The Impact of Sexual Violence

Fact Sheet

Sexual violence occurs whenever a person is forced, coerced, and/or manipulated into any unwanted sexual activity, including when s/he is unable to consent due to age, illness, disability, or the influence of alcohol or other drugs.

Forms of sexual violence

Sexual violence includes rape, incest, child sexual assault, ritual abuse, non-stranger rape, statutory rape, marital or partner rape, sexual exploitation, sexual contact, sexual harassment, exposure, and voyeurism. It is a crime not typically motivated by sexual desire but by the desire to control, humiliate, and/or harm.

Sexual violence can violate a person's trust and feeling of safety. It can, and does, happen to people of all ages, races, genders, sexual orientations, religions, professions, incomes, and ethnicities. Sexual violence affects all of us: survivors, significant others, communities, and society.

Impact on survivors

Each survivor reacts to sexual violence in her/his own unique way. Personal style, culture, and context of the survivor's life may affect these reactions. Some express their emotions while others prefer to keep their feelings inside. Some may tell others right away what happened, others will wait weeks, months, or even years before discussing the assault, if they ever choose to do so. It is important to respect each person's choices and style of coping with this traumatic event.

Whether an assault was completed or attempted, and regardless of whether it happened recently or many years ago, it may impact daily functioning. A wide range of reactions can impact victims.

Emotional reactions

- Guilt, shame, self-blame
- Embarrassment
- Fear, distrust
- Sadness
- Vulnerability
- Isolation
- Lack of control
- Anger
- Numbness
- Confusion
- Shock, disbelief
- Denial

Psychological reactions

- Nightmares
- Flashbacks
- Depression
- Difficulty concentrating
- Post Traumatic Stress Disorder (PTSD)
- Anxiety
- Eating disorders
- Substance use or abuse
- Phobias
- Low self esteem
Physical reactions
- Changes in eating or sleeping patterns
- Concerns about physical safety
- Physical injury
- Concerns about pregnancy or contracting an STI or HIV

Impact on significant others
Sexual violence can affect parents, friends, partners, children, spouses, and/or coworkers of the survivor. As they try to make sense of what happened, significant others may experience similar reactions and feelings to those of the survivor. Fear, guilt, self-blame, and anger are but a few reactions they may experience. In order to best support the survivor, it is important for those close to them to get support. Local social services providers offer free confidential services to those affected by sexual violence.

Impact on communities
Schools, workplaces, neighborhoods, campuses, and cultural or religious communities may feel fear, anger, or disbelief if a sexual assault happened in their community. Additionally, there are financial costs to communities. These costs include medical services, criminal justice expenses, crisis and mental health services fees, and the lost contributions of individuals affected by sexual violence.

According to the U.S. Department of Justice (1996) the cost of crime to victims is an estimated $450 billion per year. Rape is the most costly to its victims, totaling $127 billion annually.

Impact on society
Sexual violence endangers critical societal structures through climates of violence and fear. According to the 1995 U.S. Merit Systems Protection Board, sexual harassment alone cost the federal government an estimated $327 million in losses associated with job turnover, sick leave, and individual and group productivity among federal employees.

Fifty percent of rape victims lost or were forced to quit their jobs in the year following their rapes due to the severity of their reactions (Ellis, Atkeson & Calhoun, 1981). Scholars at Johns Hopkins University School of Public Health indicated that development of Post Traumatic Stress Disorder (PTSD) is likely in 50 to 95 percent of rape cases (1999). Lifetime income loss, due to sexual violence in adolescence, is estimated at $241,600 (MacMillan, 2000).

The contributions and achievements that may never come as a result of sexual violence is a cost to society that can't be measured.

References


This document was supported by Cooperative Agreement #1VFICE001751-01 from the Centers for Disease Control and Prevention. © National Sexual Violence Resource Center 2010. All rights reserved.
Promoting Healthy Masculinity: Beginning the process of engaging men in sexual violence prevention

Prevention, at its core, is about changing social norms and beliefs that make violence acceptable in society. Sexual violence is connected to all forms of oppression, but sexism (or the belief that women and girls are less valuable than men and boys), is one of the strongest forces. Although the anti-sexual violence and feminist movements have done tremendous work and education around sexism and how harmful it is to women and girls, men and boys have not historically been part of this conversation. This Technical Assistance Bulletin will offer suggestions and provide resources for agencies looking to engage men as part of sexual violence prevention.

Working with men and boys is sexual violence prevention

As the anti-sexual violence movement progresses, engaging men as activists will further the work around promoting new models for healthy masculinity. Sexism, rigid gender norms, and homophobia limit the ways in which men and boys can relate to one another and the world around them. For example, when a boy or young man acts in a way that is not acceptable or in line with gender norms, he is called any number of degrading names or threatened with physical violence. The names he is called are connected to beliefs that anything feminine/female or any desire other than heterosexual is bad.

Engaging men as activists and allies in anti-sexual violence work will provide opportunities to help beyond their interpersonal relationships with women and girls. Men will be able to model respectful, healthy masculinity for the boys in their lives.

*Mentors (a great role for male allies) need to continue challenging and supporting men in moving beyond ‘I do it for her,’ or ‘I do it for them,’ to eventually understand the interconnectedness of even his own suppression within patriarchy.* (Grove, 2011, p.8)

*Within this resource, discussions of men and boys will use traditional understandings of men and masculinity. PCAR acknowledges the contributions of male allies, as well as how men who identify as gay, bisexual, or transgender have worked tirelessly in ending sexist oppression for decades.*
What is healthy masculinity?

One of the ways we can do this work is by promoting a model for masculinity that encourages social justice and action. Patrick McGann, Director of Strategy and Planning at Men Can Stop Rape, posted a working definition of healthy masculinity on the organization’s blog. His definition is one that may serve as a starting point for thinking about the evolution of men and boys engaging in sexual violence prevention (McGann, 2011). Each of these components requires training, support, and behavior change – all necessary for changing social norms.

Healthy masculinity is...

• Recognizing unhealthy ways in which masculinity is defined or acted out in his community – ways that are harmful to the self and others.

  EXAMPLE: A young man realizes that the tradition of calling male members of the chess club “wussies” or other hurtful names is connected to negative ideas about what is masculine.

• Actively working toward replacing unhealthy and violent masculine language and actions with nurturing behaviors and attitudes that benefit men and others.

  EXAMPLE: A group of male high school students get together to mentor middle school boys around friendships, healthy relationships, technology, school and planning for the future, and being a good community member.

• Visibly supporting gender equity and other forms of equity.

  EXAMPLE: A local business owner writes to the newspaper about sexist advertising used to market an upcoming event or product.

• Practicing social and emotional skills that positively challenge unhealthy masculine attitudes and behaviors.

  EXAMPLE: A man speaking up at a local bar or get-together where sexist or harassing comments are made about women’s bodies.

Next Steps

Creating or expanding opportunities for men to help is a great first step when an agency is interested in engaging men as activists and allies in the anti-sexual violence movement. There are a number of organizations who focus on engaging men and boys and promoting healthy masculinity. The following online resources have a number of free downloadable toolkits and materials for use in local communities.

Coaching Boys into Men

Futures Without Violence, formerly the Family Violence Prevention Fund, developed Coaching Boys into Men as a strategy for using the unique position and influence men have in their communities to prevent domestic and sexual violence.

Engaging Boys and Men in Gender Transformation:

The Group Education Manual

The ACQUIRE Project/EngenderHealth and Promundo put together a comprehensive guide for educating young men and boys about social justice. The guide covers topics such as gender norms, healthy sexuality, healthy relationships, and healthy conceptualizations of fatherhood.
Men Can Stop Rape

Men Can Stop Rape's (MCSR) Men of Strength clubs are prevention programs focused on giving young men the space to explore masculinity and discover new models for healthy interactions and community engagement. MCSR also has a public norms campaign, Where do you stand?, that encourages bystander action and ally behavior. The Where do you stand? Campus programming guide is also available on the MCSR website.

Where Our Boys At? Involving Young Men as Allies to End Violence against Girls

The Rogers Park Young Women's Action Team’s toolkit offers tools and resources developed through a multi-year program development process. Resources offered include discussion guides, workshop outlines, and a reading list.

This Technical Assistance Bulletin was created by PCAR's Engaging Men Workgroup and authored by Liz Zadnik, Education and Resource Coordinator.

References

Retrieved from http://www.acquireproject.org/archive/files/7.0_engage_men_as_partners/7.2_resources/7.2.3_tools/Group_Education_Manual_final.pdf


Adolescents Who Have Engaged in Sexually Abusive Behavior: Effective Policies and Practices

Adopted by the ATSA Executive Board of Directors on October 30, 2012

Introduction

Sexually abusive behavior by adolescent youth is a serious problem, accounting for more than one-third of all sexual offenses against minors and causing serious harm or even devastating consequences. As such, these youth merit careful professional attention and, at times, legal intervention. The public, its representatives, legal professionals, and clinical practitioners have a common goal of community safety and no more victims. Effective public policies and practices, informed by the most accurate facts, are essential to successfully address this problem.

Historically, professional opinions about adolescents who engaged in sexually abusive behaviors were based on beliefs about adults who committed sex crimes. A sufficient number of studies now exist, however, that show most of these youth do not continue to sexually offend and are not on a life path for repeat offending. The problem of sexually abusive behavior by adolescents differs from adult sex offending; the causes and solutions vary. Because of these differences, particularly rapid and continuing adolescent development and dependence on adults and caregivers, different policies and practices are required. Moreover, adolescents who sexually offend are diverse, e.g., in age and maturity level, learning styles and challenges, and risk factors for reoffending. Effective policies and practices account for differences in risks, needs, and intervention responsivity among these youth.

II. Goal of the Document

The goal of this document is to provide relevant information for reducing sexual reoffending by adolescents and promoting effective interventions that facilitate pro-social and law-abiding behaviors. This document is purposefully short in length, summarizes central findings from the research, and outlines some major areas for consideration when working with this population of youth and their families.

III. Definition

In this paper, the term "adolescents" indicates youth ages 13 to 18 years. The term "Adolescents Who Have Engaged in Sexually Abusive Behavior" is used rather than terms like "juvenile sex offenders" to emphasize that these youth are teenagers who are developing and maturing and should not be defined by their abusive behavior. For information on younger children with sexual behavior problems, readers are referred to Report of the ATSA Task Force on Children with Sexual Behavior Problems. For information on adult sexual offenders, readers are referred to ATSA Practice Guidelines for the evaluation, treatment and management of adult male sexual abuser. The reader is also referred to A Reasoned Approach: Reshaping Sex Offender Policy To Prevent Child Sexual Abuse (http://www.atsa.com/sites/default/files/ppReasonedApproach.pdf) and Sexual Abuse as a Public Health Problem (http://www.atsa.com/sexual-abuse-public-health-problem) for information about the prevention of sexual abuse.

The term "sexually abusive behavior" is used to denote all instances of sexually abusive behavior whether or not a specific behavior was reported to authorities and, if reported, whether or not the youth was
adjudicated (as a juvenile or as an adult) and whether or not a finding of guilt ensued. Sexually abusive behavior is differentiated from developmentally normative behaviors and it is important to be aware of both normative sexual development and general adolescent development. The term “sexual recidivism” refers to reports of new sexually abusive behavior, typically recorded in juvenile or criminal justice records.

Overview of Current Research

Prevalence
There are few empirically sound prevalence estimates for adolescent sexually abusive behavior. A Minnesota state survey of 71,594 children in the 9th and 12th grades (approximate ages 14 to 18) included the question “Have you ever forced someone into a sexual act with you?” in response to this single item, 4.8% of boys and 1.3% of girls responded affirmatively. Several factors were associated with perpetration of forced sex, particularly use of drugs and child sexual abuse victimization. A more recent population-based study of Swedish and Norwegian high school boys (ages 17 to 20) provided similar estimates of perpetration (4% and 5% for the two countries, respectively) and also indicated that prevalence increased among the subset of boys reporting child sexual abuse victimization.

Recidivism rates
While the actual rates of sex offending behavior are under-reported, studies support that once detected, most adolescents who have engaged in sexually abusive behavior do not continue to engage in these behaviors.

Sexual recidivism estimates for youth who have sexually offended have been reported in scores of studies conducted over decades of research. Caldwell reviewed 63 data sets with sexual recidivism rates for 11,219 youth who had sexually offended and estimated a sexual recidivism rate of approximately 7% across a 5-year follow-up period. Even across decades long follow-up, sexual recidivism rates remain in this low range. It is notable that if these youth reoffend, they are far more likely to do so with nonsexual offenses than with sexual offenses.

Risk and protective factors
The most empirically rigorous evidence for risk and protective factors associated with the development of behavior problems is provided by studies that prospectively follow youth from early childhood through adulthood (i.e., longitudinal studies). Several longitudinal studies have identified risk and protective factors associated with general delinquency. Data from one of these studies suggests similar factors are associated with both general and sexual offending. Specifically, youth who committed violent sexual offenses were similar to youth who committed nonsexually violent offenses on 64 of 66 factors (e.g. family problems, cognitive abilities). Likewise, results from a study that compiled information from dozens of non-longitudinal studies indicated that male adolescents with sexual offenses and male adolescents with nonsexual offenses were similar on a majority of factors. The factors on which groups differed the most included child sexual abuse victimization and atypical sexual interests. Although most children who are sexually victimized do not go on to commit sexually abusive behavior, adolescents with sexual offenses were more likely to have been sexually victimized than adolescents with nonsexual offenses. These results suggest that preventing child sexual abuse victimization might also help prevent adolescent sexual offending. Relative to adolescents with nonsexual offenses, adolescents with sexual offenses were also more likely to be characterized by atypical sexual interests, such as interest in younger children or forced sex, and this interest was associated with sexual recidivism. Only a minority of adolescents appears to have atypical sexual interests, but if present these interests require appropriate interventions. Additional factors that might be related to recidivism include social skills deficits, social isolation, impulsivity and delinquent attitudes.

The juvenile delinquency literature identifies several protective factors that parallel factors found in
resiliency research related to healthy adolescent development. These include positive family functioning (e.g., adequate supervision, consistent and fair discipline), positive peer social group and availability of supportive adult. Other protective factors for delinquency are commitment to school, pro-social/non-criminal attitudes and emotional maturity with resiliency protective factors also including self-regulation and problem-solving skills.

Assessment

Adolescent sexually abusive behavior is influenced by a variety of risk and protective factors occurring at the individual youth, family, peer, school, neighborhood and community levels. Consequently, policies and practices should include evaluations that consider a range of potentially relevant factors that might be related to the development or possibility of repeated sexually abusive behavior in a given youth and that can guide effective intervention. In order to pursue effective treatment planning, assessments must be comprehensive, combining multiple sources of information from interviews, records reviews, self-report and parent-report using the best strategies and assessment and risk assessment instruments available. While not typically warranted for youth, restrictive and potentially life altering decisions, (e.g., residential placement, "sex offender" registration, community notification, civil commitment) should be based on assessment outcomes.

Physiological testing with adolescents is controversial with strong opposing perspectives regarding the appropriateness and benefit of the use of penile plethysmography, visual response time and the polygraph. Overall research support for polygraph and penile plethysmography is lacking and use of these strategies with adolescents raises ethical concerns. To date, no research on plethysmography or visual response time measures of atypical sexual interest have included nonoffending youths; thus, "norms" have not been established for use of these instruments with adolescents. In specific cases where the case dynamics, assessment of risk, and the identified risk factors point to significant clinical concerns and issues of high and difficult to manage risk, physiological testing may be worth considering. Based on the lack of empirical data supporting this procedure for youth, such decisions should be made with careful consideration, consultation, and a clearly stated clinically and empirically based rationale to support such a recommendation.

A growing literature base has developed with respect to sexual and nonsexual recidivism risk assessment. Recent publications suggest that existing instruments predict recidivism with better-than-chance accuracy. However, to date these instruments are validated only for male adolescents. Of particular note is the fact that even among youth who score high on these instruments, the majority do not commit new sexual offenses. Consequently, it is inappropriate to utilize scores from such instruments to justify whether youth should be subjected to long-term legal requirements such as registration or public notification. When such significant determinations are under consideration, these assessment tools should be used only as one component of a comprehensive assessment protocol. Always, practitioners must take care to ensure against misuse of assessment results and to educate potential users about the current state of the research. Because youth are very much people in development and their circumstances are dynamic, assessment findings have a short "shelf-life" and should be updated every six months or when risk-relevant circumstances change.

Treatment

Adolescents who sexually abuse vary in their treatment needs. The dominant treatment model combines elements of cognitive-behavioral therapy with relapse prevention and focuses on individual youth- level factors such as responsibility and victim empathy. Treatment is typically provided in clinics to groups of youth and often last a year or longer. Yet, the field of adolescent treatment is evolving. Studies have repeatedly demonstrated the importance of family involvement in the treatment of adolescents with sexual behavior problems. Perhaps as a result more provider agencies now identify as "family-focused" than in prior years, according to national provider surveys. There also are indications that some programs are...
more closely matching treatment intensity to youth needs and estimated risk levels and de-emphasizing empirically unsupported treatment elements (e.g., requiring youth to journal about sexual thoughts or discuss deviant sexual fantasies during group sessions). Provider surveys also document a reduction in average treatment duration in recent years. These changes likely reflect consideration of rapid youth development and improved treatment outcomes for interventions that involve families and that address dynamic risk, needs and responsivity.

Public Policy

Since the early 1990s, U.S. states and the federal government have developed and enacted extensive public policies designed to reduce sex offending by managing identified sex offenders with strategies thought to increase community safety. These policies have been applied to adolescents and even children. Children as young as six may face juvenile sex offense prosecution and adolescents charged for the first time may be waived to adult court. Some are civilly committed for an indeterminate amount of time as Sexually Violent Predators.

As of 2011, laws in 35 states require adolescents who have been adjudicated for sexual crimes to register with law enforcement, sometimes for life; 18 of these states disclose juveniles' private information to the public. Some registered youths are also required to comply with residency restrictions prohibiting them from living near schools, parks or other places where children may congregate. Sometimes registered youths are expelled from schools or not allowed to participate in activities that can promote healthy development, such as school clubs, sports, and dances.

Like registered adults, registered youth who do not comply with mandated public registration requirements may be subject to prosecution for a felony and attendant severe consequences, including lengthy incarceration. Such policies not only have detrimental life altering consequences for the youth, but his or her family members as well.

Increasingly, research findings show that registration and public notification policies, especially when applied to youth, are not effective; and may do more harm than good. Such laws may have deleterious effects on pro-social development by disrupting positive peer relationships and activities and interfering with school and work opportunities, resulting in housing instability or homelessness, harassment and ostracization, social alienation and lifelong stigmatization and instability. Such practices are inconsistent with community safety and promotion of pro-social development and, in fact, may actually elevate a youth's risk by increasing known risk factors for sexual and nonsexual offending such as social isolation. Research findings indicate rehabilitative efforts with most youth are effective; and that therapeutic interventions, rather than social control strategies, are likely to be not only more successful but cost-effective as well.

IV. Summary and Recommendations

Interventions with adolescents who have sexually abused are evolving into evidence-based, holistic approaches that are individualized according to youth and family risk factors, intervention needs, and learning style and capacity. Despite research gaps, this field has seen substantial progress toward facilitating positive development of these youth. Research continues to identify protective and risk factors and appropriate targets for intervention and has guided the field towards a family-involved model that facilitates community safety, promotes healthy and pro-social development and protects youth who have engaged in sexually abusive behaviors, and their families, from unnecessary hardships or punishments.

There remain areas in need of change. First, it is crucial that developmentally appropriate interventions designed for adolescents should be utilized. Sanctions and treatment approaches developed for adults should not be applied to adolescents except in rare cases (e.g., when developmentally appropriate and research supported interventions have failed). Second, risk assessment findings—which are currently often valued far beyond their empirically established limits—need to be appropriately integrated into comprehensive evaluations of risk that properly take into account the youth's social, family, and
environmental contexts. Third, too often therapeutic inventions relegate parents and other members of youths’ environments to limited roles, rely on unsupported assessment techniques, place youth in overly restrictive settings and simply last too long.

Now that evidence has identified at least some risk factors associated with reoffending and has developed some evidence-supported treatment interventions, it is time to revise and implement public policies and practices that are based on what works. Adolescents should be assessed to determine which interventions and intervention settings are best suited to which youth. To minimize negative effects associated with out of home and residential settings (e.g., possible negative peer association and influences) and to maximize opportunities for pro-social activities and positive family or other supports, individualized interventions should be offered in settings that offer the least restrictiveness while at the same time providing for community safety.

Effective public policy and practice for adolescents who have engaged in sexually abusive behavior involves a strong rehabilitative focus. At times juvenile justice sanctions may be warranted. Support of a rehabilitative approach is consistent with the more general juvenile justice philosophies in most countries, including the United States and Canada, and recognizes adolescence as a time of hope and opportunity for positive outcomes.

Based on the current literature and research, it is recommended that:

1. Funding be available to support continued research on the etiology, assessment, prevention, effective interventions of adolescents who have engaged in sexually abusive behavior.
2. Risk, need and responsivity principles are adhered to when working with adolescent who have engaged in sexually abusive behavior.

3. Quality, developmentally appropriate assessments that take into account the youth’s social, family and environmental context while incorporating relevant risk assessment findings are utilized to formulate an effective, individualized plan for youth who have engaged in sexually abusive behavior.

4. Developmentally appropriate, research informed interventions are utilized with adolescents who have engaged in sexually abusive behavior.

5. Public policies targeting adolescents who have engaged in sexually abusive behavior be consistent with the juvenile justice system’s emphasis on rehabilitation versus retribution and based on the best empirical research available.

References


RAPE SHIELD LAW

18 Pa. C.S. § 3104

§ 3104. Evidence of victim’s sexual conduct

(a) General rule.—Evidence of specific instances of the alleged victim’s past sexual conduct, opinion evidence of the alleged victim’s past sexual conduct, and reputation evidence of the alleged victim’s past sexual conduct shall not be admissible in prosecutions under this chapter except evidence of the alleged victim’s past sexual conduct with the defendant where consent of the alleged victim is at issue and such evidence is otherwise admissible pursuant to the rules of evidence.

(b) Evidentiary proceedings.—A defendant who proposes to offer evidence of the alleged victim’s past sexual conduct pursuant to subsection (a) shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence pursuant to the standards set forth in subsection (a).

McCormick on Evidence
§ 193, at 420–21 (7th student ed. 2014)

...In the past, the courts generally admitted evidence of the victim’s character for chastity, although there were diverging lines of authority on whether the proof could be by specific instances and on whether the prosecution could put evidence of chastity in its case in chief. In the 1970s, however, nearly all jurisdictions enacted criminal “rape shield” laws “to protect rape victims from degrading and embarrassing disclosure of intimate details about their private lives, to encourage reporting of sexual assaults, and to prevent wasting time on distracting collateral and irrelevant matters.” The reforms ranged from barring all evidence of the victim’s character for chastity to merely requiring a preliminary hearing to screen out inadmissible evidence on the issue.

Federal Rule of Evidence 412 lies between these extremes. As originally promulgated a few years after the Federal Rules went into effect, Rule 412 applied only to prosecutions for sexual assault. Reversing the traditional preference for proof of character by reputation, in criminal cases the rule bars all reputation and opinion evidence of the victim’s past sexual conduct, but permits evidence of specific incidents if certain conditions are met. Procedurally, the proponent of the evidence ordinarily must give written notice before trial, and the court must conduct an in camera hearing before admitting the disfavored evidence. Substantively, in criminal cases Rule 412 distinguishes between evidence of past sexual behavior of the victim with the accused and sexual conduct involving other individuals. If the evidence pertains to past conduct with an accused who claims consent, it may be admitted to prove or disprove consent.

22 United States v. Torres, 937 F.2d 1469, 1472 (9th Cir. 1991).
But if the evidence pertains to acts of the victim with other individuals, the defendant may use it only to prove that someone else was the "the source of semen, injury, or other physical evidence." Finally, the rule specifies that if the constitution mandates it, the defendant may introduce evidence of the victim's prior sexual conduct.

Resort to an undefined, residual provision to avoid an otherwise unconstitutionally sweeping ban on proof of the victim's character is inferior to an articulation of the full range of allowable uses of sexual history evidence. It places trial courts in the awkward position of having to make constitutional rulings rather than being able to apply a self-contained rule of evidence. Uniform Rule of Evidence 412 and many state laws and provide a more structured approach that seems preferable to the obscurity of the federal rule.

Be that as it may, a number of cases have identified circumstances in which a defendant is constitutionally entitled to introduce evidence of an alleged victim's sexual conduct under the due process or confrontation clauses. For example, in Olden v. Kentucky,23 the Supreme Court held that a rape defendant's right to confront his accusers entitled him to inquire into the alleged victim's cohabitation with another man to show that she had a reason to falsely accuse the defendant.24

A 1994 amendment extends the federal rape shield law to all civil cases "involving alleged sexual misconduct."25 This augmented rule surely reaches civil suits for sexual assaults that could be (or were) the subject of criminal actions, and it probably extends to civil rights claims for sexual harassment. However, the shield is weaker in the civil context than in criminal cases. In the criminal context, the rule excludes all evidence of the victim's sexual character—no matter how probative—that is not within the categorical exceptions. In contrast, in civil cases Rule 412(b)(2) adopts a balancing test with the scales tilted against admission. It forbids admission of any type of evidence for sexual disposition unless the "probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party."

Under state rape-shield laws, evidence of the victim's sexual experience generally is admissible, upon notice, for specified purposes: to demonstrate that the victim, having had previous voluntary sexual relations with defendant, consented to the alleged attack; that the victim has a motive falsely to accuse defendant; that the witness characteristically fantasizes sexual assaults; that the witness knowingly brings false accusations of sexual misconduct; that a young child who gave a detailed account of a sexual assault already possessed the knowledge to do so; or that someone else may have been the source of semen or trauma to the witness.

A recurring difficulty under all the statutes arises in determining the conduct that is shielded from inquiry. The shield laws certainly apply to direct evidence of other acts of sexual


24 A state court had prevented this inquiry, not on the basis of a rape shield law, but on the ground that it was unfairly prejudicial because the jury would have learned that the victim, a white woman, was living with a black man. Drawing on Olden, one court summarized situations in which the right to confront one's accusers or to present a full and fair defense requires the admission of past sexual behavior as including the following: "to expose a possible motive to lie," "to rebut the presumption of a victim's sexual naiveté," and "to respond when the prosecution has 'opened the door' by offering evidence of the victim's chastity." State v. Robinson, 803 A.2d 452, 457 (Me. 2002).

25 Fed. R. Evid. 412(a). At the state level, only a few jurisdictions shield civil plaintiffs.
intercourse or contact, for these laws are intended to protect victims from the embarrassment of having to disclose intimate sexual details. Concern for personal privacy and for not discouraging victims from complaining extends as well to private behavior that implies sexual intercourse or contact, such as the use of contraceptives or the presence of venereal disease. As one moves to conduct that is less directly linked to sex acts, however, the applicability of a rape shield law becomes more arguable. Should modes of dress, prior accusations of rape, and statements about sexual desires or knowledge be considered “sexual conduct” or “sexual behavior” that is exempt from inquiry or proof? The statutes and cases are divided.

The rape shield laws have withstood constitutional attacks. They reflect the judgment that most evidence about chastity has far too little probative value on the issue of consent to justify extensive inquiry into the victim’s sexual history. Given the recognition of this notion in the case law emerging during the period preceding their enactment, however, whether special rape shield laws were necessary to alter the law is questionable. Furthermore, there is scant evidence that the reforms have achieved the goals of increasing reports or convictions of rapes. Thus, the true value of the rape shield laws may be symbolic rather than instrumental.
Commonwealth v. Foley

OPINION BY PANELLA, J.

Appellant, Kevin James Foley, appeals from the judgment of sentence entered on June 1, 2009, by the Honorable William J. Martin, President Judge of the Court of Common Pleas of Indiana County, Criminal Division. After careful review, we affirm.

In the early morning hours of April 13, 2006, Dr. John Yelenic, a dentist living alone in Blairsville, Pennsylvania, was brutally assaulted and murdered in his home. After an eight-day jury trial, Foley, a Pennsylvania State Police Trooper who was living with Dr. Yelenic's estranged wife, was found guilty of first-degree murder and sentenced to life imprisonment. This timely appeal followed. ***

Foley's claim[s] *** that the trial court erred in admitting the DNA-related testimony of Dr. Mark Perlin. A sample containing DNA from the victim and another person was found underneath the fingernail of the victim. This mixed sample was tested in a laboratory at the FBI, and three experts—Dr. Perlin, Dr. Robin Cotton, and Jerrilyn Conway, an FBI forensic scientist—used the FBI's data in developing their testimony. Each of the experts determined that Foley's DNA profile was consistent with DNA found in the sample. The experts differed in their estimates of the probability that someone other than Foley would possess DNA matching the DNA found in the sample—Conway testified that the probability that another Caucasian could be the contributor was 1 in 13,000; Dr. Cotton testified that the probability was 1 in 23 million; and Dr. Perlin testified that it was 1 in 189 billion.

As with other evidentiary decisions, the trial court may exercise its discretion in deciding whether to admit expert testimony. See Commonwealth v. Ventura, 975 A.2d 1128, 1140 (Pa. Super. 2009). The trial court's decision will be reversed only if the appellate court finds an abuse of discretion or an error of law. See id.

Foley claims that Dr. Perlin's testimony is inadmissible because it fails the Frye test for the admissibility of scientific evidence. Pennsylvania continues to adhere to the Frye test *** The Frye test is a two-step process. First, the party opposing the evidence must show that the scientific evidence is "novel" by demonstrating "that there is a legitimate dispute regarding the reliability of the expert's conclusions." If the moving party has identified novel scientific evidence, then the proponent of the scientific evidence must show that "the expert's methodology has general acceptance in the relevant scientific community" despite the legitimate dispute.

The trial court did not expressly determine whether Dr. Perlin's testimony was "novel scientific evidence." Instead, the court found that Dr. Perlin's methodology was a refined application of the "product rule," a method for calculating probabilities that is used in forensic DNA analysis. The Pennsylvania Supreme Court has held that scientific evidence based on the product rule is admissible in the Commonwealth. See Commonwealth v. Blasioli, 552 Pa. 149, 713 A.2d 1117, 1118 (1998). Because Dr. Perlin's calculations were made using newer technology, the trial court rhetorically asked "at what point does the use of the product rule become novel science." The trial court went on to find that Dr. Perlin's methodology was generally accepted.
We find that Dr. Perlin’s testimony was not “novel” as that term is defined in the governing law, and thus the trial court did not abuse its discretion in admitting the testimony. The “novelty” of scientific testimony turns on whether “there is a legitimate dispute regarding the reliability of the expert’s conclusions,” which is not necessarily related to the newness of the technology used in developing the conclusions. Betz, 998 A.2d at 972. In Betz, the court noted that novelty “is not restricted to new science,” and “even ‘bedrock’ scientific principles may be subject to a Frye analysis” if those principles become disputed. Id., at 973–74. Conversely, where there is no dispute, Frye should be “construed narrowly so as not to impede admissibility of evidence that will aid the trier of fact in the search for truth.” Id., at 972.

Here, we find no legitimate dispute regarding the reliability of Dr. Perlin’s testimony. Dr. Perlin used proprietary software called TrueAllele to interpret the data he received from the FBI. Foley claims that Dr. Perlin’s testimony should have been excluded for three reasons: (1) “as of the date of the pre-trial hearing, no forensic laboratory in the United States used Perlin’s TrueAllele [sic] method in analyzing a mixed sample of DNA for forensic purposes”; (2) “the TrueAllel [sic] system had never been used in a court of law in any jurisdiction in the United States on a mixed DNA sample to give a likelihood ratio”; and (3) no outside scientist can replicate or validate Dr. Perlin’s methodology because his computer software is proprietary.

Foley’s first claim does not amount to a showing of “novelty” because it does not show a “legitimate dispute regarding the reliability of the expert’s conclusions.” Betz, 998 A.2d at 972. Regardless, Foley understates the extent of usage of Dr. Perlin’s system. As Dr. Perlin testified:

The TrueAllele technology is used by New York State for all of their data banking and bringing their casework system on board. The Allegheny County Crime Lab has been using our system as a service and recently purchased the system for looking at mixtures in complex cases and DNA evidence. The World Trade Center engaged us to reanalyze all of the data and rematch it using our methods from the eighteen thousand (18,000) or so victim remains and the three thousand (3000) missing people and so on and there are other groups that we work with.

In addition, the United Kingdom’s Forensic Science Service uses TrueAllele technology to analyze crime scene evidence and build the UK National DNA Database, which is the largest of its kind in the world. See Forensic Science Service Expands License for Cybogenetics Automated DNA Data Review Technology; Pioneering TrueAllele Software Helps Builds [sic] World’s Largest DNA Database, Business Wire, July 26, 2004, available at http://tinyurl.com/8yhx8hd (last visited Nov. 21, 2011); see also Opinion and Order of Court, March 3, 2009, at 5.

Foley’s second reason for excluding the testimony is not persuasive because “novelty” of a scientific methodology does not turn on its previous use in court. During cross-examination, Dr. Perlin testified that he did not know whether any users of TrueAllele had used it in a case that went to trial. Even if Foley is correct that
TrueAllele has never been used in court, this would not prove novelty. The Common-wealth's "continued adherence to the Frye test is based upon its interest in having judges be guided by scientists when assessing the reliability of a scientific method, and not the other way around." Betz, 998 A.2d at 979 (internal quotation marks omitted). If this court assessed "novelty" of scientific evidence based on its previous use in court, we would be failing to defer to scientists in assessing the reliability of scientific methods. Rather than looking to previous uses in court, we find "novelty" only if there is a dispute among scientists. See Betz, 998 A.2d at 972.

Foley's third reason for exclusion is misleading because scientists can validate the reliability of a computerized process even if the "source code" underlying that process is not available to the public. TrueAllele is proprietary software; it would not be possible to market TrueAllele if it were available for free. Nevertheless, TrueAllele has been tested and validated in peer-reviewed studies. One study used laboratory-generated DNA samples and found that quantitative analysis performed by TrueAllele was much more sensitive than qualitative analysis such as that performed by the FBI. See Perlin & Sinelnikov, An Information Gap in DNA Evidence Interpretation, 4 PLoS ONE e8327, at 10 (2009), available at http://dx.doi.org/10.1371/journal.pone.0008327. A recent paper entitled "Validating TrueAllele® DNA Mixture Interpretation" used DNA samples from actual cases and reached similar results. See Perlin et al., Validating TrueAllele® DNA Mixture Interpretation, 56 Journal of Forensic Sciences 1430 (2011). The study "validated the TrueAllele genetic calculator for DNA mixture interpretation" and found that "[w]hen a victim reference was available, the computer was four and a half orders of magnitude more efficacious than human review." Id., at 1444. Both of these papers were published in peer-reviewed journals; thus, their contents were reviewed by other scholars in the field.

Because Foley has failed to establish the existence of a legitimate dispute over Dr. Perlin's methodology, he has failed to show that Dr. Perlin's testimony constituted "novel" scientific evidence. See Betz, 998 A.2d at 972. Therefore, we find that the trial court's decision to admit the testimony was not an abuse of discretion. Absent a legitimate dispute, there is no reason to "impede admissibility of evidence that will aid the trier of fact in the search for truth." Id. ***

Judgment of sentence affirmed. Jurisdiction relinquished.
Title IX in Detail

When people speak about Title IX they are referring to 20 U.S.C. § 1681(a), which says:

_No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance._

Essentially, Title IX prohibits sex discrimination in educational institutions that receive federal funding. While Title IX is a very short statute, Supreme Court decisions and guidance from the U.S. Department of Education have given it a broad scope. For example, sex discrimination includes sexual harassment and sexual violence since it creates a hostile educational environment. Under Title IX, schools are legally required to respond and remedy hostile educational environments and failure to do so is a violation that means a school could risk losing its federal funding.

To understand the specific requirements of Title IX, schools must look to guidance materials from the U.S. Department of Education. Recently, the 2011 Title IX Guidance, known as the "Dear Colleague Letter" (DCL), discussed the obligations schools have to address campus sexual violence. While the DCL is not law, it tells schools how the Department will review and enforce Title IX complaints.

The 2011 DCL focuses on how sexual harassment and violence creates a hostile educational environment in violation of Title IX when it is serious enough to interfere with a student’s ability to learn or participate in educational or extracurricular activities. **One single instance of sexual violence is sufficient to qualify as creating a hostile educational environment.**
Is Your School Compliant?

Does your school publish a notice of nondiscrimination?

Under Title IX, schools must disseminate a notice of nondiscrimination. This notice does not have to specify that sexual harassment and violence are likewise prohibited, but the U.S. Department of Education (ED) recommends that schools do, since a notice that makes it unclear may qualify as a violation of Title IX. This notice is likely available in a student handbook or code of conduct in elementary and secondary schools and in an Annual Security Report (ASR) on higher education institutions.

This notice prohibiting sex discrimination must be widely distributed, available, and easily accessible to the school community each year. ED recommends schools:

- Publish this policy online and have it available in print across campus so that school members may understand its purpose and utility

- Include enough detail in the policy so that members of the community can realize sexual harassment and sexual violence are prohibited forms of sex discrimination

Does your school have a Title IX Coordinator?

The DCL requires every educational institution receiving federal funding to have a Title IX Coordinator. The contact information (name/title, office address, telephone number, email address) of the Coordinator should be available both in your school's nondiscrimination notice, but also in an ASR for higher education institutions. Both victims and third parties should contact the Coordinator to report incidents of sex discrimination, sexual harassment, or sexual violence.

The Title IX Coordinator ensures schools are compliant with Title IX, coordinates the investigation and disciplinary process, and looks for patterns or systematic problems with compliance to ensure schools fulfill all their federal obligations. The Coordinator may not have any other job responsibility that creates a conflict of interest with their responsibilities under Title IX. For example, the Title IX coordinator may not also sit on a disciplinary board or serve as legal counsel to the college.

- When a school does not have a Title IX Coordinator or list that individual's contact information, then your college is non-compliant with Title IX.
If the Coordinator has another job responsibility that creates conflicts of interest, your school is likely in violation of Title IX.

Does your school have a clear grievance procedure for sex discrimination?

Schools are required to adopt and publish a grievance procedure outlining the complaint, investigation, and disciplinary process for addressing sex discrimination, sexual harassment, and sexual violence occurring within educational programs. This process should address discrimination perpetrated by students, employees, or third parties. Additionally, school security and/or law enforcement personnel must notify victims of their rights to use the school's grievance procedure in addition to being able to file a criminal complaint.

This grievance procedure requires the school's process be “prompt and equitable,” meaning it must be a timely response to discrimination and provide both parties equivalent rights during the disciplinary process rather than having one-sided due process. For example, if the accused student is given a right to have an attorney present, so may the accusing student.

While sexual harassment complaints may be resolved through informal mechanisms, such as mediation, students are not required to use such a process. Mediation is not appropriate for sexual violence complaints. A school that requires mediation or offers it as a mechanism to resolve a sexual violence complaint are in violation of Title IX.

Are school employees properly trained to address sexual violence?

Both the Campus SaVe Act and the DCL require school employees that address sexual violence complaints to have appropriate training. ED also recommends that professors, campus police, administrators, counselors, health center staff, cleaning staff, coaches, resident advisers and others likely to receive reports be trained on how to identify and report sexual harassment and violence.

Does your school respond in a “prompt” manner after receiving a complaint of sexual harassment or violence?

Schools are required to be prompt when receiving a complaint of sex discrimination, sexual harassment, or sexual violence in order to remedy any hostile educational environment created by such behaviors. ED recommends investigations take no more than 60 calendar days, while allowing more complex cases to be addressed within a reasonable time-frame. A simultaneous police investigation does not remove a school's responsibility to resolve a complaint under Title IX. While a school may delay its response to accommodate a police investigation, ED suggests only three to 10 days is sufficient for police
to gather evidence. Schools that delay the Title IX complaint process unreasonably are in violation of Title IX.

**Does your school provide reporting options?**

The DCL reminded schools that they have an obligation under the Clery Act to inform victims of their reporting options. Schools must notify victims of their right to report to police and facilitate that process if desired by the victim. Victims also have the right not to report to the police.

Regardless of a victim's choice to report to the police, a victim may use a school's grievance procedure to address sexual harassment or sexual violence or merely seek accommodations. When reasonable, schools must accommodate a victim on campus to remedy a hostile environment on a school's campus. This means schools may change academic or extracurricular schedules to prevent an ongoing hostile education environment or put in place safety measures, such as a no contact directive or facilitate a student obtaining a restraining order. **The burden of accommodations or safety measures should not be solely placed on the victim, as this may be seen as a violation of Title IX.**

**Does school have the appropriate standard of evidence for disciplinary hearings?**

*Since Title IX is a federal civil right, the appropriate standard of evidence is a “preponderance of the evidence.”* This standard of evidence means that a hearing must determine whether a complaint of sex discrimination is “more likely than not” to have occurred or 51% likely to have occurred. This standard applies for all complaints of sex discrimination, including sexual harassment and violence, because Title IX outlines standards for school disciplinary processes — not criminal complaints, which requiree the highest standard of evidence, “beyond a reasonable doubt.”

**Does your school have an “equitable” Title IX complaint process?**

Under Title IX, both the accuser and accused have equal rights, such as the right to:

- Have an adviser of choice present during the process (this includes an attorney if allowed at all by schools)
- Present evidence or have witnesses speak on their behalf
- Have timely access to information that will be used at the hearing
• Be present at pre-hearing meetings that provide an opportunity to present their testimony

• Receive the final hearing decision in writing at the same time as the other party without being required to sign a non-disclosure agreement

• Have the right to appeal a final decision

• The DCL warns schools creating a disciplinary system requiring the accused and accuser to directly interact may be re-traumatizing and discourages this practice

Did the school or someone on campus retaliate against you because of a Title IX complaint?

As a federal civil right, Title IX automatically protects any individual who reports sex discrimination, sexual harassment, or sexual violence against retaliation. This means employees and third party reports are protected along with reporting victims from any adverse consequence, harassment, intimidation, or discrimination that is causally related to reporting sex discrimination under Title IX. Schools must protect against other employees or students retaliating against a reporter when it “knows or should know” about the retaliatory harassment or behavior. If a school discourages or threatens you about discussing complaints of sex discrimination, sexual harassment, or sexual violence, this may be considered retaliation.

Does your school address sex discrimination creating a hostile environment for others?

In addition to being obligated to victims, schools must address hostile educational environments created by sex discrimination, sexual harassment, and sexual violence school-wide. Addressing a hostile environment means remedying a current situation, addressing its effects, and preventing its recurrence in the future. Schools may meet this obligation through providing educational and awareness programming on sexual harassment or discrimination.

How can I enforce Title IX at my school?

Students and other concerned third parties have the right to report sex discrimination, sexual harassment, and sexual violence to a school. Schools who fail to appropriately respond can suffer consequences under Title IX, such as the loss of federal funding, a non-compliance finding, a voluntary resolution agreement, or a lawsuit. The U.S. Department of Education accepts Title IX complaints, which can be reported to

OCR@ed.gov. Additionally, Title IX allows harmed individuals to bring a private civil suit to seek money damages and an injunction to stop discriminatory practices.

For more information, check out “How to File a Title IX Complaint,” “Common Concerns When Filing a Title IX Complaint,” “How to Pursue a Title IX Lawsuit,” and “Pros and Cons of Pursuing a Title IX Lawsuit.”

Be sure to also check out resources from the Office for Civil Rights, the ACLU, and the National Women's Law Center.

Although these resources have been written with the guidance of legal experts, we are not lawyers, and the information on this website does not constitute legal advice. We encourage you to contact a lawyer to discuss your complaint or suit.
Understanding the Campus SaVE Act

The Campus Sexual Violence Elimination (SaVE) Act increases transparency on campus about incidents of sexual violence, guarantees victims enhanced rights, sets standards for disciplinary proceedings, and requires campus-wide prevention education programs. The Campus SaVE Act amends the Clery Act, which addresses campus sexual assault policies within the Higher Education Act of 1965. President Obama signed SaVE into law on March 7, 2013 as part of the Violence Against Women Act (VAWA) Reauthorization.

Does Campus SaVE Apply to You?

As of March 2014, the U.S. Department of Education will enforce the Campus SaVE Act, which affects every post-secondary institution participating in Title IV financial aid programs (virtually all colleges and universities). The Act covers incidents of sexual assault, domestic violence, dating violence, and stalking to protect every student from a range of sexual violence.

What Does Campus SaVE Actually Do?

The Act has several provisions.

- Primarily, it improves transparency by requiring schools to report a broader range of sexual violence incidents occurring on campus, while also improving the complaint process so victims know their rights and are supported.

- It also requires an equitable disciplinary proceeding by borrowing language from the 2011 Title IX Dear Colleague Letter Guidance.

- Finally, it offers schools resources from federal agencies to improve their practices while also requiring them to provide education and awareness programs on campus.

http://knowyourix.org/understanding-the-campus-save-act/
What does it require schools to report?

The Campus SaVE Act amends the Clery Act, which requires campuses to provide annual statistics on incidents of campus crimes, including sexual assaults occurring on campus and reported to campus authorities or local police. The Act broadens this requirement to mandate fuller reporting of sexual violence to include incidents of domestic violence, dating violence, and stalking.

What rights do victims of campus sexual violence have?

Colleges must publish the victim's rights and college responsibilities:

- Information on obtaining orders of protection, no contact orders, etc.
- Information on how the college will protect the confidentiality of the victim
- Written notification of available services for mental health, victim advocacy, legal assistance, and other available community resources
- Written notification about victims' right to change academic, living, transportation, or work situations even if they do not formally report
- Written explanation of a student or employee's rights and options, regardless of whether the crime took place on campus or off campus

Colleges must publish the procedures for reporting sexual violence:

- Information on how to preserve evidence of the crime
- Information on to whom and how to formally report the incident
- The right to decline formally reporting to authorities

What educational programs are mandated?

While the 2011 Title IX Dear Colleague Letter Guidance recommended schools provide educational programs on sexual violence, the Campus SaVE Act requires them. Colleges must provide "primary prevention and awareness programs" for new students and employees, as well as ongoing prevention and awareness campaigns. These educational programs must include certain subjects:

- A statement by the school that it prohibits acts of sexual violence
- The definition of various acts of sexual violence
- Education on bystander intervention
- Risk reduction programs so students recognize and can avoid abusive behaviors or potential attacks
Information on the school's reporting system and disciplinary proceedings

How must colleges handle disciplinary proceedings?

The Campus SaVE Act "prompt, fair, and impartial" disciplinary proceedings that ensure equitable process to both parties:

- Officials conducting disciplinary proceedings must be trained annually on sexual violence investigation and determinations
- Both the accuser and the accused have a right to have an adviser of their choice present during the disciplinary process
- Both the accuser and accused are required to receive the final results of a disciplinary proceeding in writing
- Both the accuser and accused have a right to appeal disciplinary proceeding decisions or changes to the final result

How Can I Use SaVE to Help Me?

The U.S. Department of Education will enforce the Campus SaVE Act as part of the Clery Act.

- Before March 2014, you should include SaVE violations in any Title IX complaint since both laws overlap regarding your rights during disciplinary proceedings.
- After March 2014, you can file a formal complaint with the Clery Act Compliance Division at clery@ed.gov when a school violates your rights under SaVE. A school may face warnings or fines up to $35,000 per violation.

Conclusion

The explicit transparency, victim rights, and educational requirements outlined in the recent Campus SaVE Act are necessary reforms that will decrease sexual violence on campus and require schools to do more prevention work. SaVE is also another legal tool for victims if a school mishandles a complaint. When filing a complaint with the U.S. Department of Education, the Campus SaVE Act and Title IX work together to protect students and hold schools accountable.

Although these resources have been written with the guidance of legal experts, we are not lawyers, and the information on this website does not constitute legal advice. We encourage you to contact a lawyer to discuss your complaint or suit.
The Clery Act in Detail

What Is the Clery Act?

The Clery Act was named after Jeanne Clery, who was raped and murdered in her dorm room by a fellow student on April 5, 1986. Her parents championed the Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act (Clery Act)[1] in her memory. This Act is a federal law that requires colleges to report crimes that occur “on campus” and school safety policies. This information is available each year in an Annual Security Report (ASR), which can be found on your school’s website. The Clery Act also requires schools to have timely warning when there are known risks to public safety on campus.

The Clery Act also contains the Campus Sexual Assault Victim’s Bill of Rights, which requires colleges to disclose educational programming, campus disciplinary process, and victim rights regarding sexual violence complaints. The Clery Act was recently expanded by the Campus SaVE Act, which broadened Clery requirements to address all incidents of sexual violence (sexual assault, domestic violence, dating violence and stalking).

When is a Crime Considered “On Campus”?

Crimes that occur on school grounds and within school owned building qualify for reporting under the Clery Act. Some schools may also be required to record crimes at certain non-campus facilities, like Greek houses or public property adjacent to the institution. Also some off campus properties qualifies as “on campus” under this Act, like remote classrooms and buildings owned by campus groups. Which locations qualify for reporting is very school specific, so if you are unsure if a location qualifies you should contact a lawyer or expert organization, like the Clery Center.

What is a “Timely Warning”?

Under the Clery Act, any time a crime has or is occurring that poses a serious or ongoing threat to the rest of the campus, the college must provide timely warnings in a way that is likely to reach every member of
the campus community. This requires schools to assess the risk to public safety after an incident of sexual violence is reported. Often times, a stranger perpetrated sexual assault will trigger a timely warning. A school’s decision not to issue a timely warning is reviewable under the Clery Act by the U.S. Department of Education.

How Does the Clery Act Help Me?

The Clery Act requires schools to explain their policies and procedures on campus in the wake of sexual violence. This should include who you may report such an incident to and what possible sanctions may be imposed as a result. It should also list available resources (such as available medical care, mental health resources and other support options either on campus or within the local community) to victims on or around campus, as well as inform you of your right to request reasonable accommodations on campus in the wake of sexual violence. Such an accommodation could include changing housing or an academic schedule to avoid seeing the accused student. You also have several rights during campus disciplinary proceedings, such as being informed at every stage of the process, having the same rights as the accused to have an advisor present, to appeal a final decision, and to receive a final decision in writing at the same time as the accused.

The Clery Act requires reported crime statistics to protect your confidentiality while alerting the public to possible safety risks or incidents on campus. The school has an obligation to inform you about your rights regarding to whom you can formally report sexual violence if you wish a criminal prosecution, to facilitate that process if desired, and to know you have a right not to report and still receive support from the school.

Finally, the Act protects against retaliation, as does Title IX. Colleges cannot intimidate, threaten, coerce or discriminate against you for reporting either explicitly or implicitly. For example, no college employee may urge you not to file charges with police or a formal complaint with the school, your good academic standing or ability to graduate cannot be threatened, nor are you required to sign a non-disclosure agreement to get the results of a disciplinary hearing after you have made a formal report to the school.

Is Your College Compliant with the Clery Act?

The best way to find out is to review the school’s ASR. The ASR must be publically accessible on the school’s website and in an easy to understand form that includes the incidents of crime and its final disposition or current stage of the disciplinary/investigatory process. If the most recent ASR is not available on October 1st, or there is not notification to current students and employees that it is available on that date, your college is not in compliance.
Campus police or security must provide information on recent reports within two business days, unless it jeopardizes and investigation or victim confidentiality, in their Clery Crime Log. If a report you made is missing from the log or is mischaracterized in the log then your college is not in compliance. Common violations include failing to list Greek houses or other locations that are not physically on campus, but still covered under the Clery Act. If you believe your school has left off crimes from locations related to campus, your school may not be in compliance.

Listed crimes should include: murder, manslaughter, sex offenses, robberies, aggravated assaults, burglary, motor vehicle thefts, and arson. Schools are also required to report hate crimes, which include larceny-theft, simple assault, intimidation, destruction, damage, or vandalism of property, and other crimes regarding bodily injury when the victim was selected based on gender, sexual orientation, race, ethnicity, disability, or religion must be reported specifically as crimes of prejudice.

How Do I Report a Clery Act Violation?

The U.S. Department of Education enforces the Clery Act, so complaints can be filed through their Clery Act Compliance Division at: clery@ed.gov. For information on filing a complaint, visit our resource here. Schools that violate the Clery Act may face warnings, up to $35,000 per violation fines, the limitation or suspension of federal aid, or the loss of eligibility to participate in federal student aid programs. If you are unsure if your school has violated the Clery Act consider seeking a lawyer or non-profit, like the Clery Center, to review your case.

-Hope Brinn and Yana List

*Although these resources have been written with the guidance of legal experts, we are not lawyers, and the information on this website does not constitute legal advice. We encourage you to contact a lawyer to discuss your complaint or suit.*
Sexual Assault Student Resources

Penn State Police
(814) 863-1111
http://www.police.psu.edu/psu-police/report-crime.cfm

Counseling and Psychiatric Services (CAPS)
5th Floor Student Health Center
(814) 863-0395

Office of Student Conduct
120 Boucke

Center for Women Students
204 Boucke
(814) 863-2027

Centre County Women’s Resource Center
(814) 234-5050

LGBTQ Student Resource Center
101 Boucke

Rock Ethics Immediate Crisis Page
http://rockethics.psu.edu/frontpage/leadership/immediate-crisis