural policy analysis framework precisely “fits” the researchers scholarly, professional and personal expertise and values and is explained at length in the *positionality* section.

Beyond the fit, several domains of McPhail’s feminist policy analysis framework were salient to the proposed topic. While feminist policy analysis could focus on varying domains, the issue of sexual violence and the context of the university setting call us to center the issues of: ***power, values, state-market control, and multiple identities***. While McPhail includes other domains such as language or gender neutrality as part of potential feminist policy analysis frameworks, the four foci for this study were central to addressing sexual violence on college campuses. For example, aiming for gender neutrality would not be an effective frame of research involving sexual violence given the prevalence rates and risk factors for women.

Examining the values of the institution and the power structure undergirding the policy interpretation and implementation allowed for better situation of the context. For example, we were interested to know if we would find that public institutions experience different barriers or perceived constraints from the reliance on federal funding than do private institutions when it comes to federal compliance. We thought we might find that when powerful offices at the institution (such as the

Provost's Office or Chancellor's office) are involved in policy interpretation, implementation is resourced differently.

Multiple identities and state-market control are other domains of particular concern for this study. In seeking to better understand how policy interpretation and implementation situates the agency of sexual violence survivors, examining the efficacy of attending to a diverse range of individual identities is critical.

Additionally, understanding how the institution itself interacts with survivors is in question. For example, we wanted to know if we could uncover how a particular policy interpretation might increase a survivor's dependence on the "state" (or, in this case, the institution of higher education)? Do all individuals even feel welcome in the "market" (for example, would LGBTQ students see themselves in the resource outreach)? For these reasons, and others likely to be uncovered through the proposed research, the four proposed domains felt most salient.

Case Study

The researcher proposed a multi-site case study with in depth interviews and document review utilizing a feminist poststructuralist interpretive strategy. A successful case study researcher is both advocate and constructivist, among other things (Stake, 1995). This study design enabled the researcher to excel at both these elements. An accomplished case study researcher champions the interaction of themselves as instrument with the phenomena being studied and leave on their "cloak" of advocacy. Case study is a particularly useful approach as it allowed for the incorporation of multiple voices, a variety of data collection tools and the ability to

integrate a diverse range of interpretive strategies (Marshall and Rossman 2016). Yin suggests a twofold definition of case study, first focusing on the scope. Yin states that a case study is an empirical inquiry that “investigates a contemporary phenomenon (the “case”/quintain) in depth and within its real world context, especially when the boundaries between phenomenon and context may not be clearly evident” (Yin, 2014). Second, Yin describes the features of a case study as “a) coping with the technically distinctive situation in which there will be many more variables of interest than data points; b) relying on multiple sources of evidence with data needing to converge in a triangulating fashion; and c) benefiting from the prior development of theoretical propositions to guide data collection and analysis” (Yin, 2014). Because this study is focused on a quintain or phenomenon that is “living” (the interpretation and implementation of the federal legislation/guidance), this approach suits the research questions well.

A case study design is especially suitable when it centers intensity and depth along with the ability to explore the interaction between case and context as in this proposal (Flyvbjerg, 2011). A critical component of this study was to unearth the particular relationship between each institution and the federal policy to deeply understand how and through whom each institution interpreted and developed the practices for their institution (the quintain).

One criticism of case study design is the generalizability of the data. However, more recently case study is being recognized as a method for constructing practical knowledge that is responsive to its environment (Marshall and Rossman

2016). That understanding was central to this study. As the landscape around this recently emerging guidance changes, the case involvement may change. The case is intimately dependent on and quite likely to be changing in relation to its environment through the course of a study such as this. A small N case study was suggested for refining, specifying and elaborating through theory (Vogt 2014). A small N allowed for the depth of understanding while providing the ability for comparison between institutions.

Positionality

The researcher had worked in the field of sexual violence prevention since 1996. She started her work as an advocate and community educator through a local rape crisis center that supported her in my own healing process. She had no intentions of making sexual violence prevention work a career. But, like many individuals who are impacted by violence and/or oppression, working to end it can just feel like a calling. She soon began working in the court system with women who had experienced sexual and domestic violence and realized there are broader systemic issues that are barriers to addressing such issues effectively. But, it was her work in public health that finally provided her with the frame that made sense for addressing such a global epidemic.

Working in several positions in the public health field connected her to professionals who focused on population based approaches and systemic changes. So began my work with college students (the most widely impacted group in the U.S.) and colleges (the communities in which this epidemic spreads).

She had worked at her home institution since 2005 when beginning the study. She was hired to develop their campus wide initiatives around sexual violence prevention and response and had progressively grown in responsibility in her roles subsequently. Her current position is in a senior leadership department and oversees violence prevention efforts on campus to include the bias and harassment response protocols and policy development. She is also responsible for the development of diversity education efforts for faculty, staff. While her current position was a bit more removed from the daily response to students, faculty and staff who have experienced sexual violence, she remains instrumental in the development of those efforts on campus. The issue of sexual violence and those working to prevent and respond to that issue are always close to her heart and mind.

She currently serves on the campus-wide presidentially appointed task force that is charged with interpreting and implementing the recent federal legislation and guidance. She works closely with the educational component and had begun to see the tensions around the question of mandatory reporting intimately as part of this group. The responsibilities in her professional position required that she develop (and sometimes deliver) the educational components that will accompany the decisions made around reporting. She had also been closely connected to the decision-making process regarding mandatory reporting. She continued to work closely with her colleagues through this study. Two participants in the study had direct offices that worked very closely with her position and were situated in close

proximity to the researcher throughout the course of the study. They see each other daily and have had positive history connected to this work but did not interact regarding the study during the course of the study. The researcher also had positive history and connections with all proposed participants at the other institutions. The chair of her committee worked closely with some of the proposed participants at several institutions as well. Another close colleague in this work connected her with the proposed participants at two of the suggested research sites before the study began.

Benbow (1994) suggests that there is a “Conceptual Funnel” to social action. The funnel begins broadly with the general phenomenon (in this case: sexual violence), and “funnels” it’s way down to the specific, researchable question. It includes individuals who are committed to social change around this issue. The experiences that those individuals have shape the development of their commitment and their ability to focus on that specific, researchable question. Significant aspects of the researcher’s personal and professional background led her to her current position and this study proposal. Her experiences as a survivor, professional, and activist gave rise to the methodological framework and sense of urgency around exploring these questions. The urgency was based on her belief (and supporting research) that broad ranging, compliance oriented mandatory reporter policies are detrimental to the efforts of effective survivor-centered response. These reporters may or may not be adequately trained and they are likely not invested in survivor-centered response approaches to sexual violence. It was

critical to keep reflexivity in the forefront of each interaction with this study. That theme is addressed in several subsequent sections.

Pilot Work

While no preliminary pilot had been conducted with this specific study in mind, one of the sites already housed data that pointed to the need for such an investigation. One university collects American College Health Association and National College Health Association (ACHA/NCHA) data regarding students' experiences with sexual violence which most recently indicates 4.9 % of men and 10.8 % of women experienced sexual violence in the 12 months prior to taking the survey. In addition, one of the departments at this institution (which works closely with the office of the researcher) collected data from all 2014 first-year students through several campus-wide studies. One hundred thirteen students (11%) reported being *taken advantage of sexually* in the two weeks prior to taking the survey and an additional 51 students (5%) reported *taking advantage of someone sexually* 60 days after arriving on campus. These data support the need to ensure that prevention and response resources are functioning optimally.

Data was also collected this year from mandatory reporters who recently attended a training workshop on the responsibilities of the mandatory reporter designation. This sample includes 80 current participants from a range of departments across campus and is positioned to collect data from another 30 – 50 participants before this study begins. The preliminary data shows that about half of the respondents feel as if the designation will have a more negative than positive

impact on their relationship with students (53% n=42). Additionally, only 19% (n=15) felt “completely confident” they had the skills necessary to carry out their role as mandatory reporter. Because of some of this preliminary work and the existing relationships formed with the researcher and other colleagues around the issue of training mandatory reporters, a successful recruitment structure was already established for the proposed study, minimizing its start-up time.

Research Sites

Four sites were proposed for the study design: two public and two private institutions. Two of these institutions are mid to large sized public institutions and two are small to mid sized private institutions. Defining these sites for the design involved defining the organization to be studied as a university in reasonable proximity to the researcher’s home institution. Because the study was interested in determining factors/context that influence the interpretation, development and implementation of guidance around mandatory reporting from Campus SaVE on college campuses, it was important to have a group of institutions, even within the bounds of geographical limitations, that represent diversity in several factors that may have influenced interpretation and implementation of policy.

For the purposes of this study, the two factors considered were public v/s private designation and size. The public v/s private designation is expected to be a prominent factor in the interpretation and implementation of the guidance. Public institutions may be subject to state regulations regarding compliance that private institutions are a bit more flexible around. Further, as suggested in Mandatory

Reporting of the Background section, smaller schools may already feel like an environment where confidentiality and anonymity are more difficult to achieve. With that being central to the trust in a reporting system – both variables were of interest to this particular study.

Additionally, the researcher had prior knowledge that these institutions have made a diverse range of decisions about mandated reporting at their respective institutions. At least one institution has decided that all employees are mandatory reporters. Several institutions had decided that not all employees are mandatory reporters but vary in their decision making process about designating Responsible Employee. Within that variation, it is unknown if this process of appointing them was underway at their location. Still more variability was possible given that the researcher did not know everything about decision making related to this issue.

Data Collection

The researcher proposed a document review and 2 in-depth interviews, at each site. Both the document review and the in-depth interview process took place in an iterative approach. The first step in the data collection process involved entering into an informed consent and mutual agreement for working together through this process. Before data collection began, the representative (usually the Title IX coordinator) in consultation with other members of the institution agreed to the study parameters. Part of the consent process involved agreement for the researcher to have access to institutional documents related to the policy interpretation and implementation process (to include any educational materials

used in training). Ultimately, the researcher only had access to publically available documents despite the agreement at the outset of the data collection process.

The document review included policy and practice documents that involved interpretation of Campus SaVE guidance, decision-making and requirements for Responsible Employees, and any training materials associated with mandated reporting. The researcher requested training materials used in education of mandatory reporters. When on-line training contracts were developed with external companies or internal power-point presentations were used, they were part of the document collection as well. Further, when institutions had developed training curricula, those were documents collected in the document review. Document review did not give rise to additions and adjustments in the interview schedule, though it was considered as part of the study design. In keeping with qualitative inquiry, the researcher allowed for this adjustment and additional consultation with the committee chair in making decisions about adjustments to the document review.

To give a sense of scope of the document review, there were 94 documents on the Moodle site that is utilized by the home institution Task Force that interpreted and implemented this policy and guidance. Some of those documents are general background documents; not as useful to the document review proposed in this study (though, all documents were read).

The in-depth interviews were conducted with the Title IX officer at each institution (or comparable position designation), and the employee responsible for sexual violence prevention education and/or response. Drawing on a

phenomenological approach that suggests several long, in-depth interviews with individuals at the heart of the quintain, the study researcher relied on two interviews at each institution with the option for follow up (Marshall & Rossman, 2016). The phenomenological approach suggests that the essence of the individual's experience can be derived from an analysis of expressions of self found in narrative inquiry through in-depth interview (Husserl, 2012). In this approach the actual number of interviews was limited to allow the researcher to focus deeply on the essence of the experience for each person. Each interview was conducted in the participants desired location. Some of the locations included: the participant's office, the researcher's office, or a mutually agreed upon, neutral location. Interviews took between one and a half and two and a half hours. Shorter, follow up phone interviews took place for clarification of findings.

The researcher used semi-structured interviews. Charmaz underscores that "researchers are part of the world we study and the data we collect (Charmaz, 2006). Therefore, she worked from a self-developed interview guide that was designed to be responsive to the interplay between researcher and interviewee. The guide was developed from Appendix B, which contains domains drawn from the work of Beverly McPhail in feminist policy analysis (McPhail 2003) and outlines interview questions developed from the feminist poststructuralist framework. The guide is located in Appendix F. An average of 5 minutes per question response was allotted in the development of the guide. The guide contains questions from each of the 4 domains put forward in the framework (*values, state/market control,*

multiple identities, and power). Six questions were selected from each category to more evenly allow for understanding within the four domains. Further, for each domain, three questions were selected that represent interpretation and three that represent implementation. The researcher allowed for more depth in one area or another depending on the participants' intimacy with each area and/or the institutional progress along each. Probing questions were added to achieve depth. A template guided by Appendix B and developed by the researcher in consultation with their committee chair was used for each case report developed in data analysis. The case report template is Appendix G.

The researcher kept a journal throughout the process of data collection and analysis to attend to the issue of reflexivity in qualitative approaches. The documents from each site were stored in her locked office on her home campus or on my computer when offered electronically. The interviews were recorded digitally and stored on the researcher's university computer. The recorders were housed in her locked office. All analytic memos and journal entries were stored on her computer and within the office as well.

Data Analysis

Wolcott describes data analysis as a transformational process (Wolcott 1994). Marshall and Rossman underscore the importance of writing as part of the transformational process (Marshall & Rossman, 2016). Knight recommends writing early, often and throughout the analysis phase (Knight, 2002). Data preparation and analysis began immediately upon collection of the first data. Because case studies

often begin with better understanding a history to provide background and a richer grasp on context (Marshall & Rossman, 2016), the researcher asked for the documents prior to the scheduled in-depth interview. Analytic memos were developed for the document reviews that were structured around the themes from Appendix B. The memo served as a content analysis and used a method that focused on the presence and meaning behind what is present in the documents to draw inferences about the message (Busch et al., 2005). This process sometimes also made note of what was absent from documents or what documents have yet to be generated by the site and developed meaning from that as well. Analysis of the documents involved the development of codes within the themes guided by the frame. The researcher developed codes that were categorized under the domains of: *values, state/market control, multiple identities, and power*. For example, in the document analysis, an addition to the student handbook regarding mandatory reporting might state an aspect of institutional values about sexual violence prevention. A code related to that data might have been categorized within “values”. Or, a planning document might have outlined how a committee determined who would make the decision about appointing mandatory reporters. Depending on context, a code related to this might have been categorized within “state/market control” or “power”.

Analytic memos and coding was also utilized for the in-depth interviews. Memos were written both before and after the transcription process that took place within 48 hours of the interview. The pre-analytic memo contained coding of both

the institution's process regarding interpretation and implementation of the guidance, but also the interviewee's experience and understanding within that process. For example, a participant might have responded: "I just don't feel my institution thinks this is an important issue." This response might have given rise to a particular code categorized under the "values" domain. In addition to the codes regarding interpretation and implementation, and experience, observations about the interview process itself such as "the interviewee was potentially distracted by several interruptions at the beginning of the process." This approach to analytic memo writing was a great stimulus and challenges one's thinking (Knight, 2002). Analysis of the in-depth interviews also followed a phenomenological approach and began from an assumption that there is an essence of the individual's experience in the process of interpretation and implementation of the legislation and guidance (Marshall & Rossman, 2016).

A combined case report was produced within a week of the completion of the second in-depth interview. The study followed a cross-case analysis as expanded upon by Stake. Stake suggests that a cross-case analysis deals with the "case-quintain dialectic" (Stake, 2006). That is, the themes originated in the planning of the study will meet the codes from the various sites (which have also been categorized within the themes) developed throughout the study. When these factors finally meet, they provide both a strengthening of the depth of understanding and a merging of the two conceptual orientations (Stake, 2006). For example, if it was coded that private institutions place high value on the inclusion of survivors' voices

in policy development and public institutions did not indicate the inclusion of survivors' voices, that was the kind of factor that was considered in developing assertions. A matrix for generating theme based assertions and examining the strength/utility was utilized. Stake provides multiple examples of worksheet templates that utilize this approach (Stake, 2006). The strongest factors became the assertions of the researcher in the final two manuscripts of this study. The table in appendix B informed the interview guide, the categorization of coding and the organization of the final cross-case analysis across themes. The cases were compared and contrasted across the variables and included a comparison of the experiences of the key informants as actors in the process of policy interpretation and implementation (the quintain). The analysis also allowed for other variables to emerge that were of interest.

Validity

Tracy suggests eight criteria of quality in qualitative research (Tracy, 2010). While this study works to consider all the criteria included in the "big tent", four emerge as particularly salient to this design and my positionality.

The study is a **worthy topic**. It has significant meaning to me and to the field of sexual violence prevention and contributes to a contemporary controversy (Guba and Lincoln, 2005). It is particularly relevant to the researcher's work, and has potential for being foundational in pointing out glaring misconceptions in federal efforts regarding effective sexual violence (I.e. more reporters does not equate to better sexual violence response).

Sincerity is also strongly present in this study and its design. The researcher was honest and most vulnerable – even sharing her own experience as a sexual violence survivor as a catalyst for her professional path. She outlined multiple mechanisms for self-reflexivity and journaled regularly through the course of this study. She also had regular meetings planned with her committee chair. This was a helpful process in the development of the proposal and continued to contribute to transparency in research decisions throughout the process.

The thick description and abundant and concrete detail of the complexity of the participant's experiences contributes to the **credibility** of the study (Bochner, 2000; Geertz, 1973). The researcher allowed for long interview processes, review of extensive documentation and time for follow up and member reflection. The findings will be shared with the participants for reflection, clarification and validation (Lindlof & Taylor, 2002).

Finally, the study strived for **meaningful coherence**. Tracy states that meaningful coherence occurs when the research “eloquently interconnect{s} the research design, data collection and analysis with their theoretical framework and situational goals” (Tracy, 2010). The significant reliance on the feminist poststructuralist framework in this design guided and supported her positionality as a survivor, advocate, and professional working with an issue that deeply impacts women's health. An openness to new variables and areas of interest, multivocality (through various data sources), and a feminine discourse are all hallmarks of

poststructuralist design and guided the meaningful coherence of this study design (Lather, 1993).

Limitations

Several limitations were noted for this study: 1) Timing of Data Collection, 2) Lack of Diversity of Sites, 3) No Intentional Inclusion of Survivor Voices, 4) Potential for Loss of Contextualization, and 5) Limited Information about Impact of Policy/Practice on Prevention and Response Efforts.

The data collection took place in the summer months. Faculty are typically off contract summer months. The proposed participants were staff members, and therefore, less likely to be on ten or nine month contracts. But, vacation time and adjusted summer schedules were considered in planning and scheduling. The same was true for access to committee support. All members of the doctoral committee are faculty members who were off contract in the summer. The researcher remained in electronic contact through the course of data collection.

Secondly, the study did not include universities with specific populations that would add to the ability to more closely examine the “multiple identities” domain. HBCUs, Women’s colleges, Community colleges, and others were not included in the site sample. In order to achieve the depth of understanding of the experience and allow for document review of up to 50 documents per cite, the scope of the study had to be limited.

It is also important to note that the study did not intentionally include survivor voices in the in-depth interview process. The feminist framework would

suggest it important to address power by including survivor voices (and in particular, voices of women) in any attempt to understand a phenomenon that impacts sexual violence. Significant risk is present in any study of human subjects that seeks to unearth feelings of trauma. In order to be ethically sound, the required resources (time, available counseling services, multiple interviewers, issues of confidentiality) were not feasible. However, it was noted that many professionals involved in sexual violence prevention work are survivors themselves. Care was taken to address all correspondence and framing as related to their professional roles.

Another commonly cited limitation of qualitative approaches is the potential for losing sight of the contextual relationships (Maxwell, 2012). This was important to note in this study as significance is placed on context through the framework and phenomenological approach to interviewing. Case study approach was chosen to better retain the unique context of the phenomenon being studied (Hesse-Biber & Leavy, 2011, Yin, 2003). However, in cross-case analysis that unique context can be lost. This study controlled for this limitation by keeping the number of cases small and focusing on a few variables for cross-case comparison.

Finally, the study was limited in what it can uncover about the impact of these policies and procedures on sexual violence prevention and response. It is critical to know what decisions universities are making before we are able to learn more about how those decisions are impacting efforts. Currently, it is not known the range of decisions being implemented around Campus SaVE. Given the murkiness of

the legislation and guidance itself, understanding the “what” was the first step. Further, we were in the first academic year of these campus changes during this study. It would have been difficult to draw any causal relationships about impact at this point. Future research can include how those decisions have impacted prevention and response efforts.

It is expected that the rich description that emerged from these data will provide a foundation for thinking about next steps in decision making regarding mandatory reporting on college campuses. Over the next few years, colleges and universities will begin to see the impact of their decisions regarding mandatory reporting. It is expected that they will be considering approaches to training and education and adjustments around Responsible Employee designations. These data may also illuminate some emerging issues surrounding those decisions.

Ethical Considerations

Of particular concern in studying sexual violence is the protection of survivors of assault and respect for their confidentiality. As stated in the limitations this study did not propose to intentionally interview survivors of sexual violence. Interviews were conducted with professionals who are in roles in which they expect to field questions such as the ones proposed in this research. In addition to the concern regarding survivors of sexual violence, is concern about access to documents for the document review. The researcher only asked for documents that could reasonably be made available to the public and requested access to those documents at the beginning of data collection. Revealing information about how a

university has decided to incorporate federal guidance about mandatory reporting may cause unintended harm to the institution. The researcher consulted with the key informants at each institution before representing decisions in documents released for publication. As stated in the positionality section, the researcher holds a highly visible position related to these issues at one of the proposed sites and was a student at another. Reflexivity was observed and practiced throughout the study and specifically, prior to engaging in the document review and interviews with the two sites at which I she is more intimately connected.

CHAPTER IV
ILLUMINATING PATHWAYS TO FEDERAL COMPLIANCE

Abstract

This multi-site case study examines multiple pathways taken by three universities seeking to achieve compliance with federal guidance outlined in the Campus SaVE Act. This manuscript explains several domains central to feminist policy analysis that shaped the decision making of each institution.

Background

Sexual Violence on College Campuses

College aged women (18 – 24) are at an increased risk for sexual violence. They are three times more likely than women that age not enrolled in college to experience completed or attempted rape. College aged men enrolled in school are also 78% more likely to experience sexual assault or rape than their non-student counterparts (Bureau of Justice, 1995 – 2013, 2014, Rape and Sexual Victimization Among College-Aged Females). The American College Health Association recognizes campus sexual assault as a public health epidemic citing environments of rape culture that contribute to health problems, persistent mental health issues, low graduation rates and disrupted academic success (WHO report on violence and

health, 2002; ACHA – toolkit). Ninety percent of sexual violence perpetrated on college campuses is acquaintance rape. (Sampson, 2002).

Violence perpetrated at the hands of a known assailant produces a specific set of complications with respect to reporting and healing. Survivors of acquaintance rape are held responsible for the incident by formal reporting structures (law enforcement, district attorneys) and support networks (friends, family) more stringently than survivors of stranger attacks (Grub and Harrower, 2009). Perhaps due to the prevalence of acquaintance and coercive assault, there is a significant disparity between the estimated prevalence of campus sexual violence and the formally reported numbers. It is estimated that 14.7 in 1000 and 58.2 in 1000 female students experience completed and attempted sexual coercion and sexual contact respectively (Fisher, Blevins, Santana, & Cullen, 2004). Yet, campus reports typically indicate 1 or 2 sexual assaults through their Clery statistics each year. Less than 5% of survivors of sexual violence report their victimization (Fisher et al, 2000).

A White House federal task force convened in 2014 sought to bring national attention to the issue of sexual violence on college campuses, and very specifically, wanted to address the reporting disparity and the perception that colleges and universities wanted to minimize or conceal the epidemic of campus sexual assault. The result of this work was guidance around the Campus SaVE Act. The act itself is a small revised section of the Violence Against Women Act Reauthorization – section 304C (Violence Against Women Reauthorization Act of 2013). Universities are just

beginning to understand what interpretation and implementation of this guidance means for their communities.

Federal Guidance

The Campus SaVE Act consists of recent Violence Against Women Act Amendments to the Clery Act and is meant to expand the scope of that legislation related to reporting, response and education around rape, domestic violence, dating violence, sexual assault and stalking on college campuses. (Violence Against Women Reauthorization Act of 2013) With the act came significant guidance from the Office of Civil Rights and private entities, and other task force reports that clarified and expanded the requirement that institutions have primary prevention and awareness programs as well as ongoing prevention and awareness campaigns. The report also suggested that members of universities are un- or under-informed about how to respond to incidents reported by survivors (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX, n.d.; VAWA, 2013).

Universities were also heavily criticized for actively discouraging survivors to report their experiences, and/or lacking in their resources around confidential and/or anonymous reporting (see, for example, the report of the U.S. Senate Subcommittee on Financial and Contracting Oversight [2014] requested by Senator Claire McCaskill). Therefore, this legislation also outlined guidance around designating some employees of the institution to be mandatory reporters or “responsible employees”. Employees with this designation would be required to

report all details of a sexual assault incident of which they become aware (including personally identifying details) to the Title IX officer of the institution. With this report the university officially knows of the incident and an investigation is initiated.

A significant challenge with this legislation is that it is vague, even with additional guidance provided by the Office of Civil Rights. Rather than providing clarity about *who* should be a mandatory reporter, the Campus SaVE Act expands *what* must be reported to include domestic violence, dating violence, and stalking in addition to criminal offenses previously covered by the Clery Act. Therefore, the Act leaves colleges to establish the reporting roles internally through their own rubric. The OCR guidance does make clear that they expect universities to go through a discerning process, keeping in mind their own policies, as they determine which faculty and staff to designate as mandatory reporter. Nowhere does the OCR recommend or even mention the possibility of designating every employee as a mandatory reporter (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX, n.d.; VAWA, 2013). Because mandatory reporters are required to share any and all information that they have about a sexual assault with the Title IX officer, the OCR does emphasize in its guidance the importance of educating the community about who is, and who is not, a mandatory reporter, and what that designation entails.

The Campus Conundrum

Many colleges and universities have been unsure about how to effectively determine who should be a mandatory reporter, especially because making the wrong judgments (that is, failing to include a faculty or staff member on the list of mandatory reporters when they ought to be included) could render the institution vulnerable in any investigation undertaken by the OCR. Because of these complicating factors other recommendations have emerged regarding mandatory reporters. The Association of Title IX Administrators, for example, recommends that all employees be designated mandatory reporters (Sokolow, 2013).

Designating all faculty and staff as mandatory reporters has both advantages and disadvantages to the institution. On the plus side this option avoids the need for university administrators to make complex decisions or employ complicated rubrics, simplifies the message regarding mandatory reporting to the community, and perhaps even can be provided as evidence of the seriousness with which the community takes the issue of sexual violence. The downside of this approach is that it increases the number of people who must be trained as mandatory reporters (Department of Education, 2014, 38-39) and potentially puts employees who should not be mandatory reporters in a difficult place related to their positional responsibilities.

Significantly interpreting the definition of mandatory reporters broadly to include all employees risks compromising the ability of survivors to (re)build trust and move forward in a way that enables them to be in control over their

experiences. The discussion at many institutions has even included whether they ought to expand reporting obligations to include positions such as resident assistants (student employees charged with reporting alcohol and other conduct violations) and how/if institutions should be adjudicating these cases. (Rubenfeld 2014) Including students as mandatory reporters may be another level of concern to student survivors, particularly in a smaller campus community.

Formally reporting incidents of sexual violence is one avenue by which survivors of such violence can get connected to resources such as class accommodations, medical care, and legal redress. If survivors report, institutions of higher education can potentially identify a perpetrator who can be held accountable. Since perpetrators often commit multiple acts of sexual violence before facing any charges, identifying offenders can contribute to prevention. (Lisak, 2002) It would seem useful then to bolster efforts to increase reporting on college campuses. However formal reporting and adjudication mechanisms have also contributed to re-victimization of survivors through the perpetuation of rape culture, rape myths and a general lack of understanding/training/education regarding dynamics of sexual violence. In fact, some argue colleges and universities should not be adjudicating these processes at all (Rubenfeld 2014).

While it was the intention of the expanded reporting requirements set out in the Campus SaVE Act to classify more types of incidents as report-worthy, it is well documented that it is rare for survivors to report using formal procedures (Buelow, n.d., p. 10; Key Components of Sexual Assault Crisis Intervention/Victim Service

Resources, p. 1; Westat, Ward, & Mann, 2011, p. 72; U.S. Subcommittee on Financial & Contracting Oversight, 2014, p. 1). Therefore, increasing the number of institutional roles who must report could lead to even less formal reporting of incidents of sexual violence.

Additionally, training and resources for those who have been required to report incidents of sexual violence under the Clery Act or Title IX legislation has been insufficient (such as law enforcement and campus advocates) (U.S. Subcommittee on Financial & Contracting Oversight, 2014, pp. 1-2). Therefore, expanding the number of people who are required to report could present an increased chance of that survivors who report to someone will receive an inappropriate response due to lack of training. Inappropriate responses to survivors can lead to more harm (in direct conflict with the intention of the Campus SaVE legislation (Key Components of Sexual Assault Crisis Intervention/Victim Service Resources p.2). This study sought to understand how institutions resolved this conundrum through their interpretation of the guidance and decision-making processes regarding new policy.

Methods

Theoretical Framework

A feminist post-structuralist policy analysis framework was used to guide the study. Specifically, Beverly McPhail's work on Feminist Policy Analysis supplied four theoretical domains that directed the research questions and analysis. McPhail argues that there are important times to employ a feminist policy analysis and that

the use of such an analysis can illuminate issues that negatively impact women with policy development left uncovered by other frameworks (McPhail, 2008)

McPhail's theory includes 12 domains: feminist values, state-market control, multiple identities, equality, special treatment/protection, gender neutrality, context, language, equality/rights and care/responsibility, material/symbolic reforms, role change and role equity, power analysis, and an "other" category that includes questions about stigma, scholarship and backlash. In this study, four of these 12 were selected to guide interview questions and document review: *feminist values, state-market control, multiple identities, and power*. These four domains were chosen because of their particular relationship with the epidemic of sexual violence whereas the other eight domains were not as appropriate for analysis of a sexual violence prevention/response policy.

The following table provides a deeper explanation of the domains, their conceptualization for the study and interview questions drawn from the theoretical model. Beverly McPhail asserts that one central goal of feminist policy analysis is to explore how women's lives and roles are regulated and constrained by policy and one of key assumptions of the assessment is that there is no such thing as an objective and value-neutral policy approach. (McPhail, 2008) The first column defines the term and the second includes important questions one would pose to assess a policy's adherence to an action-oriented model of ending sexist oppression of women. The final column explains how each domain was conceptualized for the study.

Table 1. Domains of Feminist Policy Analysis

	Definition	Questions Posed by McPhail	Study Conceptualization
Feminist Values	Attention to issues of equity (not simply equality). Language reflects gendered nature of issue. The policy is action oriented with the goal of producing social justice for women.	<ol style="list-style-type: none"> 1. Do feminist values undergird the policy? 2. Are value conflicts in the problem representations between feminist and mainstream values? 	Are feminist values present in the interpretation and implementation of the federal guidance? Do the values of the campus community include feminist values?
Multiple Identities	Feminism is intersectional. Women have a constellation of identities. "Matrix of domination" (Collins 2000) is necessary for making the multiple identities visible. Must not address multiple identities along a "single axis" (Crenshaw 1993)	<ol style="list-style-type: none"> 1. How does gender in this policy interact with other identity categories? 2. Are white, middle-class, heterosexual women the assumed standard? 3. Does the policy address the multiple identities of women and the multiple oppressions they may face? 	Did policy interpretation and implementation include a focus on intersectionality and varied oppressions experienced by survivors related major identity markers. Did policy implications invite inclusion.
Power	Understanding gender as a system of power that is both a consequence of policy outcomes and a determining force in its creation (Cichowski, 2000) Shifts in power produced by the policy must be explicated.	<ol style="list-style-type: none"> 1. Does the policy work to empower women? 2. Who has the power to define the problem? 3. Are women involved in the making, shaping and implementation of the policy? - In what ways? 	How did power shift and did those interpretations and implementations of power shifts create empowerment for survivors or added oppression?
State-market Control	Reliance of women on men's value or patriarchal control. "State" has regulation of women's bodies, domains, and practices.	<ol style="list-style-type: none"> 1. Does the policy contain elements of social control of women? 2. Does the policy replace the patriarchal male with the patriarchal state? 3. Does the policy increase women's dependence upon the state or men? 	Is the interpretation and implementation of federal guidance survivor-centered and what impact does that have on survivor's ability to have the process they want/need?

Overall, feminist theories place gender relations at the center of the inquiry and typically have emancipatory and critical aims (Marshall and Rossman 2016). Policy analysis that uses a feminist frame disrupts traditional policy analysis and creates research agendas that can offer emancipating action (Lather, 1991). In keeping with a feminist policy analysis framework, the study was designed to intentionally include and attend to the presence of the survivor in the study.

Study Design

We used a collective case study design with the goal of understanding how three institutions in one southern state interpreted the federal guidance and began planning for implementation of new policy/practices. Stake defines collective case studies as those that utilize several cases to understand a phenomenon, population or general condition (Stake, 1995). Qualitative researchers often rely on a few cases with many variables (Creswell, 2013). A collective case study approach allowed us to incorporate multiple voices, a variety of data collection tools and the ability to integrate a diverse range of interpretive strategies (Marshall and Rossman, 2016).

All universities and colleges in the US could conceivably have been in the middle of interpreting and implementing federal guidance at the time of the study (2016) given that the Campus SaVE guidance included a fall 2015 date to have progress toward guidance implementation underway. Four institutions in one southern state were invited to participate (two private and two public). Sites were chosen based on student population size, public v/s private designation, and geographic proximity to the study personnel. Two institutions were larger public institutions (around twenty thousand students) and two institutions were mid-sized private institutions (around six to seven thousand students). All four universities were in the process of interpreting and implementing policies related to mandated reporting. Three institutions agreed to participate in the study with a one of the private institutions dropping before interviews started. The study was approved by

the Institutional Review Board at the principal investigator's home institution.

Consultation with the IRB at the additional sites was conducted as well.

Data Collection

Data collection consisted of in-depth semi-structured interviews and document review in all three sites. The Title IX Coordinator (or equivalent) and the position responsible for Sexual Violence Prevention Education were recruited for an in-depth interview at each site. Interviews were conducted in a private campus location – usually the employee's office. Interview participants provided written consent at the beginning of each interview. Interviews lasted between one and two hours. All interviews were recorded and transcribed verbatim.

The interview schedule was developed from the four domains from the theoretical framework with questions focused on a) the presence of feminist values in prevention and response work (feminist values), b) the approach to addressing diversity and inclusion (multiple identities), c) points at which survivor wishes may conflict with institutional responsibility (state-market control) and d) how decisions are made about policy and who is involved in decision making processes (power). For example, an interview question from the power domain was: "To what extent (if at all) are survivors involved in decision-making processes regarding sexual violence response?" and a question from the multiple identities domain was: "In what way does your institution intentionally support diversity with respect to sexual violence?"

Three different categories of publically available documents were collected for review: 1) reporting documents (such as a campus Clery Report), 2) policy and definitional documents (such as a student handbook), and 3) educational materials (such as prevention curriculum or a training for mandatory reporters). We requested documents from committee meetings, investigation reviews, and internal documentation of processes. No university made private documents available for the study.

Analysis

We used a two-phase analysis process. The initial phase consisted of fully immersing ourselves into the data. This involved multiple readings of transcripts and field notes and constant memoing of key observations and the analytic process. This also involved a detailed document review. A codebook was developed after multiple readings of each data source. Domains from the theoretical model guided the initial code development but additional codes were also allowed to emerge from the coding process. Each transcript was coded by the first author. The review of publically available documents was conducted immediately after each site visit, and was revisited after the reading of transcripts and development of episodic profiles. Documents from each institution were gathered in 3 categories: 1) reporting documents (such as a campus Clery Report), 2) policy and definitional documents (such as a student handbook), and 3) educational materials (such as prevention curriculum or a training for mandatory reporters). The document review was organized across the four theoretical domains and coded as well.

The second phase of the analysis involved a cross-case comparison of how institutions interpreted and implemented the federal guidance. The data were explored so as to deeply understand what Stake terms the “quintain,” that is “an object or phenomenon or condition to be studied – a target, but not a bull’s eye...” (Stake, 2006). In this study, the quintain was not the federal guidance itself, but the phenomenon of interpretation and implementation of the guidance. Analyses of field notes, transcripts and documents were conducted both vertically (within a case) and horizontally (across cases). The first author developed narrative profiles and stories that crystalized each case’s unique perspective and approach to interpretation and implementation. Themes that emerged from the initial phase and from the developed narratives were compared and contrasted across cases. The four theoretical domains were then re-introduced to guide an understanding of the approaches used by each institution.

Limitations

This study was limited by the selection of institutions in the sample. While care was taken to include differences by size and type (public/private), institutions were only included that were within 150 miles of the primary researcher. Additionally, no private documents were available for review. The study could have been strengthened by insights gained from private documents such as policy development documents, meeting notes, and internal processing document. Finally, participants may have been reluctant to share information that would appear to be out of compliance with anyone outside of their institution.

Results

Each institution had the goal of being in compliance with the requirements of Campus SaVE Act when data collection began. Although all three universities had the same end goal in mind, and considered their university to be in compliance, each produced a different *pathway* to arriving at this destination. How each of these institutions came to determine what that guidance meant and how to best implement it depended on which of the four theoretical domains they prioritized. The pathways toward compliance taken by each university (case) are described below. Table 2 shows each case, the domains they centered, the decisions they made about mandatory reporter designations, how they came to that decision and where they are regarding training.

Decision-Making Pathways

Development

Decision making processes differed based on the values that each institution prioritized. Clear differences were apparent across three policy/practice areas at each institution: mandatory reporter designation and training development/expectation. When we examined decision making pathways based on prioritized values, we see that the institution that centered feminist values used a bottom-up decision making process. The professionals who were most intimately involved in responding to incidents of sexual violence and those who had been part of constructing the university's prevention and response efforts were those involved in crafting policy, talking with attorneys and making recommendations for the

policy that was adopted. The institutions that prioritized power and the consideration of state control in response to survivor's process used a more top-down approach. In one instance, the institution used recommendations from the Chancellor's Cabinet. In the other, the institution relied on the newly hired Title IX Coordinator in the Chancellor's Office.

The institutions that enacted a bottom-up approach very narrowly defined the designation of mandatory reporter with select staff position being identified in particular areas related to supervisory responsibility and level of engagement with students. The institutions that enacted a more top-down approach had a broader designation of mandatory reporter. One campus designated all staff members as mandatory reporters with faculty strongly encouraged to maintain a strong reporting relationship with the Title IX office. This campus also considered all student staff mandatory reporters as well. The other campus that utilized a more top-down approach designated every community member a mandatory reporter (faculty, staff and students alike).

When it came to training, the campuses made different decisions based on the values they prioritized as well. The campus that centered a feminist survivor-centered approach decided to develop a comprehensive training that was scaffolded across types of learning (online, in person, and on-going skill development) and across types of positions. Different training was developed for faculty, staff and any student employees who would be considered mandatory reporters. This campus also prioritized diversity and inclusion motivating them to include experts from

each identity support office in their training development. Training was encouraged through relationship development with department heads and senior staff.

Institutions that centered power in their approach to training, made large-group trainings mandatory. The institution that designated all staff as mandatory reporters worked with their Human Resources Department to make training mandatory during orientation for all new staff members and developed a mandatory training for existing staff. The institution that designated every community member a mandatory reporter also made training mandatory. They contracted with an outside trainer to complete training for large groups of faculty and staff supervisors in their initial training phase. Then, they contracted with that trainer to develop an in-house train-the-trainer for sustainability purposes. Their policy will be to train all community members over time. Their mandatory training was endorsed by the Chancellor's Cabinet and mandated through all supervisors.

Table 2. Domains and Institutional Decision Making

The following table represents the feminist policy analysis domains centered by each case and their decision-making structure, mandatory reporter decisions and training development practices.

	Prioritized Domains	Decision-Making Structure	Mandatory Reporter Designation	Training
Case #1	Feminist Values Multiple Identities	Established campus wide groups were utilized in decision making (Sexual Assault Advisory Council) Provost’s office was integral Diversity and Inclusion offices were included President and Senior staff were a peripheral part of process	Very specific employees are mandatory reporters (this includes deans, department chairs, employees with supervisory expectations and faculty/staff advisors of student experiences/orgs) Student Resident Advisors are mandatory reporters	Deep training encouraged for mandatory reporters Typically half-day – day trainings Scaffolded by mandatory online training In the process of developing “train the trainer” for sustainability
Case #2	Power State-Market Control	Title IX Compliance Office is responsible for policy development and decision-making Solicitation of input from health educators is part of the process Dean’s office also reviews the proposals	All staff are mandatory reporters Faculty are encouraged to get education and to engage the reporting structure Faculty chairs are mandatory reporters Student Resident Advisors are mandatory reporters	Still in process No mandatory requirements Planning for a role out in collaboration with HR for staff
Case #3	Values Power	More newly established campus wide advisory groups were part of the process. (Chaired by faculty and staff jointly) Dean of Student’s Office integral Health Educators are integral Campus climate survey was a central device OCR Investigation guided decision-making	All faculty, staff and students are mandatory reporters	Training is mandatory and campus-wide. Faculty are included Supervisors are trained first In the process of developing “train the trainer” for sustainability purposes – initially contracted with national trainer

Case #1: Survivor-Centered Collaborative Pathway

Case 1 prioritized the domains of feminist values and multiple identities in policy development. This institution embodied this approach in their policy development in which they created small committees of employees responsible for developing policy. These committees consisted of representatives from various identity support offices on campus, directors of areas responsible for campus wide diversity and inclusion efforts, sexual violence prevention advocates, and faculty

who teach subjects such as feminist philosophy. This institution had a strong history of survivor-centered sexual violence response and prevention and their primary concern was preserving this ethos and the feminist values that have undergirded their historical approach to sexual violence response. This ethos was clear in the document review, which attended to the gendered nature of language related to sexual violence response. The language used in their policy and education documents were consistently survivor-centered. For example, some of the phrases on their resources webpage include statements such as, referencing advocates. Examples include: “this person is an advocate for YOU” and, with respect to the survivor, “you will not be pressured to take any action or make any report”. Their documents also included language that clearly referenced experiences of traditionally marginalized communities such as LGBTQ students.

The centering of “feminist values” was also reflected in the way the university included the values that undergirded their preexisting sexual violence prevention and response efforts (which they identified as feminist values) into their policy development process. Examples include the educator’s statement that “we have a survivor-centered response system that allows the survivor to be in as much control of their process as possible”. Another participant pointed to the sex-positive approach to prevention valued by the community: “that our people who are primarily responsible for prevention and response have explicitly sex positive approaches to a wide variety of sexual practices and understand their complexities and their nuances”

When asked about how they attended to multiple identities within their sexual violence prevention work, participants highlighted multiple ways this occurs in their community. “One of our great strengths [is] that several of the key persons that we have with regard to prevention of assault have intersectional approaches to systemic violence.” They explained that diversity and inclusion is structurally embedded in their sexual violence prevention and response approaches: “I’ve always understood our work on sexual assault to be part of our work on diversity inclusion and I think structurally that is very obvious.” The Title IX compliance informant stated their perspective around the intersectionality of the work at their institution: “[Our professionals] are very well versed in the subtleties and nuances of systematic systemic inequality on a variety of axes and used to thinking of them together.” The educator underscored this: “[We have] primarily an approach that’s not based on the gender binary while also recognizing of course that some intersectional violence is gender based.”

Because this institution actively included feminist values and a commitment to diversity and inclusion in their framework for existing prevention and response efforts, administrators employed a decision-making process that included staff from all identity support offices, staff working on inclusion in the provost office, and faculty who teach feminist philosophy. They formed a task force of these employees who spent a year meeting regularly and compiling a report of recommendations for the president regarding this legislation. This report included the recommendation to resist creating a blanket policy that designated all staff, all faculty or all students as

mandatory reporters. Instead, this task force developed a rubric to identify specific positions that would serve as mandatory reporters and they had extensive discussions with attorneys, senior staff members and advocates to determine which student workers might be considered mandatory reporters. This approach to have a limited number of very selected people serve as mandatory reporters allowed the institution to ensure that those selected shared their interest in having a survivor-centered approach, that was inclusive of gender differences.

Part of the commitment to limit the scope of the reporters for this institution was related to the desire to offer a comprehensive training for their mandatory reports that focused on an intersectional approach to response. One respondent explained it like this when discussing how many mandatory reporters they had to identify:

More than 300, that's big but it is manageable, you could train all of those people in a year in person, groups of 20-25 you could do it. Once you're talking about every single faculty and staff member.... and in some campuses they're saying every single student, then by definition you're doing crappy training. It's going to be—it would be terrible

This institution was in the process of developing a training with professionals who have a background in diversity and inclusion issues, incorporating information about major identity markers and the relationship of those to sexual violence prevention and response. They were planning a training that consisted of a combination of on-line informational approaches and a

interactive in-person half-day session and plans are to have a refresher training annually.

Case #2: Institutional Control Pathway

Case 2's approach to compliance can be seen as centering the domains of state-market control and power, and their decision-making positioned accountability for interpretation and implementation primarily in the Title IX office. This office used a legal lens to interpret the guidance with a focus on the accountability of mandatory reporters to that office. While the Title IX officer received input from other offices doing prevention and response work, the responsibility for policy development was centered there, with edits and suggestions from senior staff members and University attorneys. Their legal lens was a driving force behind a mandatory reporter policy that was developed primarily by a single office, which would ultimately be accountable for the policy and for their decisions about who would be a mandatory reporter. This institution decided that all staff would be mandatory reporters because the power to do so rested with this office and human resources to notify and train them. But, when it came to faculty, the Title IX coordinator's desire to preserve the good working relationship allowed the historic power of faculty to challenge mandates to override a blanket mandate with that population.

Their approach to state-market control was revealed in a prominent web-based resource affiliated with the Dean of Students Office, which states:

It is important to note that while the University makes every effort to safeguard the identities of students who report sexual misconduct (sexual assault, sexual harassment), the Dean of Students Office may need to report incidents to an investigating office on campus and the Dean of Students Office must report the instance of sexual violence, with your name, to the Title IX Coordinator, per the Education Amendments of 1972 (Title IX).

This institution had recently hired a person with a legal, but not academic, background to lead the Title IX Compliance office and she was charged with implementing the changes called for by the federal guidance. This university hired the new Title IX coordinator with the expectation that she would carefully weigh the questions of reporting and who had the power to make determinations that would override a survivor's wishes; hiring a person previously not affiliated with an academic institution allowed for an outside perspective about state-market control. The Title IX Officer spoke in her interview about the different lens she brought to the policy development process: "Even before I started here, I realized that there was a big difference between the Dean of Students Office and the rest of the world" (referring to the rest of the legal world). She was immediately charged upon hire to sort out all those differences and develop policy that was in legal compliance with the federal act:

I have Title IX over here that's saying we need equitable procedures, regardless of who's participating, and then I have over here all these different state laws and different grievance procedures for community members. That's really hard to reconcile.

Part of the reconciliation process was to consider the conflict that might occur between the university, its mandatory reporters, and survivors who may have their own ideas about what and how they want their situation handled. The Title IX Coordinator stated:

The responsible employee (aka mandatory reporter) is always gonna have to report to us, regardless of whatever the survivor or the victim says to the responsible employee". and "Any conflict between the responsible employee and the survivor, the responsible employee's gonna have to tell us.

The Title IX Coordinator also wanted to be clear about how they would articulate the decision-making process that would lead to conclusions that override a survivor agency:

I'm in the process of developing a checklist because one of the things, both for consistency purposes, and then, to be honest with you, Office for Civil Rights, I want a checklist. They don't like arbitrary decision-making, and so if we have to go against a survivor's wishes, I want to be able to say to the survivor, "Here's the checklist that I go by when determine whether or not I can keep your information confidential.

The concern over a possible conflict regarding who has the power to control the reporting process lead this site to decide that while all staff members would be mandatory reporters, faculty would not. The Title IX coordinator, who had the power to make this decision, considered the negative impact that could result from designating faculty as mandatory reporters; this included her belief that that a directive like this would damage existing collaborative relationships between that office and faculty members. As stated by the Title IX coordinator: "We're not saying

that faculty don't, but faculty push back historically on being responsible employees, and so we did want to give them the option of reporting, but we're still encouraging them all to report"

This institution's decision-making involved fewer offices than Case #1. Power for decision-making had been given to the Title IX coordinator and that office was charged with developing policy. While the office wanted to keep productive collaborations, decision-making (and the accountability for that decision making) rested with that office with final approval required by senior leaders in the chancellor's office. Training for this institution was to be rolled out by their Human Resources office. It would be mandatory for staff and the Title IX coordinator will work to have conversations with faculty as well encouraging them to participate even though their participation is not necessarily mandated by their positions.

Case #3: Expansive Power Pathway

At Case #3 the domains of feminist values and power can be seen as the central priorities. This institution very prominently centered the domain of "values" as a guiding tenant for decision making in this process and they incorporated some of the feminist values outlined in McPhail's model. They specifically considered women in their decision-making and intentionally positioned their campus "web of relationships" at the center of their considerations in policy development. They equally valued process with product, an approach highlighted in McPhail's theory as a feminist value. (McPhail, 2008) The long-established sexual violence leadership sought to assess their campus climate to better understand the values their

community held with respect to the issue of sexual violence and the results of the whole campus climate survey figured prominently in making decisions around mandatory reporting.

This institution also critically analyzed (and incorporated) the values of their entire campus community. They sought to understand and incorporate them into their policy interpretation and development. Doing so meant that they utilized an established standing committee made up of faculty and staff from a variety of departments across campus. That committee utilized data from a campus climate survey sent to all students, faculty and staff to provide a foundation for understanding their community values with respect to sexual violence prevention and response work. They then used that data to create a blanket mandatory reporting policy including every faculty, staff and student and to develop a broad, wide-reaching training plan. In their view this decision reflected the value of “whole community engagement”; as well, and not insignificantly, this decision was seen a way to address concerns raised from a previous investigation a student initiated through the Office of Civil Rights.

The administrators responsible for conducting the campus climate survey sought to include the whole campus (faculty, staff and students) in the sample: “We’ve maintained the stance that we’re going to send [the survey] out to the entire community. It’s not a sampling of folks...” and they used it to better understand how they could craft policies that were in line with community values: “how do we have policies and definitions, to the heart of your question, that coincide for the place that

we want to be.” In the interview, the person responsible for education stated that all their policy development stemmed from information in this survey: “These initiatives all directly come from the Climate Survey.” And they sought to better understand what values and issues were unique to their particular community in this work: “Essentially what populations are vulnerable to this issue on our campus? Not using national information.”

The decision-makers also grappled with the domain of “power” in formulating their policies. They had recently undergone an Office of Civil Rights (OCR) investigation into their campus practices regarding sexual violence response and the power that the federal government had over their university was a driving force in the creation of policy for their campus. Nonetheless, they sought to follow a feminist approach to power by integrating the voices who mobilized that power in the first place (the survivor) and shared power in a way that Brandwein would describe as a win-win rather than a win-lose approach. (Brandwein, 1986) They viewed the incorporation of that survivor’s voice as a positive foundation for some of these policy decisions: “Again, I come back to OCR being a good story for us...” The OCR investigation impacted, at least in part, where power was centered for this institution, that is, who had the power to shape the decision about how they complied with the mandatory reporter requirement,

Yes, mandatory trainings, the whole nine yards. Our recommendation from our original Interpersonal Violence Task Force and, the OCR compliant piece, was that we have mandatory training for all faculty staff, period. The

question that came about in some of our conversations with the Chancellor's Cabinet at the time, was how do we do that and what does that look like?

While administrators at this university reported a desire to do all they could to support best practices for survivors in their healing process, and were clearly dedicated professionals who care deeply about the students in their community, the repeated mention of the OCR investigation and the explicit explanation about how decisions were made and who was involved revealed the central focus on how power is distributed and that power for this work resided in the Dean of Students Office. Even the structure of the key-informant interviews shed light on this approach; instead of meeting with a health educator position for this interview as requested, I met with the Dean of Students who is responsible for conceptualizing the educational vision and mission. Having authority for sexual violence education located in the Dean of Students office reflected a focus on the importance of having centralized and highly visible unit on campus given authority over sexual violence education and response. The Title IX Compliance Officer echoed this sentiment and shared that while power may centrally live in the Dean of Students Office, there are structures in place that mirror their institutional value of community collaboration and input from multiple voices in keeping with a less hierarchical power structure.

The flat power structure and inclusion of the entire community were central threads in the way decisions were made about mandatory reporting at this site.

Their Title IX compliance officer stated:

Even before I got here, we had a really strong interpersonal violence council comprised of faculty, staff, and students who touch on this work in one way or the other. Whether it be an academic discipline for them and something that they study or practitioners who work with survivors, or conduct folks who work on the adjudication process. We had a strong team around the table who had different pieces of the puzzle.... Really the beginning stages of creating frankly all of our definitions and all of our policies and practices around much of this work starts there. Starts with having conversations with those people to ensure that we're seeing it from all of the perspectives that they each hit

Prompted by the OCR investigation (and the complainant – who ended up being involved in policy development as well), this institution decided that the mandatory reporting designation would be required for all faculty, staff and students. Their entire community was designated mandatory reporters and required to go through training regarding that designation.

Conclusion

The results of this study shed light on the ways that institutions are interpreting new federal guidance. The pathways illuminated by this study give a richer understanding of the strategies universities may employ to reach compliance with recent federal guidance around mandatory reporting. All three campuses in this study believed that they were achieving compliance, but their policies and practices looked very different. This finding indicates there is not one path toward compliance and that institutions have the opportunity to craft policy that is responsive to their unique campus needs.

Acknowledging that central domains from McPhail's feminist policy analysis framework aided in the understanding of institutions' pathways toward compliance

is another key finding from the study and helped show how the institutions were working to develop policy that balanced a broader desire to prevent and bring awareness to sexual violence and empower survivors. Legislation intended to create better conditions for survivors of violence historically has had negative unintended consequences. Researchers often link the patriarchal underpinnings of policy making systems to negative unintended consequences for women. This has been cited frequently with respect to domestic violence law (Belknap, 2001; Muraskin, 2003; van Wormer, 2000) and specifically point to the failure of innovative policy to positively impact the experiences of both men and women (Hannah-Moffit, 1995; Lutze, 2003; Lutze and Murphy, 1999; Miller, 1999). The vagueness of the Campus SaVE Act allows for institutions to weigh the guidance with what is known about their unique culture and achieve an optimal outcome. Given what we know about detrimental consequences from policy development to individuals impacted by violence, and women the use of an intentional framework shed light on ways that administrators can develop policy that intentionally considers these consequences and aims to minimize or eliminate them.

A feminist policy analysis is one tool to illuminate pathways that have helped an institution achieve compliance while also prioritizing and preserving their own unique values and responsibilities, but another important finding from the study is the ability to identify the decision-making pathways that emerged when institutions prioritized different values from this analytical tool. Sudarshan and Sharma state, “Responsible feminism requires recognition of the contextual constraints and the

feasibility of recommended courses of action and choices... pointing out specific changes and actions that in our analysis would empower women... [while reflecting] what is possible or desirable, given any particular context and capacities.” (Sudarshan & Sharma, 2012) The kinds of policy the institutions developed depended largely on the types of domains they prioritized in their interpretation of the guidance and their assessment of their own campus community. The institution that prioritized feminist values domains and multiple identities domains ended up creating more narrow interpretations of the Campus SaVE guidance about mandatory reporting while those that included power and state-market control in their interpretations and policy development created more broad policy regarding reporting. Both may be responsive to their end goal of caring for students and ending sexual violence.

There are many other questions raised by this initial study. Institutions must consider what impact their mandatory reporting policy decisions have on survivors of sexual violence. While many institutions understandably focus on student outcomes, they should also consider the impact of these policy decisions on employees. Participants raised the issue of self-care with advocacy positions at their institutions with these increasing responsibilities. Future work will include investigations into some of these questions and assessment on how different policy determinations and practices are impacting various campuses. This study intended to uncover insights into the interpretation and policy development undertaken by institutions of higher education in the face of new federal legislation regarding

sexual violence prevention and response. This article provides insights into that emerging process and a framework for the ways institutions can begin to think about their own process moving forward.

CHAPTER V

SURVIVOR AGENCY VS. INSTITUTIONAL RESPONSIBILITY: IRRECONCILABLE DIFFERENCES?

Abstract

This multi-site case study examines campus administrators' perceptions about the implementation of the recent federal guidance in the Campus SaVE Act. Specifically, this study explores the tension felt by institutions between survivor agency and institutional responsibility with respect to implementing the guidance. Findings suggest future avenues for investigation and feminist policy analysis strategies for decision making about implementation of existing and future federal policy guiding campus sexual assault responses.

Background

Acquaintance Rape on College Campuses

There is no uniform experience of sexual violence or rape (Campbell, Dworking, Cabral, 2009). But, acquaintance rape has a unique constellation of consequences. Acquaintance rape victims often experience self-blame, guilt, shame, helplessness, worthlessness, negative self-esteem, confusion, loss of equilibrium with the environment, incident minimization and victimization denial at higher rates than survivors of other types of sexual assault (Petretic-Jackson and Tobin,

1996). Acquaintance rape makes up more than 90% of rapes that occur on college campuses.

Survivor Reporting

Survivors of acquaintance rape are also more likely than survivors of other forms of sexual assault to report to friends and to utilize informal mechanisms for reporting (Orchowski, Meyer, & Gidycz, 2009). When survivors of acquaintance rape do report to formal authorities, they are often questioned about their decisions in the incident, their own sexual history and their clothing at the time of the assault (Denmark, Rabinowitz, & Sechzer, 2000). Victim blaming is correlated with underreporting and with victim reluctance to name their experience as rape (Fisher et al., 2000; Orchowski et al., 2009). When victims are met with negative/uneducated responses to their disclosure significant consequences can occur. For example, they are generally more likely to refrain from any further reporting and accessing resources (Ullman, 2010), experience secondary trauma (Campbell, Adams & Patterson, 2008), and can discourage others from reporting (Abbey, 2002). This leads to a population of victims who do not receive the necessary mental health support and adds to the risk that perpetrators will continue to offend in the campus community – two significant public health concerns (Sabina & Ho, 2014; Lisak, 2002).

Research examining the reporting behavior of survivors of sexual violence indicates that survivors value confidentiality (Ullman, 2010). Reporting only to people the survivor trusts allows survivors to regain a sense of control over their

lives (Key Components of Sexual Assault Crisis Intervention/Victim Service Resources). Research suggests that survivors of sexual violence recover through a process that depends on safety, autonomy, identity, intimacy and trust. Healing depends on the survivor being empowered to have ownership of what recovery looks like (Herman, 1992). Survivors indicate that it is critical for them to be able to provide direction in their own reparation process (Koss & Achilles, 2008). Due to the importance of confidentiality for survivors and the significant way a need for confidentiality shapes a survivor's actions in discussing an incident of sexual violence, how and to whom survivors report what has happened or seek resources are critical components for colleges to consider in their response efforts.

Campus Efforts

Many current campus sexual violence prevention and response initiatives work to address acquaintance rape in a holistic, survivor-centered approach. Best practices regarding prevention efforts include a combination of in-person programming, bystander intervention, social norming, and peer education approaches (Katz, 1995; Fabiano, 2003; Coker et al, 2011, Potter, 2012; Moynihan et al, 2015). Best practices involving response initiatives are survivor centered (Not Alone, 2014; Cantalupo, 2010). When undergirded by a feminist framework that draws upon prominent feminist theorists, such as Beverly McPhail's Feminist Framework Plus (FFP), these efforts have the potential to change campus culture regarding sexual violence (McPhail, 2015). This sort of scholarly work coupled with recent student activism and more than 120 Office of Civil Rights investigations has

encouraged and informed comprehensive efforts to address the epidemic of sexual violence (Kingkade, 2015).

The Campus SaVE Act

A recent amendment to the Violence Against Women Act (VAWA), known as the Campus SaVE Act, clarifies guidance to institutions of higher education regarding their sexual violence prevention and response initiatives. The Act resulted from the work of a White House task force that generated significant information to guide universities in developing their policies and practices around sexual violence prevention and response (White House Task Force Report, 2014). Other task forces issued reports that clarified and expanded guidance to institutions of higher education. These taskforces required institutions to develop primary prevention and awareness programs as well as ongoing prevention and awareness campaigns, and indicated that members of institutions need to be better informed about how to respond to incidents reported by survivors (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX, n.d.; VAWA, 2013). A key component of the Campus SaVE Act outlined guidance around appointing employees of the institution mandatory reporters or “responsible employees”. The guidance states that any employee at the institution with this designation is required to report all details of an incident of sexual violence (including personally identifying details) to the Title IX officer of the institution and initiate an investigation.

Though the amendment is embedded in federal legislation, the wording is vague and allows for a wide range of interpretation about mandatory reporting and the employees who would be mandatory reporters. Because of this, some recommendations have emerged regarding the mandatory reporting guidance such as the one from the Association of Title IX Administrators suggesting that all employees should be designated mandatory reporters (Sokolow, 2013). However, interpreting the definition of mandatory reporters broadly to include as many people as possible within an institution risks compromising the ability of survivors to (re)build trust and move forward in a way that enables them to be in control over their experiences.

Campus Implications

Low report rates of rape on college campuses reflect difficulties in defining, understanding and acknowledging the systemic underpinnings of violence against women in our culture. The guidance in the Campus SaVE Act sought to address this by mandating a broader range of employees who have an explicit responsibility to report acts of sexual violence of which they become aware. However, the guidance and subsequent interpretations may reflect an approach at odds with a feminist/survivor-centered philosophy about sexual violence response work. While it may seek to address those institutions that have inadequately handled incidents of sexual violence or worse; those who have actively discouraged reporting, it may do so in an approach focused on institutional interests over survivors' agency in their healing process. In order to better understand the impact of this guidance on

campus prevention and response efforts, this study sought to understand the perceptions of administrators charged with interpreting the guidance, developing policy and implementing the practices.

Methods

This paper is part of a larger study that utilized a multi- case design to understand how three institutions in a southern state interpreted the federal guidance and began planning for implementation of new policy/practices. Four sites were invited to participate based on student population size, public v/s private designation, and geographic proximity to the study personnel. Three agreed to participate: two public institutions with student populations around twenty thousand and one of the private institution with a student population around six thousand. All three were in the process of interpreting and implementing policies related to mandated reporting allowing the conditions in which the study could work to deeply understand the institutions' collective process in working with this federal guidance. The study was approved by the Institutional Review Board at the principal investigator's home institution. The principal investigator consulted with the IRB at the additional sites prior to data collection as well.

The study was guided by a feminist policy analysis framework. Beverly McPhail (2008) argues a critical time to employ a feminist policy analysis is when it is important to uncover whether policies are negatively impacting women (McPhail, 2008). Policy regarding sexual violence prevention and response should consider that the victims of such violence are overwhelmingly women, reluctant to report

and historically, re-victimized by the processes of the state. Sexual violence prevention and response policies that negatively impact survivors may then limit a policy's effectiveness and reinforce the very problem the policy seeks to alleviate (Allan, 2007).

Data Collection

This study examines in-depth, semi-structured interviews collected as part of the larger case study. The Title IX Coordinator (or equivalent) and the person responsible for Sexual Violence Prevention Education were recruited at each site. Interviews, which lasted between 1-2 hours, were conducted in a private campus location – usually the employee's office. Participants provided written consent at the beginning of each interview. All interviews were recorded and transcribed verbatim.

The interview schedule was developed across each of four domains from Beverly McPhail's theoretical framework with questions focused on a) the presence of feminist values in prevention and response work (values), b) the approach taken to address diversity and inclusion (multiple identities), c) points at which survivor wishes may conflict with institutional responsibility (state-market control) and d) how decisions are made about policy and who is involved in decision making processes (power). For example, an interview question from the power domain was: "To what extent (if at all) are survivors involved in decision-making processes regarding sexual violence response?" and a question from the multiple identities domain was: "In what way does your institution intentionally support diversity with respect to sexual violence?"

Analysis

A two-phase analysis was used for the larger case study analysis. The initial phase consisted of fully immersing ourselves into the data. This involved multiple readings of transcripts and field notes and constant memoing of key observations and the analytic process. We developed a codebook that contained a priori and emerging codes after multiple readings and each transcript was coded by the first author. Domains from the theoretical model guided the initial code development but additional codes were also allowed to emerge from the coding process.

The second phase of the analysis involved a cross-case analysis to compare how institutions interpreted and implemented the federal guidance. In conducting the analysis for the larger case study, we noticed tensions between survivor agency and institutional responsibility was emerging in all the transcripts. During the second phase, we developed narrative profiles and stories that focused on administrator's perspectives regarding this tension

Results

Administrators at these institutions made decisions across a range of options to be in compliance with the requirement to have mandatory reporters from blanket campus-wide mandatory reporter policies to more narrow understandings of the role of mandatory reporter. Two of the three institutions created policy that was a blanket policy in some form. One institution mandated that the entire campus community (students included) serve as mandatory reporters. Another included all staff members. Administrators at each institution spoke to the tension between

their university's need to comply with federal guidance and survivors' need for confidentiality and autonomy. The administrators were also actively grappling with how to resolve that tension. They recognized that, at some point, the guidance could force the institution to go against survivor wishes or not respect survivor autonomy. They expressed concern over the vagueness of the guidance and felt it caused them to want to create detailed explanations of the decision-making processes at their institution. Ultimately they also expressed wanting to prioritize survivor agency over institutional responsibility, but this was not necessarily reflected in some of the decision making and what was implemented.

Concerns About Impact on Survivor Agency

Participants spoke to their concern about a mandatory reporting policy in general and its negative impact on survivors: "I think it has a terribly chilling effect. I think mandatory reporting has several—there's several ways it could go then it can go badly." They stated that agency was removed from both the survivor and employee who must report: "The mandatory reporter has no such freedom, the whole policy is about taking judgment away at that stage of disclosure." Another explicitly mentioned the word autonomy and their perception of the federal guidance: "Mandatory reporting has absolutely nothing to do with survivor autonomy, absolutely nothing."

Administrators Experiences in Addressing Tension

Respondents discussed how they reconciled the dissonance between concerns about the federal guidance and what mandatory reporters at their

institution would be required to do. They described moving forward to implement blanket mandatory reporting policy despite concerns about survivor agency:

I think a lot of universities—I'm gonna just be real honest with you—I think a lot of universities did—we got scared and just said everybody's a responsible employee—every single person, all of them because we got scared. We're like we don't want to lose funding. We don't wanna get under investigation.

They were clear that there would always be a point in their implementation of the policy in which the survivor would lose control of their process. One respondent stated: "The responsible employee is always gonna have to report to us, regardless of whatever the survivor or the victim says to the responsible employee." Another pointed out the institution holds the power in the event of a conflict of wishes: "Any conflict between the responsible employee and the survivor, the responsible employee's gonna have to tell us." Another expressed that this tilting the balance of power in favor of the university is required if they are to be in compliance with the federal guidance: "From a sorta compliance standpoint, it means you, responsible employees, are obligated to report any and all information you receive from anyone frankly, students, faculty, or staff, that have been affected by intimate partner violence"

They also discussed their concern about uncertainty of the guidance:

there really isn't at this point a whole lot of guidance as to who those folks should be or how to define those folks. I think when you don't have a defined rubric, you're missing folks who should be, but then you're also not being consistent on how you define people as mandatory reporters.

This uncertainty leads to an increased need of institutions to clearly state their decision-making processes around campus practices: “at that point, what constitutes a report and what is required of a responsible employee is very fuzzy... their responsibilities are much less defined. That is a problem.” One participant acknowledged that there are likely different understandings of the duties of responsible employees: “Oh, that’s a toughie, cuz I think if you ask eight people, you’ll get eight different answers to be honest.”

Desire to Attend to Survivor Agency

Participants expressed wanting to center survivor needs and agency in the face of institutional responsibility to federal legislation: “again, as I said earlier – how do we support survivors is at the core of what we’re doing.”, “At the end of the day, it’s really about our students.”, and “The real heart of our work is with students.” They also recognized that they had to find a way to center survivor agency while being in compliance with federal guidance. Two of the institutions suggested that one way of reconciling this tension was to engage students in policy development:

Now, from the mitigating hostile environment perspective and liability, colleges say: ‘Oh, well, we need that information.’ There’s the agency questions, obviously, around how do we balance that. I think we balance that by including survivor voices in the room as we’re making these decisions, as well as preventionists and advocates.

In fact, they only expressed a responsibility to go against a survivor’s wishes in instances in which the accused offender is putting other people at risk: “The only

times where we frankly can't be deferential to that student's wishes is when we have information that there's a pattern." They seem to see this decision as a necessary one to protect a broader number of students in the community: "I always say to them, "If we figure out that there's a pattern, or there's a greater risk to the community, we're going to have to move forward," and they understand that."

Discussion

This study illuminated administrator's experiences with implementing federal guidance from the Campus SaVE Act overall and reflected tensions we might expect to find based on what we know about sexual violence response. A primary tension is between honoring survivor agency and attending to the institutional commitment to adhere to federal guidance. The concern about survivor empowerment enumerated by the participants is an issue raised by a feminist analysis. Many participants expressed concern for the survivor of sexual violence and their desire to do what was best to respond to their individual needs. The tension arises when those same professionals are also accountable to the "state" that passed legislation which may be reinforcing a more patriarchal remedy to the epidemic of sexual violence: increased reporting.

The confusion about the specificity of the guidance adds to the tension. While the administrators have the ability to make some interpretations that would prioritize women over the state they are managing forces that may have different expectations/interpretations such as community input/expectation, board of trustee oversight, and attorney directives. The decision to have blanket mandatory

reporter policies at two of the three institutions seems in contrast to the administrator's desire to prioritize survivor agency especially given the acknowledgement of vague guidance from the legislation.

Conclusion

A sexual violence response policy that centers feminist values should include action toward ending the sexist oppression of women. Such policy would include centering the well-being of women and working to shift power differentials toward women's empowerment, for deep consideration of survivor autonomy, power differentials, diversity and inclusion, and training/education. All these considerations ultimately strengthen campus efforts around sexual violence prevention and response.

Historically, many have argued that campus sexual violence policy "represents the university's interests as opposed to any particular individual's interests" (Ehrlich, 1999). Although federal guidance was issued with the express purpose of shifting university policy to be more responsive to the epidemic sexual violence, this study suggests that this new guidance may be leading universities to develop policies that replicate the tendency to advance institutional interests over individual survivor interests. Reporting policies are being developed that name hundreds (even thousands) of employees as mandatory reporters who must share descriptive information with their institution. This places survivor autonomy at risk and is replacing an existing patriarchal structure with another in which the survivor's preferred process may be limited or disregarded. The OCR does not

recommend or even mention the possibility of designating every employee as a mandatory reporter (American Council on Education, 2014; Clery Center for Security on Campus, n.d.; Congressional Research Service, 2013; Know Your IX, n.d.; VAWA, 2013). The fact that administrators would make this decision with vague guidance and with a strong desire to respond to survivor wishes demonstrates the significant fear created by the potential for being out of compliance with federal guidance.

Feminist policy analysis claims that policies affecting women should center feminist values and reject mainstream values. With respect to sexual violence, reporting is a mainstream value, one that has been championed by federal policy (Clery, VAWA, and Campus SaVE). But, as we know, reporting, in and of itself does little for the survivor in the aftermath of an assault. Therefore, to enact a policy that requires another approach without addressing the patriarchal systems that deter reporting in the first place is not in keeping with a policy interpretation and implementation responsive to feminist analyses. Creating blanket mandatory reporter policies without careful consideration of survivor needs can do more harm to response and prevention efforts. Using frameworks such as a feminist policy analysis allows campuses to remain responsive to important philosophies of sexual violence prevention and response work while thinking through decisions about federal legislation implementation. This study suggests that a campus can be both in compliance with federal guidance and responsive to survivor needs. Concrete strategies for utilizing a feminist policy analysis framework include intentionally

including survivor voices in policy development and persistently developing rubrics that include an examination of the domains utilized for this study: 1) feminist values guiding prevention and response work, 2) the intentional focus on diverse identities, 3) centering survivor agency, and 4) an analysis of use of power (how and by whom).

Purposefully including survivor voices can pose a challenge related to disclosure of past experiences. However as many of the participants identified, if there are colleagues and/or students who are open about their identity as a survivor or if there are assessment tools used in the campus advocacy offices, it can be possible to better understand survivor needs with few additional resource allocations. Additionally, while university communities may vary in what is best for their campus regarding mandatory reporters, they can craft rubrics to help them make policy and practice decisions regarding mandatory reporting that is both compliant with federal guidance and responsive to survivor needs.

CHAPTER VI

EPILOGUE

Summary of Study Goals and Findings

The goal of this study was to understand how administrators at universities were interpreting guidance and implementing policy regarding recent federal legislation addressing sexual violence on college campuses. The study utilized a feminist post-structuralist framework to guide the methods and analysis. A case study was developed that explored three area universities through in-depth interviews and document reviews. Two administrators at each institution were interviewed and a total of 42 publically available documents were reviewed. Findings from the study suggest that administrators responsible for interpreting and developing policy regarding Campus SaVE pursue different paths to reach compliance with federal guidance. Administrators were able to develop different policies about mandatory reporting and also understand that these policies all achieve their common goal: compliance with federal guidance. Administrators made different decisions related to the values they prioritized within their campus community.

The institution that prioritized feminist survivor-centered values more narrowly defined the mandatory reporter role and worked to develop training that

would be scaffolded across multiple mediums culminating with deep in-person day-long trainings. The institution that prioritized centralized decision making with an eye to institutional control broadly defined the mandatory reporter role with staff and student employees and worked to develop training options that would be responsive to a diverse range of staff departments in partnership with their Human Resources Department ensuring that all staff would be required to participate. The institution that prioritized community inclusion most broadly defined the mandatory reporter role designating every community member (faculty, staff and students) as mandatory reporters. This institution contracted with an outside facilitator to provide an in-depth training that will be rolled out with all community members and ultimately turned into a training their employees can provide through a train-the-trainer model. All institutions had elements of these values in their interviews and documents but the study was able to uncover campus priorities with respect to their sexual violence prevention and response efforts.

Based on these findings we are able to draw the following conclusions from our study:

1. Administrators interpreted federal guidance differently with respect to which employees must be designated mandatory reporters, and how they are notified and trained.
2. Administrators identified multiple tensions that arose from the federal guidance.

3. A central concern that was identified related to guidance implementation was that of the tension between survivor agency and institutional responsibility to report.

Contribution to the Field

This study has implications for practice in the area of sexual violence prevention and response on college campuses across the country. Since completion of this study, the federal landscape has changed drastically with stated priorities regarding federal support of programs that address violence against women. Administrators will continue to think about this critical issue within this landscape. It can be helpful for them to understand that there are inherent tensions when developing this sort of campus policy. But, there are also a diverse array of pathways to reach compliance while also centering their community values and honoring the approaches they have employed in the sexual violence prevention and response efforts.

Personal Reflection

Entering this doctoral program at UNCG was a decision I made in order to deepen my expertise and immerse myself in the scholarly process of intimately understanding research and current approaches to community engaged processes. I chose UNCG's program intentionally based on the commitment to community based participatory research and overall community connection/engagement. I had worked in academia professionally for 10 years by the time I entered this program.

I knew I would learn and grow. But, as I reflect on the amount of growth, I'm actually astonished. I couldn't have known how much I could grow. I would loosely categorize the growth into two categories (though, they are inextricably linked).

First, there is the content knowledge. I'd worked on research projects at the North Carolina Institute for Public Health and the Injury Prevention Research Center for years. I thought I understood research. While, the knowledge was helpful with aspects of my study process (such as the understanding of human subjects training or IRB submission), those experiences could never have prepared me for the growth that occurred from visioning, developing, proposing, implementing and analyzing my own research study. Virtually all my courses contributed to the work of this culminating experience. From my qualitative research courses to my electives in feminist theory, my coursework journey truly formed a strong foundation.

I want to also mention the personal growth. The research process was different than previous research work in many ways – but the most striking was that it was lonely. When you're responsible for a work like this, you walk a fine line between making sure you're demonstrating your own competency and conducting research with best practices in mind. That is certainly a challenge in a doctoral program. The loneliness creates important introspection and reflection opportunities and it wasn't necessarily as clear as I was going through it, but now, I understand what a growth opportunity that has been as well. As a professional and general human, this process has helped me better define my values as a researcher, college administrator and honestly, mother, wife, daughter, sister and friend. It has

forced me to think deeply about best research practices and better approaches to my professional responsibilities. To have this sort of intense immersion experience across this time in my life has been invaluable.

REFERENCES

- Alderden, M. A., & Ullman, S. E. (2010). Creating a More Complete and Current Picture: Examining Police and Prosecutor Decision-Making When Processing Sexual Assault Cases. *Violence Against Women* 18(5): 525-51
- Allen, J. K. (2012). Reconstructing Policy in Higher Education: Feminist Poststructural Perspectives (review). *The Review of Higher Education*, 35(2)
- American College Health Association. (2008). Shifting the Paradigm: Primary Prevention of Sexual Violence. Retrieved from ACHA Website: <http://www.nsvrc.org/publications/toolkits/shifting-paradigm-primary-prevention-sexual-violence>
- American Council on Education. (2014). New requirements imposed by the Violence Against Women Reauthorization Act.
- Bahr, A. (2014). Campus Sexual Assault Bill Relies on Public Shaming of Colleges. *New York Times*, August 1. Retrieved from: <http://www.nytimes.com/2014/08/02/upshot/campus-sexual-assault-bill-relies-on-public-shaming.html>
- Banyard, V. L., Plante, E. G., Cohn, E. S., Moorhead, C., Ward, S., & Walsh, W. (2005). Revisiting unwanted sexual experiences on campus. *Violence Against Women*, 11, 426-466.
- Bauer, H. M., Gibson, P., Hernandez, M., Kent, C., Klausner, K., & Bolan, G. (2002). Intimate partner violence and high-risk sexual behaviors among female patients with sexually transmitted diseases. *Sexually Transmitted Diseases*, 29(7), 411 – 416
- Belknap, J. (2001). *The Invisible Woman: Gender, Crime and Justice*. 2nd ed. Belmont, California; Wadsworth.
- Benedict, H. (2005). The language of rape. In E. Buchwald, P.R. Fletcher, & M. Roth, (Eds.), *Transforming a rape culture*. Minnesota: Milkweed.
- Bochner, A. (2000). Criteria against ourselves. *Qualitative Inquiry*,

- Brownmiller, S. (1975). *Against our will*. New York: Simon and Schuster.
- Bryman, A., & Burgess, R. (1995). *Analyzing Qualitative Data* (2nd ed.). Routledge
- Buelow, R. (n.d.). Clery Act and Title IX guidebook: Legislative compliance checklist & prevention best practices.
- Burgess, R. G. (1984). *In the Field: an Introduction to Field Research*, London: Allen & Unwin.
- Busch, C., De Maret, P.S., Flynn, T., Kellum, R., Le, S., Meyers, B., Palmquist, M. (2005). An introduction to content analysis. Available from: <http://writing.colostate.edu/guides/guide.cfm>.
- Centers for Disease Control and Prevention. (2008). Adverse Health Conditions and health Risk Behaviors Associated with Intimate Partner Violence – United States, 2005. *MMWR*, 57(5): 113 – 7. Retrieved from: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5705a1.htm>
- Centers for Disease Control and Prevention. (2015). The National Intimate Partner and Sexual Violence Survey. Retrieved from: <http://www.cdc.gov/violenceprevention/NISVS/index.html>
- Charmaz, K. (2006). *Constructing grounded theory: A practical guide through qualitative analysis*. Thousand Oaks, CA: Sage.
- Cho, J., & Trent, A. (2009). Validity Criteria for Performance-Related Qualitative Work: Toward a Reflexive, Evaluative, and Coconstructive Framework for Performance in/as Qualitative Inquiry. *Qualitative Inquiry*, 15(6), 1013-1041.
- Clery Center for Security on Campus. (n.d.). The Campus Sexual Violence Elimination (SaVE) Act. Retrieved from: <http://clerycenter.org/campus-sexual-violence-elimination-save-act>
- Cloutier, S., Martin, S. L., & Poole, C. (2002). Sexual assault among North Carolina women: prevalence and health risk factors. *Journal of Epidemiology and Community Health*, 56(4), 265 – 271
- Congressional Research Service. (2013). *Summaries for the Violence Against Women Reauthorization Act of 2013*. <https://www.govtrack.us/congress/bills/113/s47/summary>

Creswell, J., & Creswell, J. (2013). *Qualitative inquiry & research design: Choosing among five approaches* (3rd ed.). Thousand Oaks: Sage Publications.

Daigle, L. E., Fisher, B. S., & Cullen, F. T. (2008). The violent and sexual victimization of college women: Is repeat victimization a problem? *Journal of Interpersonal Violence*, 23, 1296-1313

Denmark, F., Rabinowitz, V., & Sechner, J. (2000). *Engendering Psychology*. Boston, MA: Allyn and Bacon.

Department of Education. (2015). Final regulations.

Fischer, S., Stojek, M., & Hartzell, E. (2010). Effects of multiple forms of childhood abuse and adult sexual assault on current eating disorder symptoms. *Eating Behaviors*, 11(3), 190-192.

Fisher, B., Sloan, J., Cullen, F., & Lu, C. (1998). Crime In The Ivory Tower: The Level And Sources Of Student Victimization. *Criminology*, 671-710.

Fisher, B., Cullen, F. & Turner, M. (2000). *The Sexual Victimization of College Women*. Washington, DC: US Department of Justice.

Frequently Asked Questions. (2014). Retrieved 2015, from <http://thecampussaveact.com/faq/>

Flyvberg, B. (2011). Case study. In N.K. Dezin & Y.S. Lincoln (eds), *Handbook of qualitative research* (4th ed.) Thousand Oaks, CA: Sage.

Franklin, C. A. (2010). Physically forced, alcohol-induced, and verbally coerced sexual victimization: Assessing risk factors among university women. *Journal of Criminal Justice*, 38, 149-159

Gavey, N. (2005). *Just Sex: The cultural scaffolding of rape*. New York: Routledge.

Geertz, C. (1973). *The interpretation of cultures: Selected essays*. New York: Basic Books.

Geertz, C. (1973). Thick description: Toward an interpretive theory of culture. In C. Geertz, *The interpretation of cultures*. New York: Basic Books.

Gidycz, C. A., Orchowski, L. M., King, C. R., & Rich, C. L. (2008). Sexual Victimization and Health-Risk Behaviors. A Prospective Analysis of College Women. *Journal of Interpersonal Violence*, 23(6), 744-763.

Grimmett, J., Lewis, S.W., Schuster, S.K., Sokolow, B.A., Swinton, D.C., Brunt, B.V., (2015). The challenge of title IX responses to campus relationship and intimate partner violence. The 2015 Whitepaper. ATIXA

Grub, A., & Harrower, J. (2008). Attribution of blame in cases of rape: An analysis of participant gender, type of rape and perceived similarity to the victim. *Aggression and Violent Behavior*, 13, 396-405.

Guba, E. G., & Lincoln, Y.S., (2005). Paradigmatic controversies, contradictions, and emerging confluences. In N.K. Denzin & Y.S. Lincoln (Eds), *The Sage Handbook of qualitative research* (3rd ed.). Thousand Oaks, CA: Sage.

Hannah-Moffat, K. (1995). Feminine Fortresses: Women-centered prison? *The Prison Journal*. 75, 135-164.

Herman, J. H. (1992). *Trauma and recovery*. New York: Basic Books.

Herman, J. L. (2005). Justice From the Victim's Perspective. *Violence Against Women*, 11(5), 571-602

Hesse-Biber, S., & Leavy, P. (2011). *The practice of qualitative research* (2nd ed.). Thousand Oaks, CA: Sage.

Husserl, E. (2012). *Ideas: General introduction to pure phenomenology*. New York: Routledge. (Originally published in 1913)

Kelderman, E. (2014). College Lawyers Confront a Thicket of Rules on Sexual Assault. Retrieved from Chronicle of Higher Education Website:
http://chronicle.com/items/biz/pdf/sex_assault_brief_fall2014.pdf

Kilpatrick, D. G., Resnick, H. S., Ruggiero, K. J., Conoscenti, L. M., & McCauley, J. (2007). *Drug facilitated, incapacitated, and forcible rape: A national study* (NCJ 219181). Charleston, SC: Medical University of South Carolina, National Crime Victims Research and Treatment Center

Knight, P.T. (2002). *Small-scale research: Pragmatic inquiry in social science and the caring professions*. Thousand Oaks, CA: Sage.

Know Your IX. (n.d.). Understanding the Campus SaVE Act. Retrieved from:
<http://knowyourix.org/understanding-the-campus-save-act/>

Koss, M.P., Achilles, M. (2008). *Restorative Justice Approaches to Sexual Violence*. Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic

Violence/Pennsylvania Coalition Against Domestic Violence. Retrieved from:
<http://vawnet.org>.

Koss, M. P., Burkhardt, B. R. (1989). A conceptual analysis of rape victimization: Long term effects and implications for treatment. *Psychology of Women Quarterly*, 13, 27-40.

Krug, E. (2002). World Health Organization: World Report on Violence and Health. Retrieved from WHO Website:
http://www.who.int/violence_injury_prevention/violence/world_report/en/introduction.pdf

Kutner, Jenny. (2015) University of Oregon Uses Rape Survivor's Medical Records Against Her in Lawsuit. Salon, March 10. Retrieved from:
http://www.salon.com/2015/03/10/university_of_oregon_uses_rape_survivors_medical_records_against_her_in_lawsuit/

Lam, C., & Roman, B. (2009). When granny is the wolf: Understanding and approaching college-aged female victims of acquaintance rape. *Psychiatry*, 6, 18-26.

Lang, D.L., et al. (2011) Rape victimization and high risk sexual behaviors: longitudinal study of African-American adolescent females. *Western Journal of Emergency Medicine*. 12(3), 333 – 342.

Lather, P. (1993). Fertile obsession: Validity after poststructuralism. *Sociological Quarterly*, 34

Lindlof, T. R., & Taylor, B.C. (2002). *Qualitative communication research methods* (2nd ed.). Thousand Oaks, CA: Sage.

Lipka, S. (2014). How to Handle Reports of Sexual Violence: New Q&A Offers Colleges Advice. Retrieved from Chronicle of Higher Education Website:
http://chronicle.com/items/biz/pdf/sex_assault_brief_fall2014.pdf

Littleton, H., Axsom, D., & Grills-Taquechel, A. (2009). Sexual Assault Victims' Acknowledgment Status And Revictimization Risk. *Psychology of Women Quarterly*, 33(1), 34-42.

Lombardi, K. (2013). Campus Sexual Violence Elimination Act Headed for President's Signature, Center for Public Integrity. Retrieved from
<http://www.publicintegrity.org/2013/03/01/12259/campus-sexual-violence-elimination-act-headed-presidents-signature>

- Long, Jennifer G. & Nugent-Borakove, E. (2014). Beyond Conviction Rates: Measuring Success in Sexual Assault Prosecutions. *Strategies* 12: 1-9
- Lutze, F., Murphy, D. (1999). Ultramasculine prison environments and inmates' adjustment: It's time to move beyond the "boys will be boys" paradigm. *Justice Quarterly* (16), 709-733
- Lutze, F. (2003). Ultramasculine stereotypes and violence in the control of women inmates. *Women in Prison: Gender and Social Control*. Lynne Reiner.
- Marshall, C. (1997). Dismantling and reconstructing policy analysis. In C. Marshall (Ed.), *Feminist critical policy analysis: A perspective from primary and secondary schooling* (Vol. 1) London: Falmer Press
- Marshall, C., & Rossman, G. (2016). *Designing qualitative research* (Sixth ed.). Thousand Oaks, Ca. [u.a.:SAGE.
- Maxwell, J. (1996). *Qualitative research design: An interactive approach*. Thousand Oaks, Calif.: Sage Publications.
- Maxwell, J. (2010). *A realist approach for qualitative research*. Thousand Oaks: SAGE Publications.
- McPhail, B. (2003) A Feminist Policy Analysis Framework, *The Social Policy Journal*, 2:2-3, 39-61
- Merriam, S. B. (1998). *Qualitative research and case study applications in education* (2nd ed.). San Francisco: Jossey-Bass
- Miller, S. (1999). *Gender and Community Policing: Walking the Talk*. Boston, Mass: Northeastern University Press.
- Muraskin, R. (2003). *It's a Crime: Women and Justice* 3rd ed. Upper Saddle River, N.J.: Prentice-Hall
- National Council on Disability (2009). Section 3: Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). Retrieved from <http://www.ncd.gov/publications/2009/March042009/section3>
- National Institute of Mental Health (2015). Anxiety Disorders. Retrieved from <http://www.nimh.nih.gov/health/publications/anxiety-disorders/index.shtml>

- Nussbaum, Martha. (2016). Why Some Men are Above the Law. Huffington Post Politics January 15. Retrieved from: http://www.huffingtonpost.com/martha-c-nussbaum/why-some-men-are-above-the-law_b_8992754.html
- Patterson, D. Greeson, M., & Campbell, R. (2009). Understanding rape survivors' decisions not to seek help from formal social systems. *Health and Social Work, 34*, 127-136
- Planty, M., Berzofsky, M., Krebs, C., Langton, L., & Smiley-McDonald, H. (2013). *Female victims of sexual violence, 1994- 2010*. Washington, DC: U.S. Dept. of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- Rickert, V. & Weinmann, C. (1998). Date Rape Among Adolescents and Young Adults. *Journal of Pediatric and Adolescent Gynecology (11)*, 167-175
- Rubinfeld, Jed. (2014). Mishandling Rape. The New York Times, November 16, p. SR1
- Sampson, R. (2002). Acquaintance rape of college students. Washington, DC: U.S. Department of Justice Office of Community Oriented Policing Services. (#99-CK-WX-K004)
- Sokolow, Brett. (2013). Mandatory Reporting for Title IX: Keep it Simple. Chronicle of Higher Education, September 23. Retrieved from: <http://chronicle.com/article/Mandatory-Reporting-for-Title/141785/>
- Stake, R.E. (1995). The art of case study research. Thousand Oaks, CA: Sage
- Stake, R. E. (2006). *Multiple case study analysis*. New York: Guilford Press.
- Stenhouse, L. (1984). Library access, library use and user education in academic sixth forms: an autobiographical account, in R.G. Burgess (ed.) *The Research Process in Educational Settings: Ten Case Studies*, Lewes: Falmer Press.
- Tjaden, P., & Thoennes, N. (2000). *Full report on prevalence, incidence, and consequences of intimate partner violence against women: Findings from the National Violence Against Women Survey*. Report prepared for the National Institute of Justice and the Centers for Disease Control and Prevention. Washington, DC: National Institute of Justice.
- Tracy, S. (2010). Qualitative quality: Eight “big-tent” criteria for excellent qualitative research, *Qualitative Inquiry 16*(837)

Ullman, S. E., (2010). Talking about sexual assault: Society's response to survivors. Washington, DC: American Psychological Association.

US Census Bureau. (2014). Population Estimates. Retrieved from Census Website: <http://quickfacts.census.gov/qfd/states/37/3721095.html>.

US Census Bureau. (2010). Data Estimates. Retrieved from Census Website: <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

US Census Bureau. (2013). American Community Survey. Retrieved from Census Website: <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

U.S. Department of Education. 2001. Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties. Retrieved from: <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>.

U.S. Department of Education. (2014). Questions and Answers 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 Justice. 2015. "Federal Justice Statistics, 2012 – Statistical Tables." <http://www.bjs.gov/content/pub/pdf/fjs12st.pdf>. Accessed 1/20/16.

U.S. Senate. Subcommittee on Financial and Contracting Oversight. 2014. "Sexual Violence on Campus: How Too Many Institutions of Higher Education are Failing to Protect Students." July 9. <http://www.mccaskill.senate.gov/SurveyReportwithAppendix.pdf>.

Van Wormer, K., Bartollas, C. (2000). Women and the Criminal Justice System. Boston, Mass.: Allyn and Bacon.

Wagner, L. W. (2008). Domestic Violence and Sexual Assault Data Resource Center, Final Report, Washington, DC; US Department of Justice.

Westat, Ward, D., & Mann, J.L. (2011). The handbook for campus safety and security reporting. US Department of Education.

Violence Against Women Reauthorization Act U.S.C S. 47 (2013) Retrieved from: <https://www.govtrack.us/congress/bills/113/s47/text>

Weiss, K. G. (2009). "Boys will be boys" and other gendered accounts: An exploration of victims' excuses and justifications for unwanted sexual contact and coercion. *Violence Against Women*, 15, 810-834.

Wingood, G. M., Seth, P., DiClemente, R. J., & Robinson, L. S. (2009). Association of sexual abuse with incident high-risk human papilloma-virus infection among young African-American women. *Sexually Transmitted Disease*, 36(12), 784 – 78.

White House Task Force Report. Retrieved from:
http://www.whitehouse.gov/sites/default/files/docs/report_0.pdf

Wilson, Robin. (2015). For Northwestern, the Kipnis Case Is Painful and Personal. *Chronicle of Higher Education* June 4. Retrieved from:
<http://chronicle.com/article/For-Northwestern-the-Kipnis/230665/>

Wolcott, H.R., (2009). *Writing up qualitative research* (3rd ed.). Thousand Oaks, CA: Sage.

Yin, R. K. (2014). *Case study research: Design and methods*. Thousand Oaks, CA: Sage Publications.

APPENDIX A

NEW VAWA REQUIREMENTS

The Violence Against Women Reauthorization Act (“VAWA”), which President Obama signed into law on March 7, imposes new obligations on colleges and universities under its [Campus Sexual Violence Act \(“SaVE Act”\) provision, Section 304](#). Those obligations—which to some extent refine and clarify, and to some extent change, existing legal requirements and government agency enforcement statements—likely will require revision of institutional policy and practice. Counsel should be consulted on this complex, sensitive area of institutional law compliance.

Under VAWA, colleges and universities are required to:

- Report domestic violence, dating violence, and stalking, beyond crime categories the Clery Act already mandates;
- Adopt certain student discipline procedures, such as for notifying purported victims of their rights; and
- Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel. ¶The interplay of VAWA and other pronouncements—notably the April 4, 2011 [Dear Colleague Letter](#) under Title IX issued by the Office for Civil Rights of the Department of Education (“ED”) (“OCR Guidance Letter”) and prevailing institutional policy—warrants legal risk management judgment by institutional counsel and compliance officers, and implicates a range of management steps. Here we identify some key points. ¶**I. New Reporting Requirements** ¶VAWA’s SaVE Act provision imposes new reporting requirements: ¶A. The Clery Act requires annual reporting of statistics for various criminal offenses, including forcible and non-forcible sex offenses and aggravated assault. VAWA’s SaVE Act provision adds domestic violence, dating violence, and stalking to the categories that, if the incident was reported to a campus security authority or local police agency, must be reported under Clery. Parsed for clarity, these offenses are defined:

1. “Domestic violence” includes asserted violent misdemeanor and felony offenses committed by the victim’s current or former spouse, current or former cohabitant, person similarly situated under domestic or family violence law, or anyone else protected under domestic or family violence law.

2. “Dating violence” means violence by a person who has been in a romantic or intimate relationship with the victim. Whether there was such relationship will be gauged by its length, type, and frequency of interaction.

3. “Stalking” means a course of conduct directed at a specific person that would cause a reasonable person to fear for her, his, or others' safety, or to suffer substantial emotional distress.

B. The provision adds “national origin” and “gender identity” to the hate crime categories, involving intentional selection of a victim based on actual or perceived characteristics that must be reported under the Clery Act.

C. The provision requires, with respect to the “timely reports” the Clery Act mandates for crimes considered a threat to other students and employees, that victims' names be withheld.

D. The Campus SaVE Act takes effect with respect to the Annual Security Report that must be issued by each institution no later than October 1, 2014. Final regulations to implement statutory changes to VAWA will not be effective until after ED completes the rulemaking process. Until regulations are issued, ED expects institutions to “to make a good faith effort to comply” with the requirements. For more information, see ED’s [electronic announcement](#) May 29, 2013, on this issue.

II. New Student Discipline Requirements

A. Current requirements in the Clery Act are that institutions inform students of procedures victims should follow, such as preservation of evidence and to whom offenses should be reported. VAWA adds that institutional policy must also include information on:

1. Victims' option to, or not to, notify and seek assistance from law enforcement and campus authorities.

2. Victims' rights and institutional responsibilities regarding judicial no-contact, restraining, and protective orders.

B. VAWA prescribes standards for investigation and conduct of student discipline proceedings in domestic violence, dating violence, sexual assault, and stalking cases.

1. Institutional policy must include a “statement of the standard of evidence” used. Unlike some earlier drafts of the legislation, VAWA does not prescribe the

evidentiary standard. The OCR Guidance Letter, at page 11, directs a standard of “preponderance of the evidence.” That letter, although not positive law, authoritatively represents OCR enforcement policy. Whether OCR’s position would withstand judicial review is an open question.

2. Institutional officials who conduct the proceeding must be trained on how to investigate and conduct hearings in a manner that “protects the safety of victims” and “promotes accountability.”
3. Institutional policy must identify “sanctions or protective measures” the institution may impose following a final determination of rape, acquaintance rape, domestic violence, dating violence, sexual assault or stalking.
4. “[T]he accuser and the accused are entitled to the same opportunities to have others present during an institutional disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an advisor of their choice....”
5. Accuser and accused must be notified “simultaneously” and “in writing” of: the outcome of the proceeding; appeal procedures; any change to the result before it becomes final; and when the result becomes final. The OCR Guidance Letter, at page 13, merely “recommends” that the parties be provided the determination “concurrently.”
6. Institutional policy must address how victims’ confidentiality will be protected, including record-keeping that excludes personally-identifiable information on victims. OCR’s Guidance Letter, at page 5, encourages institutions to be cognizant of victims’ confidentiality, but does not mandate that institutional policy address it.

III. New Requirements to Educate Students and Employees on Sexual Violence

Under VAWA, new students and new employees must be offered “primary prevention and awareness programs” that promote awareness of rape, acquaintance rape, domestic violence, dating violence, sexual assault, and stalking. The OCR Guidance Letter, at pages 15-16, “recommends” that institutions implement preventive education programs; VAWA is more prescriptive in its requirements.

The training programs must include:

- A. A statement that the institution prohibits those offenses.
- B. The definition of those offenses in the applicable jurisdiction.
- C. The definition of consent, with reference to sexual offenses, in the applicable jurisdiction.
- D. “Safe and positive” options for bystander intervention an individual may take to “prevent harm or intervene” in risky situations.
- E. Recognition of signs of abusive behavior and how to avoid potential attacks.
- F. Ongoing prevention and awareness campaigns for students and faculty on all of the above.

Conclusion

VAWA’s ramifications include that institutions will need to review and modify policies and procedures for handling asserted sexual offenses, and train carefully personnel responsible in this area. This memo primarily addresses VAWA. Requirements under the OCR Guidance Letter, the Clery Act, Title IX, Title VII, State employment laws, local human rights ordinances, or the sundry apposite regulations and agency pronouncements are also relevant and should be reviewed. College and university counsel expert on those and on faculty, student, and staff rights under institutional handbooks, manuals, and other policies should be consulted. In light of acute sensitivities on campus in this sphere, and by parents of students involved in these situations, and the common prospect of related civil and criminal litigation as well as often extensive publicity, university leadership should give close reading and attention to VAWA and its requirements.

Updated April 1, 2014

This memorandum was prepared by the Washington, DC law firm Hogan Lovells US LLP.

APPENDIX B

QUESTION DEVELOPMENT TABLE

<u>Domains</u>	<u>Theoretical question</u>	<u>Focused theoretical question</u>	<u>Document analysis</u>	<u>Interview question</u>		
<i>Values</i>	<p>Do feminist values undergird the policy?</p> <p>Which feminisms?</p> <p>Are value conflicts involved in the problem representations between and among feminist perspectives?</p> <p>Between feminist values and mainstream values?</p>	<p>Are sexual violence prevention and response efforts survivor centered?</p> <p>Do sexual violence response efforts prioritize confidentiality?</p> <p>Do they involve efforts to address rape culture?</p> <p>How are they centered in the broader university values messaging?</p> <p>Is the broader university messaging supportive of sexual violence prevention and response efforts?</p>	<p>How do university documents define sexual violence?</p> <p>How is consent defined?</p> <p>How are “safety tips” phrased?</p> <p>What do the documents indicate about assumptions regarding sexual violence?</p> <p>Does language in policy documents include a focus on education and training as part of sexual violence prevention?</p> <p>Does language in policy documents prioritize safety of the survivor?</p> <p>Does information about mandatory reporting</p>	<p><u>Interpretation/ Development</u></p> <p>How is sexual violence defined?</p> <p>Who was involved in developing the agreed upon definition?</p> <p>Who was involved in that decision-making process?</p> <p>How did/will you decide who is a Responsible Employee?</p> <p>Who develops training about mandatory reporting?</p> <p>How is training for</p>	<p><u>Implementation</u></p> <p>Where do sexual violence prevention and response efforts “live” at your institution? (I.e. are the core efforts centered in law enforcement, health services, women’s center, etc...?)</p> <p>How do these offices work together?</p> <p>How does senior administration/offices support the sexual violence prevention and response efforts at your institution?</p> <p>How do employees learn about and</p>	

			<p>support survivor confidentiality and safety?</p> <p>Does language in policy documents state the importance of quality training for Responsible Employees?</p>	<p>Responsible Employees evaluated?</p>	<p>understand what it means to be a Responsible Employee?</p> <p>What training is provided to Responsible Employees to prepare them for their role?</p> <p>How do you ensure quality training for Responsible Employees?</p>
<i>State/ market control</i>	<p>Does the policy contain elements of social control of women?</p> <p>Does the policy replace the patriarchal male with the patriarchal state?</p> <p>How does the policy mediate gender relationships between the state, market and family? (Ie, does the policy increase women's dependence upon the state or men?)</p>	<p>Does the sexual violence policy outline how women retain control of the response process?</p> <p>How is conflict between survivor wishes and institutional responsibilities resolved?</p> <p>Is there a separate sexual violence response process that centers agency of the survivor independent of other campus processes?</p>	<p>Can we identify language that centers the agency of the survivor in each step of the response process?</p> <p>Who controls the process of how a case passes through the system?</p> <p>Does the survivor lose the option of control at some point?</p> <p>Does the policy increase survivors' dependence upon the university to "do the right thing"?</p> <p>Who defines if "justice" is achieved?</p>	<p><u>Interpretation/ Development</u></p> <p>What rubric/decision making process was used to determine who would be Responsible Employees?</p> <p>How is the role of the Responsible Employee defined?</p> <p>What information are Responsible Employees</p>	<p><u>Implementation</u></p> <p>Does the Responsible Employee have the power to over-ride the survivor's wishes about their process?</p> <p>Who advocates for a survivor in the event of conflict between survivor's wishes and institutional responsibility?</p> <p>Who makes the ultimate decision</p>

				required to give about an incident?	about what process will happen and how?
Multiple identities	<p>How does gender in this policy interact with race, sexual identity, class, religion, ability or other identity categories?</p> <p>Are white, middle-class, heterosexual women the assumed standard?</p> <p>Does the policy address the multiple identities of women? The multiple oppressions a single woman may face?</p>	<p>Is gender centered as a critical aspect of the policy addressing sexual violence?</p> <p>Does the policy speak to gender and sexuality in a inclusive manner or are cissexism and heteronormativity part of the language?</p> <p>Are sexual violence prevention and response policies set up with provisions that address other aspects of identity (religious affiliation, ability, etc..)</p>	<p>What does the policy assume about the gender of the victims and perpetrators?</p> <p>Does the policy define assault in ways that includes a diverse range of experiences of survivors? (ie. is penetration defined in terms of body parts?)</p> <p>Are different needs recognized? (gender; race; religion; other roles; housing, employment)</p> <p>Does the policy highlight resource areas related to different aspects of identity along with sexual violence response resources?</p>	<p><u>Interpretation/ Development</u></p> <p>How are representatives from offices that support diversity and inclusion regularly included in decisions regarding sexual violence?</p> <p>How was the Gender and/or LGBTQIA center included in decision making around Responsible Employees?</p> <p>How does policy language about sexual violence response include intentional language around same sex/gender assaults, varying abilities and other issues of diversity?</p>	<p><u>Implementation</u></p> <p>What background in issues of diversity and inclusion do personnel responsible for prevention and response have?</p> <p>How are Responsible Employees trained in issues of diversity and inclusion?</p> <p>How does the Gender/LGBTQIA office collaborate on training development? Other offices? (Ie. disabilities services, religious life, etc..)</p> <p>How do Responsible Employees specifically connect students with resources related to varying needs around diversity and inclusion?</p>

				What areas across campus are represented by Responsible Employees?	
Power	<p>Are women involved in making, shaping, and implementation of the policy? In what ways? How were they selected?</p> <p>Does the policy work to empower women?</p> <p>Who has the power to define the interpretation of the policy?</p> <p>What are competing representations?</p> <p>How does the policy affect the balance of power?</p>	<p>Was the sexual violence policy developed in a way that involved input from a diverse array of lenses/identities and a large number of women?</p> <p>Do the sexual violence response and prevention policies/practices intentionally center the experiences/perspectives of women?</p> <p>How do policies regarding sexual violence prevention and response interact with other policies? (I.e. are they protected and reinforced by broader policy)</p> <p>Are values of sexual violence response policy at odds with other institutional</p>	<p>Are women represented in all aspects of response and prevention? (I.e., would a survivor be able to choose to talk with a woman at all times?)</p> <p>Is it clearly stated in policy documents how, when and whom would be involved in a response process should a survivor choose to report an incident of sexual violence?</p> <p>Is it clearly stated in accessible documentation that survivor agency is centered?</p>	<p>Interpretation/ Development</p> <p>How are senior administration involved in policy support and development?</p> <p>How are survivors' perspectives included in strategic planning for the institution?</p> <p>Are survivors involved in decision making regarding the response process?</p> <p>Who was/is/will be involved in the decisions you make about mandatory reporting/Responsible Employees?</p>	<p>Implementation</p> <p>Who explains the Responsible Employee designation to the people who are R.E.s?</p> <p>How do you ensure quality control of mandatory reporting?</p> <p>How are survivors involved in developing training and educational efforts?</p> <p>Do senior administrators consistently hear from the personnel responsible for sexual violence prevention and response?</p>

		policy?		How are survivors involved in the decision making regarding Responsible Employees?	Who conducts training and education received by Responsible Employees?
--	--	---------	--	------------------------------------------------------------------------------------	------------------------------------------------------------------------

APPENDIX C

SITUATING TITLE IX AND THE CLERY ACT

Title IX

Purpose: Promotes equal opportunity in educational programming and activities across sexes. Compliance is required by institutions in order to receive federal financial assistance. **Relation to Educational Amendments of 1972:** Title IX is a portion of the Educational Amendments of 1972. **Reporters:** Those tasked with reporting duties under this legislation are known as Responsible Employees.

Educational Amendments of 1972

Full Name: An Act to amend the Higher Education Act of 1965, the Vocational Education Act of 1963, the General Education Provisions Act, The Elementary and Secondary Education Act of 1965, Public

Law 874, Eighty-first Congress, and related Acts, and for other purposes. **Relation to Title IX:** Title IX is the best-known portion of this Act.

■ Dear Colleague Letter: April 4, 2011

Relation to Title IX: The Department of Education's Office of Civil Rights issued this letter to clarify and provide guidance around the responsibilities institutions have under Title IX. **Purpose:** Makes clear that institutions have responsibilities to address sexual harassment and sexual violence under Title IX.

Clery Act

Full Name: Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act **Purpose:** To inform current and potential community members of an institution of the criminal activity that has occurred through clear reporting and statistics. Compliance is connected with Title IV funding.

Reporters: Those tasked with reporting duties under this legislation are known as Campus Security Authorities.

Violence Against Women Reauthorization Act of 2013

Purpose: This Act has many key provisions that expand upon and reinvigorate the Violence Against Women Act. **Relation to Clery Act:** Section 304 of this Act serves as an amendment to the Clery Act.

Section 304 – Campus Sexual Violence, Domestic Violence, Dating Violence, and Stalking

Education and Prevention

Also Known As: Campus Sexual Violence Act; Campus SaVE Act; SaVE Act **Relation to Clery Act:** Located within the Violence Against Women Reauthorization Act of 2013, constitutes an amendment to the Clery Act. **Purpose:** Expands (1) the types of crimes that need to be reported under the Clery Act, (2) rights of and policies for survivors of sexual harassment and violence, and (3) institutional responsibilities to prevent and respond to sexual harassment and violence.

APPENDIX D

TIMELINE: TITLE IX AND CLERY

SHIFTS IN REPORTING REQUIREMENTS

1972	Educational Amendments of 1972, which includes Title IX, is passed. Sex-based discrimination is prohibited in educational programs that receive federal funding. Non-compliance could result in a withdrawal of federal funding. Reporting duties are not established, but it does enable federal enforcement if non-compliance is found
1975	Department of Health, Education and Welfare issues Title IX regulations. This establishes the need for 1. At least one “responsible employee” to coordinate efforts to comply with Title IX and 2. A need for complaint procedures. Indicates colleges must be in compliance by July 21, 1978
1990	The Clery Act is passed. Requires campuses to inform current and potential community members of an institution of the criminal activity that has occurred through clear reporting and statistics. Crimes that must be reported include forcible and non-forcible sex offenses, murder, robbery, aggravated assault, burglary, motor vehicle theft, arson, arrest, liquor law violations, drug-related violations, weapons possession, and hate crimes as defined federally. Compliance is connected with Title IX funding.
2011	Dear Colleague Letter issued by the Office of Civil Rights within the Department of Education clarifies that sexual harassment and sexual violence are forms of sex discrimination that must be reported under Title IX
2013	Violence Against Women Reauthorization Act of 2013 is passed. Section 304 of this Act is known as Campus SaVE and serves as an amendment to the Clery Act. It expands what needs to be reported under the Clery Act to include domestic violence, dating violence, and stalking

APPENDIX E

REPORTING RESPONSIBILITIES FOR TITLE IX AND CLERY

Who Must Report

Responsible Employees (Title IX)

Any employee who has the authority to take action to redress sexual violence, who has been given the duty to report to appropriate school officials about incidents of sexual violence or any other misconduct by students, or who a student could reasonably believe has this authority or responsibility.

Sexual harassment; Sexual violence

Any incident that takes place within the context of an institution's educational programs or activities; Any incident that occurs off-campus that may produce a hostile environment within an institution's educational programs or activities

Campus Security Authorities (Clery Act)

Includes campus police and/or security personnel; any individual who has responsibility for campus security but is not part of a campus police or security department; an individual or organization specified in an institution's statement of campus security policy as one to which students and employees should report criminal offenses; and an official of an institution who has a significant responsibility for student and campus activities, including, but not limited to, student housing, student discipline, and campus judicial proceedings.

What Must Be Reported

Criminal homicide; Rape; Sexual assault; Robbery; Aggravated assault; Burglary; Motor vehicle theft; Arson; Arrests and disciplinary referrals for drug, liquor, and weapons laws violations□ If a person/group is targeted due to their actual/perceived race, gender, religion, national origin, sexual orientation, gender identity, ethnicity, or disability, the following crimes must also be reported: Larceny-theft; Simple assault; Intimidation; Destruction/damage/ vandalisms of property□ **Professional counselors (includes those not employed□ by but contracted by an institution, as well as those□ not licensed/ certified but acting in this role under supervision of someone licensed/ certified) and pastoral counselors - acting under these roles - are exempt from reporting crimes, but institutions are encouraged to develop voluntary, confidential processes for them to report.*

Reporting Geography

Any building or property owned by the institution within a reasonably contiguous area; Any non-campus building or property owned by a student organization or owned by the institution to support educational purposes; Public property adjacent to or accessible from the previous two categories

Reporting Sexual Violence Under Title IX

Responsible Employees (Title IX)

Professional counselors (includes those not employed by but contracted by an institution, as well as those not licensed/ certified but acting in this role under supervision of someone licensed/ certified); Pastoral counselors

Non professional counselors or advocates (e.g. survivor advocacy offices; health center's; women centers; on-campus sexual assault centers)□ **These individuals should report aggregate data including: nature of the incident; date; time; and general location*

Responsible Employees who do not fall under the above categories

- ***Can Provide Confidential Support***
- ***Do Not Have to Report Personally Identifiable Information***
- ***Must Report Personally Identifiable Information***

Clery Act

Campus Security Authorities (Clery Act)

Professional counselors (includes those not employed by but contracted by an institution, as well as those not licensed/certified but acting in this role under supervision of someone licensed/certified); Pastoral counselors **Institutions encouraged to develop voluntary, confidential processes for professional counselors and pastoral counselors to report crimes.*

Campus Security Authorities who are not law enforcement or campus safety officers **These individuals should report aggregate data including: nature of the incident; date; time; and general location*

Campus law enforcement officers; Non-law enforcement campus safety officers; Local law enforcement officers

**All information provided as been adapted from: Department of Education. (n.d.). "Intersection of Title IX and the Clery Act." Retrieved from <https://www.notalone.gov/assets/ferpa-clerychart.pdf>*

APPENDIX F

INTERVIEW SCHEDULE

The first set of questions about sexual violence prevention and response on your campus broadly.

- 1) How is sexual violence defined at your institution?
- 2) Who was involved in the process of defining sexual violence for your community?
 - a) How did that process occur?
- 3) Where do sexual violence prevention offices “live” at your institution? (for example, are they housed in the Women’s Center?)
 - a) How do these offices collaborate/work with/get supported by other offices on campus?
 - b) What interdepartmental teams/working groups are in place?
- 4) To what extent (if at all) are survivors involved in decision-making processes regarding sexual violence response?
- 5) To what extent are survivors involved in developing training and education regarding sexual violence prevention?
- 6) In what way does your institution intentionally support diversity with respect to sexual violence? (for example, are there specific outreach programs to the LGBTQ community, collaborations with disabilities services, etc...)
- 7) What background in issues of diversity and inclusion do personnel responsible for prevention and response have? (I’m specifically referring to personnel such as health educators, victims advocates, health center staff, women center staff...)

The next questions are about the decision-making process regarding mandatory reporting on your campus. By mandatory reporting, I’m including the designation of Responsible Employee, but am also interested in hearing about how Campus Security Authorities are involved.

- 1) How is the role of the Responsible Employee defined?
- 2) Who was involved in the decision making process around Responsible Employees?
 - a) What rubric has been used in the past and/or is currently being used to determine who will be Responsible Employees and Campus Security Authorities?
- 3) How were survivors involved in this process?
- 4) Are there any offices that support diversity and inclusion involved in the decision making process about mandatory reporting? (in what ways are they involved)?
- 5) Who are the senior administrators that are involved in policy support and development around mandatory reporting? (in what ways are they involved)?

The final set of questions is related to how Responsible Employees are made aware of their role and how they become prepared for those obligations.

- 1) How do employees learn about and understand what it means to be a Responsible Employee?
- 2) What training is provided to Responsible Employees to prepare them for their role?
 - a) How do you ensure quality training (and quality control of training for Responsible Employees?
 - b) Who conducts training and education received by Responsible Employees?
- 3) Who advocates for the survivor in the event of a conflict between survivor's wishes and institutional responsibility?
 - a) Does the Responsible Employee have the power to over-ride the survivor's wishes about their process?
 - b) Who makes the ultimate decision about what process will happen and how?
- 4) How are Responsible Employees trained in issues of diversity and inclusion?
- 5) How does the Gender/LGBTQIA Office collaborate on training development?
 - a) Other Offices (ie. Disabilities Services, Religious Life, etc..)?

Are there other things you would like to share with me regarding your campus's interpretation or implementation regarding the guidelines around Campus SaVE?